

Witness Name: Thomas Smithson  
Statement No: 1  
Exhibits: 48  
Dated: 25/9/2023

**UK COVID-19 PUBLIC INQUIRY  
WITNESS STATEMENT OF THOMAS SMITHSON**

I provide this statement in response to a request under Rule 9 of the Inquiry Rules 2006 dated 3 February 2023 and referenced M2B-WG-TS-01.

I, Thomas Smithson, will say as follows: -

**CONTEXT**

1. I am preparing this statement as a serving civil servant in the Welsh Government. The statement concerns my role as a civil servant during the pandemic, reflecting the values of the civil service code, and it sets out in detail my role and professional responsibilities. It would not be appropriate for me to offer personal opinions on the response or decisions of the Welsh Ministers. My statement aims to reflect the values of the civil service code by remaining objective, impartial, honest, and demonstrating integrity. Where I have offered views, these reflect my professional opinion as a civil servant rather than private citizen.
2. I recognise that in taking this approach the statement may appear overly process-oriented. I do not want this to be misinterpreted as diminishing the very real and very significant impact the decisions Welsh Ministers had to make on every single person, business, and organisation across Wales. I was personally very aware of the huge significance and importance of the decisions Welsh Ministers had to make and the impacts they had on every single aspect of life in Wales. There was no complacency or diminution of the severity of those impacts in the work I was responsible for.
3. I have not sought to set out in detail the decision-making structures within the Welsh Government, assuming this has been provided separately to the inquiry. My work, as described below, primarily related to legislation around Coronavirus and the associated legally-required reviews of those regulations. These regulations were

made by Welsh Ministers and decisions relating to them were made by Welsh Ministers considering the evidence they had available to them. All of these decisions involved complex consideration of a wide range of factors including the different harms associated with both acting and not acting. The Welsh Ministers needed to make these very difficult decisions by balancing the different harms they would mitigate or cause, based on the evidence available at the time. My role, as set out below, was providing information and options to help Ministers to make those decisions.

## **MY ROLES AND RESPONSIBILITIES**

### **Background and qualifications**

4. I joined the Welsh Government in 2004. Prior to the pandemic I worked primarily in policy development or strategy roles covering regional socio-economic development and international trade. I was promoted to the Grade 7 band (also known as Executive Band 1) following an open competition in 2012. Over the following decade I headed up Branches responsible for developing complex regional investment programmes, overseeing strategy, monitoring, research and evaluation, and planning for international trade negotiations. My policy responsibilities variously involved developing complex cross-Government policy, leading negotiations on funding programmes with the European Commission, and overseeing a team of analysts. My role developing and negotiating the 2014-2020 European Structural and Investment Funds for Wales involved complex analysis, prioritisation of investment, and evidence-based policy.
5. In terms of qualifications, I joined Welsh Government with a DipHE in Biochemistry and during my own time outside of working hours studied for and was awarded a BA(Hons) in Politics Philosophy and Economics in 2018. I have undertaken a range of professional development in leadership and management, and at the time of the pandemic was on a Welsh Government Talent Programme for experienced Grade 7s with high potential for moving to the Senior Civil Service (SCS). This talent programme included an expectation participants would rotate into high priority roles as needed by the organisation.
6. During the pandemic I volunteered for and was transferred to the Covid-19 Project team in April 2020 as a Grade 7, where I was asked to carry out the first legally

required 21-day review of The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 regulations (covering the lockdown that was in place) to assess the need for the requirements and restrictions in those regulations. I was then asked to build on this initial work by continuing to plan and carry out future reviews and to have a clear focus on this role. The role and function grew over time into a larger team and then its own Division. In October 2020, following an open competition across the Welsh Government, I was appointed the Deputy Director for Restart on a Temporary Duties Allowance (TDA) for up to 12 months to oversee the 21-day review team and associated policy and strategy. A TDA is a temporary promotion which in this case was extended until December 2022, fully covering the time period the inquiry is reviewing.

### **Roles and responsibilities during Covid-19**

*January 2020 to March 2020 (Non-Covid role at Grade 7)*

7. At the first stages of the pandemic, I was posted as the Head of International Trade Policy (Grade 7), involved in preparing Welsh Government positions for UK Government negotiations on post-Brexit trade policy. I did not have any involvement in the Welsh Government response to Covid-19 during this period and it would not be appropriate for me to comment on the response or actions taken by the Welsh Government and Welsh Ministers during this time.
8. The preparations for international trade negotiations were suspended following the decision to enter lockdown, in part as many staff across the UK Government were being moved to respond to Covid-19. I had contacted a colleague on the same Talent Programme as me working in the Covid-19 Project Team and, hearing there were staff shortages, volunteered to support the team with agreement of my management. I began my role in the Covid-19 Project Team the following week, which was either at the very end of March 2020 or early April 2020, with a personal expectation I would support the team for a few weeks to a few months (on the basis I was filling a short-term emergency staffing gap as ongoing response structures were established). As such, I was not involved in nor had any knowledge of any discussions relating to Stereophonics concerts and the Scotland v Wales rugby international in March 2020.

9. I undertook a few different tasks within the Covid-19 Project Team, such as providing administrative support for some of the Ministerial Implementation Groups when there were shortages in the Covid-19 Project Team. This included coordinating briefing, taking a note of meetings, and reporting outcomes and actions. To support Ministers at those meetings I observed the meetings and took a note. I had no role in any decision making by Welsh Ministers as a result of these meetings.
10. The first substantive piece of work I was asked to undertake was the first review of The Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020 regulations. I did not have any team, and this became my principal task, drawing on others' views and evidence. There was no framework or process established, with my approach guided by legal advice on the obligations in the regulations, and public health and scientific advice on the progression of the pandemic. I set out these considerations in the advice that constituted the review (MA-FM-1287-20), which I exhibit at **TSM2B/01-INQ000145553**. The review was due by 16 April which gave me around two weeks to complete the task. Structures put in place by the UK Government provided much of the evidence base for the analysis included in the review about the prevailing health context and thus the proportionality of the regulations in the round (such as papers and presentations provided for COBR, the Ministerial Implementation Groups, Cabinet Office analysis, analysis from SAGE and its sub-groups). Relevant aspects of those sources of evidence are summarised in the Ministerial Advice I prepared to capture the outcomes of the review (MA-FM-1287-20).
11. A working group of senior officials, chaired by Reg Kilpatrick (then Director for Local Government), was established to oversee the review of regulations, which met weekly following this first review. A specific Welsh interpretation of the prevailing public health position was provided by the Chief Medical Officer for Wales and of the scientific evidence by the Chief Scientific Advisor for Health (Wales). I included a statement prepared by the CMO on the public health situation as part of the Ministerial Advice MA-FM-1287-20. I exhibit the CMO statement at **TSM2B/02 – INQ000227591**.
12. In addition to assessing the overall proportionality of the lockdown measures I also carried out a rapid review of each regulation in the Health Protection (Coronavirus

Restrictions) (Wales) Regulations 2020. This document is included as Doc 3 in the Ministerial Advice and includes a brief description of the purpose of each of the regulations and an assessment of their proportionality. I exhibit the document at **TSM2B/03-INQ000227453**. This document was prepared in close consultation and with significant input from Welsh Government lawyers and legislative counsel involved in preparing the regulations, as well as others in Welsh Government who had identified potential issues with the regulations. Some minor potential changes were identified through the review process and included in the advice, such as permitting money transmission services to open alongside banks and building societies. The advice also tentatively identified potential candidates for early future changes (albeit not sufficiently developed or impact tested at that stage) and further investigation, such as reconsidering within the reasonable excuse for exercise the limit on frequency (particularly for medical reasons) or considering permitting click-and-collect services.

13. At this time, I was only responsible for carrying out the legally required review of the regulations. Responsibility for making changes to those regulations and overseeing any changes outside of the review period (given there was also a general duty in the regulations for Welsh Ministers to remove requirements or restrictions as soon as they considered them no longer necessary) sat with another team, headed up by Neil Surman (Deputy Director, Public Health Division). My role was therefore limited at this stage to carrying out the review and preparing the Ministerial Advice to meet our legal obligations for that first 21-day period. This review was submitted directly to the First Minister for agreement on 14 April 2020.
14. I was asked to continue to review the regulations and prepare for the next 21-day review date of 7 May 2020 and subsequent reviews. It had become clear from carrying out the first review that a very significant volume of work was required to meet our obligations to assess the proportionality of what were extremely wide-ranging, severe, unprecedented, and complex requirements and restrictions. It was also evident that coming out of lockdown measures would be complex and involve difficult choices with uncertain information. The assessments of proportionality of the regulations evolved over the review periods, as described in the remainder of this statement. The first review was more limited in scope, focussing primarily on the public health context, with the second review beginning to build up assessments of impacts on different groups, including on the rights of children and those with protected characteristics.

15. The review of the regulations therefore became my sole role, with responsibilities for associated elements sitting with others (e.g. making of or amending of regulations, government business, overseeing scrutiny of regulations, preparation of guidance on regulations, answering queries and correspondence on the regulations, etc.). I was able to draw on some resources within the Covid-19 Project Team in the early stages and over time people moved to report to me or work alongside me in the preparation for, and carrying out of, the reviews.
16. My role, and that of the team that built up over time, was to bring together a wide variety of different sources of information on the progress and impact of the pandemic and specifically of the regulations put in place to control the incidence and spread of Covid-19. For these early reviews I was responsible for preparing the draft advice for the Welsh Ministers that formed the basis of the reviews. The content of this advice was used to prepare Cabinet Papers and formal Ministerial Advice submissions.
17. My team or I would also provide notes to the First Minister or Cabinet between meetings to provide additional information or advice when requested. These usually arose from Cabinet discussions on the review papers, with Ministers asking for additional information on specific elements of those Cabinet papers or a request for officials to explore alternative options. For example, following a discussion at Cabinet on Monday 10 May 2021 (for review of restrictions due by 13 May 2021) further information was requested in a range of areas from face masks in schools to wedding receptions, with a note prepared for Cabinet to discuss on 12 May. I exhibit the paper at **TSM2B/04- INQ000057814** .
18. The advice, in particular advice set out in Cabinet Papers and Ministerial Advice submissions, represented the culmination of a wide range of inputs, with all advice directly informed by contributions from the CMO, and the Chief Scientific Advisor for Health (Wales) and the Technical Advisory Cell. Those expert contributions took the form of standalone advice (which was appended to the review documents in full and published on the Welsh Government website for transparency) and separate input into the public health and scientific accuracy of the overall advice.
19. The senior officials group overseeing the 21-day reviews provided a wide range of inputs into the reviews, many of which I or colleagues commissioned following the

meetings. These inputs formed the basis of key parts of the advice I and my team prepared for Welsh Ministers. This included, but was not limited to:

- Public Health advice from the Chief Medical Officer or Deputy Chief Medical Officer.
- Scientific advice on, but not limited to:
  - Epidemiology and progress of the pandemic,
  - Potential impact of different policy choices,
  - Modelling (where available), including policy scenarios,
  - Behavioural science implications.
- Evidence on enforcement of and compliance with the regulations from the police and environmental health officers.
- Survey data, including on self-reported compliance and public support.
- Policy advice from different Departments on the impacts on different sectors or groups, including assessments of economic, wellbeing, equality and other impacts from restrictions to date and potential risks and benefits from changes.
- Communications advice, including feedback from focus groups.
- Feedback from stakeholder groups including the Police, Local Authorities, Social Partners, and others.
- Legal advice, which was included in full.

