

**IN THE MATTER OF THE UK COVID-19 INQUIRY**

**BEFORE BARONESS HEATHER HALLETT**

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**CLOSING SUBMISSIONS FOR MODULE 2 ON BEHALF OF  
JUST FOR KIDS LAW, SAVE THE CHILDREN FUND &  
THE CHILDREN'S RIGHTS ALLIANCE FOR ENGLAND**

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**Introduction**

1. Just for Kids Law, Save the Children Fund and the Children's Rights Alliance for England ("CROs") are children's rights organisations that joined together as Core Participants in this Inquiry due to a shared concern and experience that the UK government's response to the Covid pandemic did not sufficiently consider the rights, best interests, welfare, health, and wellbeing of children. That shared concern and experience has been borne out by the evidence during Module 2, or often the lack of evidence, and in particular the lack of any explanation from senior politicians in government for the core decisions they made that impacted children.
  
2. We do not repeat herein all the arguments we made in our opening submissions which should be read in conjunction with these submissions. However, we do repeat the key questions we set out at §73 of our opening submissions which we suggested the Inquiry should ask itself in respect of any government decision that impacted children:
  - a) When a decision was made that impacted children, who, if anybody, was responsible for considering the impact on children?
  - b) Was the impact of the decision on children in fact considered? And if the impact was thought to be negative, was any mitigation considered?
  - c) When the impact of the decision on children was considered, how practically speaking was this done? What expertise or analysis was obtained? How were the rights of children balanced against the rights of adults?

3. The focus of the Inquiry has rightly been on learning lessons so that we are better prepared for the next crisis, and the government's response is not as deficient and dysfunctional as it was during the Covid pandemic. We cannot tell precisely what challenges the next crisis will bring; even if it is another pandemic, the parameters are unknown. What we can tell, and what the evidence during Module 2 clearly showed, was that children suffered disproportionately from the government's non-pharmaceutical interventions ("NPIs"), as Boris Johnson, Prime Minister at the time, himself acknowledged<sup>1</sup>, and the impact of NPIs on children was no one's responsibility or priority in government. Furthermore, the impact of NPIs on children was rarely fully appreciated by those making decisions, due in part to a lack of diversity among decision-makers. Consequently, the focus of the Inquiry's recommendations in respect of children must be on rectifying these fundamental failings so that next time, children fare better than children did during the Covid pandemic.
  
4. In this regard, we welcome the Chair's commitment to put inequalities at the heart of the Inquiry and commend the report and the evidence of Professor David Taylor-Robinson, an expert on child health inequalities. As Professor Taylor-Robinson stated in evidence, "inequalities that affect children are particularly important, because we know that early childhood inequalities track through and layer on top of one another over the course of children's lives to generate inequalities in adult health."<sup>2</sup> As a result of the pandemic, there has been a "step change" in child mental health, with "almost a doubling in the prevalence of mental health problems and also a doubling of the social inequality... particularly for disadvantaged children."<sup>3</sup> The Rule 9 responses from "impact organisations" working with children echo the same concerns about the long-term and ongoing harms to children's mental health and development, as well as the lack of adequate support from government in mitigating those harms.
  
5. It is easy to fall into the trap of fighting the last battle. To avoid this, we invite the Inquiry to make recommendations that fix the underlying causes of the mistakes made and ensure that the systems and processes that are required for children's rights to be properly considered and protected are embedded well ahead of the next crisis to be effective when that crisis hits. The CROs have given great thought to the nine recommendations set out at §78 of our opening submissions, that would, if followed,

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<sup>1</sup> 32/177/4-12

<sup>2</sup> 4/3/18-22

<sup>3</sup> 4/16/5-17

ensure that children's rights are embedded in future decision-making and ensure that the government fully takes the best interests of children into account.

6. The Inquiry will no doubt examine in more granular detail the full extent of harm caused to children in the later module on children and education. However, the Module 2 List of Issues includes questions about the nature, scope and timing of NPIs and what lessons, if any, were learnt from the first lockdown. Given all the government's high-level decisions and NPIs impacted children, whether they were directly about children or not, we urge the Inquiry to address this impact in its Module 2 report as part of its consideration of overall government decision-making and make findings in this report about the key issues affecting children. The impact on children should not be seen as an adjunct or afterthought that can be postponed until the later module on children and education.
7. It is also important to note that a key issue for the Inquiry in meeting its aims, as set out in its published Terms of Reference, is to "consider any disparities evident in the impact of the pandemic on different categories of people." It is indisputable that the government's high-level decisions and NPIs had a disparate impact on children in a number of ways as set out below. This should be clearly acknowledged by the Inquiry in its Module 2 report on core UK decision-making and political governance.
8. We note the Inquiry's recent announcement that the publication of the Module 2 report is being delayed until early 2025, which is some five years after schools were first closed. As is clear from the evidence during Module 2, and as we set out below, the impact of the pandemic on children is ongoing, and childhoods are slipping away. It is vital that the Covid generation of children see their sacrifices acknowledged. The development and socialisation of children have suffered in terms of cognitive delays, educational inequality, increasing mental ill-health and greater physical problems such as obesity. These issues are highlighted in the report of Professor Taylor-Robinson<sup>4</sup> and the witness statement of Anne Longfield<sup>5</sup>, the former Children's Commissioner for England. When she gave evidence, Anne Longfield also spoke of a toxic mix of secondary issues and devastating outcomes that were likely to impact children, which would "leave them in a position where they may, for the next 10, 20 years, have the long shadow of the Covid experience."<sup>6</sup>

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<sup>4</sup> INQ000280060

<sup>5</sup> INQ000273750

<sup>6</sup> 4/31/4-18

9. Long-term recovery planning from the pandemic is vital for children, and little has been done to date. Findings from this Inquiry may well be instrumental in that planning, but the difference between addressing these issues in a later report following the module on children and education, as opposed to in the Module 2 report, will be measured in more years lost in the lives of children, many of whom will no longer be children. For these reasons, the Inquiry should say as much as possible in its Module 2 report about the harm caused to children, and consider its recommendations carefully, both to acknowledge and mitigate that harm.
10. It is self-evident that we do not know when the next pandemic will happen, and other crises are equally unpredictable. The Chair has herself acknowledged the urgency of her findings. It is for that reason that the Inquiry has set an ambitious and, at times, punishing timetable. We recognise and have supported the pace of this Inquiry. We further recognise that all issues considered by the Chair may be deemed urgent but wish to stress that children should not be put at the back of the queue. The evidence heard so far allows for and, in fact, demands comments and conclusions about the stark neglect of children, and these should be made in the Module 2 report, even if further detail is fleshed out in future reports.
11. In particular, the following points should be made:
  - a) The pandemic and the government's NPIs have had a huge, ongoing, disproportionate impact on children, especially those from low income households and/or those affected by discrimination and structural inequality.
  - b) For decision-making to be equal and proportionate, different rules need to be made for children. Uniform decisions do not have uniform impacts.
  - c) Children have rights. As a signatory to the United Nations Convention on the Rights of the Child ("UNCRC"), our government had a duty to consider those rights.
  - d) The government fell short, in considering children's rights and making decisions that were in the best interests of children.
12. Although the CROs, during Module 2 and in these submissions, focus substantially on the two key issues concerning children that featured most in the evidence on high-level decision-making, namely school closures and social distancing restrictions, there are many other issues concerning children that we anticipate will be explored

in the later module on children and education. They include but are not limited to the following:

