

IN THE MATTER OF THE UK COVID-19 INQUIRY

AND IN THE MATTER OF A PRELIMINARY HEARING ON MODULE 2B OF THE INQUIRY

HELD ON TUESDAY 1st NOVEMBER 2022

WRITTEN SUBMISSIONS
MADE ON BEHALF OF THE
CHILDREN'S COMMISSIONER FOR WALES

Introduction

1. The Children's Commissioner for Wales ("CCfW") welcomes the decision, dated 13th October 2022, of the Inquiry Chair, the Rt. Hon. Baroness Heather Hallett DBE, to designate the CCfW as a Core Participant in Module 2B of the Covid-19 Public Inquiry.
2. The office of the CCfW was established by the Children's Commissioner for Wales Act 2001, applying a new Part 5 of the Care Standards Act 2000 to children and young people in Wales. The principal aim of the Commissioner is to safeguard and promote the rights and welfare of children. This must be the Commissioner's overriding objective when undertaking her work, and in so doing, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC) – the international charter which sets out the minimum standards for children and young people wherever they live.
3. Indeed, the UNCRC underpins all of the Commissioner's work, for the Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and devolved Welsh legislation. The Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have "due regard" to the UNCRC. The Commissioner's remit covers all areas of the devolved powers of the Senedd in Wales insofar as they affect children's rights and welfare.

4. The Commissioner's powers include:
 - 4.1 The power to review the effect on children of exercise of functions or proposed exercise of functions of defined public bodies including Welsh Government;
 - 4.2 The power to review and monitor how effective are the arrangements for complaints, whistleblowing and advocacy of defined public bodies in safeguarding and promoting the rights and welfare of children;
 - 4.3 The power to examine cases in respect of individual children in certain circumstances;
 - 4.4 The power to provide assistance to a child in certain circumstances; and
 - 4.5 The power to make representations to the Welsh Government about any matters affecting the rights and welfare of children which concern her and for which she does not have the power to act.

Actions during the Covid-19 Pandemic

5. Throughout the pandemic, the Commissioner's office played a key role in influencing, scrutinising, and holding to account Welsh Government and public services devolved to Wales in particular, as well as working with the Children's Commissioner's counterparts across the UK on some issues. This included producing a Covid-19 Appendix to her joint submission with the other UK children's commissioners to the United Nations Committee on the Rights of the Child in December 2020, as well as a Children and Young People's Report relaying experiences to the UN Committee, which provided updates relevant to the pandemic alongside a List of Issues.

6. In May 2020, and again in January 2021, the Commissioner's office worked with partners to consult with a combined number of nearly 45,000 children and young people through its *Coronavirus and Me* surveys. These consultation results produced valuable data, providing insight into the pandemic's impact on children and young people in Wales. CCfW used this data to influence Welsh Government Ministers and officials and other public services. It shared the results of the second *Coronavirus and Me* survey with Government the day after the survey closed. It also created reports for every local authority in Wales, sharing the views of children and young people from their area with local decision makers. CCfW published additional reports on the impact of lockdowns on certain groups of children, including disabled children and children from Black, Asian and Ethnic Minority backgrounds. CCfW conducted research on children's access to digital devices to make sure pupils had access to online learning from home. In addition, CCfW held a listening day to find out what young people thought of the 'firebreak' introduced in late 2020. The office also facilitated discussions between young people and Government Ministers.

Issues for the Inquiry

7. The Commissioner notes what is said about the scope of Module 2B of the Inquiry in paragraphs 35 – 39 of the Note for the Preliminary Hearing dated 21st October 2022. Whilst bearing in mind that the issues will be further developed once the responses to the Rule 9 requests for evidence have been received, the CCfW does have some initial concerns on whether there will be a sufficient focus on children and young people (such as under paragraph 36(3) of the Note) given that the impact on young people was undoubtedly significant in terms of their education and of their mental health and well-being. In addition, there were particular impacts on certain groups of children and young people, including children with special educational needs, children resident in 'closed settings' (such as secure children's homes), children at risk of or experiencing abuse, those held in youth justice settings and care experienced children and young people.

8. For instance, children's education in general (including early years and childcare settings), and the system of school examinations in particular, was completely disrupted in Wales (as elsewhere in the United Kingdom) during the pandemic. Is it the case that a future specific Module will focus more sharply on such issues? If so, that should be clarified. If not, then it is vital that this current Module expressly deals with them from an early stage. Should, for instance, other organisations, such as local education authorities and the examination regulator in Wales, be recipients of Rule 9 requests, beyond those currently listed in paragraph 40 of the Note?
9. Furthermore, what experts, such as education, mental health, safeguarding and child protection and social care professionals, might be required to provide expert evidence and produce reports?
10. The CCfW would also request that the Inquiry examines, in particular, the protection of children's human rights, as laid out in the UNCRC, during the pandemic. CCfW would request that the Inquiry pays particular attention to the delivery of actions by the State to follow the advice of the UN Committee on the Rights of the Child, which published in April 2020 a series of 11 key priorities for States to protect children's human rights during the Coronavirus pandemic.
11. In relation to paragraph 67 of the Note, the CCfW would urge the Inquiry to gather the views of children and young people directly (CCfW would be willing to identify groups and advise on methodologies) and requests that the Inquiry pays due regard to the Welsh language (as it has specific legal status in Wales) to ensure that children's linguistic rights are upheld during this process.
12. The CCfW welcomes any clarification on these issues which the Inquiry Team is able to give in due course.

Legal Representation

13. Finally, the CCfW would like to confirm that her appointed solicitor is Michael Imperato, Partner in Watkins & Gunn Solicitors, and asks that he and his firm be designated as the Commissioner's formal Recognised Legal Representative for the purposes of this Preliminary Hearing.

Rhodri Williams KC

27.x.22

Counsel for the Children's
Commissioner for Wales

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