20. Prior to the second review the Welsh Government published *Leading Wales out of the coronavirus pandemic: a framework for recovery* on 24 April 2020. I understand that this has been exhibited to the statement of Andrew Goodall in response to request M2BWG01. I did not have any role in the development or publication of this document, but it did provide a framework to be applied as part of the review process I was responsible for coordinating. The second review of the regulations, due by 7 May, incorporated this framework and the associated tests were applied to the areas prioritised by Ministers for consideration in this review.

21. This second review saw a range of arrangements put in place that would continue throughout the pandemic. Cabinet met to discuss the proposals from this review onwards prior to the review completing. Cabinet papers were prepared based on the draft advice I had prepared, with the draft advice also included in the papers for discussion. I would finalise the Ministerial Advice following the Cabinet discussion and formally submit it to the First Minister to conclude the review (including any supplementary advice and seeking any additional decisions that would be needed to

put into effect the Cabinet decisions). For these reviews I contributed to the drafting of Cabinet papers, which were based on the longer draft advice I had prepared. The Cabinet paper preparation and Ministerial Advice clearances were overseen by members of the SCS, primarily the Director for Local Government, Reg Kilpatrick. A Deputy Director, Debra Carter, was in place on a part time basis between April and June 2020 to oversee the work and build capacity. A full-time Deputy Director, Nick Batey, was in place between July and October 2020 to continue this work.

22. The first review (described above) had acknowledged the likely negative impacts of lockdown restrictions, which had been highlighted to COBR(M), including: wider health impacts from redirection of NHS resources (cancelling non-urgent elective operation), less exercise and on mental health; economic impacts from business closures, reduced activity in 'non-closed' sectors, and unemployment; and societal impacts such as loneliness, domestic abuse, access to food, and lack of school. The *Leading Wales out of the coronavirus pandemic: a framework for recovery* public document published by the Welsh Government acknowledged the different harms caused by the pandemic, setting out four specific types of harm (which would later be expanded to five) and identifying how mitigation of impacts would be considered in the approach to relaxing restrictions.
23. By the second review on 7 May review I had incorporated equality and wellbeing assessments into the review process. As can be seen in the 7 May review documents (Docs 7-11, MA-FM-1533-20), Welsh Ministers' decisions were informed by evidence of the disproportionate impacts of the restrictions on different groups. I exhibit the MA at **TSM2B/05-INQ000145554**, and the supporting documents numbered 7-11 at **TSM2B/06-INQ000227603** (doc7), **TSM2B/07-INQ000227948** (doc8), **TSM2B/08-INQ000227637** (Doc9), **TSM2B/09- INQ000227611** (doc10), and **TSM2B/10- INQ000227854** (doc11)
24. For example, a discussion is included in Doc 9 on the importance of face-to-face safeguarding for vulnerable groups continuing and noting this did not require changes to regulations. The likely disproportionate impact of lockdown restrictions on groups with protected characteristics was recognised. The priorities around improving the rules for exercise and encouraging more healthcare activity were a result of responding to known impacts and inequalities. However, while the general risks to different groups and the risk of exacerbating inequalities was recognised, it



was not possible to carry out a more comprehensive impact analysis at this stage given resource pressures in meeting the existing complexity of the review process.

25. The review process continued to evolve over time, and I developed the process of preparing and structuring advice rapidly in the first series of reviews. As more capacity became available to the team and more work was done in different policy areas to understand the impacts, it was possible for me to build more of this analysis into the review process.
26. In the Ministerial Advice for the second review on 7 May (MA-FM-1533-20, exhibited above) I set out the developing approach to the review process in some detail. In this advice I also set out considerations about the approach to making changes in the real world, where some notice was necessary to provide appropriate lead-in time for organisations to put in place new protocols and make appropriate preparations. This ultimately led to an approach of Welsh Ministers providing some forward guidance, or signalling, of what areas were likely to be the next priority for relaxation of the regulations so that preparations could be made (should conditions remain favourable during the next review period). Feedback from policy departments and their stakeholders for this approach was very positive (for example Local Government and representatives of businesses who welcomed the ability to do more forward planning), though it did have the effect of creating an expectation the proposed changes would definitely take place; despite efforts from Ministers and by communications teams to set out clearly the qualified nature of those signals.
27. Feedback from Ministers, commissioned by the First Minister, on priorities for unwinding lockdown were provided to my team as part of considerations on the assessments to be carried out. This work of canvassing views and identifying priorities was not coordinated by me or my colleagues. I did seek additional information from policy leads on the impacts of the restrictions on different policy areas, focussing on the areas being prioritised by Ministers, such as options to restart some public services, permit more activity in places of worship, or restart some economic activity. Where no policy lead could be identified or adopted by an existing policy department, my team would coordinate work to identify and collate evidence on impacts of restrictions and the potential benefits and risks of relaxing them. This included restrictions and requirements linked to areas like rules on movement of people or extended households. I oversaw those assessments, including carrying some out myself, as part of my role coordinating the overall advice.

28. My team and I would also try to quality assure the contributions we received from policy leads outside the team, checking the level of detail and sources of evidence to ensure consistency in approach. The policy assessments (called 'easement assessments' during this period) included sections on equality and wellbeing impacts (for example Docs 8-11 for the 7 May review in MA-FM-1533-20, as exhibited above). From the 18 June 2020 review onwards, my team began to extract these elements from the assessments to create a single 'summary impact assessment'. After agreement of any changes, and following translation into Welsh, we began publishing these summaries. I exhibit the summary impact assessment for the 18 June review at **TSM2B/11-INQ000227547**.

29. This was part of a suite of documents Welsh Ministers agreed to publish to be as transparent as possible. Each review usually led to the publication of:

- A written statement to the Senedd on the outcome of the review (prepared by my team or I)
- A press notice to inform the public through media outlets (prepared by Communications team, with input from my team as required)
- The CMO statement provided to Cabinet and included in the Ministerial Advice
- The formal scientific advice from the Chief Scientific Advisor for Health and the Technical Advisory Cell
- A Summary Impact Assessment whenever significant changes were made to the regulations.

30. Regulations and associated guidance were also published following the review itself, but these were carried out during this period by separate teams.

31. On 15 May 2020, the Welsh Government published *Unlocking our society and economy: continuing the conversation*, which followed up on the publication of *Leading Wales out of the coronavirus pandemic: a framework for recovery* (24 April). I had some input into the drafting of this document (which I exhibit at **TSM2B/12-INQ000227929**) in particular proposing and drafting the 'traffic light' guide set out in Chapter 4 (*Moving out of lockdown: A traffic light guide*). I prepared initial drafts of this chapter based on available scientific and public health advice, which was edited and redrafted in close consultation with public health officials, including the Chief Medical Officer and Chief Scientific Advisor for Health. The document set out the

Welsh Government's approach to lockdown reviews and coming out of restrictions, including the assessments informing decisions.

32. At the same time Legal Services and the Office of Legislative Counsel had prepared and cleared with the Counsel General a decision-making framework from a legal perspective and focussed the legal basis for the regulations. This framework was appended to the 28 May 2020 review advice (Doc 11, MA-FM-1722-20) and continued to be appended to future review documents. In the Ministerial Advice for that review (MA-FM-1722-20) I set out how the public documents and legal decision-making framework were incorporated into the preparation of advice. This review also drew on the traffic light guide to organise options for changes to regulations. I exhibit the MA at **TSM2B/13 - INQ000176849** and the decision-making framework (doc 11) at **TSM2B/14- INQ000227963**.
33. The 28 May 2020 review highlighted the need for an effective Test Trace Protect (TTP) system to allow for more substantive relaxations than had been possible to date. The advice highlighted there remained unknowns at the time of the review about the implementation of TTP in Wales, which was shortly to launch. At this point, TTP was considered to be the key mitigation in development that would provide some confidence future infections could be identified and isolation supported. Within this context, Welsh Ministers gave priority within the review not only to relaxing regulations that impacted on mental health and wellbeing (seeing friends and family) but also to ensuring non-regulatory changes were prioritised and not put at risk by regulation changes (increasing healthcare capacity, which was not constrained by the regulations). In addition, while education settings were not closed via the regulations, the return to education and childcare settings of more children and young people was considered alongside other changes. This is because the combination of regulatory and non-regulatory changes would have a cumulative impact. I ensured the planning underway within different Departments in these areas was reported to Cabinet through this review even though they sat outside of the strictly required legal review of the regulations.
34. In advice for the 28 May review, I also set out the continued consideration of alignment across the UK in terms of the regulations, highlighting how scientific and public health advice in Wales did not provide a basis for supporting the reopening at the pace planned in England. My team extracted information on impacts included in the easement assessments to create summary impact assessments, which were

published alongside the reviews from the 18 June 2020 review onwards, each time substantive changes were made.

