COVID 19 INQUIRY

MODULE 7:

TEST, TRACE AND ISOLATE

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OPENING SUBMISSIONS

ON BEHALF OF THE COVID-19 BEREAVED FAMILIES FOR JUSTICE CYMRU

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## Introduction

1. These opening submissions are prepared on behalf of the Covid-19 Bereaved Families for Justice Cymru ("**CBFJ Cymru**").

2. These submissions focus on matters affecting Wales and the implementation of Test, Trace, Protect (Wales) programme ('TTP Wales'). 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).

3. The 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.

4. As the Inquiry will be aware, the issue of nosocomial infections and deaths in hospital and care home settings in Wales is a major concern of the group. The delayed and chaotic nature of the Welsh Government's implementation of the TTP in Wales contributed significantly to these tragic circumstances.

5. The issues of the CBFJ Cymru are set out in accordance with the topics identified in the Inquiry's List of Issues ("**LoI**") (which, of course, overlap to some degree):
    - Decision making

- Infrastructure and capacity
- Key policies
- Adherence
- Public communications
- Lessons Learned

**List of Issues 1: Decision-making**

6. 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.

7. Yet there was obviously scope for sharing information and resources in relation to testing and tracing. Under this heading, the Inquiry will consider "the engagement between UK government and the devolved administrations in relation to TTI systems". The CBFJ Cymru wishes to know how the Welsh Government worked with the UK Government on increasing testing supplies in the UK, especially in order to increase the efficacy of testing infrastructure. The group understands the Welsh Government had said it would consider 'greater integration' with the other UK nations. The group is keen to know what this meant practically. In particular, the group wants to know whether this influenced testing targets set in Wales.

8. The CBFJ Cymru also wishes to understand the reason why many of the decisions taken by the Welsh Government were taken weeks, sometimes months after the UK Government (see below at §42). The group understands that, largely, the Governments relied on the same scientific advice. If that is the case, why was Wales so slow to act?

**List of Issues 2: Infrastructure and capacity**

9. The Inquiry will consider what systems were in place to rapidly scale up including in relation to test development, diagnostics, national and local tracing.

10. The CBFJ Cymru is concerned that there was a limited ability to trace in Wales, let alone an ability to scale up a tracing system in Wales. Despite numerous pandemic preparedness exercises in the last two decades, the Welsh Government did nothing to build capacity in tracing systems. Indeed, The Welsh health system had experience of a TTP-scheme following the outbreak of a respiratory disease (tuberculosis) in Llwynhendy, Llanelli, in 2019. Mr Gething, in his evidence to the Inquiry in Module 2, described the system as follows:

> *"we a highly efficient contact tracing system and service for small to modest outbreaks. So I think I've given the example of the TB outbreak in Llwynhendy that took place, and actually our contact tracing system there was really good and really efficient but actually the scale of what was required – that wasn't really contemplated as a learning point that was ever brought to me after Cygnus..."* [M2/11/47/12].

11. Similarly, Mr Drakeford in his Module 2 witness statement cited the TTP-type scheme for a tuberculosis outbreak in Llanelli as evidence that Wales has a "pre-existing infrastructure that had served the nation well" [INQ000575983_0017 §§59-62].

12. But Mr Gething and Mr Drakeford are wrong to point to this experience as a success story. A reporting by Public Health Wales into the management of the TB outbreak found that there were "serious failings" linked to contact tracing, with the result that "infected people were unrecognised and developed active disease, passing the infection on to others".[1] Cases linked to the outbreak in 2010 continued to be identified in 2019. Wales' starting point was inadequate. It had no hope of scaling up effectively. Furthermore,

[1] 'Llwynhendy Tuberculosis Outbreak external review report', 2 December 2022, jointly commissioned by Public Health Wales and Hywel Dda University Health Board.

13. Contact tracing was halted in Wales in March 2020 (further details below) and the group invites the Inquiry to consider the lack of pre-existing contact tracing infrastructure, and a scalable testing system as a key reason for this extraordinary decision.

