

**IN THE UK COVID INQUIRY  
BEFORE BARONESS HEATHER HALLETT  
IN THE MATTER OF:**

**THE PUBLIC INQUIRY TO EXAMINE THE COVID-19 PANDEMIC IN THE UK**

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**SUBMISSIONS ON BEHALF OF COVID-19 BEREAVED FAMILIES FOR JUSTICE  
CYMRU IN ADVANCE OF THE PRELIMINARY HEARING FOR  
MODULE 7 ON 27<sup>TH</sup> JUNE 2024**

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**Introduction**

1. Submissions are made on behalf of Covid-19 Bereaved Families for Justice Cymru ('CBFJ Cymru') with reference to the following agenda headings:
  - a. Scope of Module 7;
  - b. Rule 9 Requests;
  - c. Disclosure to Core Participants;
  - d. Expert Witnesses.
  - e. Every Story Matters
2. In preparing these submissions, CBFJ Cymru has had particular regard to 'Module 7: Counsel to the Inquiry's Note for the first Preliminary Hearing on Thursday 27th June 2024' dated 31<sup>st</sup> May 2024 ('Counsel to the Inquiry's Note') and proposed Agenda.

**Scope of Module 7**

3. We are grateful for the assurances we have received from the Chair in hearings to date that she fully intends to ensure that the interests of the people who live in Wales are properly recognised during the Inquiry.

4. We are also grateful to have been granted Core Participant status in Module 7 and seek to assist the Inquiry in all aspects of the Module with an emphasis on matters affecting Wales and the implementation of Test, Trace, Protect (Wales) programme ('TTP Wales').
5. As the Chair is aware, although Wales receives funding from the UK Government, responsibility for health and social care is devolved to the Welsh Government. Wales has its own health and social care system. NHS Wales is not a legal entity and is instead comprised of Local Health Boards, NHS Trusts and Public Health Wales. Other offices and agencies such as the Office of the Chief Medical Officer are specific to Wales. This means that key decisions made in Wales in relation to the implementation of the Test, Trace and Protect programme were largely separate to and often quite different from those taken by the UK Government.
6. It is of fundamental importance to CBFJ Cymru that the Inquiry understands that there were significant differences in the Test, Trace and Protect policies employed in Wales, with numerous and substantial variances in approach, resources and deployment across the home nations throughout the relevant period (January 2020 until February 2022).
7. CBFJ Cymru's shared lived experience of TTP (Wales) was one of a chaotic system where policies were ineffective and messaging was confusing, and implementation was inconsistent, late, contradictory and at times incoherent. Decisions in Wales were often different, or taken later than in the other home nations, with devastating effects. By way of example, routine testing for patients being sent from hospitals to care homes in Wales was not implemented until two weeks after England. During that time, 1,097 patients potentially carrying Covid-19 were discharged into vulnerable communities without testing.<sup>1</sup>
8. A lack of cohesion between the four nations with regard to different policies on TTP, and the impact on infection rates of Covid-19 throughout the UK is highlighted for investigation in this module. There was also a lack of effective communication and collaboration between the four nations which led to confusing, nonsensical and

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<sup>1</sup> See: [Why were 1,097 hospital patients discharged to care homes without being tested for coronavirus? - Wales Online](#); [Coronavirus in Welsh care homes – the disaster that didn't have to happen – Wales Online](#).

ineffective policymaking. As an example, in September 2020, it was announced that holidaymakers returning to Wales from certain countries would be required to self-isolate for two weeks. There was no such requirement for those returning to England. This failure to coordinate a response led to confusion and ineffective policies because, for example, holidaymakers travelling from certain countries and landing in airports in England such as Bristol or Manchester could travel home to Wales without being required to self-isolate, but those landing in Cardiff from those same countries were required to self-isolate.<sup>2</sup>

9. Whilst recognising the inevitable overlap between the Modules, it is particularly important to CBFJ Cymru that the Inquiry recognises the fundamental differences of the approach taken in Wales. The issues and/or KLOEs that are of particular importance to CBFJ Cymru include the following:
  - (a) The delay by 2 weeks to follow England's policy in testing patients discharged from hospital to care homes;
  - (b) The delay in authorising testing without Covid symptoms in Wales;
  - (c) The delay in testing patients on admission to hospital;
  - (d) The failure to test patients discharged from hospital to their own homes;
  - (e) Delaying the testing in care homes for all staff and residents without Covid symptoms, whilst England was already doing the same. Care home testing for all staff and residents without symptoms in England was extended on 28 April 2020, but was not implemented by the Welsh Government until 16 May 2020;
  - (f) Delaying the decision to test care staff without Covid symptoms on a weekly basis until the 15<sup>th</sup> June 2020;

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<sup>2</sup> See: [Coronavirus: 'Quarantine roulette' brings chaos and frustration for holidaymakers | Politics News | Sky News](#)