35. Following the 18 June review, at which the First Minister had agreed in principle to the removal of the 'stay local' requirement (subject to further assessment and advice), and to an examination of options for the introduction of 'extended households' my team undertook specific work to examine options in these areas. Ministerial Advice was provided that led to the removal of 'stay local' requirements and establishing 'extended households' in Wales to allow close social contact between an exclusive group consisting of two households (treated as a single 'household' in the regulations). I exhibit MA/FM/2107/20 at **TSM2B/15-INQ000176850** and the supporting documents relating to the removal of 'stay local' and the introduction of extended households at **TSM2B/16- INQ000227855**, and at **TSM2B/17-INQ000227546**.
36. The following reviews over the summer of 2020 continued to build on this process, accelerating the relaxing of restrictions as TTP was established and testing capacity available to be able to monitor impacts of changes. "Interim reviews" were carried out between the main 21-day reviews to provide assurance to Ministers that circumstances remained appropriate for more frequent planned relaxations, informed as usual by public health and scientific advice from the Chief Medical Officer and the Chief Scientific Advisor for Health.
37. During the period from the 28 May 2020 review onwards, I had put in place an established process and was taking more of a leadership role (under the oversight of the Deputy Director and Director) in planning and coordinating work across the small team of people now involved in the review process within the Covid-19 Project Team, also helping quality assure work of the team. The team responsible for the 21-day review process had expanded, with my focus shifting to coordinating work and providing direction to other Grade 7s in the team, supported by the Deputy Director.
38. Initially, new members of the team helped prepare supporting documentation, such as the easement assessments and impact assessments. As capacity built up different members of the team would draft Cabinet papers and Ministerial Advice. I was involved to differing degrees during these reviews, providing input and supporting other members of the team to gain experience of the different aspects. Outside of the formal review documents there were additional pressures that could

not be planned for, such as specific urgent advice or briefing required by Cabinet, the First Minister, or officials across Welsh Government. I would usually take responsibility for any urgent work that arose during this summer period.

39. My primary focus towards the end of July and in early August 2020 was the preparation of the first *Coronavirus Control Plan for Wales* (published 18 August), which I exhibit at **TSM2B/18-INQ000066066**. At the same time, I continued to provide various levels of input into the reviews of the regulations and supported the drafting of Cabinet papers and Ministerial Advice. The *Coronavirus Control Plan* was developed across Welsh Government to recognise that while we were in a period of relaxing rules, the autumn and winter would likely see an increase in infections and a second wave that may require the reintroduction of restrictions or other control measures. I coordinated development of the plan in conjunction primarily with the Chief Medical Officer's office and related Public Health teams responsible for communicable disease control.
40. I was responsible for coordinating the contributions to the *Coronavirus Control Plan* and bringing them together into a coherent document, following initial work carried out by the Chief Medical Officer's office (which focussed on the local outbreak control and communicable disease architecture and approach). The document provided an update on the approaches being adopted by the Welsh Ministers when considering escalation and de-escalation of control measures. Further, it set out the expectations and powers available at a local level to control infections and outbreaks as they arose. The plan was prepared during a time of low infection rates, and I understood the expectation was the existing public health infrastructure, supported by a refreshed approach to controlling outbreaks for communicable diseases and an effective Test Trace Protect programme, would be a critical element of containing the spread of infection. The plan set out that returning to national restrictions were considered a last resort, necessary only when prevention, local outbreak control, or local / regional measures were no longer sufficient.
41. To respond to feedback that some stakeholders, such as some local authorities, were not wholly confident about the specific powers available to them or who was responsible for different actions, I set out for each stage of escalation the roles and responsibilities and relevant powers to provide clarity about who was expected to act and when. In terms of implementing the plan, my team was responsible for the regulatory response via NPIs (whether at local, regional or national level) where it

required Welsh Ministers to act (i.e. introducing legal restrictions or requirements). The plan set out illustrations of the types of response and use of NPIs that might be considered and described Welsh Government governance arrangements at that time to provide as much transparency about decision-making processes as possible.

42. In September 2020 there was a rise in cases in different parts of Wales, initially in the Caerphilly area. Following the publication of the Coronavirus Control Plan and reflecting the preceding stable public health position, I was on leave during this period (4 to 14 September); my first period of substantive leave since the outset of the pandemic.

43. My colleagues put in place the first local restrictions in Caerphilly (known as a “Local Health Protection Area”, but colloquially called “local lockdown”). I was not involved in the discussions that led to the specific set of requirements and restrictions that were applied to the Caerphilly area, nor the associated consultative or decision-making structures put in place to facilitate the need for close links to Local Authorities.

44. The decisions made for Caerphilly during this time did, however, provide the baseline against which future local requirements and restrictions, via new Local Health Protection Areas, were considered; some of which I prepared draft advice for. The 21-day review of the principal regulations on 10 September considered the situation across the whole of Wales. It recognised rising cases linked to social gatherings by tightening restrictions on gatherings (limiting to 6 people within an extended household, excluding children under 11 and carers) and widening legal requirements to wear face coverings in some settings. I was not involved in this advice as it fell within my leave period.

45. September and October were characterised by multiple rapid decisions and reviews needing to be managed and coordinated by the team I was in. This involved:

- Continuing the 21-day reviews of the principal regulations in the context of local health protection areas and rising cases across the UK
- Introducing new local health protection areas at very short notice, at times moving from public health advice to regulations being made in the same day
- Reviewing existing local health protection areas (LHPAs) every seven days

46. The LHPAs were introduced following public health advice and monitoring via the Health Protection Advisory Group (Outbreak Sub-Group) (HPAG-OSG). Monitoring of

the public health situation was being undertaken through the governance arrangements set out in the Coronavirus Control Plan and HPAG-OSG was the senior-level forum that took decisions to escalate risks and recommendations to Ministers which in turn led to Ministers introducing LHPAs (beginning with Caerphilly in early September). I was involved in observing HPAG-OSG meetings and other governance arrangements. My role, and that of my team, was to action findings from HPAG-OSG relevant to our responsibilities, coordinate related Ministerial Advice to agree regulations, and coordinate the weekly reviews of those regulations.

47. In response to rising cases across the whole of the UK, a COBR meeting on 22 September involving the First Minister and Ministers from the other nations discussed coordination actions and messaging. A degree of alignment was agreed across all four nations as set out in MA-FM-3135-20 (24 September), which I exhibit at **TSM2B/19-INQ000116625**. For Wales, this primarily meant aligning restrictions to prevent alcohol being served after 10pm (which was a similar restriction already in place in LHPAs), with some differences (such as Wales including 20 minutes grace for drinking up time to stagger exits from premises). My role was in helping prepare this advice – at this point other members of the team prepared drafts and I was involved in planning, directing members of the team, and quality assuring work prior to its review and sign-off by Senior Civil Servants.

48. September and October also saw a number of additional local authority areas become LHPAs, leading to a 21-day review on 1 October that broadly maintained restrictions in the principal regulations given primary efforts to control the spread were taking place at a local level. A key component of the LHPA restrictions were preventing non-essential travel to and from those areas to prevent the spread of Covid-19 into areas where the prevalence was lower. Similar rules or guidance existed in high prevalence areas in other parts of the UK where local restrictions were in place; for example the Scottish Government advised against travel to North West England (31 July 2020)<sup>1</sup>, people in Aberdeen not travelling more than five miles for leisure or recreation (5 August)<sup>2</sup>, and the UK Government issuing travel advice against all but essential travel to, from and within local lockdown areas in England

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<sup>1</sup> <https://www.gov.scot/news/travel-to-north-west-of-england/>

<sup>2</sup> [Local restrictions introduced in Aberdeen - gov.scot \(www.gov.scot\)](#)

(such as Leicester area since 18 July). The lack of legal restrictions in England were perceived to have led to travel of people into low prevalence areas of Wales from high prevalence areas in England (despite guidance from the UK Government not to travel). Where such travellers were identified, for example by hotels, there was no legal restriction to prevent their travel into Wales to enforce.

49. The First Minister wrote to the Prime Minister twice and the issue had been raised, in meetings and publicly, requesting the UK Government put in place equivalent legal restrictions on non-essential travel. I understand these letters are exhibited to Andrew Slade's statement made in response to M2BWTG01. The First Minister included in this correspondence evidence of the impact of transmission from parts of England into parts of Wales as a result of travel movements. UK Government Ministers declined to respond through legislating in this way. If travel restrictions applied in law within England there would not have been a need to further legislate in Wales. However, to prevent travel from high prevalence areas in other parts of the UK into low prevalence areas in Wales, the First Minister decided to introduce amendments to travel restrictions in the principal regulations. This led to travel restrictions to restrict travel from high prevalence areas in any part of the UK to low prevalence areas of Wales.

50. During this period of local restrictions there were some promising very early signs of slowing rates of the spread of infection. However, these improvements were not sustained and, while the spread of infection may have been slowed by the combination of local (LHPAs) and national restrictions and requirements, Covid-19 infections continued to grow and subsequent pressures on the NHS increase. The accumulation of evidence throughout the pandemic to this point meant that officials and Ministers had a fuller understanding of the different harms from NPIs. During this period UK Government financial support to businesses had been phased back, such as the Coronavirus Job Retention Scheme contributions falling to 70% on 1 September and 60% on 1 October (with the intention of it closing on 30 October), meaning the cost of restrictions and closures on businesses (and consequent impacts on individual's jobs and ability to access goods and services) was much higher. The scale of support made available by the UK Treasury was such the Welsh Government could not meet those same commitments. Separate advice was prepared on the financial aspects of support for businesses, which I was not directly involved in and was led by other parts of the Welsh Government.



51. Options for a 'firebreak' period of significantly enhanced restrictions for a set period were developed to respond to the worsening situation. I was not involved in any discussions or correspondence between Welsh Ministers and counterparts in the UK Government and other UK nations discussing the potential for a UK wide approach to a 'circuit breaker' lockdown. I was responsible for coordinating contributions from across Welsh Government to develop options for the 'firebreak' and then the post-firebreak regulatory regime. This included setting out the different broad options and risks and benefits to allow for a narrowing process to take place during Cabinet discussions. For example, the use of the half-term period was intended to minimise the impact on education and take advantage of the natural 'firebreak' this period would create. Once Cabinet agreed in discussions that the stricter the 'firebreak', the shorter it could be and the greater impact it could have, the affordability of restrictions became a consideration in relation to the length any measures could be imposed. This was particularly true should a similar mechanism need to be used later in the winter to once again flatten the peak of infections and avoid unsustainable pressure on the NHS. Cabinet agreed in principle to the introduction of a firebreak at its meeting on 15 October 2020; I exhibit the minutes at **TSM2B/20- INQ000048796**.

52. My role throughout this process was to continue to commission and coordinate the different strands of advice required to help Welsh Ministers to make decisions on which restrictions needed to be brought back, with a focus on the regulations and associated options. The majority of these decisions were made through Cabinet, but there were a large number of regulations being made. The regulations did not replicate the first lockdown, with a significant number of changes made to reflect lessons learned from the first lockdown and ensure the worst effects could be mitigated where possible. For example, keeping childcare and most education settings open, more flexible rules on exercise, allowing for an 'extended household' or 'bubble' for single adult households, amongst others (as set out in MA/FM/3428/20, which I exhibit at **TSM2B/21- INQ000176863**, and Cabinet papers). Whilst key decisions were made via Cabinet, some technical clarifications or decisions on legal drafting would take place directly with the First Minister or included for decision in the final Ministerial Advice and supporting regulations prepared for signature; for example clarifying the time of coming into force for the regulations or whether Cabinet intended for all outdoor sports courts to be closed.