- a) Children in social care and the reduction in safeguarding protection and social worker support.
  - b) Children in the criminal justice system and the terrible conditions that children in custody had to endure.
  - c) Babies who were impacted by the lack of maternity services.
  - d) The lack of adequate support given to children to catch up with lost schooling.
  - e) The government's rejection of its own Education Recovery Commissioner's plan to put the necessary funding in place, which led to his resignation.
  - f) Children with no recourse to public funds.
  - g) Children with precarious immigration status.
  - h) Children at risk of criminal and/or sexual exploitation and abuse.
13. Below we provide a chronological narrative of the Covid pandemic from the point of view of children, emphasising the key issues and evidence upon which we have focused for the purposes of Module 2. Then we set out the conclusions that can be drawn from the evidence and our practical recommendations that would ensure that the mistakes of the Covid pandemic are not repeated in a future crisis.
14. We acknowledge that when the Covid pandemic struck in early 2020, there were no perfect solutions as to how to act. Whatever the government's actions, there would have been negative impacts on the nation's children. Moreover, many children were happy to make sacrifices to their personal freedoms to help control the spread of the virus. No doubt there were some difficult decisions to make in balancing the rights of different groups. Nevertheless, when making decisions that fundamentally transformed and uprooted the lives of children, the government should have fully considered the impact of its decisions on them. Moreover, where there was a disproportionate impact, this should have been recognised and as far as possible mitigated.
15. According to Anne Longfield, this did not happen. She concluded that:
- a) The government did not give adequate regard or priority to children's best interests in its response to the pandemic.

- b) The government did not adequately heed advice or evidence on the impact of the pandemic on children’s wellbeing or life chances in its decision-making.
  - c) The government did not provide adequate resources to mitigate the impact of the pandemic on children or help children recover from the negative impact of the emergency. This was especially true for disadvantaged children.<sup>7</sup>
16. Anne Longfield was a key advocate for children during the pandemic. Her statutory duty was to promote and protect the rights of children in England, promote awareness of their views and interests, and represent those views to decision-makers. Therefore, she had first-hand experience as the pandemic unfolded as to what issues were concerning children, how their rights were being impacted, and how the government was responding to them.<sup>8</sup> In the circumstances, she is perhaps best placed to reflect and comment on these matters. Importantly, her conclusions are borne out by the evidence that the Inquiry heard during Module 2.

### **Chronology of the Pandemic for Children**

#### *Situation Pre-Pandemic*

17. On the eve of the pandemic, in 2019-2020, 4.3 million children or 31% of all children in the UK were living in relative poverty. Professor Taylor-Robinson described child poverty as “a disaster for child health.”<sup>9</sup> He went on to observe that “over the period of the pandemic we saw deteriorating socio-economic conditions for children in terms of poverty, food poverty, material circumstances, and we also started to see increasing inequalities in a number of aspects of health, as we outline in the report: infant mortality, we saw an increase in children dying in the first year of life, particularly in disadvantaged areas; rising inequalities in child obesity; rising inequalities in children entering the care system. All of which have been linked to rising levels of poverty.”<sup>10</sup>
18. The “pre-existing socio-economic inequalities in aspects of health and education have been exacerbated by the pandemic”.<sup>11</sup> The rise in and prevalence of child poverty “increased children’s vulnerability to the effects of the pandemic”<sup>12</sup> and decreased their resilience to financial shocks.

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<sup>7</sup> INQ000273750/36

<sup>8</sup> 4/29/16 – 4/30/21

<sup>9</sup> 4/5/8

<sup>10</sup> 4/7/6-16

<sup>11</sup> INQ000280060/4

<sup>12</sup> INQ000280060/10

19. “Obesity and mental health problems have been described as the modern epidemics of childhood.”<sup>13</sup> They are “critical societal concerns” in that they “predict outcomes in later life.”<sup>14</sup> Both significantly worsened during, and due to, the pandemic. Like other health issues, their impact was not uniform. “For children who rely on free school meals, school closures posed a significant obstacle [to] accessing regular and nutritious meals.”<sup>15</sup>
20. Anne Longfield described children as being a low political priority in Westminster at the start of and before the pandemic, citing disparities in spending budgets and the overlooking of children when universal decisions were made.<sup>16</sup>
21. It is vitally important that the Inquiry confirms that the harms caused to children by the pandemic and the government’s NPIs were predictable and, in fact, were predicted by all those working in the children’s rights sector. As Anne Longfield stated in her evidence, these are not the lessons of hindsight.<sup>17</sup>

#### *Initial Modelling and Consideration of School Closures*

22. It is clear from the SAGE minutes that school closures were discussed as a possibility as early as February 2020. Professor Neil Ferguson confirmed that school closures were the first community measure that was discussed.<sup>18</sup> Professor Graham Medley gave evidence that whilst modelling was done on school closures, “I notice the one we produced in February regarding school closures, we state in that that school closures causes harms, but we are not experts in that area.”<sup>19</sup> He went on to say that the failure to consider the harms of policies such as school closures was a major gap in the modelling.
23. On 4<sup>th</sup> March 2020, SPI-B produced a paper on school closures, emphasising that they would exacerbate social disparities and would, given the reduced adult oversight of children, present a risk of unintended consequences.<sup>20</sup> The paper further emphasised the importance of schools during a crisis, asserting that their significance should not

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<sup>13</sup> 4/13/24-25

<sup>14</sup> 4/14/1-13

<sup>15</sup> INQ000280060/33

<sup>16</sup> 4/45/21 – 4/46/25

<sup>17</sup> 4/48/5-25

<sup>18</sup> 11/206/17

<sup>19</sup> 8/112/23-25

<sup>20</sup> INQ000109111

be overlooked and arguing that schools act as a source of emotional support for children, provide education on matters to do with the virus which is conveyed back to families, provide social services and monitor wellbeing, and act as a point of leadership and communication within communities.

24. On 16<sup>th</sup> March 2020, the UK population was advised to maintain social distancing, by keeping two metres away from others.