- (g) The lack of co-ordination between the UK Government and the Welsh Government/Public Health Wales such as setting up a mass test centre in Cardiff City Stadium without their knowledge or input;
- (h) Delaying the introduction of care home testing in all care homes to 16<sup>th</sup> May 2020 which had previously only required care homes to test if they had a confirmed case;
- (i) Confused messaging regarding isolation rules in Wales and why it differed to England or other home nations: including the rules for International travel.
- (j) The reason why the Welsh Government used different criteria and strategies to the testing, tracing and isolation of potential contacts?
- (k) The adequacy of the testing capacity in Wales and whether the Welsh Government could or should have co-ordinated with the UK Government to share resources;
- (l) The adequacy of the contact tracing system in Wales. CBFJ Cymru members report that despite being a confirmed contact of a positive case, they were never followed up with regarding isolation. CBFJ Cymru members also note a significant drop in the level of contact tracing after the first wave;
- (m) The reason why the type of antigen (swab) test differed between Wales and England. Welsh laboratories required a 'single dry swab' from the back of the throat. English laboratories required 'two wet swabs' from the nose and throat. Wales had to change the tests in order to be compatible with England. This suggests poor collaboration between CMOs, and wasted effort on the part of Wales with less effective results.
- (n) The reason why regular testing of healthcare workers started in November 2020 in England, but was not introduced in Wales until December 2020, and some Health boards in Wales were delayed until March 2021?
- (o) How Covid Passports interacted with TTP Wales. CBFJ Cymru are of the view that this added to the chaotic picture in Wales, the rules were confusing and the lack of an

effective app made the rules hard to follow. CBFJ Cymru members note stories of the system being abused by many, with stories of individuals simply sharing negative tests to gain entry to venues.

- (p) The type of testing regime that would have minimised the number of nosocomial infections?
- (q) Whether TTP (Wales) took into account the rural nature of some communities and how the same could be supported in gaining access to testing;
- (r) The lack of access to test centres for more vulnerable members of society;
- (s) The commitment by the Welsh Government to processing a number of tests then failing to hit the target without explanation;
- (t) The lack of PCR tests, and subsequent denials;
- (u) The inconsistency in the Welsh Government's policy regarding the validity of testing without symptoms;
- (v) The lack of a care home register within Wales when attempting to distribute COVID-19 tests to them;
- (w) Distribution issues in respect of getting LFTs to Health Care Workers and why the Welsh Government was unable to use existing channels to distribute to hospitals;
- (x) The failure/delay to expand the list of symptoms beyond the 3 cardinal symptoms which led to many failing to undertake tests or isolate;
- (y) The limited number of test centres;
- (z) Despite there being only one Test and Trace Application, the contact tracing wasn't co-ordinated between England and Wales;

- (aa) The delay in adopting mass community testing;
  - (bb) The higher costs suffered by those in Wales on returning from abroad and requiring to use a single PCR provider.
10. It is CBFJ Cymru's view that the Welsh Government's handling of Test, Trace and Protect in Wales had a devastating effect on Wales and contributed to the loss of life. There was lack of available testing in Wales, there was a delay of testing in key areas such as hospitals and care homes, and there were differences in testing advice and isolation advice. Decisions were taken later in Wales than in the other UK nations, with no clear reasoning for the delay. Key public messaging was confusing and led to people not knowing what the rules were, and may have affected compliance with the rules. The chaos of decision making in Wales, the apparent lack of a clear strategy and the resulting effects must be properly scrutinised by the Inquiry.
11. In CBFJ Cymru's view, a model closer to that implemented in South Korea would have spared a significant proportion of their members from the losses they have endured. In South Korea it is widely reported that within two weeks of the first diagnosed case of Covid-19, thousands of test kits were shipped daily; reaching 100,000 kits per day by 19th March 2020. Once testing capacity was expanded, to prevent infected people from entering hospitals, COVID-19 screening clinics were set up outside entrances and an assessment of risk was carried out. These measures were supported by an aggressive approach to contact tracing and this multilevel approach can be credited with low rate of infection across their population.<sup>3</sup>

### **Rule 9 Requests**

12. CBFJ Cymru notes that the process of using Rule 9 letters has already begun and await the update on Rule 9 at the preliminary hearing before passing comment.

### **Disclosure to Core Participants**

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<sup>3</sup> See: <https://ourworldindata.org/covid-exemplar-south-korea>

13. CBFJ Cymru welcomes the update at paragraphs 25 – 33 of Counsel to the Inquiry’s Note.
14. CBFJ Cymru repeats its usual request for the Inquiry team to ensure that Core Participants are provided with disclosure as soon as reasonably practicable to enable sufficient time for preparation for the substantive hearing. Further, given that documents disclosed in earlier modules relevant to module 7 have already been identified, we would appreciate the sharing of this information as soon as possible.

### **Expert Witnesses**

15. CBFJ Cymru is grateful for the update at paragraphs 34-37 of Counsel to the Inquiry’s Note. It is noted that the Inquiry will “*likely appoint experts*” and that the experts will be suitably independent and subject to their overriding duty to assist the Inquiry on matters within their expertise. However, CBFJ Cymru would at this stage like to know what topics/fields of expertise the Inquiry is defining as the key issues that such expert evidence should cover.
16. At this stage we do not have any further submissions to make in respect of this issue, save in respect of timing. It is noted that it is not proposed to disclose letters of instruction, but the identity of witnesses, questions and issues they will be asked to address before the expert reports are finalised. We would welcome confirmation that CP’s will receive this information at as early a stage as possible so that there is an opportunity to make observations in a meaningful way.

### **Every Story Matters**

17. CBFJ Cymru notes the request at para.39 for evidence/experiences from those who are more likely to have difficulties engaging with TTI, including those across the devolved nations and are looking forward to fully engage in this process. The members of the group have a collective wealth of experience with TTP (Wales) which will be of assistance in understanding the practicalities of accessing and using PCR and LFT tests, compliance with testing, practicalities of tracing, isolating and suggestions for future improvement. Specific areas for targeted research are listed above.

18. CBFJ Cymru looks forward to further engage with the Inquiry at a further preliminary hearing once the CPs have been provided with further details on the type of evidence the ILT have gathered and further details on the type of issues that the Inquiry intends to cover.

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