53. In October 2020, I was interviewed and subsequently appointed as Deputy Director in the Restart and Recovery Directorate, from 15 October 2020, to replace Nick

Batey who was retiring. The responsibilities of the post as set out in the job description included to bring together advice to Ministers on Covid-19 restrictions and easements, liaising with the Chief Medical Officer's teams on the latest professional health advice alongside impacts on economic and social factors from across Welsh Government. The post aimed to support the First Minister and the Cabinet to deliver the Welsh Government's related Covid-19 restart decisions.

54. The final preparations for the 'firebreak' took place around this same time, during which I was already providing a coordinating role to bring together different elements into advice to Cabinet to ensure decisions were made and options narrowed to enable regulations to be drafted and associated guidance and communications plans put in place. I was part of the senior officials group planning for implementation of the firebreak, in line with my overall focus on the regulatory regime, but I was not directly involved in the detailed discussions over the financial package of support being put together by Welsh Ministers, nor the correspondence exchanged with the UK Government unsuccessfully seeking extension of UK-wide financial support to minimise harms of the planned restrictions.
55. The decisions being made by Ministers about the firebreak sought to balance the different harms from the various options being considered. The financial support available to mitigate these harms was therefore one of a number of considerations influencing the overall length and scope of the firebreak itself. I collated information and prepared papers for Cabinet discussions, which took place on 15, 18 and 19 October and I oversaw and quality assured the preparation of Ministerial Advice (MA/FM/3428/20) to agree the 'firebreak' regulations, including associated impact assessments. The supporting papers set out the intention of the 'firebreak' was to slow the growth of the epidemic and ensure any future growth began from a lower starting point., and I exhibit the minutes of the Cabinet meetings on 18 and 19 October at **TSM2B/22-INQ000048801** and **TSM2B/23-INQ000048802**.
56. I was also responsible for overseeing and developing Cabinet papers and Ministerial Advice for the post-Firebreak regulatory regime. This was to be a set of rules that replaced the complex patchwork of national and local regulations that were in place prior to the firebreak. At this time, in relation to the context for preparing advice, neither my team nor I were aware of any imminent breakthroughs in vaccine development and there were no specific variants of concern to factor into decisions.

57. A range of feedback, from scientific and public health advice, to stakeholders, to communications teams, indicated the complexity of the previous rules on NPIs was problematic and likely to be affecting adherence and effectiveness of those rules. There was a general consensus that rules needed to be simplified, to better reflect reality and provide opportunities for people to meet others, and to be as stable as possible (avoiding multiple changes if possible). A significant amount of communication capacity had been spent on explaining complex regulations and regular changes to those regulations, at the partial expense of being able to focus more on risk awareness and management. A key component of achieving simpler rules, which could carry greater theoretical public health risk, was acknowledged as requiring complementary behaviour change by the population of Wales. The intention was that people should focus on what they should do, taking reasonable risk-based decisions, rather than what they can do, such as doing the maximum allowable in law. Rules would be expected to be in place throughout the winter, with any long-term move away from regulations not expected until after that period of elevated risk had passed.

58. The potential for further restrictions during the winter, including options for another firebreak, was acknowledged by Cabinet; in particular given the uncertainty associated with the degree to which behaviour change might be affected to control rates of infection and lower subsequent risks of overwhelming the NHS. These discussions were summarised by my team in Cabinet papers for 29 October and Ministerial Advice to agree the post-firebreak regulations on 3 November (MA/FM/3689/20). The intention was to publish regulations and guidance as soon as practicable (hence them developed at the same time as the 'firebreak' regulations) to allow for the public and organisations across Wales to be able to familiarise themselves with the new regulations and approach in advance of the firebreak ending; including the emphasis in guidance and communications on behaviour change and what people should do rather than what the law allowed. I exhibit the 29 October Cabinet papers at **TSM2B/24-INQ000227551**, the Cabinet minutes at **TSM2B/25-INQ000048929**, and MA/FM/3689/20 at **TSM2B/26-INQ000176848**.

59. During the period of the firebreak being announced and implemented in Wales the UK Government announced a longer period of lockdown in England, accompanied by an extension of financial support across the UK which had been denied to Welsh Ministers in planning the firebreak. A series of announcements about the time-limited nature of the firebreak and rationale for the approach and post-firebreak planning had

already been made by Welsh Ministers before this surprise announcement from the UK Government.

60. Behavioural science advice throughout the pandemic had focussed on the importance of public acceptance of the measures being put in place and ultimately the success of interventions rested on adherence to rules and guidance put in place. Cabinet therefore placed significant importance on meeting promises made to the people of Wales in considering the implications of the UK Government announcement for the firebreak and post-firebreak regime in Wales. The post-firebreak regulations aimed to be much simpler, and in doing so were mostly more restrictive than pre-firebreak regulations. For example, extended households were reduced to two households (from four), the maximum number of people that could meet in regulated settings were reduced to four (from six), and additional control measures were introduced in areas like hospitality. However, the ability to maintain infection rates at manageable levels in line with modelling relied on behaviour change by the population to self-regulate within these rules based on the prevailing environmental risk.
61. During this period of regulatory change, a review of the use of Fixed Penalty Notices (FPNs) was underway and coming to a conclusion. I was involved in discussions about the appropriate setting of FPNs for new offences to include in advice (such as those associated with the new post-firebreak regulations as set out in MA/FM/3689/20). However, this review was overseen outside of my division by James Gerard (Deputy Director Justice Policy), and via the Cabinet Sub-Committee on Justice.
62. A summary of findings of the FPN review was included in the first post-firebreak review of regulations, due by 19 November (Doc 5 and 6, MA/FM/3803/20). I exhibit the MA at **TSM2B/27-INQ000145512**, and documents 5 and 6 at **TSM2B/28-INQ000227549 and TSM2B/29-INQ000227548**. The approach to the use of FPNs in Wales varied from that in other parts of the UK, in particular England. The FPN review in Wales identified little evidence to suggest that raising FPN rates would be an effective tool to drive compliance and it found clear evidence of negative equality impacts. The views of the police were also important considerations, as was the potential risk of displacement activity between Wales and England where there were discrepancies between the two regimes. The final changes to regulations to put into effect decisions on Fixed Penalty Notices were introduced with the "Alert Level"

regulations (MA/FM/4278/20, exhibited at **TSM2B/30- INQ000176846** on 17 December 2020.

63. My Division continued to oversee the reviews of the principal regulations following the 'firebreak'. The regulations set out a requirement to review regulations every two weeks initially (19 November, 3 and 17 December) before reverting to the 21-day review cycle. The first of these reviews was carried out while I was on leave, instead being overseen by Liz Lalley (then Deputy Director of Recovery in the same Restart and Recovery Directorate). A range of different activity was underway in parallel during this period, which was exceptionally busy and coincided with what we now know as the introduction and spread of the Alpha variant, but which was unknown at the time. There were broadly three strands of work that were running in parallel within our Directorate, with SCS oversight at Deputy Director level being shared between myself and Liz Lalley:

- **Reviews of regulations** as set out in the principal regulations. Oversight and clearances were provided by both Liz and myself depending on availability. The process of reviews was well established, enabling the wider team to manage the bulk of commissioning and initial drafting.
- Preparations for, and ongoing coordination with the UK Government on **proposals for the Christmas period**. The aim was to have consistent rules across the UK as far as possible to enable some limited gathering of families to take place. Liz Lalley took the lead in this work, but I was involved at different points in discussions with UK Government officials and in feeding into Cabinet papers and advice. I worked closely with Liz to ensure consistency of rules and approaches between the principal regulation reviews and emerging proposals for the Christmas period.
- Developing and putting in place a **new framework for escalating or deescalating legal restrictions and requirements**. It had become clear the post-firebreak regime was not likely to provide a framework that would last the winter, with a tightening of rules already necessary to bring infection rates down and lower the risks to the NHS. I led this work on a new framework, preparing Cabinet papers and options for Ministers based on evidence of what had worked across the UK (for the original Covid-19 strain).

64. The **post-firebreak regulations and subsequent adjustments** during the review processes sought to replicate in broad terms "Tier 3" restrictions in England or "Level 3" restrictions in Scotland (for example MA/FM/4107/20, which I exhibit at

**TSM2B/31-INQ000145509** summarises the changes and comparisons) for which evidence from SAGE suggested could bring Rt below or close to 1. The evidence from SAGE was based on the original strain and we did not yet know they would not be as effective against Alpha which was establishing itself in Wales and the UK. Travel restrictions with the rest of the UK were reintroduced to align with the end of the lockdown in England. I was involved in supporting the oversight and preparation of related Cabinet papers and advice for these changes alongside Liz Lalley. I further cleared Ministerial Advice for submission to the First Minister on 11 December 2020 concerning the closure of outdoor attractions and some indoor venues in a continued tightening of restrictions.

65. The work I led on the preparation of the “Alert Levels Framework” was intended to provide the stability and predictability Ministers had hoped to achieve with the post-firebreak regulations, but also allow for changes to be made to tighten or relax restrictions and requirements as necessary to respond to the progress of the pandemic. By setting out a clear framework based on evidence of what had worked across the UK, the intention was to provide greater predictability for the public, businesses and other parts of society. The extension of financial support by the UK Government to mitigate the impacts of the lockdown in England meant that longer periods of business closures could be undertaken in Wales with less harm, making lockdown-type restrictions and requirements more viable as a policy option if necessary. Cabinet agreed to the preparation of an update to the *Coronavirus Control Plan* to introduce the Alert Levels framework at its meeting on 9 December 2020; I exhibit the minutes at **TSM2B/32-INQ000048793**.

66. In preparing this framework I drew on the lessons learned from earlier sets of regulations and the related impact assessments we had carried out. For example, by ensuring more flexibility outdoors to reflect evidence of lower transmissibility and opportunities to reduce loneliness, and keeping settings like childcare and key public services open at all levels, to reflect lower risks to children, lessons around effectiveness of mitigations and reducing the impacts on children’s development and supporting safeguarding efforts. SAGE and TAC had summarised lessons from the various approaches adopted in different parts of the UK over recent months, providing a basis for the framework to be built upon what works. These are exhibited at **TSM2B/33-INQ00022781**; and **TSM2B/34-INQ000066291**. A presumption for national rules (reflecting lessons from local and regional approaches attempted across the UK) and a clearer expectation about the degree of impact possible from

each “Alert Level” in the framework provided greater transparency and supported decision-making.