#### *School Closures in March 2020*

25. On 18<sup>th</sup> March 2020, Boris Johnson announced the indefinite closure of schools for the vast majority of children, starting on 23<sup>rd</sup> March 2020. Despite this being one of the first community measures considered, the decision to close schools was essentially made overnight, with no or little planning as to how to mitigate the effects on children.
26. The CROs do not suggest that schools should never close in a crisis. On the contrary, if it is necessary to close schools as a last resort to save lives, it is the duty of a responsible government to do so. However, if you have to close schools, you must have contingency plans – plans on how and when to re-open as soon and as safely as possible; plans on how to mitigate the loneliness and isolation that inevitably would result; plans on how to keep children safe at home, particularly those who would not have the same adult oversight and support as they would in school; plans on how to educate those who stay at home; and plans on long-term recovery when schools re-open. This is not just about the lack of preparedness which was explored by the Inquiry during Module 1. It is also about why more was not done before 17<sup>th</sup> March 2020 and later, and why measures were not put in place to learn lessons so that the same problems did not occur again when schools shut for a second time in January 2021.
27. We know from the witness statement of Gavin Williamson, Secretary of State for Education at the time, that little to nothing was done prior to 17<sup>th</sup> March 2020. He noted that on that date, “it became clear that a decision would need to be taken on closing schools and other educational settings within a very short timeframe. At this point, there simply was not the time available to conduct a full documented analysis on the potential impact of different school closure options. Therefore, DfE officials and I were not asked to assess school closures on a wider social-economic basis,



nor did they have the time available to produce such an assessment.”<sup>21</sup> Boris Johnson also agreed, when he gave evidence, that there was no proper plan in place for school closures, stating that this was a “once a century event and we were not prepared suddenly to be forced to close schools for the length of time that we did.”<sup>22</sup>

28. Only three to four percent of primary school children attended school between 23<sup>rd</sup> March and 1<sup>st</sup> June 2020. This not only led to a widening of disparities in terms of academic achievement, but also to a loss of social and emotional support, as outlined by Anne Longfield in her witness statement<sup>23</sup> and her evidence.<sup>24</sup>
29. The government had intended that substantially more children would attend school during the first lockdown by allowing “vulnerable” children to attend alongside the children of key workers. However, very few vulnerable children went to school. Initially, only two or three percent of the vulnerable children who were eligible to attend school actually did. Anne Longfield attributed this to a lack of consideration of the universal “Stay at Home” message and a lack of follow-through to support children to go to school.<sup>25</sup>
30. It was not only schools that closed, but also early years settings, pre-schools and nurseries. Professor Taylor-Robinson’s report gives more detail about the importance of pre-schools and nurseries to early childhood development, and especially in addressing inequalities in childhood. It explains the positive benefits to childhood development of “attending good nurseries and pre-schools” and that the “uptake of childcare [pre-school] is a leveller of early childhood inequalities.”<sup>26</sup>
31. No one has suggested that it is only with the benefit of hindsight that we now know how damaging school closures would be. Significantly, Boris Johnson accepted, in his evidence, that he recognised prior to closing schools in March 2020 that school closures would have a devastating, lasting and harmful impact on children, particularly on children from lower income backgrounds, in terms of their development, socialisation, life chances, educational attainment, physical health and

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<sup>21</sup> INQ000268013/10

<sup>22</sup> 32/168/20 – 32/169/24

<sup>23</sup> INQ000273750

<sup>24</sup> 4/35/1-25

<sup>25</sup> 4/36/11-25

<sup>26</sup> INQ000280060/20

psychological wellbeing.<sup>27</sup>

### *First National Lockdown*

32. On 20<sup>th</sup> March 2020, two days after it was announced that schools would close, the Prime Minister announced the closure of hospitality, entertainment and leisure businesses.
33. On 23<sup>rd</sup> March 2020, the Prime Minister announced the first lockdown. The message was “Stay at Home”. It became a criminal offence to leave home without a “reasonable excuse”<sup>28</sup>, albeit the Regulations were not laid before parliament until 26<sup>th</sup> March 2020. A list of essential reasons were given to allow people to leave their homes. The exemptions included taking “exercise”<sup>29</sup> but only with members of the same household. It was not lawful to meet with another individual from a different household, even for exercise.
34. Guidance issued to police forces gave examples of what might constitute exercise for the purposes of the Regulations. This included running and yoga. However, the guidance neither mentioned what exercise children could do nor clarified whether children playing outside with members of their own household constituted exercise.<sup>30</sup> Several play organisations and experts wrote an open letter to government, asking for the Regulations to be clarified to avoid confusion and ensure that children were allowed to play. The government’s response on 25<sup>th</sup> March 2020 was that “we recognise and appreciate the importance of play to children’s physical and cognitive development, but given our present circumstances, Government’s response right now must focus on preventing the spread of Covid-19.”<sup>31</sup> The lack of clarity over play continued throughout the pandemic. We have already addressed this in more detail at §42-52 of our opening submissions.
35. Professor Taylor-Robinson explained the critical nature of play<sup>32</sup> in his evidence. He stated that “it’s the key factor in children’s early development”, and “it’s incredibly important for a whole host of reasons and it’s not frivolous”. He provided more detail in his report, where he commented that “outdoor play promotes physical activity,

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<sup>27</sup> 31/145/17 & 32/167/24 – 32/178/11

<sup>28</sup> The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020

<sup>29</sup> Regulation 6(2)(b)

<sup>30</sup> INQ000250284

<sup>31</sup> INQ000099722/10

<sup>32</sup> 4/24/1-19

cognitive, social and emotional learning.” Most concerning, he concluded that “those opportunities in the early years cannot be recovered.”<sup>33</sup>

36. Martin Hewitt of the National Police Chiefs Council (“NPCC”) gave evidence about the lack of clarity in the social distancing guidance. He spoke about the challenges faced by police officers who were put in an invidious position and said that officers should have been given clarity about what “could be allowed for children – because the concept of going out to have your daily exercise is a very different thing if you’re 4 and 5 years old, it’s not going for a run or going for a walk.”<sup>34</sup> He accepted that police officers would have stopped children playing and told them and their parents to go indoors. The Rule 9 response of the organisation Playing Out<sup>35</sup> gives a number of examples of parents being asked to go home with their children who were playing in a stream or climbing a tree, as this did not constitute “exercise”.
  
37. The combination of the Regulations, the guidance and the closure of schools meant that many children did not leave the house.<sup>36</sup> At the start of the pandemic, 2.2 million children were already living in vulnerable family situations. These children were now trapped at home. This led to an increase in incidents of serious harm involving children between April and September 2020, as explained by Anne Longfield<sup>37</sup> and Professor Taylor-Robinson.<sup>38</sup> Indeed, this particular issue had been flagged as early as 15<sup>th</sup> March 2020 by Dame Jenny Harries, Deputy Chief Medical Officer at the time, in an internal email in which she asked if someone somewhere was pulling together a list of other risks. She stated that, “The ones that bother me most of all currently are those in relation to safeguarding (adult and children) and domestic violence more generally. For some, these risks will be considerably greater than a negative health impact from coronavirus.”<sup>39</sup> Her evidence was that she was concerned about children who would be at home and invisible to the system, and she considered that not enough was being done at the time about these concerns.<sup>40</sup>
  
38. The United Nations Committee on the Rights of the Child published a statement on

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<sup>33</sup> INQ000280060/21

<sup>34</sup> 21/63/6 – 21/64/25

<sup>35</sup> INQ000099722/06

<sup>36</sup> INQ000099722

<sup>37</sup> 4/38/19 – 4/40/10

<sup>38</sup> INQ000280060/21

<sup>39</sup> INQ000151605/01

<sup>40</sup> 28/6/2-15

8<sup>th</sup> April 2020<sup>41</sup>, warning of the grave physical, emotional and psychological effect of the Covid pandemic on children and calling on states to protect the rights of children. This was followed by the United Nations Sustainable Development Group policy brief on 15<sup>th</sup> April 2020, warning that although children were not the face of the pandemic, they risked being among its biggest victims.<sup>42</sup> These are but two examples of concerns about the impact of the pandemic on children being raised early on internationally. However, we have heard nothing about the way in which the UK government heeded such concerns.

