



Save the Children



Children's
Rights Alliance
for England

Standing up for kids

JUST FOR KIDS



SUBMISSIONS FOR THE PRELIMINARY HEARING OF MODULE 2

1ST MARCH 2023

ON BEHALF OF

SAVE THE CHILDREN UK, JUST FOR KIDS LAW

AND THE CHILDREN'S RIGHTS ALLIANCE FOR ENGLAND

Introduction

1. The Children's Rights' Organisations ("the CROs"): Just for Kids Law ("JFKL"), the Save the Children Fund ("STC UK") and the Children's Rights Alliance for England ("CRAE") make joint submissions to the Inquiry in advance of the second preliminary hearing which will take place on 1st March 2023 and in response to Counsel to the Inquiry's Note of 17th February 2023 (the "Note").

Timetable and Dates

2. At the outset of this Inquiry the Chair set a challenging and ambitious timetable, we understand why she did so, this Inquiry and the lessons to be learned from it are of immense importance; it is vital that it progresses efficiently. However, we support the proposal in the Note that the Module 2 hearing be delayed until 2nd October and dates proposed at paragraph 6 of the Note. Given the ruling that Module 1 hearing be delayed, a delay to Module 2 is inevitable, but further we agree that it is important that all parties

are fully prepared for that hearing, and this modest delay will allow we hope for the CROs to be better prepared for that hearing.

3. The CROs would further endorse the suggestion that a further preliminary hearing be set in early September 2023, and agree with the proposal put forward regarding opening and closing statements, and the procedure for questioning witnesses under Rule 10.
4. However, in order to be fully prepared for that hearing the CROs do need good communication with the Inquiry Team, that is particularly true when the timetable remains very tight, even with this delay, and when we are expecting such vast disclosure to navigate. The CROs wish to express their gratitude to the Inquiry Team who, especially in this past week, have been quick and helpful to deal with the questions and issues that the CROs have raised, in particular around the use of Relativity and progress has been made between the parties. We hope this level of engagement will continue. We understand the pressures that the Inquiry Team are under, however if the new timetable is realistically to be met, then quick responses to issues raised are vital.
5. Further the CROs welcome the circulation of the list of issues and the list of witnesses as suggested in paragraphs 24 and 25 of the Note. Other Core Participants (“CPs”) in Module 1 have already raised concerns about the lack of clarity around the scope of the modules, and the CROs share this concern. It is not clear how Module 2 will overlap with later modules concerning the impact on children. The decision not to disclose the Rule 9 requests means that the CROs do not currently know the scope of what is being requested. It is anticipated that the list of issues will assist with understanding the scope, and therefore the sooner this is shared the easier the task of the CPs will be. The CROs invite Counsel to the Inquiry to share a draft list of issues as soon as possible. This would allow the CROs to make relevant any suggestions, as well as allowing the CPs to properly consider the disclosure and other issues. The CROs invite the Chair to set a date by which this will be circulated.
6. Whilst the CROs understand the need for delaying the hearing, and are supportive of that request, there is greater concern about delays in the listening exercise and that

children's voices are not being prioritised. The CROs are far more concerned that children get to tell their stories as quickly as possible, which is addressed below.

Disclosure/Relativity/Epiq

7. As mentioned above there have been useful conversations between the CROs and the Inquiry Team regarding the use of Relativity. This has led to a number of issues being resolved, for which the CROs wish to express their gratitude to the Inquiry Team, as it is hoped that this will make the interrogation of the documents disclosed far more efficient. The final issue remaining is to agree a process for the export of data from Relativity, so that we can load it into our preferred platform, and we would appreciate a meeting with Epiq and the Inquiry Team as soon as possible in order to finalise this issue.
8. We have also been informed that a note will be circulated about the functionality of Relativity to all CPs, and therefore further submissions at this stage may be premature. It may however be useful to highlight that there are ongoing concerns about the fact that much of the functionality of Relativity has been disabled. Further the Inquiry Team have made it clear that most documents are deliberately disclosed without their metadata in order to preserve the redactions that have been made and prohibit accidental disclosure of inappropriate material. This is accepted and understood; however, we submit that there may be some elements of the metadata that can safely be disclosed to us that would allow for greater use of analytic tools. We suggest that, once the proposed note is circulated, we raise any outstanding issues with the Inquiry Team, and ask for an additional short meeting to resolve them, which may be to the benefit of all CPs. We would be grateful if the Inquiry Team could indicate when they expect to be in a position to circulate this note.
9. Further, the Inquiry Team have repeatedly stated that it is not possible to tell us when documents will be uploaded to Relativity due to the volume of documents that they are working with. Some information about the disclosure exercise is provided in the monthly updates. This is very welcome, and we would urge the Inquiry Team to continue to provide as much information to us as they are able as to what documents that they are expecting to disclose and when. Having no information as to what documents are coming when makes planning within our team very difficult, and so we

simply encourage the Inquiry Team to provide as much detail as they are able. Further, it would be very useful to know by what date they intend to have completed disclosure.