67. Having these in place also allowed the Welsh Government to publish a suite of guidance for each Alert Level and publish regulations in advance to provide more transparency and predictability about the likely rules that could be introduced. My team was able to oversee an impact assessment against all Alert Levels in advance and ensure appropriate mitigations were built into the regulations or associated guidance at each Alert Level. This approach provided assurance to Ministers that the impacts on protected groups and associated impacts on rights had been considered and mitigated where possible to ensure the rules proposed at each Alert Level were proportionate dependent on the related public health risk.
68. The Alert Levels framework therefore set out publicly how Welsh Ministers would move through the Alert Levels via a phased approach to relaxing the extant restrictions, as well as moving quickly back up through the Alert Levels if necessary. The updated plan refreshed both the interventions at each level and the range of indicators being assessed by Welsh Ministers alongside professional expert advice and intelligence from local partners. During this period, I oversaw the preparation of Cabinet papers and related Ministerial Advice to agree and provide for the introduction of the Alert Levels Framework as a public document (published on 14 December, with Wales already at “Alert Level 3”) and a new set of regulations.
69. I oversaw the review of the regulations due by 17 December 2020, during which the Alert Level regulations were agreed (MA/FM/4278/20, referenced above). During the preparation of this advice, scientific and public health advice had identified that further restrictions should be considered to move to Alert Level 4 (effectively ‘lockdown’) to reduce increasing pressure on the NHS and prevent it becoming unsustainable. This advice therefore reflected Cabinet decisions on 17 December that all of Wales was to move to Alert Level 4 on 25 December, allowing for small, planned family gatherings to take place (this was a tightening from the 10 December Cabinet agreement to do so on 28 December, subject to a review on 22 December).
70. These changes reflected a rapidly changing situation and subsequent Ministerial Advice I oversaw on 19 December 2020 sought agreement to bring in Alert Level 4 measures immediately, allowing the Christmas relaxation for only a single day (MA/FM/4499/20). That advice responded to Cabinet discussions and CMO advice

that same day, reflecting cross-UK discussions and strong evidence of the more transmissible and unknown severity Alpha variant present throughout Wales. I exhibit the Ministerial Advice at **TSM2B/35-INQ000176845**.

71. Subsequent reviews were carried out by my Division, with me providing assurance and oversight and preparing Cabinet papers where necessary. Options discussed by Cabinet during these reviews related to how and where rules might be tightened, if necessary, given the unknowns about the new variant (Alpha) and whether previous NPIs would have the same effect and be sufficient to bring down infection rates and reduce the risks to the NHS (in particular given some indication from England, reported by public health and scientific advisors to Cabinet, that previously effective restrictions were not having the same impact as previously). New duties were placed on some business premises (under the 'reasonable measures' part of the regulations) to respond to widespread reports of a failure to return to best practice around hygiene and customer flows, but in general restrictions and requirements at Alert Level 4 were maintained as originally set out.
72. As the situation stabilised and further intelligence about the Alpha variant became available Ministers began discussing options for relaxing some of the Alert Level 4 restrictions and requirements; for example, enabling people to meet outdoors for exercise and prioritising the return of more learners to education settings (MA/FM/0751/21 on 18 February 2021, exhibited at **TSM2B/36- INQ000227441**).
73. The emerging evidence around the Alpha variant meant that the impact of the packages of restrictions and requirements within each Alert Level was again uncertain (given they were based on SAGE and TAC analyses of similar packages against the original strain). Scientific advice was that the same measures would be needed, but they would need to be applied more stringently and may have reduced effectiveness. The Alpha variant was considered to be much more transmissible and there were significant concerns it could have increased risk of severe disease or could limit the effectiveness of vaccines that were now being rolled out. This meant we were in a similar position to coming out of the first lockdown, in that the effect of relaxations to the rules was uncertain.
74. Ministers therefore agreed to the adoption of an incremental approach, broadly mirroring that from coming out of the first lockdown. This would allow for small groups of changes to be made and the effect monitored before making further changes. In



order to explain to the public and Welsh organisations this latest thinking and the implications for the Alert Levels Framework, I prepared a further update to the public-facing plan (*Coronavirus Control Plan: Revised Alert Levels*, 19 March 2021, which I exhibit at **TSM2B/37-INQ000066069**) to explain what we knew about Alpha and how that affected our coming out of lockdown, which meant the move to Alert Level 3 would be in stages. It also identified the links to vaccination rollout, which would be an additional pharmaceutical intervention that could potentially reduce the reliance on NPIs in the future.

75. Subsequent reviews followed the established pattern of gradual relaxation of requirements, monitoring of impacts and signalling future changes. I oversaw the planning and preparation of Cabinet papers and Ministerial Advice during this period. This included moving fully into Alert Level 3 on 3 May 2021 (MA/FM/1622/21, agreed 30 April), and Alert Level 2 on 17 May 2021 (MA/FM/1649/12, agreed 13 May) reflecting falling prevalence of Coronavirus and rapid progress in the vaccination programme. With the vaccination programme reducing risks to the NHS and for the most vulnerable the balance in the harms being caused continued to shift, with the harms from some restrictions beginning to outweigh their benefits. This led to successive relaxations in restrictions, tempered by continued uncertainty and the monitoring of variants. I exhibit these MAs at **TSM2B/38-INQ000176841** and at **TSM2B/39-INQ000176840**.

76. Cabinet discussions at the end of May 2021 on the potential move to Alert Level 1 (CAB(21-22)01, **exhibited at TSM2B/40-INQ000057816**) included scientific and public health advice on the emergence of the Delta variant, which appeared to have a growth advantage over the dominant Alpha variant and could have increased severity. The move to Alert Level 1 was therefore phased, with Ministers balancing the increased risks associated with Delta with the socio-economic and other harms of maintaining restrictions. My role was again providing oversight, assurance, and contributing to drafting to ensure papers and advice provided a balanced consideration of the different harms for Ministers.

77. Discussions with Ministers at this time (for example Cabinet discussion on 3 June 2021) also included looking ahead at options to relax or remove restrictions from Alert Level 1 (which was the lowest level of restrictions set out in regulations at that time). This led to my overseeing the development of an Alert Level Zero update to the Coronavirus Control Plan to set out a limited suite of baseline measures such as

businesses carrying out risk assessments, advice to work from home where practicable and continued self-isolation. These baseline measures were directly informed by scientific and public health advice and restored the majority of freedoms and economic and social activity. This update was agreed by Ministers in July and published on 14 July 2021.

78. At this time the expectation was that Alert Level Zero would be the minimum level of restrictions and requirements needed for the winter period with continued uncertainties and risks associated with that time of year, new variants such as Delta, and vaccine waning. Whilst the emergence of Delta led to Ministers agreeing to pause planned relaxations and phase the move to lower levels of restrictions, it did not lead to the reimposition of restrictions and requirements such as moving back up the Alert Levels. The move to Alert Level Zero took place on 7 August, marking the lowest level of restrictions since before the first lockdown. Face coverings were retained as a legal requirement at this point in public areas where vulnerable individuals were unlikely to have a choice to be present, such as public transport or healthcare settings.

79. I took leave from work in the middle of August and early September. I was not therefore involved in the discussions that were taking place with the UK Government and with Welsh Ministers on the proposed introduction of the COVID Pass. I did not have involvement in the preparation for the Cabinet discussion on 13 September, but I did have some input in reviewing and amending draft papers for the 15 September Cabinet discussion. I subsequently provided assurance of the advice concluding the review due by 16 September.

80. This review reflected a worsening public health picture and the response to the UK Government's surprise decision to not take forward the COVID pass in England despite repeated assurances it was to be implemented. Alignment with England was one of the factors that was considered valuable for implementation of the COVID pass, which was identified as a potential useful additional control to minimise the risks of infected people mixing in higher-risk venues. Ministers opted to continue with implementation of the COVID Pass in Wales from 11 October. Development of policy and implementation on the COVID Pass sat outside of my division, being overseen by Chris Jones (Deputy Director Covid Certification). My team did provide support to Chris Jones in preparing advice to Ministers which I helped with on occasion, including to ensure appropriate impacts were considered.

81. The worsening public health situation and decision to introduce the COVID Pass as an additional mitigation, highlighted the need to set out in detail the likely response Welsh Ministers would take over the winter period in different scenarios for progression of the pandemic. The Alert Levels themselves now represented significant jumps between levels of restrictions and requirements that could be disproportionate given the impact of vaccines to date and ongoing autumn booster programme reducing risks to the NHS.
82. I therefore oversaw the development of a further update to the Coronavirus Control Plan for the winter period which was discussed in Cabinet and set out two core scenarios of Covid Stable and Covid Urgent and the likely actions Welsh Ministers would take under each. For example, under Covid Urgent a move back up the Alert Levels could be triggered by a new, fast-spreading variant which was assessed to have a risk of overwhelming the NHS. This updated plan was published on 8 October 2021. Rising pressures in the healthcare system led to Cabinet requesting options for the expansion of the COVID Pass which were agreed towards the end of October, alongside strengthening messaging.
83. By early December 2021 the Omicron variant had emerged as a novel and specific threat. The review of the regulations I oversaw on 9 December did not make substantive changes to the restrictions and requirements (limited to minor and technical changes) but recognised the need to review evidence as it emerges. I exhibit the Cabinet paper CAB(21-22)61 at **TSM2B/41-INQ000057950**.
84. By the following week scientific advice on the threat was recommending significant levels of non-pharmaceutical interventions being put in place, in particular given the very high levels of transmissibility of Omicron and risks of overwhelming the NHS if there was vaccine escape or greater levels of severity. UK Government Covid funding for businesses had been reduced over the summer and the harms of restrictions would have been high. This was not only a consideration for the use of NPIs, but Welsh Ministers recognised a significant rise in infections would impact on hospitality and similar businesses whether restrictions were in place or not as individuals sought to avoid illness over Christmas. In contrast to the rise of Alpha, in which Wales was one of the first parts of the UK to see the impacts, Omicron was growing most quickly in Scotland and England. However, the potential benefit of insights from being behind the curve of Scotland and England were more limited by

the very high growth rates of Omicron. I exhibit at **TSM2B/42-INQ000057971**, Cabinet paper CAB(21-22)62, which describes these considerations in more detail.