**List of Issues 3: Key policies**

14. This section sets out key concerns of the group in respect of the TTP Wales. The topic lies at the heart of the group's concerns.

15. Despite numerous pandemic preparedness exercises in the last two decades, the Welsh Government did nothing to build capacity in testing systems. And, when the pandemic arrived, this unpreparedness translated to a refusal to recognise the value of testing, and to ensure it was prioritised. Even when expertise was sought out by Public Health Wales (from e.g. South Korea and Taiwan), nothing was done to utilise this expertise. In short, throughout the pandemic, the universal call from experts to "TEST, TEST, TEST" appears to have fallen on deaf ears in Wales.

16. Of course, testing was not simply about identification of a case. It served a much wider purposes – such as informing public health work and identification of hotspots. An effective testing programme was critical if the Welsh Government were to obtain a full and accurate picture and remedial action taken. There was no such programme in Wales.

**Testing**

*The failure to test hospital patients upon discharge to care homes*

17. 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. This practice seeded infections into vulnerable communities, and was exacerbated by the lack of PPE, testing, and effective treatment and equipment, available in care homes. It continued notwithstanding concerns as to the vulnerability of care home residents raised in Senedd on 3 March 2020 [INQ000321248] and reiterated by Care Inspectorate Wales on 8 April 2020. Further, the introduction of testing on discharge in Wales was inexplicably

delayed and came some two weeks after testing on discharge was introduced in England (on 16 April 2020).

*A Covid exit policy that failed to prioritise testing*

18. On 24 April 2020, the Welsh Government published its Covid 19 exit strategy: 'A Framework for Recovery'. The strategy indicates that in order to understand the level of infection in Wales, the Welsh Government is stepping up its testing capacity and capability. However, the strategy contained no detail on how such testing capacity and capability would actually be accelerated. When asked about these deficiencies in Senedd on 29 April 2020, Mr Drakeford re-iterated Wales' focus on testing only key workers. And, in the same session, he added that to draw "any value from testing non-symptomatic people, you'd have to do it every day", which would "take away" tests from others that need the testing. **The CBFJ Cyrmu wants to understand the premise for the Welsh Government's reluctance to test/lack of focus on testing – which was apparent from the outset when they (as shown here in his comments to Senedd) but continued throughout. To what extent was it based on a lack of capacity to test/resourcing issues?**

*Delays to routine testing within care homes*

19. The failure of the Welsh Government to provide routine testing in care homes is a matter of very great concern for the group and encapsulates everything that was wrong about the approach of the Welsh Government to the pandemic, including: a failure to take a precautionary approach to the risks of asymptomatic and aerosol transmission; inaccurate claims that testing had no value; numerous changes of policy; a lack of transparency; and delays in implementation, including in comparison with other UK countries.

20. Statements made by the former First Minister, Mark Drakeford, on this issue, include:
    a. 29 April 2020 – *"The reason we don't offer tests to everybody in care homes, symptomatic and asymptomatic, is because the clinical evidence tells us that there is no value in doing so." (Senedd, 29 April 2020; para 40).*
    b. 06 May 2020 – that he had not *"seen any clinical evidence that led me to*

*believe that testing of non-symptomatic residents and staff in care homes where there is no coronavirus in circulation had a clinical value." (Senedd, 6 May 2020; para 53).*

21. Between these statements, on 2 May 2020, the Welsh Government confirmed that only symptomatic care home residents would be tested. This despite routine testing in care homes in England from 28 April 2020.

22. Over this period, a member of the group, who owned and ran a care home in Wales, campaigned extensively for routine testing because of the risks of asymptomatic transmission, and also because elderly and vulnerable care home residents were falling ill and dying within 48 hours of becoming symptomatic (without Public Health Wales being able to provide testing in this short period between symptoms and death) [INQ000587321/10].

23. On 16 May 2020 the Welsh Government announced routine testing in care homes, and on the same day routine testing was carried out at the care home of the group member mentioned, and, as feared, the testing resulted in several positive tests for asymptomatic staff and residents.