### *Press Conferences*

39. On 7<sup>th</sup> May 2020, 130 young people and leaders of 80 youth groups signed an open letter calling on the government to talk to young people about Covid and include their questions in press briefings.
40. Anne Longfield said that she “constantly asked” Boris Johnson to do a briefing in the evenings for children, saying “It was really important for children to know that they weren’t alone and that this time – you know, people were thinking of them.”<sup>43</sup>
41. When Lee Cain, Downing Street Director of Communications at the time, was asked about this in evidence, his response was that he was not aware that Anne Longfield had asked for it, adding that, “I think it’s a good idea. It’s probably something we should have done.”<sup>44</sup>

### *Roadmap out of Lockdown*

42. From 11<sup>th</sup> May 2020, a roadmap out of lockdown was produced, and the Covid Taskforce, which replaced the MIG structure previously used, advised the Prime Minister on the NPIs in place.
43. On 13<sup>th</sup> May 2020, the social distancing Regulations were amended to allow one person to meet another person from a different household to exercise. The Regulations also added “for the purposes of open-air recreation” to the list of acceptable reasons to leave home. This allowed adults and older children to see a

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<sup>41</sup> *Statement on COVID-19 pandemic & children* (United Nations Committee on the Rights of the Child, 8/4/20)

<sup>42</sup> *Policy Brief: The Impact of COVID-19 on Children* (United Nations Sustainable Development Group, 15/4/20)

<sup>43</sup> 4/50/15-17

<sup>44</sup> 15/53/4-15

friend outside. However, any child unable to leave home independently could not see a friend or anyone other than those with whom they lived.

44. The importance of children being able to play not just with their parents or alone, but with other children or peers was highlighted by Professor Taylor-Robinson who said, in evidence, that “the architecture of the brain is layered, skills beget skills in the early years, and that comes from social interaction with peers and other people.”<sup>45</sup> When asked whether missing three months’ socialisation with their friends is the same for children and adults, he said that, “You can’t compare. Time – because of the critical and sensitive period in children’s development... you never get those windows of opportunity back again.”
45. The witness statement of Professor Brooke Rogers, a social psychologist and member of SAGE, SPI-B and SPI-Kids, echoes the same concerns about the dangers of isolation especially for 2 to 4-year-olds during a critical phase of social learning<sup>46</sup>, saying that this was recognised at SAGE.
46. However, as set out below, none of the government ministers making the key decisions who gave evidence during Module 2 were able to provide a reason as to why this critical issue was not considered more fully, nor did they appear to grasp the disparity relating to children’s ability to socialise.
47. When Simon Ridley, Secretary of the Covid Taskforce at the time, was asked whether the Covid Taskforce recognised that the Regulations had a disproportionate impact on children, he replied, “No, I’m saying that there was a recognition that the restrictions and isolation had significant negative consequences on a wide range of the population... I cannot recall specific – the sort of detail of differences between children as opposed to elderly people as opposed to anybody.”<sup>47</sup>

#### *Rule of Six and Limited Re-Opening of Schools*

48. On 1<sup>st</sup> June 2020, the Regulations were further relaxed to allow groups of up to six people to meet outdoors.
49. On the same day, schools re-opened for very young children (pre-school, reception

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<sup>45</sup> 4/24/5-19

<sup>46</sup> INQ000302487/11-12

<sup>47</sup> 19/122/16-21

and year 1) and children in “transition years” (years 6, 10 and 12). Consequently, the majority of school children remained out of school.

50. On 13<sup>th</sup> June 2020, over 140 leading psychologists wrote an open letter to Gavin Williamson, in which they said that “as experts working across disciplines, we are united as we urge you to reconsider your decision and to release children and young people from lockdown.”<sup>48</sup> There was also a parent-led petition submitted to the government, urging them to allow children to play outside with children from one other household.

### *Bubbles*

51. On 10<sup>th</sup> June 2020, “linked households”, also known as “bubbles”, were introduced. A single adult or a single parent could meet with one other family during lockdown (inside or outside).<sup>49</sup>
52. These bubbles were aimed at single adults including single parents. Therefore, some children would have benefited from them. However, no similar consideration was given to only children who were arguably in an analogous position to single parents, as they too had no one of their own generation with whom to socialise.
53. On 15<sup>th</sup> June 2020, non-essential retail opened, despite the majority of children still not being allowed to attend school.

### *Marcus Rashford Campaign*

54. During the first lockdown, the football player, Marcus Rashford, and the Food Foundation, spearheaded a campaign called “Make the U-Turn” to persuade the government to provide free meals to children eligible for free school meals during the summer holidays. The government was initially opposed to the idea.
55. On 8<sup>th</sup> June 2020, Anne Longfield wrote to Rishi Sunak, the Chancellor of the Exchequer at the time, to ask the Treasury to reconsider its position on free meals during the school holidays, stating that, “As Chancellor, you have announced measures in response to Covid-19 which are, by your own admission, exceptionally

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<sup>48</sup> *Coronavirus: Child Psychologists Highlight Mental Health Risks of Lockdown* (BBC news report, 14/6/20)

<sup>49</sup> Regulation 12, The Health Protection (Coronavirus, Restrictions) (England) (No.4) Regulations 2020

generous. However, it seems this generosity does not extend to children. This week we learn that Covid-19 has already seen 300,000 children descend into poverty, during a Parliament that was already predicted to see the highest rates of child poverty on record. In the same week, the Government announced that children will not get free school meals over the summer holidays.”<sup>50</sup>