85. The advice I oversaw therefore had to balance a wide range of potential harms, with significant potential risks. Cabinet papers and advice I helped prepare and oversee explored a range of different options for amending restrictions and requirements to respond to the Omicron threat. This led to Ministers agreeing to increase restrictions and requirements in the regulations over the course of December. Revised modelling and more information on the progress and potential impacts of Omicron provided new evidence that lower levels of additional restrictions and requirements than initially proposed in scientific advice could still be effective (in this case Alert Level 2 measures as opposed to needing to apply Alert Level 4). Cabinet therefore agreed, following discussion at its meetings on 20 and 21 December, to move to a modified Alert Level 2 from 26 December 2021. The minutes of those meetings are exhibited at **TSM2B/43-INQ000022562**.

86. A key change compared to previous use of the Alert Levels, was that legal restrictions at the revised Alert Level 2 no longer included complex rules on people meeting each other, being limited to rules against large gatherings (over 30 indoors and 50 outdoors). To recognise the fast-moving position and high levels of uncertainties about Omicron, Ministers requested reviews be carried out every week on the last epidemiological situation so that changes could be made quickly if needed and progress tracked against the different modelled scenarios of pressures on the NHS. These were overseen over this holiday period by both myself and Liz Lalley (by then Director of Restart and Recovery and my line manager), depending on who was on leave or on call over this period.

87. Sufficient assurance had been gained from this process by 14 January for Ministers to discuss and agree to a phased removal of the additional Alert Level 2 restrictions. Ministers subsequently agreed changes to move back to Alert Level Zero on 28 January. My role and that of my team involved preparing the options for a phased return and coordinating and preparing advice to confirm whether conditions remained favourable to make the planned changes.

88. The next formal review of the regulations was overseen by Christopher Warner (Deputy Director Restart) who had joined the Restart and Recovery Directorate in January 2022. In late 2021, I had requested a move to another role as the

relentlessness of the work involved over the preceding 18 months was leading to a risk of burnout. The role had been advertised on a short-term basis with the intention of a period of overlap to allow me to seek a new post once work pressures eased and I had been able to successfully transfer responsibilities. I worked closely with Christopher in January 2022 to transfer responsibility for the 21-day review process, with those reviews considering the proportionality of all legal remaining restrictions and requirements.

89. Christopher and I reorganised the Restart Division so that I could oversee the development of a transition plan to move from an emergency response to a long-term approach to living alongside coronavirus and other communicable diseases. Christopher oversaw the 21-day reviews and related modifications to regulations and guidance. This included the removal of the COVID pass regulations and the phased move away from face coverings.

90. Initial discussions about the potential for a transition plan took place between senior officials at the end of 2021 following the publication of the update to the Coronavirus Control Plan in October 2021. I established a Programme Board for Transition, chaired by Reg Kilpatrick (Director General Covid Response), to discuss the work required to manage the process of transition away from an emergency response. This met for the first time on 10 December 2021, prior to the emergence of Omicron , but did not undertake substantive work until February 2022. The Transition Board was established using a proportionate project management approach, including a work plan, risk register, and Terms of Reference. I understand that the Terms of Reference are exhibited to Liz Lalley's statement, reference **M2BLL01/14-INQ000227698**.

91. Following the initial discussion in December, the Board did not meet formally or carry out substantive work during December and January as my team and I had to focus on managing the risk of Omicron and the extensive work around preparing Cabinet papers, Ministerial Advice, public guidance, and other government business. Once Christopher Warner joined in January, I was able to restart this work and with the transfer of responsibility of the 21-day reviews to Christopher I was able to focus on planning for the transition arrangements. This meant not only the process of removing the legal restrictions, which would be assessed as part of the regular reviews, but also the practicalities of moving from a centralised and temporary emergency response to a more sustainable model situated within existing

departmental structures. I also needed to ensure contingency plans were put in place for setting up a response again if needed.

92. My role during this period was overseeing the programme of activity and work linked to the Transition Board, as well as overseeing the preparation and publication of the public transition plan (*Together for a safer future: Wales' Covid-19 transition from pandemic to endemic*) published on 4 March 2022. The transition board met on 28 January, 8 February, 22 February, 9 March, 23 March, 28 April, 26 May and 28 June. The range of work of the Board included overseeing the standing down of formal emergency governance arrangements, the winding down of the Restart and Recovery Directorate and transfer of residual functions to other Departments, pieces of work including a lessons learned exercise, contingency planning should an emergency response need to be stood back up again, and an initial table top exercise to test those contingency plans. Regular updates were provided to Cabinet on the work, who provided direction on the approach. The overall approach of managing this process was successful, with different parts of Welsh Government developing different aspects of the plan and taking ownership of residual and future responsibilities in a managed and phased way.

93. Over the course of my work on the transition plan Christopher Warner had overall responsibility for the 21-day reviews and for removing the remaining restrictions and requirements and the legal framework. I will have been involved at different points in some of those Cabinet papers and pieces of advice, with joint papers sometimes prepared covering both the review cycle and the transition planning I was leading. Christopher became more involved in the transition planning as the legal restrictions were removed and we jointly oversaw related work, depending on our availability, as the work on reviews diminished.

*As Deputy Director with responsibility for International Travel: October 2020 to April 2021*

94. Towards the end of October 2020, in addition to the responsibilities I had for overseeing the 21-day review of regulations I took on additional responsibilities that were currently being carried out by a different Deputy Director (Neil Surman). This included the making of regulations and associated Government business (such as scrutiny debates, complaints, correspondence, etc.) some of which aligned with the expertise of my Division.

95. The responsibilities also included overseeing the reviews of regulations and preparation of associated advice linked to international travel restrictions in Wales, including overseeing the coordination with the UK Government. One member of staff (Grade 7 level) moved to me on international travel as part of this transfer of functions who had been involved in this area since regulations were first introduced.
96. I also took on responsibility for guidance from another Deputy Director (James Gerard) in January 2021, which meant additional work overseeing this area during each review cycle in which changes were made to regulations. As part of this transfer one member of staff (a fast-streamer) moved to me temporarily.
97. I had only recently secured two new Grade 7 members of staff (who would join me in January 2021) to address staffing gaps from my own move to Deputy Director and another member of my team moving to take up a post overseeing contact tracing. The additional responsibilities and increasing workload associated with incorporating international travel and guidance meant I needed to immediately allocate my new members of staff to these new areas of responsibility (one on international travel and one on guidance) and absorb existing pressures across the whole team.
98. Since July 2020, a weekly process had been established across the UK for the review of international travel arrangements. This led to regular amendments to the international travel regulations based on an ongoing assessment of risks from different countries. Prior to my taking responsibility for overseeing preparation of advice, a set of principles had been agreed by the four CMOs for risk assessments. These risk assessments, prepared by the Joint Biosecurity Centre, provided the basis for subsequent changes to regulations. A regular rhythm of meetings between UK Government and devolved government officials discussed implementation and planning issues in-between the UK-wide COVID-Operations Committee where Ministerial decisions would be made and which would normally be attended for Wales by the Minister for Health and Social Services.
99. The policy approach to international travel had also already been established and agreed by the First Minister; namely, to replicate amendments across the UK to ensure alignment unless there is a clear case for divergence. So, by the time I took over responsibility for overseeing the preparation of advice linked to the regulations and the associated changes to regulations and guidance, a clear system was already

in place and operating to facilitate coordinated decision-making across the UK. Decisions were primarily made by the Health and Social Services Minister in line with the agreed policy approach.

100. I understand that restrictions on international travel are covered in Andrew Slade's statement in response to M2B-WTG-01.
101. My role overseeing international travel regulations began shortly after my appointment to the Deputy Director Restart post, with a period of handover and joint working with the existing Deputy Director Neil Surman. Neil oversaw the amendments and reviews of the regulations for the majority of October, with the first piece of Ministerial Advice I oversaw being submitted on 30 October 2020 (during the same period as the Welsh 'Firebreak'). During my annual leave in November (November 5-6, and November 16-20) another Deputy Director, James Gerard, oversaw the changes to the international travel regulations.
102. The changes and reviews I oversaw were mostly in line with changes undertaken across the UK. This included changes to the countries subject to additional restrictions, sectoral exemptions (e.g. where international travel was essential for work purposes), lists of sporting events exemptions from isolation, and other aspects of the regulations. The principal information we relied upon in advising Welsh Ministers on changes to these regulations were the Joint Biosecurity Assessments, which were independently assessed within Welsh Government, and the advice from the CMO for Wales. Changes to regulations were often urgent with the need for regulations to be made as quickly as possible, often coming into effect the following day.
103. This weekly process continued, alongside the formally required reviews of the regulations, into December 2020. There were some minor points of divergence in approach during this time, including:
- On 11 December 2020 (MA/VG/4155/20, exhibited at **TSM2B44-INQ000227437**) the Minister for Health and Social Services agreed to amend Fixed Penalty Notices (FPNs) in the regulations linked to isolation requirements to respond to the Welsh Government review of FPNs referred to earlier in this statement.
  - On 18 December 2020 (MA/VG/4463/20, exhibited at **TSM2B/45-INQ000227976**) the Minister for Health and Social Services agreed to amendments to the regulations to require isolation periods not completed in other parts of the UK to



be completed in Wales. This reflected differences in policy choices, informed by public health advice, whereby Welsh Ministers did not agree to implement the 'Test and Release' approach adopted in England.

104. There were occasions when the weekly cycle of reviewing data was not sufficiently rapid to respond to emerging threats, such as the emergence of a variant first identified in South Africa in December 2020. Serious concerns were raised with Welsh Ministers on 23 December about the threat from this variant and I oversaw the preparation of Ministerial advice and policy input into regulations to put into effect additional restrictions on travellers from South Africa coming into force the following day (24 December). My role was ensuring that different aspects were considered and reflected in the Ministerial Advice in providing the final sign-off or checks before submission to the Minister, in particular that we had clear advice from the Chief Medical Officer or designated representative and that legal advice was fully considered and reflected.

105. By this point Wales was under Alert Level 4 restrictions requiring citizens to stay at home unless they had a reasonable excuse, but it was still possible in the regulations for individuals to arrive in Wales from other countries under a reasonable excuse (such as it being essential for work). The emergence of variants as a specific threat from international travel led to the Joint Biosecurity Centre advising, on 15 January 2021, their assessment process could not provide the same level of assurance as against wild type SARS-COV-2. In turn, a suspension of the travel corridor system was agreed across the UK until at least 15 February to allow for a review of the system for international travel restrictions.

