

The UK Covid-19 Inquiry
Written Submissions of the Covid-19 Bereaved
Families for Justice Cymru on Module 6 (care
homes)

Introduction

1. At the outset of these submissions we wish to emphasise the critical importance of this module for the members of Covid-19 Bereaved Families for Justice Cymru (the group), many of whom lost their loved ones while they were residents of care homes.
2. These submissions are made for the following purposes:
 - i. to highlight the cross-cutting nature of this module and to propose Inquiry engagement with core participants for the purposes of identifying relevant evidence disclosed in other modules.
 - ii. to set out the group's key priorities and to propose further witnesses for Rule 9 request.
 - iii. to propose options for impact evidence.

Cross-cutting issues

3. The group submits that Module 6 is uniquely cross cutting in contrast to a module such as vaccinations and therapeutics (Module 4), which is largely self-contained. For this reason, it is proposed that the Inquiry gives consideration to how, in collaboration with core participants, key evidence from other modules can be identified and made available in Module 6.
4. For example, the appalling and tragic circumstances that unfolded in care homes in Wales was a combination of a refusal by the Welsh Government to provide testing in care homes, their failure to provide PPE in care homes, a failure to recognise and take a precautionary approach to asymptomatic and aerosol transmission, and the catastrophic decision to discharge patients from hospitals into care homes because of a lack of NHS hospital capacity.
5. These are issues that have either already been explored in Modules 1, 2, 2b, and 3, or will shortly be examined in Modules 5 and 7, prior to the Module 6 hearings. In these circumstances, the group suggests that it will be necessary to identify and utilise relevant evidence from these earlier Modules to address the Inquiry's List of Issues in Module 6.
6. We set out below a number of these issues in more detail, to further illustrate this point, and for the purposes of identifying witnesses from whom the group submits it will be essential for the Inquiry to request and/or repurpose witness

statements.

7. If the Inquiry agrees that this proposed engagement will be of assistance to its work, it need not be the subject of a formal protocol, and the group suggests that the provision by core participants of a spreadsheet listing significant information disclosed in other Modules, would suffice.

Priorities and proposed witnesses

8. The group's priorities are well known to the Inquiry and are included within the Inquiry's List of Issues, for which the group is grateful.
9. The group is further grateful for the Inquiry's response to its earlier witness suggestions (all of which have been addressed).
10. Highlighted below are aspects of the Module 6 List of Issues that are unique to Wales, for the purposes of proposing a small number of additional witnesses that the group submits will assist the Inquiry when considering the issues to be explored in Module 6. These witnesses are:
 - i. the seven local health boards in Wales;
 - ii. the former First Minister, Mark Drakeford;
 - iii. the Chief Medical Officer for Wales, Sir Frank Atherton;
 - iv. a witness or witnesses who can speak to presentations provided to care homes in Wales by local authorities and the Welsh Government at the outset of the pandemic in early March 2020 (see paragraphs 16 and 21 below).

The requirement in Wales for collaboration between Welsh Local Health Boards, NHS Trusts, and Local Authorities in the provision of social care

11. Guidance in Wales requires that Local Health Boards work with key stakeholders, including NHS Trusts, Local Authorities, care home providers and organisations and individuals representing residents to maintain and develop integrated and streamlined arrangements for the commissioning, arrangement and provision of care in care homes in Wales.
12. Given this role, the groups asks that Rule 9 requests are issued to the seven local health boards in Wales (in line with the approach taken with services in Northern Ireland and Scotland)

Personal Protective Equipment (PPE)

13. The Welsh Government became responsible for the provision of PPE to care homes on 19 March 2020, and guidance was issued to care homes in Wales on

this date that PPE was to be worn by social care staff when providing direct personal care to symptomatic patients. However, despite this guidance and responsibility, some care homes in Wales received no PPE until the end of April/early May 2021, which came too late to prevent widespread infection and death.

14. While the Health Minister, Vaughan Gething, announced this policy, the single most influential figure within the Welsh Government in determining the PPE and procurement response to the pandemic in Wales was the former First Minister, Mark Drakeford. Mr Drakeford chaired, and therefore controlled, a regular (weekly and then fortnightly) PPE meeting with Ministers and Welsh Government officials between April and July 2020 (a critical time period in respect of the provision of PPE to care homes).
15. Mr Drakeford has made statements that at no time was the Welsh system unable to supply the individual components necessary for effective protection. Relevant to this issue, Mr Drakeford conceded in Module 2B that there was no single register of the location of every care home in Wales. Having regard to these statements the group respectfully suggests that it will be important for the Inquiry to understand how the Welsh Government was able to ensure the supply of necessary PPE to care homes, when the extent of their existence and operation in Wales was not known.
16. A further issue that is particular to Wales, is that on or about 10 March 2020, local authorities in Wales and the Welsh Government gave presentations to care homes in Wales about the measures in place to combat the pandemic and the preparations to be undertaken by care homes. This included advice that local pharmacies should be approached for PPE supplies, and also that a requirement for face masks was not evident. The group notes that Rule 9 requests have been issued to the Local Government Association and the Association of Directors of Social Services Cymru, and the group requests that these organisations are asked to address the presentations and advice provided to care homes in early March 2020, or alternatively that a further Rule 9 request is issued to deal with these circumstances.