56. On 16<sup>th</sup> June 2020, following sustained pressure from campaigners who had mobilised widespread public support, the government changed its mind and agreed to provide free meals to those eligible during the summer holidays.
57. However, that was not the end of matter. The issue continued to be debated throughout the pandemic. A motion to extend free school meals to future school holidays was defeated in the House of Commons in October 2020, with the government announcing a different “Winter Package” to support children in November 2020.
58. According to Lee Cain, there was resistance to the free meals campaign from Boris Johnson and Rishi Sunak, due to a desire to be more careful with public finances. Mr Cain told the Inquiry his view was that if there were to be stricter controls on what the Treasury spent money on, he did not think “hungry children is the place to start.” In his opinion, the “huge blunder” in not agreeing to provide free meals in the first place was down to a lack of diversity in the room and “a lack of understanding of what families were potentially going through.”<sup>51</sup>
59. Rishi Sunak’s position on free meals during the school holidays is well known. He has given multiple media interviews<sup>52</sup> on the subject, in which he defended the government’s position not to extend free meals to future school holidays. As Chancellor, he clearly played a key role in the decision-making process as to whether to extend the scheme or not.
60. The Inquiry has heard detailed evidence from Professor Taylor-Robinson about the impact of child poverty prior to the pandemic, the rise in child poverty during the pandemic, and the damaging and long-lasting impact of child poverty on health outcomes throughout life. Clearly, an important issue for government was how to

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<sup>50</sup> INQ000231389

<sup>51</sup> 15/58/9-25

<sup>52</sup> For example, an interview on BBC’s *The Andrew Marr Show* (24/10/20)

deal with the rise in child poverty during the pandemic. How best to feed the poorest children in society was an inevitable part of any government response.

61. Therefore, it is important to understand what was done, or not done, to mitigate the rise in child poverty during the pandemic, so that the Inquiry can consider what lessons can be learnt. It is equally important to understand the reasons behind some of those decisions. Necessarily, the reasons will in part be political, but the Inquiry should not shy away from exploring both the decisions and the reasons behind them. Indeed, it is necessary to do so to learn lessons.
62. The CROs wish to stress that this is not a party-political point, as the evidence of Lee Cain surely makes clear. The CROs would be making precisely the same point, had a different political party been in power. It is a matter of public record that Rishi Sunak said in evidence that he could not remember what his own position was in 2020 or 2021 on the issue of free meals during the school holidays, or why he took whatever position he held.<sup>53</sup> The Inquiry will no doubt have its own view on how plausible it is that the present Prime Minister cannot remember his own position on such a well-debated matter. Mr Sunak was further asked about an entry dated 13<sup>th</sup> June 2021 in the diary of Sir Patrick Vallance, the Government's Chief Scientific Adviser at the time, stating that Mr Sunak and the Chief Whip had opposed the continuation of the scheme on the grounds that "good working people pay for their children to eat and don't want freeloaders"<sup>54</sup>, a comment which Mr Sunak denied making or hearing.<sup>55</sup> The relevance of this entry is simply to understand the possible reasons for Mr Sunak's position on the issue, given he has been unable or unwilling to explain his position himself.
63. Whatever conclusion the Inquiry reaches on Rishi Sunak's particular position on free meals for the poorest children in society during school holidays, it is undeniable that when making decisions to address the rise in poverty during the pandemic, the rights and wellbeing of children were not key factors in the decisions Mr Sunak made.

#### *Scottish Children Exempt from Social Distancing*

64. On 3<sup>rd</sup> July 2020, the restrictions about meeting others outdoors were lifted for most people in the UK. An exception was Leicester. It had a continuing local lockdown

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<sup>53</sup> 33/188/7 – 33/191/14

<sup>54</sup> INQ000273901/467

<sup>55</sup> 33/161/15 – 33/162/24



which meant that young children in Leicester could not meet other children indoors for 134 days after the nation first went into lockdown.<sup>56</sup>

65. On 10<sup>th</sup> July 2020, Scotland exempted children under the age of 12 from its social distancing restrictions which advised individuals to stay more than two metres apart.
66. We have not seen any evidence that the UK government considered whether it was sensible, feasible or proportionate to expect young children in England to continue to maintain social distancing or any evidence that the UK government considered whether the decision of the Scottish government should be replicated elsewhere in the UK.
67. By contrast, studies were done on whether the two-metre rule could be relaxed to allow hospitality to re-open. For example, in July 2020, the government published a Social Distancing Review<sup>57</sup>, a substantial piece of work that did not consider the differing impacts that social distancing rules have on adults and children. Dr David Halpern, head of the government's Behavioural Insights Team, accepted in his evidence that there were particular issues in respect of children that could have been considered by the Review. However, he confirmed that the focus of the Review was on the economic impact of people's lifestyles rather than on any behavioural differences as between adults and children.<sup>58</sup>

#### *Further Research*

68. There were several reports published in July 2020 that addressed the impact of the pandemic on children. A report by the Children's Society found that children's happiness with friends and the amount of choice in life were adversely affected.<sup>59</sup> A report by BBC Children in Need identified challenges to emotional wellbeing and mental health, including loss of coping mechanisms, regression of social skills. and difficulties reintegrating back into the community.<sup>60</sup> A report by the Youth Sport Trust noted that as of May 2020, "two thirds of primary school children report feeling lonely" which is up 50% on normal levels.<sup>61</sup> It further noted that as a result of loneliness during

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<sup>56</sup> The Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020

<sup>57</sup> INQ000086707

<sup>58</sup> 16/198/6 – 16/200/10

<sup>59</sup> *Life on Hold: Children's Wellbeing and Covid-19* (Children's Society, July 2020), p27

<sup>60</sup> *Understanding the Impact of Covid-19 on Children and Young People* (BBC Children in Need, July 2020), pp9-10

<sup>61</sup> *The Impact of Covid-19 on Children and Young People* (Youth Sports Trust, July 2020), p3

lockdown, children and young people aged between four and 21 years old had been found to be up to three times more likely to develop depression in the future, and that the duration of loneliness may be more important than its intensity in causing this. It also recognised the impact of “unplanned endings” which have been shown in research to lead to consequent feelings of disappointment, loss, abandonment, confusion, and sadness.

69. There is nothing to suggest that these reports or any other research were considered by the government to learn lessons and improve matters for children. On the contrary, many of the same mistakes were repeated later in 2020 and 2021, as set out below.

#### *Further Recovery Strategy*

70. In July 2020, the Covid Taskforce published a recovery strategy for the UK<sup>62</sup> which detailed the disproportionate impact on various groups within the population but did not mention children within that cohort. The only mention of children in the whole document is a reference to the re-opening of schools in September.
71. On 11<sup>th</sup> and 13<sup>th</sup> July 2020, changes to the Regulations were made to enable the re-opening of many hospitality and leisure venues, including outdoor swimming pools, outdoor water parks, theme parks, hairdressers, beauty salons, nail bars, tanning booths, spas, museums, cinemas, pubs, bars and restaurants.
72. The Inquiry has heard a lot of evidence about whether we opened too much, thereby allowing the virus to spread more rapidly in the summer and causing a larger wave in the autumn. Part of the concern was whether this would put the re-opening of schools in jeopardy. For example, in a WhatsApp exchange on 6<sup>th</sup> July 2020 between Simon Ridley and Simon Case, Cabinet Secretary at the time, they discuss the advice from Sir Patrick Vallance and the Chief Medical Officer, Sir Chris Whitty, who, as they both confirmed in their own evidence, cautioned against allowing too much, and “their other big worry is keeping headroom to re-open schools safely come September.”<sup>63</sup>
73. Schools were not a government priority in June and July 2020. Not only did pubs and hairdressers, for example, open whilst the majority of children were still out of school,

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<sup>62</sup> INQ000137239

<sup>63</sup> INQ000265766/3

but the decision-makers also knew, when prioritising hospitality and leisure, that opening up these sectors could jeopardise the re-opening of schools.