106. I oversaw the preparation of advice (including providing steers on content to the drafters, ensuring contributions from experts such as public health, testing colleagues, and legal services were commissioned and incorporated, and quality assuring the advice) to put into effect elements of the new UK Managed Quarantine system in Wales which had resulted from this review (MA/VG/0538/21, 16 February 2021, exhibited at **TSM2B/46-INQ000116682**). This included:

- Entry into the UK from 'red list' countries to only be permitted via designated ports, and to include transfer to Managed Quarantine facilities close to those ports. No ports of entry were identified in Wales given a lack of travel from related countries, therefore Ministers agreed to a complete ban on arrivals from 'red list' countries directly into Wales, with travellers able to continue to use designated

ports of entry in England. Onward travel to Wales was possible once the period of Managed Quarantine had been served.

- A new testing regime for travellers to have booked and paid for testing packages and to undertake tests on day 2 and day 8 of their return to Wales. The Welsh regulations were broadly equivalent to those for England, but did not include the provision for private sector tests given assurance about quality could not be ascertained at that time.
- Amendments to sectoral exemptions and the list of sporting events to reflect the changing threat from variants the Managed Quarantine and revised testing approach was established to address.

107. The main route for international travel into Wales was via Cardiff Airport, which at the time of establishing Managed Quarantine Facilities was not carrying out flights and there was a limited history of travel directly into Wales from countries in the 'red list' as designated. To carry out more detailed work on the options for Managed Quarantine facilities in Wales I secured an additional G7 resource to work with policy leads across Welsh Government on procurement of hotel, travel and security facilities. This G7 worked directly with a Deputy Director in the Economy Department, Rob Holt, to carry out further exploratory work such as identifying suitable sites for Managed Quarantine facilities and associated costs of establishing and running them. Options for establishing dedicated Managing Quarantine facilities in Wales was further expanded upon in advice to the First Minister on 10 March (MA/FM/1003/21, exhibited at **TSM2B/47-INQ000116637**).

108. Given the emphasis on the procurement aspects of this advice it was overseen by a Deputy Director in the Economy Department (Rob Holt), and I had input into the advice as part of my role overseeing the regulations. The lack of any expected passenger flows into Welsh ports and high costs associated with establishing dedicated facilities in Wales led to the First Minister agreeing not to introduce Managed Quarantine at that stage, but to keep it under review and for contingency planning to continue (for example, if EU countries were added to the 'red list').

109. The work had become particularly intense for me over the period December 2020 to February 2021 with a very high volume of work required at emergency pace and I agreed with my Director General, Reg Kilpatrick, that the international travel elements would be transferred to another Deputy Director. I retained policy

responsibilities for the domestic restrictions regulations, associated policy frameworks, and approach to core guidance and Frequently Asked Questions. A new Deputy Director dedicated to international travel, Bethan Bateman, took over related responsibilities for international travel from early April 2021 onwards.

### **Role in relation to public health and coronavirus legislation and regulations**

110. I have set out at length my role in relation to the principal regulations which started after the first lockdown in March 2020 and included all subsequent principal regulations covering restrictions and requirements until they were expired in May 2022. I worked very closely with senior colleagues in the Office of the Legislative Counsel (primarily Dylan Hughes, Chief Legislative Counsel, and Terry Kowal, Deputy Chief Legislative Counsel) who were responsible for drafting of the regulations and in Legal Services (primarily Helen Lentle, Director Legal Services, and Neil Buffin, Deputy Director Legal Services) who provided extensive advice on the legal and rights issues informing Ministers' decisions and the preparation of regulations, guidance, Cabinet papers and Ministerial Advice. I spoke with or corresponded with these officials extensively throughout each review cycle. These were highly effective relationships in an extremely fast paced environment, with legal advice directly informing policy and decision-making throughout.

111. I have also described my role in overseeing the international travel regulations between October 2020 and April 2021. A process had been established by the time I took on these responsibilities, with coordination across the UK managed by the UK Government and Neil Surman having put in place a process within the Welsh Government prior to transferring responsibility to me in which the First Minister had agreed a policy position and the Minister for Health and Social Services took related operational decisions based on advice from the Chief Medical Officer and public health advisors. My role in this respect was to oversee the reviews of the international travel regulations within this framework and to represent the Welsh Government as required at relevant meetings with UK Government officials to discuss operational issues, though many of these were attended by my team. The key changes I oversaw are set out in the section above for the period I was responsible in this area.

112. I had a more incidental role in other legislation and regulations. To the best of my recollection this included:

- The Health Protection (Coronavirus Restrictions) (Functions of Local Authorities etc.) (Wales) Regulations 2020. This provided additional powers to local authorities in response to the pandemic and were linked to the principal regulations. I provided related advice to Ministers through Cabinet papers and Ministerial Advice where modifications to these regulations were required to support the overall approach to NPIs in Wales or required consequential amendment. For example, in providing additional powers for Local Authorities to disperse crowds without prior consultation for public health reasons.
- The Coronavirus Act (2020). I oversaw part of the final review of the regulations to consult with Ministers, quality assuring advice prepared by a G7 in my team following cross-Government consultation on which aspects should be retired and which retained. This included the decision to extend specific aspects of the Act to September 2022 (relating to continuity of education and childcare and protection from forfeiture of business tenancies) and allow others sunset on 24 March 2022 (MA/EM/0594/22, on 14 February 2022).

#### **Role in relation to medical and scientific expertise, data and modelling**

113. My primary role in relation to medical and scientific expertise, data and modelling was to ensure they were reflected in the various papers and advice provided to Ministers that my Division prepared. As part of this I had a role overseeing the commissioning of relevant advice from my team based on policy options being considered as part of the review process. In the first series of reviews, I worked closely with three key individuals in the Technical Advisory Cell (Rob Orford, Fliss Bennee, Craiger Solomon) to discuss the available evidence and understand the degree to which it could inform policy.
114. For the first review of the regulations I relied on evidence provided via SAGE and Cabinet Office through the formations of COBR and Ministerial Implementation Groups Welsh Ministers were invited to. Over time the Technical Advisory Cell provided tailored and Welsh-specific scientific expertise and analysis. I took part in meetings of the Covid Intelligence Cell once it was established to hear the latest intelligence in real time to inform the review processes. I was an occasional observer at the Technical Advisory Group and the only substantive participation in that group I can recall was presenting a policy paper on proposals for extended households to seek expert advice on its likely impact.

115. Once TAC and TAG had been able to build up capability to undertake Welsh modelling (via Swansea University) my role included discussions with analysts in the Technical Advisory Cell on the policy scenarios that could be applied for running those models.

### **Role in Covid-19 public health communications**

116. My team and I worked very closely with the central Covid public health communications team in Welsh Government which was overseen by Toby Mason (Director of Communications). My role, and that of my team, was to review relevant communications material to ensure it reflected both the reality of the restrictions and requirements and the policy intent. This meant including communications colleagues as early in the process as possible, ideally throughout, so that preparations could be made as far in advance as possible.

117. Decisions were made extremely rapidly, requiring turnaround equally fast so that the Senedd could be informed, the public notified, and Ministers briefed to speak to the media to communicate the messages. The very close cooperation with the Communications team and the Special Advisor responsible for communications Madeline Brindley, meant that they were able to take over the full range of communication activities from the point Ministers made decisions at Cabinet. My role was to make sure they were all kept informed about the options being developed for Ministers, the emerging scientific and public health advice, and stakeholder feedback so they were as prepared as possible once decisions were made.

118. The process that developed around the 21-day reviews began to operate very smoothly from my perspective quite quickly, and the roles taken on by the Communications teams avoided my needing to take on additional work. For example, while my team would prepare a written statement to the Senedd on any regulation changes, the Communications team would prepare the press notice and work with the Special Advisor on the speech for the First Minister to give at the press conference; with us all cooperating to ensure consistency. Graphics and visualisations of changes were also prepared by Communications with my role to check their accuracy against the changes being made.

119. I have set out my role in the preparation of the public strategy documents in terms of drafting and coordinating contributions, but the presentation and publication of those documents were carried out by separate teams.
120. The principal role I had in public health communications was in overseeing a suite of core guidance documents from January 2021 until January 2022, at which point the responsibility was shared with Christopher Warner until the principal regulations were expired. I understand that all published guidance documents have been disclosed to the Inquiry.
121. These core guidance documents included an explanation of the rules in force at the extant Alert Level, a set of Frequently Asked Questions, and statutory guidance on the reasonable measures that organisations were required to take under the regulations. Prior to January 2021 the preparation and oversight of related core guidance was overseen by a different Deputy Director, James Gerard, working alongside Neil Surman. Responsibility for the core guidance and Frequently Asked Questions was transferred to me in January 2021, at which point the Alert Levels framework was in place and related guidance had been published. My role was overseeing the changes required to guidance to reflect the regulatory changes we were making. For example, the incremental approach to coming out of lockdown agreed by Welsh Ministers in early 2021 meant that regular changes were required to the guidance in force to reflect and explain the specific changes that had been made to the regulations each time they were made; the incremental approach, because of uncertainties about the Alpha variant, meant that it was not possible to simply switch between pre-prepared guidance on each Alert Level.
122. Of particular importance were the Frequently Asked Questions (which over the course of the pandemic had become a highly visited part of the website, proving a place to address more topical issues), and the statutory guidance relating to the principal regulations. I oversaw attempts to rationalise guidance, in particular in the latter stages of the pandemic, including overseeing a consistent cross-Welsh Government process of creating 'Action Cards' for types of business premises to replace a proliferation of lengthy sector-by-sector guidance that repeated similar information, and developing overarching core guidance for businesses and individuals about risk management as Welsh Ministers moved away from regulations.

## THE ROLE OF SPECIFIC NON-PHARMACEUTICAL INTERVENTIONS (“NPIS”)

123. As noted in my statement above, my role in relation to Non-Pharmaceutical Interventions (NPIs) was primarily focussed on the legal restrictions and requirements set out in the principal regulations and from January 2021 the associated core guidance and statutory guidance. My role also included the coordination and preparation of the public strategic framework documents, such as the *Coronavirus Control Plan*, working across Government.

124. NPIs were just one part of the public health and wider response to the pandemic. A key role for many NPIs were to reduce person-to-person contact, with a hierarchy of interventions established over time based on an increasing scientific and public health evidence base. In relation to the use of NPIs in the regulations, the approach was based on an overall package of interventions having a cumulative effect that would reduce the rates of infection to a manageable rate that would avoid the NHS becoming overwhelmed. Therefore, the assessment of the proportionality of NPIs needed to consider the overall package of interventions as opposed to each measure in isolation. My statement discusses many different NPIs and my role in those specifically identified by the request from the Covid inquiry are also summarised below.