Rule 9 Requests

10. The CROs made submissions at the previous preliminary hearing that the Rule 9 requests be disclosed. A number of CPs made similar submissions. Whilst the CROs maintain that such disclosure would enable the Inquiry to avoid potential delay later in the timetable, there is nothing to add to the previous submissions. We have already asked the Inquiry team to consider a number of additional Rule 9 requests, which we understand that they are considering, for which we are grateful. We set them out here for completeness:

- (1) Sir Gavin Williamson, who was Secretary of State for Education for the majority of the relevant period (July 2019 to September 2021);
- (2) Sir Kevan Collins as the Education Recovery Commissioner from February 2021 to June 2021;
- (3) Priti Patel as the Secretary of State for the Home Office between 24 July 2019 and 6 September 2022;
- (4) Anne Longfield as the Children's Commissioner for England from March 2015 to February 2021;
- (5) The NSPCC;
- (6) Barnardo's, who ran the See Hear Respond programme, funded by the Department of Education, which ran between June 2020 and March 2021 to support vulnerable "hidden" children struggling as a result of the COVID-19 and helped more than 100,000 children and their families;
- (7) The Alliance for Youth Justice, who undertook work in relation to children in contact with the criminal justice system throughout the pandemic; and
- (8) Article 39 who worked on raising issues with the children's social care regulations.

The Listening Exercise

11. The Listening Exercise is of particular importance to the CROs, as we envisage it is to many of the CPs. It is noted that the Chair in her ruling following the preliminary hearing for Module 1 directed that the Inquiry consider how better to communicate about the listening exercise. This is welcomed by the CROs, who have a number of questions about the listening exercise (Every Story Matters). We are grateful both for the Annex to the Note and the further information from your Inquiry Team, which sets out some information about Every Story Matters, and support the laudable intentions set out in that document.
12. As it stands the Listening Exercise consists of an online webform that members of the public can fill in, but specifically excludes completion by anyone under the age of 18. In addition to this form, we would request that the Inquiry brings forward proposals about how it intends to provide safe and inclusive ways in which children's experiences can be gathered. The CROs reiterate our offer to help with creating this.
13. The CROs invite the Inquiry to share the proposed timetable for Every Story Matters with the CPs so we can understand when the information will be gathered and how that might feed into the Inquiry.
14. The Note says that the Inquiry intends to procure several new contracts for this next phase, however it is not clear when that procurement will happen, and when the Exercise will be fully launched. We assume that the launch of the Exercise may involve publicising the webform so that members of the public are aware of it. It is also not clear what expertise will be expected of those bidding for these contracts, especially concerning gathering evidence from children. We are particularly concerned that if this involves speaking to and gathering evidence from children, which we anticipate that it will, that the individuals who undertake that activity have the requisite expertise in safeguarding, and also in communicating with and engaging children, and expertise in communicating and gathering evidence from children who may be neurodiverse and/or disabled.

15. The Note further states that the Listening Exercise will have a targeted approach to hear from seldom heard groups in line with the Terms of Reference. Again this is welcomed, but the CROs ask how children will be targeted, and supported to share their stories.

16. STC UK were invited to, and attended, a roundtable concerning the Listening Exercise in November, and attended a second session on 20th February. They wish to make it clear that their offer to assist with this project still stands, and that this offer is also made by JFKL and CRAE, who were not invited to the original roundtable but would welcome the opportunity to provide their own respective feedback and assistance for the development of the Listening Exercise.

Commemoration

17. Finally the CROs also offer any assistance they can with the Commemoration; it is understood that the Inquiry is already working with the Bereaved Families groups on the project. We would also hope that the approach to the Commemoration will recognise the sacrifices and contribution that people - including children - made in order to help us all get through the pandemic. We anticipate that the Commemoration will also reflect the experiences of children and their voices will be heard and reflected in the Commemoration, although we do not yet know those details, and ask that they be shared with us. Our concerns about children's memories fading more quickly and the importance of hearing their voices as a priority obviously also apply to the Commemoration.

Jennifer Twite
Garden Court Chambers

24th February 2023