24. On 19 May 2020 the group member asked for these results to be passed to the First Minister and Health Minister, and stated "*This Virus is an invisible killer and the only way it is going to be eradicated in care homes is to have the staff tested WEEKLY especially as their children return to school, so we all know who is shedding COVID19 and they can stay away until safe to return.*".

25. **The group wishes to know why the Welsh Government was so blind to these risks, and precisely what clinical evidence they relied upon to justify their position prior to 16 May 2020 that there was no value in routine testing**. The position of the Welsh Government is all the more bewildering in light of the routine testing of patients being discharged from hospitals in Wales to care homes on 29 April 2020 (in recognition of the risk of asymptomatic transmission, albeit two weeks after England), and the UK Government's policy of routine testing from 28 April 2020.

*Delays to/insufficient routine testing in hospitals*

26. The position on testing in hospitals in Wales for both healthcare workers and patients followed a similar pattern, with delays in the introduction of testing, insufficient levels of testing carried out and patchy implementation.

27. As to healthcare workers, on 4 December 2020 the Welsh Government announced a policy of routine testing twice weekly for healthcare workers to commence on 14 December 2020. This followed the familiar pattern of some two weeks after introduction in England, which was on 16 November 2020. However, most Health Boards in Wales did not implement routine testing of healthcare workers (or asymptomatic screening) until March 2021. Some were even later: Hywel Dda University Health Board took a phased approach to routine testing which commenced in February and completed by July 2021 (with the majority of staff being tested by the end of March 2021) [Professor Kloer; Transcript of evidence in Module 3 Day 30/162/12 – 30/164/18]. Furthermore, whilst the policy mandated testing twice weekly, testing took place every five days.

28. Professor Kloer confirmed that testing limited viral spread. It is therefore (obviously) an important measure for controlling nosocomial infection. As the Inquiry is aware, nosocomial infection is a key issue for the group. There were very high rates of nosocomial infection of Covid-19 in Wales, the highest of which were experienced in the second wave, with 39% of cases of Covid-19 in January 2021 being hospital acquired.[2] Having regard to the high number of deaths this caused, among which were the loved ones of many group members, **the group would like to know, given the availability of testing and the knowledge that it would reduce transmission within hospitals, why the routine testing of healthcare workers was delayed, and when implemented, was not in accordance with levels required by policy. Further, the group would like to know why the Welsh Government did not monitor implementation to ensure that it was taking place as directed.**

[2] The current picture is still concerning: 80% of covid cases in Wales are hospital acquired, there is no testing on admittance, and only testing where patients are symptomatic.

29. As to patients, testing was not routinely carried out on admittance in Wales. Nor was it taken sufficiently frequently when in hospital. In Wales, routine testing was introduced on admission with 5 days repeat testing for asymptomatic patients was from 28 January 2021 (INQ000227387). This was in contrast to the approach in England (where repeat testing was every 3 days). However, many patients were not tested in accordance with that policy, waiting many more days for repeat testing. Some reported loved ones being sent home following an outbreak in the ward, in order for the ward could be cleaned, but without being tested; they died in their homes.

30. The experience of the group's members demonstrate clearly the chaotic testing in hospitals throughout the pandemic:

    a. October 2020: **Anna-Louise Marsh-Rees,** co-leader of the group, recalls how her father was admitted to hospital for a routine operation and was tested for Covid on admittance. He was negative. He was moved 6 times in 8 days, ending up in a ward in which 21 patients and 13 staff had covid. He was discharged without being tested again (hospital staff told him they only tested those being discharged to care homes). Neither he nor any of his family members were advised to take a test. He deteriorated immediately once home and had to be re-admitted one week later. He was tested on admittance and tested positive. Tragically, he died 3 days later.