74. When asked about why pubs and hairdressers were allowed to re-open before schools, Boris Johnson said that schools were “reservoirs of risk.”<sup>64</sup> When pushed as to whether he had seen any evidence that schools were a greater health risk than pubs, restaurants, hairdressers, beauty salons and non-essential retail, he did not answer the question, but instead talked about where we were in the school calendar.<sup>65</sup> We have seen no evidence to suggest that there is a greater risk of Covid transmission in schools than in sectors of the economy that were prioritised and allowed to re-open first.
75. There can be no doubt that allowing schools to re-open, say on 15<sup>th</sup> June 2020, when non-essential retail re-opened, would have been of immense benefit to children, not just academically but socially too, given the unchallenged evidence that the Inquiry has heard about the huge importance that school plays in so many aspects of children’s lives. It would have allowed five to six weeks of school prior to the summer break. It is important to remember that children experience time differently than adults; five to six weeks is a long time for a child and could have provided significant emotional support for a noticeable period. Furthermore, it would have halved the time since children had last seen teachers and friends. 15<sup>th</sup> June 2020 was 12 weeks since schools shut on 23<sup>rd</sup> March 2020. By the time most children returned to school in September 2020, it was 24 weeks since schools shut on 23<sup>rd</sup> March 2020.
76. On 25<sup>th</sup> July 2020, indoor sports and leisure facilities including gyms, swimming pools, dance studios and other sports centres were allowed to re-open.
77. On 15<sup>th</sup> August 2020, the Regulations were further amended to enable the re-opening of casinos, indoor skating rinks, indoor play areas including soft play areas, bowling alleys, conference centres and exhibition halls.

#### *Re-Opening of Schools*

78. In early September 2020, schools re-opened for all pupils for the first time since March 2023, nearly six months after they closed. Anne Longfield was very critical of

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<sup>64</sup> 32/170/8-19

<sup>65</sup> 32/170/20 – 32/171/2

the government allowing theme parks, restaurants, pubs, and other venues to re-open whilst the majority of children were still out of school.<sup>66</sup>

#### *Rule of Six in Scotland and Wales*

79. In September 2020, the Scottish government carried out a Children's Rights and Wellbeing Impact Assessment ("CRWIA").<sup>67</sup>
  
80. The CRWIA noted that "there is a disproportionate effect on children because the duration of this pandemic, and the associated restrictions take up a greater part of their lives so far, in comparison to adults" and "there is a strong recognition that social interactions, with friends and wider family is a key part to optimise children's development and their wider wellbeing, this has different impacts depending on their age and stage of development, and the circumstances that children are currently living in. A range of evidence has been gathered on the impact on children during this time, and it shows that although for some children the experience has had some positive effects including spending more time with their parents in the home, for the majority of children the impacts have been negative and continue to be so." The CRWIA also noted that the evidence suggested that a significant proportion of children had not played with children from outside of their own household or not met any other children at all.
  
81. As far as children under 12 were concerned, the CRWIA noted that the exemptions were justified under Article 31 of the UNCRC, which provides that "States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts." The CRWIA also pointed out that "for children and young people, the importance of maintaining social interaction and engagement with their peers is of fundamental importance to wellbeing which is why important exemptions are being applied to the general population level restrictions on social gatherings so that children and young people can continue to, as far as possible, interact with their friends socially."
  
82. On 14<sup>th</sup> September 2020, Scotland re-introduced the Rule of Six, but exempted children under 12. Wales also re-introduced the Rule of Six, but excluded children

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<sup>66</sup> 4/37/15-24

<sup>67</sup> *Impact of COVID-19 Restrictions on Children and Young People* (Scottish Government, September 2020)

under 11 from the limits on numbers of those who could gather outdoors.<sup>68</sup>

83. The Welsh government maintained that the rights in the UNCRC were informing decision-making, as was required in Wales. It said it was using the results of the *Coronavirus and Me* survey, completed by 23,700 children and young people in Wales, and facilitated by the Children's Commissioner for Wales, to inform policy development.
84. The Welsh government said<sup>69</sup> that the decision to permit outdoor mixing outside the household, except in Alert Level 4 areas, was evidence that they had listened to the children who in the *Coronavirus and Me* survey had indicated they wished to socialise with friends, and not only with their parents and grandparents.

#### *Rule of Six in England*

85. On 19<sup>th</sup> September 2020, there were many WhatsApp messages amongst members of a group that included Michael Gove, Chancellor of the Duchy of Lancaster at the time, and other MPs about whether hunting and shooting should be exempt from the Rule of Six.<sup>70</sup> This led to a further WhatsApp group that was entitled "Shoot rules group"<sup>71</sup> which further discussed the matter. There was also a policy paper written on drafting exemptions to the Regulations that would allow shooting and hunting to continue.<sup>72</sup> Indeed, hunting and shooting were allowed to continue once the new Regulations came into force.
86. The only reason we are raising the issue of hunting and shooting is to contrast the energy and effort that went into considering this issue with the lack of energy and effort that went into considering whether younger children in England should have been exempt from the Regulations, as they were in Scotland and Wales. In respect of children, we have not found any specific WhatsApp groups, policy papers or evidence of SAGE being commissioned to consider children and social distancing. Therefore, the question as to why children in England were not exempt from the Regulations remains unsatisfactorily unanswered.
87. On 21<sup>st</sup> September 2020, childcare bubbles were introduced in England. These

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<sup>68</sup> The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020

<sup>69</sup> *Alert Levels & Restrictions in Wales: Children's Rights* (Welsh Government, 21/12/20)

<sup>70</sup> INQ000275431/31

<sup>71</sup> INQ000094541

<sup>72</sup> INQ000109722

allowed another household, such as grandparents, to help look after children under 13.<sup>73</sup>