### *Working from home where you can*

125. A requirement to work from home was effectively introduced as part of the first lockdown in March 2020. Even at that time, which included the most stringent set of regulations throughout the pandemic, there were a range of reasonable excuses for individuals to be able to leave home for work purposes where this could not be done at home (assuming their work premises was not one of those required to close). I have already described my role in relation to the ongoing review of the regulations, reflecting public health and scientific advice for Ministers to agree the pace and sequencing of relaxing and tightening restrictions and requirements, including on working from home.

126. Welsh Ministers decided to keep guidance to work from home where practicable in place throughout the pandemic, with legal requirements included at different stages and the strength of guidance and public messaging also adapting to the prevailing context. This reflected consistent advice from SAGE and the Welsh

Government's Technical Advisory Cell that working from home, where practical, was one of the most effective NPIs as it reduced workplace networks and contacts that could extend chains of transmission beyond families. Where advice was in guidance it recognised that there may be many reasons a person might still work in an office even if technically they could work from home, such as for wellbeing reasons. Even when regulations included working from home where practicable they were flexible in allowing for reasonable excuses in a variety of circumstances.

127. The reviews of regulations identified the potential risks of requirements to work from home, including of increased risk of domestic violence for some people not having an excuse to leave their homes. Ministers sought to ensure the rules and guidance were flexible and that additional funding was available for relevant support groups. The general approach to enforcement of Coronavirus rules by the police and enforcement bodies in Wales, supported strongly by Welsh Ministers, was focused on proportionality. As far as I am aware not a single FPN was issued in Wales in relation to any of the stand-alone working from home elements of the regulations (i.e. when not covered by 'stay at home' regulations during lockdowns). The legal requirements were removed as soon as Welsh Ministers identified they were no longer proportionate.

#### *Social distancing*

128. To the best of my knowledge, the general policy around social distancing, in particular that of the length of distance required, was developed by public health and scientific advisors. The first inclusion in the regulations was the addition of a specific requirement for premises to take reasonable measures to ensure 2m distance. I had no role in the development of this policy or the addition of this requirement into regulations.
129. The regular reviews of the regulations and associated discussions about frameworks for NPIs included consideration of social distancing. Welsh Ministers considered it proportionate to impose a requirement for all reasonable measures to be taken by employers and in workplaces given the responsibility of those organisations to their employees and staff. Welsh Ministers did not decide to place a legal requirement on individuals, which would in any case have been unenforceable.



130. As the reopening process during the spring and summer of 2020 was underway it became clear that different types of businesses would be unviable if a strict interpretation of the 2m 'rule' was applied. This was particularly true of hospitality businesses and public transport, where businesses and operators would not be viable if requiring all customers to socially distance at 2m.
131. Task-and-finish work was undertaken at the request of Welsh Ministers to identify an approach to enable hospitality and others to be able to reopen in a commercially viable way. I was not involved in this work, but as part of my role overseeing the reviews of the regulations ensured the conclusions of the work was reflected in the review process. This led to additional mitigations agreed by the sectors affected that reduced risks to compensate for the fact that 2m could not be maintained, for example table service and collecting of contact details to support contact tracing.
132. This approach was incorporated into the regulations through the reviews as part of a coherent 'reasonable measures' regime, which built upon the initial requirement for 2m distancing in business premises. This placed the '2m rule' within a legal framework and hierarchy of risk reduction, as opposed to a single required measure, for businesses and other organisations. Advice on interpretation was set out in detail as part of statutory guidance which highlighted the different factors that could be taken into account when considering the ability to incorporate 2m social distancing.
133. Social distancing in relation to private individuals was set out in guidance around reducing risk. In relation to the regulations, social distancing was initially reflected in restrictions preventing people from meeting others outside of their home, except in certain circumstances. Increasing social contact was one of the most challenging areas to make progress during the review cycles as the public health and scientific advice identified this as one of the riskiest changes that could be made. This high level of risk and concern led to compromises that made rules and guidance very complex as Ministers sought to increase levels of social contact whilst minimising the risks highlighted in the scientific and public health advice.
134. My role involved working with public health and scientific advisors to identify and test options for increasing social contact. For example, my team developed proposals for extended households as a way of allowing for an increase of social

contact which avoided the concerns of multiple networks from proposals such as the 'rule of 6' or similar. Ideas were tested and assessed by public health and scientific advisors in preparing advice for Welsh Ministers.

135. Different rules were introduced throughout the pandemic around social contact, with Welsh Ministers initially opting to focus on an expansion of the extended household. This had more limited health implications (if rules were followed) but involved some groups not benefitting as much as others (e.g. benefitting families as opposed to young people with larger social networks). As described earlier, alignment with other parts of the UK later took place with the 'rule of 6', but given social distancing was a key NPI and transmission networks were a significant concern these rules did change regularly.

#### *Self-isolation*

136. I did not have a significant role in the policy or legislation relating to self-isolation. The regulations I oversaw incorporated aspects of self-isolation policy at different points in the pandemic, but the policy was developed and overseen by colleagues in public health.

#### *Closure of schools and education*

137. The closure of schools and education settings to some pupils was initially not set out in the first set of regulations governing lockdown. The policy for reopening schools to more pupils was led by the Education Department and the Minister for Education, but it was closely coordinated with the reviews of the regulations I carried out. While options and plans for education settings were developed separately, I included the further reopening of education settings as part of the reviews and forward planning I was responsible for. This was important to ensure that other changes being made to the regulations or guidance did not put at risk plans being made to enable more children and young people to attend face-to-face education; which was a clear priority for Cabinet. Similarly, policies around the closure of schools and education settings to some pupils at different stages were part of the strategic plans and associated decisions Welsh Ministers made around the "firebreak" and equivalent lockdown-type restrictions. My role was to ensure these factors were included in the overall assessments and policy documents my team

prepared, albeit the options and policy development in this area was led from the Education directorate working with scientific and public health advisors.

## **DIVERGENCE WITH THE UK**

138. I have described throughout the statement various points at which the decisions taken by Welsh Ministers differed from those in other parts of the UK. As I understood it, from the outset the First Minister set out a preference for a four-nations approach to the pandemic response; seeking to coordinate approaches as far as possible. Efforts were made throughout the pandemic to coordinate reviews, planning and decision-making between the UK Government and Devolved Governments at both official and Ministerial levels. However, the pace of decision-making required meant that this sharing often happened very close to changes to legislation being made; making equivalent changes difficult to coordinate.

139. The fact that devolved powers (1984 Public Health Act) were used to make regulations for Non-Pharmaceutical Interventions such as the first lockdown to my understanding made divergence within the UK inevitable. The process of reviewing and amending regulations in Wales therefore fell exclusively to Welsh Ministers based on the proportionality of interventions in relation to their impact on public health within Wales. As decisions became more complex and required the balancing of different factors and harms the preferences of different administrations would inevitably lead to different priorities to sequence changes or in the levels of risk Ministers were willing to accept. Improved data and monitoring of progression of the pandemic also allowed for a much better understanding of where issues were emerging, opening up the possibility of more targeted interventions. Different parts of the UK operating at different speeds, responding at different times relative to local conditions, and adopting different approaches also allowed different parts of the UK to learn from each other.

140. For example, Wales and London saw the emergency of the Alpha variant before other parts of the UK, allowing the response elsewhere in the UK to be calibrated accordingly. The Delta variant, however, appeared in regions outside of Wales first, allowing decisions in Wales to be informed by the progression of the virus elsewhere. Importantly, many of the decisions reflected complex and difficult balances of harm that it is appropriate for elected Members to make representing their constituents. The benefits of this approach appear to have been reflected in the

relatively consistent high levels of public support for the Welsh Government's handling of the pandemic, which in turn will have supported the adherence to the rules and guidance.

141. There were concerted efforts at various points of the pandemic to coordinate approaches across the UK, many of which have been highlighted. The differential progression of the pandemic during these periods illustrates the difficulties in adopting a one-size-fits all approach. Some illustrations include:

- Proposals for a coordinated approach across the UK to a 'circuit breaker' lockdown (preceding Welsh Ministers announcing a 'firebreak') were not agreed. This followed an agreed coordinated set of additional restrictions across all parts of the UK in October 2020 around licencing and gathering rules, which had been proposed by UK Government Ministers.
- Attempts to coordinate approaches for Christmas 2020 had to be rapidly adapted to reflect the different stages of the prevailing wave of the Alpha variant across the UK. Common rules for Christmas were planned in advance, and agreement was reached across the UK, before they needed to be amended.
- International travel regulations were mostly closely aligned across the UK, though there were still some areas of divergence where they could be managed to reflect the different levels of risk Ministers in Wales and the UK were willing to adopt. Alignment largely reflected the nature of international travel flows and the inability to diverge meaningfully given most entry points used by Welsh citizens were in England.

142. Welsh Ministers considered options for alignment with other parts of the UK in their decision-making around NPIs. Given the porous border between Wales and England, the decisions being made by UK Government Ministers were relevant to the decisions Welsh Ministers needed to take. My team and I included specific sections in the papers and Ministerial Advice during the reviews, in particular the early reviews, to provide information on what was known about decision-making in the UK Government and other parts of the UK and consider options for alignment.

143. Welsh Ministers held regular meetings with counterparts in the UK Government, though I was not usually involved in those meetings (observing once or twice to take an official note). The decisions being made in other parts of the UK, and

in particular the UK Government for England, were one factor in many considered by Welsh Ministers. For example, where Welsh Ministers were satisfied the public health conditions were favourable enough to relax restrictions, options could include aligning with rules in England (if they were already more relaxed) for different potential benefits (e.g. ease of public understanding, ease of doing business, etc.).

## **KEY CHALLENGES AND LESSONS LEARNED**

144. A substantive lessons learned exercise was carried out which covered the work of my Division and more widely, which I exhibit at **TSM2B/48- INQ000182549**. This broadly encompasses the key challenges and lessons I would also identify. From the perspective of carrying out my professional responsibilities as set out in this statement I would specifically highlight:

- Transparency around decision-making, the different trajectories that were possible, and the likely responses in different circumstances was important in maintaining public confidence.
- The standing up of a central Welsh Government civil service coordination function could have been quicker to facilitate more rapid scaling up and recruitment.
- Staff resources and pressures were a continuous challenge, with significant burdens placed on some teams with little respite. My Division would have benefitted from double-running of key staff (i.e. two people covering key posts) to allow for periods of rotation and some down-time and leave to be taken.
- The impacts of NPIs and options to mitigate them were unknown and had to be learned in real time. With experience and available data we should now be able to better plan to reduce and mitigate impacts from any such NPIs should they ever been needed again.

**Statement of Truth**

145. 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.

146. Signed: Personal Data \_\_\_\_\_

147. Dated: 25/09/23