    b. December 2020: another member recalls how her loved one was admitted to hospital in December 2020 (with a non-covid related issue) and his health rapidly deteriorated. However, he was not tested for covid until his fourth day following admission. Instead, he underwent a series of intrusive and invasive tests during that period before being tested for covid (which returned as positive). He was discharged, without a test, and died.

    c. December 2020-January 2021: Jane recalls how the GP told her he suspected both her parents had covid. Her father went to hospital first, was tested on admittance and the test was positive. He was admitted to a corridor, before being moved to a cubicle. Tragically he died. Jane's mother went to hospital a few days later. She had a test on admittance and the test was negative. Jane was told her mother was fit for discharge and could be collected. Jane insisted she have 3 clear tests before she returned home. A few days later, she had a second test,

which was positive and she was admitted to a covid ward. However, in the intervening period, she was permitted to wander freely in the (non-covid) wards, without a mask, interacting with patients and no doubt (completely unknowingly) contributing to the spread of the infection within the hospital.

d. February 2021: Theresa (who appeared on the 'Impact' video in Module 1) recalls how her mother was admitted to hospital for a non-covid related matter. She was tested whilst in her ward, and the test result was negative. She was not tested until 10 days later, despite the policy to test every 5 days, and despite the ward (with patients in it) being closed due to a covid outbreak. Her second test was positive. Tragically, she died a few days later having tested positive for covid.

31. The CBFJ Cymru is angered that basic testing in hospital was not carried out as it should have been. The chaotic failures cannot be explained by a lack of scientific advice or lack of clarity of advice. The loss of the loved ones described above was well into the pandemic. The value of testing was known. **The group would like to understand why testing was not carried out on patients routinely on admittance in Wales, as well as subsequently on a more frequent basis, as took place in England.**

32. Furthermore, members of CBFJ Cymru are also aware that there were differences in testing procedure and practice, depending on whether a patient was admitted routinely or via A&E, and whether the patient was without or without symptoms. **The group wants to know why these variations were allowed to exist and what measures were taken to address them.** They believe that a standardised approach – where all patients undergo consistent screening – would have been essential to minimise confusion and enhance overall healthcare delivery.

*Delayed/limited access to tests for the public and restrictions on testing criteria*

33. It is the experience of the CBFJ Cymru that:

a. polymerase chain reaction ('PCR') tests were delivered with severe delays (and were available only to those who were symptomatic)

b. there were delays in delivering lateral flow tests/devices (again, announced two weeks after England) and some areas - particularly rural areas – had difficulty accessing such tests
c. there was a lack of access to mass testing centres in Wales (social care workers in Wales reportedly drove to Manchester Airport to obtain a test).

34. It is inevitable that such delays and limited access will have had an impact on the spread of the virus in Wales.

35. The group is also aware that testing criteria in Wales was limited to the three cardinal symptoms – fever, continuous cough and loss of smell. However, many people experienced a wider range of symptoms, such as headaches, sore throat, fatigue, nausea, diarrhoea etc. The Welsh Government's failure to acknowledge this broader range of symptoms in testing criteria, even as late as March 2021, would have led to countless instances of symptomatic people continuing to spread the virus. Exhibited to the Module 3 witness statement of the group's co-lead, Anna-Louise Marsh-Rees, is a letter that her father (as a Shielding Patient) received from the CMO for Wales, Sir Frank Atherton, in October 2020 that states:

> "*You will need to self-isolate if you develop one of the following symptoms, a new continuous cough, a high temperature, loss of or change to sense of smell or taste. You should also apply for a test online if you develop one of these symptoms*." [INQ000327639_0005]

*Lack of clarity on testing targets*

36. The ability to set clear targets for testing is plainly an important feature of any effective policy. However, the CBFJ Cymru are concerned at what appears to be a lack of communication between the Welsh Government and Public Health Wales regarding testing targets in Wales. The Minister for Health and Social Services, Vaughan Gething, had communicated in March 2020 the target of increasing capacity to 9,000 daily tests in Wales by the end of April 2020. However, when questioned by the Senedd Health and Social Care Committee in May 2020, Dr Tracey Cooper (the Chief Executive of Public Health Wales) insisted that this was not a target she was familiar with. The CBFJ

Cymru question how this can be the case, when Public Health Wales had briefed Vaughan Gething on 20 March 2020 of this capacity target of 9,000 tests [INQ000195536].