88. On 23<sup>rd</sup> September 2020, Scotland exempted all children from restrictions on inter-household mixing, thus allowing all children to meet. Children aged 12 and over were expected to maintain social distancing by keeping two metres apart.
89. On 24<sup>th</sup> September 2020, the Rule of Six was re-introduced in England, where children were not exempt. A parent who spoke to Playing Out described the Rule of Six in England as follows: "This will mean that although six adults can meet up, two families with two parents and two children still won't be allowed to meet. Yet again adults before children."<sup>74</sup>
90. The Rule of Six in England and the differing approaches in Wales and Scotland was addressed by Michael Gove in September 2020, when he said in several media interviews that children would not be exempt in England due to the need to keep the rules simple.
91. When asked about this in evidence, Mr Gove did not give a specific justification for children in England not being exempt. He said that it was likely to have been based on scientific advice, and that children were just as likely to spread the virus as adults.<sup>75</sup> Mr Gove did not seem to appreciate that even if children are as likely to spread the virus as adults, and we are unaware of any scientific evidence in support of such a theory, this does not address the primary point that children were more isolated by the rules than adults were, and that isolation was likely to cause them greater harm developmentally. Furthermore, Mr Gove's justification that this was primarily a scientific consideration is not borne out by the evidence of any of the scientists.
92. Matt Hancock, Secretary of State for Health and Social Care at the time, accepted the importance of socialising for his own wellbeing. He took full advantage of the relaxation of the rules for adults, that allowed a person from one household to exercise with a person from another household, to jog regularly with his brother. When asked why the rules were not also relaxed to allow a child too young to meet

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<sup>73</sup> Regulation 13, The Health Protection (Coronavirus, Restrictions) (England) (No. 4) Regulations 2020

<sup>74</sup> INQ000099722/7

<sup>75</sup> 27/198/1 – 27/199/18

another child independently a similar freedom, Mr Hancock suggested that this was due to scientific advice, suggesting a WhatsApp message from Sir Chris Whitty on this issue.<sup>76</sup> We have found no such WhatsApp message. On the contrary, a letter from Sir Chris Whitty to Anne Longfield on this issue states categorically that this was a policy decision and not a scientific decision.<sup>77</sup>

93. Simon Ridley said the Covid Taskforce was aware of the different rules in Scotland and Wales. When asked why the Covid Taskforce did not consider the same rules for the rest of the UK, he said it was for “clarity and simplicity”. When challenged what was complicated about exempting, for example, children under 12, his answer was that it was a “judgment”, adding that he was not saying that they got all the judgments right and repeating that there was a desire to keep things simple.<sup>78</sup>
94. On 11<sup>th</sup> October 2020, Helen Whately, Minister of Care at the time, sent a WhatsApp message to Matt Hancock, saying, “Wish we could loosen on children under 12 on rule of 6 for tier 1. It would make such a difference for families and there isn’t a robust rationale for it.” She goes on to say that other MPs are pushing for it too.<sup>79</sup> Mr Hancock’s reply was to suggest that No. 10 “don’t want to go there on this.” Mr Hancock was asked repeatedly in evidence what rationale, robust or otherwise, there was for not exempting children as suggested by Ms Whately. Mr Hancock repeated that he was relying on scientific advice (which appears to be contradicted by the scientific evidence the Inquiry heard) and that he was keen to keep the R number below 1.<sup>80</sup> The difficulty with Mr Hancock’s second point is that every relaxation of the rules, including the one that allowed him to jog with his brother, arguably increased the R number. There was always a trade-off, and the questions that need answering are firstly, when those trade-offs were made, and secondly, how, if at all, did decision-makers factor in considerations specific to children? Mr Hancock never answered these questions. In fact, his answers suggested he had not given sufficient thought to them.
95. When Boris Johnson was asked about the same issue, and indeed the same WhatsApp exchange, he clearly had not understood or realised that not exempting children in England from the Rule of Six was an issue. He answered that in October

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<sup>76</sup> 30/63/23 – 30/65/18

<sup>77</sup> INQ000239696

<sup>78</sup> 19/121/15 – 19/127/18

<sup>79</sup> INQ000176785/24

<sup>80</sup> 30/63/15 – 72/24

2020, as the country was about to impose more stringent restrictions, this would have been the wrong time to exempt children as it might have signaled a relaxing of the rules.<sup>81</sup> However, his answer clearly demonstrated that he did not recall the issue. He stated, when pressed about whether Mr Hancock was correct in saying that No. 10 did not want to budge, that, “I can’t remember a conversation about it.” In other words, he was answering as to what he considered was most likely to have been the justification. Even if October 2020 would have been an inopportune moment in terms of messaging, this answer does not explain why children were not exempt earlier or later. The Regulations were being amended all the time. It bodes ill that the Prime Minister, the ultimate decision-maker for balancing the harms of different lockdown measures, has no recollection of why he made this decision that affected the lives of so many children.

96. On 15<sup>th</sup> October 2020, Sir Patrick Vallance wrote in his diary “SAGE pushing for ‘can’t we exempt children from rule of 6’ – we said no not unless CO wanted to revisit.”<sup>82</sup> When asked about this in evidence, Sir Patrick confirmed that there was no particular reason for the exact number of six. He did not give any explanation or comment on why children should not be exempt, given the apparent views of SAGE and the more liberal approaches in Scotland and Wales, other than to state that this was a policy decision.<sup>83</sup>

#### *Tiers and Circuit Breaker Lockdown*

97. Throughout autumn 2020, England was put into various tiers.
98. On 2<sup>nd</sup> November 2020, a circuit breaker lockdown came into effect in England. The rules of this lockdown were broadly similar to those of the first lockdown from May 2020, namely a person was allowed to meet a person from another household for exercise. There remained no exemptions for children and no clarification around whether play constituted exercise, although as schools remained open, the impact on children was mitigated.
99. Children under the age of five in England were exempted from the circuit breaker lockdown rules. This was obviously an enormous benefit to those under five, but it is unclear why five was deemed the cut-off rather than say 11 or 12, after which children

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<sup>81</sup> 32/173/14 – 32/177/3

<sup>82</sup> INQ000273901/658

<sup>83</sup> 22/183/14 – 22/185/9



are more able to meet others independently. The rationale appears to have been that the change was to assist parents of very young children who may not be in school and allow mothers of babies and young toddlers who, for a variety of reasons, may not have been able to leave their children at home, to go out and meet a friend (see the WhatsApp messages on 1<sup>st</sup> November 2020 between civil servants discussing the new rules<sup>84</sup>). The focus, as ever, was on the needs of adults, not children.

### *Third National Lockdown*

100. On 5<sup>th</sup> January 2021, schools closed again to all but “vulnerable” children and children of key workers. Many schools had opened for a single day on 4<sup>th</sup> January 2020 after the Christmas holidays. Michael Gove agreed that this was chaotic.<sup>85</sup>
101. On 6<sup>th</sup> January 2021, Boris Johnson announced the third national lockdown. The rules were once again that you could only meet one other person from a different household. Children under five in England remained exempt from these rules.
102. For 77 days, it was not legally possible for children aged 5 or over to meet other children outside their household, thereby depriving many children of the company of their peers for the longest period of the pandemic.
103. Scotland also introduced rules that allowed you to meet with only one other person from a different household, although all children continued to be exempt (with those aged 12 or over expected to maintain social distance).
104. When the third national lockdown was imposed, several charities including Playing Out and Play England wrote directly to Boris Johnson to urge him to take a different approach to children, in line with Wales and Scotland<sup>86</sup>.
105. Despite such calls, there has been little, if any, evidence to suggest that the UK government even considered whether it should take the same approach as the Welsh and Scottish governments or appreciated the significant and disproportionate impact its rules had on children.