Testing

17. For the purposes of these submissions the group seeks to highlight just one aspect of this complex and important issue. The Welsh Government refused to permit routine testing in care homes prior to 16 May 2020, despite this policy having been introduced in England on 28 April 2020, and despite the appeals of care home owners, who were all too aware of the necessity of this practice for the safety of their residents. One member of the Cymru group and a former care home owner pleaded with the Welsh Government to provide testing and, following heated discussions with Public Health Wales, testing was agreed at

the care home as a one off 'favour'. This testing identified four asymptomatic members of staff who were positive for Covid-19, and that the warnings and fears of the care home owner, that had been ignored by Welsh Government, were sadly well founded.

18. These policies (and the delay in implementation of testing) were considered and determined by the former First Minister, Mark Drakeford, the Health Minister Vaughan Gething, and the Chief Medical Officer for Wales, Sir Frank Atherton.

Hospital discharges to care homes

19. Over 1,000 patients were discharged from hospital into care homes in Wales, prior to the introduction of testing on discharge on 29 April 2020, which seeded infections into vulnerable communities, exacerbated by the lack of PPE, testing, and effective treatment and equipment.
20. The lack of awareness of the risks that this policy posed (including asymptomatic transmission) can be seen within email correspondence from early March 2020 disclosed by the Inquiry [INQ000183761], and again, the significant roles of the former First Minister, Mark Drakeford, and the Chief Medical Officer, Sir Frank Atherton, merit the issue of Rule 9 requests.

The treatments, medicines, and equipment made available to care homes

21. The presentations to care homes in Wales in early March 2020 advised that antibiotics and antivirals did not work in response to Covid-19, that the required treatment was ventilation, but that older people would not be ventilated and that care home residents would not be considered for this treatment, and would not be admitted to hospital.
22. Further, oxygen was unavailable within many care homes in Wales and symptomatic residents were simply placed on end of life care.
23. The group submits that it will be important to obtain evidence from the Welsh Government, including Mark Drakeford, Sir Frank Atherton, and representatives of Welsh local authorities to understand the basis of this advice, and how it was updated and communicated to care homes as the understanding of the virus and its treatment developed.

Impact evidence

24. The events with which Module 6 is concerned are particularly difficult and distressing, with some care homes losing over half of their residents, and for many members of the group this Module is their main priority within the Inquiry's proceedings. In these circumstances, the group asks that the Inquiry goes

further than a single group statement that reflects the experiences of its members, and considers obtaining a range of witness statements from impacted bereaved families.

25. Options include seeking between 10-15 witness statements from bereaved family members, limited to an appropriate and proportionate length, from which the Inquiry may select a lesser number for oral evidence. Alternatively, a process similar to that adopted in Module 3 for impacted healthcare workers, noting the effectiveness and importance of the impact evidence in Module 3.
26. The group welcomes the indication provided within the note of Counsel to the Inquiry that relevant stories are being collected from the Every Story Matters repository, and looks forward to the disclosure of this information. However, it will nevertheless be important for the core participant groups to be able to advance impact evidence (beyond a single group statement) within the Module 6 proceedings.
27. A further factor in support of this approach is the sheer range of impacts experienced by families, including but by no means limited to:
 - i. visiting restrictions;
 - ii. problems with remote communication (connectivity being particularly poor in some regions of Wales), including when saying last goodbyes with calls cutting out mid conversation;
 - iii. a lack of information about the final hours (and sometimes days) of a loved one's life;
 - iv. the lack of access to healthcare, including end of life care, oxygen and basic pain relief;
 - v. the application and process of DNACPR;
 - vi. the lack of testing and PPE;
 - vii. concerns about nosocomial infection, including asymptomatic transmission by carers;
 - viii. feelings of guilt experienced by families;
 - ix. restrictions on the grieving process, including funeral attendance;
 - x. concerns about a lack of dignity in death.
28. In a separate email to the Inquiry, the group has suggested that the Module 6 team seeks a witness statement from a member of the group who owned and operated a single care home in Wales, who no longer works in the sector and is bereaved. The group submits that it will be important for the Inquiry to take evidence from a range of care home owners (not just those operated as chains/groups or by the NHS), and particularly from witnesses who can speak without the constraints of continuing to operate in the sector.