*Delays to the Lighthouse Laboratory in Newport*

37. On 23 July 2020, Vaughan Gething announced a new Lighthouse Laboratory in Newport. The expectation had been that the laboratory would be up and running by August. However, in the event, this laboratory did not open until 5 October 2020. The group is concerned at this delay for the following reasons:
    a. the low level of testing carried out in Wales (near the end of May 2020 just over 60,000 people had been tested, with a daily capacity at that time of just over 5,000 [INQ000129879]).
    b. it is an example of yet another delay in Wales in testing across a variety of settings, as detailed throughout this statement. Lighthouse Laboratories operated in other parts of the UK from 9 April 2020 (the first Lighthouse Laboratory was opened in Milton Keynes on this date).
    c. a consequence of the overreliance on the development of the Lighthouse Laboratory at Newport was that it came at the expense of fully utilising existing NHS and University laboratories (as identified by the Inquiry expert Dr Claas Kirchelle in Module 1) (which would have better more cost effective).

38. The CBFJ Cymru **would like to know when the Welsh Government first recognised possible delays arising from the UK Government/DHSC-operated Lighthouse Laboratories, and what measures were immediately implemented in Wales to mitigate potential disruptions. In particular, the group seeks clarity on how swiftly these concerns were escalated within Welsh Government structures, whether alternative arrangements were pursued to maintain testing throughput, and what contingency plans were formulated, if any.**

**Tracing**

*Suspension of contact tracing between March and June 2020*

39. A key concern held by CBFJ Cymru's members is that contact tracing in Wales was halted in March 2020 and did not restart until June 2020, almost 2 months after the peak of the first wave in Wales on 12 April 2020. CBFJ Cymru wishes to understand: **why contact tracing was suspended; whether the justification provided for suspension, namely that the UK was entering the "delay" phase, was accurate and complete, or whether the real reason for suspension was in fact a lack of testing capacity; why there was such a lengthy delay in re-introducing a tracing programme given its importance; and what was being done by the Welsh Government in the early stages of the pandemic to speed up tracing infrastructure.**

*Contact tracing slowed in November-December 2020*

40. The CBFJ Cymru is aware that there were challenges within Wales regarding the speed at which close contacts of positive cases were able to be traced, particularly when the viral load would have been at its peak. For example, the success rate for tracing reduced between October and November 2020 by nearly 10% [INQ000350013]. **The CBFJ Cymru wish to know the source of this issue and what measures the Welsh Government implemented to address it. In particular, was it due primarily to a staffing issue, or due to the lack of access to data in Wales, as revealed in previous Inquiry modules. If the latter, the group would like to understand if the lack of technological availability and literacy in Wales impacted this.**

*Concerns regarding the tracing tools (manual/paper-based tracing and the Covid app)*

41. In relation to paper-based tracing, restaurants and the hospitality industry in Wales would regularly require customers to complete paper-based forms for the purposes of contact tracing. The CBFJ Cymru wish to understand if this largely paper-based data was provided to, and used by, the Welsh Government or Public Health Wales in the tracing programme, and if so, how this data was shared and used. The CBFJC seeks

further clarity on the voluntary nature of such systems and is concerned that the inefficiency and ineffectiveness of such schemes allowed the virus to spread further and contribute to the overwhelming second wave of Covid-19 in Wales.

42. In relation to the NHSX 'app', the CBFJ Cymru wishes to know how this was used in Wales, how many people in Wales used the app, how the data was used and what procedures were in place following a close contact alert. In particular, the CBFJ Cymru raise two issues relating to NHSX of particular concern:
    a. what consideration was given to the population in Wales who did not have smart phones or may have had challenges due to technological literacy, and limited internet access, such as with the older population and those living in rural areas?
    b. why was the NHSX unfit for purpose in the healthcare setting? The group understands healthcare workers were notified when there was a covid patient nearby, even if separated by a wall. Such features mean healthcare workers turned off NHSX. This would have defeated the purpose of contact tracing within the app, and would have put many lives at risk, particularly vulnerable people in healthcare settings. **The CBFJ Cymru wishes to understand whether the Welsh Government were aware of this and what steps were taken to rectify the issue.**

**Different approaches to policies in Wales**

43. The CBFJC welcomes the opportunity to explore the difference in policies adopted in Wales as compared to the other UK nations. As far as the group is aware, the most obvious difference (by no means the only one) relates to the timing of policies: Wales consistently delayed implementation of TTP Wales. As compared to England, at least, there was a time lag/delay in:
    a. testing on discharge from hospital to care homes
    b. routine testing in care homes
    c. routine testing in hospitals – both among patients and healthcare workers
    d. provision/availability of PCR tests and LFDs
    e. implementation of contact tracing.

44. Decisions under consideration in this Module were for the Welsh Government, not for the UK Government. If decisions could have been taken earlier which would have helped contain the spread of the virus, the Welsh Government must assist the Inquiry in explaining why this was not done.

45. The group consider the Welsh Government's failure to understand the value of testing, and its delayed approach and casual approach to testing, defied scientific advice. Indeed, to most lay people – including members of the group – it defied common sense. Such was the reluctance to pursue testing, even in face of evidence, that the group is left with the unfortunate impression that an element of wilful blindness descended and impaired the Welsh Government's ability to make timely decisions. And those decisions, ultimately, could have saved lives.

**List of Issues 5: Public communications**

46. CBFJ Cymru is concerned about the complex rules introduced in Wales by the First Minister Mark Drakeford in November 2020. The group considers that these were unnecessarily difficult to understand and apply [INQ000023267]. For example, the statement accompanying the new rules was that "People and not rules are at the heart of Wales' response to the ongoing coronavirus pandemic", which then was followed by a list of complicated and interrelated rules that relied on voluntary accurate interpretation and action.

**List of Issues 6: Lessons learned**

47. The Inquiry will consider what lessons have been learned, particularly in respect of the legacy and development of future TTI systems. The CBFJ Cymru invite the Inquiry to consider:
    a. That the UK government and Welsh Government establish a comprehensive testing infrastructure and tracing system for future pandemics
    b. That communications between the UK Government and the Welsh Government are improved to ensure increased awareness of testing and tracing resources and systems

c. That the UK Government conducts an analysis of international TTI systems, particularly in South Korea, together with international experts, to ensure any future system is informed by international best practice.

**Conclusion**

48. To conclude, this Module touches on a number of key issues for the CBFJ Cymru. The CBFJ Cymru is hopeful these issues will be explored in detail by the Inquiry during the course of this Module. Wales diverged from other UK nations in its policies and/or experienced delays in the implementation of TTP Wales. The group welcomes the opportunity to gain greater clarity on why Wales experienced such difficulties with aspects of the TTP programme, and how those decisions impacted the people of Wales. To that end, the CBFJ Cymru particularly welcomes the decision of the Inquiry to call the following to give oral evidence to the Inquiry:
    a. The Rt Hon Mark Drakeford MS, the former First Minster
    b. Vaughan Gething, the former Minister for Health and Social Services, Wales
    c. Jo-Anne Daniels, Welsh Government
    d. Dr Robin Howe, Public Health Wales

49. Mr Drakeford and Mr Gething have said in previous hearings that they made decisions based on the science and evidence at the time. It is hoped this module will scrutinise these inaccurate claims. The group, and most importantly, the Inquiry, need to be able to understand the true picture as to why Wales took the decisions it did, so that so that mistakes can be recognised by those who made them, and lessons can be learned, in the future.

Covid-19 Bereaved Families for Justice Cymru

30 April 2025