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<sup>84</sup> INQ000226268/32

<sup>85</sup> 27/200/23 – 27/201/14

<sup>86</sup> INQ000099722/11

## **Scientific Evidence regarding Children**

106. It is submitted that more modelling and research could have been done, either by SAGE or its subgroups, to understand the impact of NPIs on children. Professor Neil Ferguson stated in evidence that SPI-B could have evaluated the social and psychological impact of NPIs on children but did not.<sup>87</sup> He explained that whilst there were papers on children, they were not written to look at different policy options but rather to evaluate the role of children in transmission. It is clear that SAGE only responded to commissions for scientific advice<sup>88</sup> and that no modelling was done to consider whether children should be exempt from household mixing restrictions or whether NPIs had differing impacts on children.<sup>89</sup>
107. A Children's Task and Finish Group was set up as a subgroup of SPI-B, which was headed by Professor Rogers. This became known colloquially as SPI-Kids. When asked whether there was any scientific evidence about the impact of NPIs on children, Sir Patrick Vallance stated that such work was done by SPI-Kids.<sup>90</sup>
108. Collaborating with SPI-M, SPI-Kids produced a paper on the role of children in transmission.<sup>91</sup> This paper primarily considered whether children were infectious and how they spread the virus to others. It was first published on 16<sup>th</sup> April 2020 and was updated at later dates. In its introduction, the paper sets out that one of its five angles is looking at the "wider impacts of current and possible interventions on children." The paper talks about the lack of evidence or information about a lot of issues concerning children and states that "there is an evidence gap around the longer-term impacts for children particularly around mental health and child development."<sup>92</sup> It states that a "comprehensive assessment of the wider impacts of the current and proposed interventions on children is outside the scope of this paper and should be addressed through a longer-term programme of work."<sup>93</sup>
109. Professor Rogers' witness statement sets out a comprehensive list of all the papers produced by SPI-Kids. She cites a report<sup>94</sup> about the benefits of staying in school,

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<sup>87</sup> 11/203/3-20

<sup>88</sup> 11/204/12-14

<sup>89</sup> 11/204/17 – 11/206/3

<sup>90</sup> 22/179/13 – 22/180/3

<sup>91</sup> INQ000074924

<sup>92</sup> INQ000074924/1

<sup>93</sup> INQ000074924/2

<sup>94</sup> INQ000073884

but that appears to be the only report that focuses substantively on the impacts of NPIs on children. Further neither that report nor any other contains any analysis on the overall impact of lockdown and isolation on children, nor any comparative studies of the changes made in Scotland and Wales on the one hand, and the lack of changes in England on the other, nor any scientific advice on whether children can or should socially distance.

110. In her witness statement, Professor Rogers states that the SPI-Kids subgroup “was conceived to explore the evidence surrounding the wider impacts of the Covid-19 pandemic on children’s development, encompassing mental health, behaviour, wellbeing and education.”<sup>95</sup> However, it is clear from Professor Rogers’ witness statement, supported by the evidence of others, that like other subgroups of SAGE, the group was dependent upon what it was commissioned to do. Whilst Professor Rogers describes working well with the commissioning departments, she also comments that “our more detailed work on the wider impacts was relegated to annexes in some instances” and the “key challenge in this space was finding a “commission owner” (a responsible Department) to commission the wider impacts work. We could not proceed on advising on the wider impacts without a commission.”<sup>96</sup> The focus of the commissions given to SPI-Kids appears to have been on children as potential problems and transmitters of the virus, rather than recognising them as a vulnerable group with unique needs that needed to be researched and understood, so that children could be appropriately and properly protected and safeguarded.

### **Invisibility of Children and Lack of Responsibility**

111. Michael Gove initially accepted in evidence that the government did not pay enough attention to the impact of its decisions, particularly on children.<sup>97</sup> However, when asked whose role it was to consider children, and in particular to comment on Anne Longfield’s concerns that no one at the Cabinet table was responsible for children, Mr Gove disagreed with her, saying that, “I think we all had the concerns of children in our mind.” He went on to suggest that he had considered children in his work.<sup>98</sup> What is clear from Mr Gove’s answer is that no one had a specific remit to consider

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<sup>95</sup> INQ000302487/12

<sup>96</sup> INQ000302487/13

<sup>97</sup> 27/49/24-25

<sup>98</sup> 27/195/23 – 27/197/23

children's rights and wellbeing in Cabinet or in the Quad. When something is everyone's job, it is, in fact, no one's job.

112. For the avoidance of doubt, the CROs have never contended that those in government simply did not care about children or that they deliberately ignored or neglected children. Rather, it is contended that:

- a) Children were inadequately considered by those making decisions.
- b) Individual and organisational voices raising issues about children were not adequately heard.
- c) There were insufficient systems and processes in place to ensure those voices, and children's rights generally, could be properly considered.
- d) The key decision-makers did not fully think through the impact of their decisions on children.
- e) Unlike the Scottish and Welsh governments who published documents analysing the impact of their decisions on children, such as Scotland's CRWIA (see §79-81 above), no such analysis was carried out by the UK government. There is no material in the voluminous Module 2 disclosure or evidence adduced during the Module 2 hearings that demonstrates a similar or equivalent system or process by which the impact of its NPIs on children was considered by the UK government.

113. This was echoed by Helen MacNamara, Deputy Cabinet Secretary at the time, who said in evidence that her concern about children was their "invisibility" and the fact there was not enough thinking about children who might not have the same privileges as those in Whitehall making the decisions.<sup>99</sup>

114. Anne Longfield also pointed to the lack of individual responsibility, stating, "It was very clear that there was no one at the Cabinet table who was taking children's best interests to those decisions. When I've put forward, in the past, recommendations for a senior minister for children – I've always been told it was the Secretary of State for Education – it was very clear he wasn't part of those discussions, there was an empty chair at the table."<sup>100</sup>

115. Kemi Badenoch accepted in her evidence that the disproportionate impact of NPIs

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<sup>99</sup> 16/138/9-25

<sup>100</sup> 4/43/10-16

on children was not something that she considered as Minister for Equalities. She was asked how did work on children weave into her work on disparities. She said that the disproportionate impact was very much on the elderly, not on children, which is true as far as death, serious illness and hospitalisation from Covid is concerned, but not true as far as long-term and lasting physical, psychological and educational impact is concerned. She explained that she looked at how to communicate to young people that they might be creating a risk for their family members, especially in multi-generational households, concluding that “I would not have expected children to be much further in scope for the work that I was doing.”<sup>101</sup>

116. The organisation, Playing Out, who repeatedly attempted to engage with the government, say in their Rule 9 response that there was a problem “with nobody in government seeing it as their responsibility.” They found that the Minister for Children “deflected concerns about children’s wellbeing, play, social interaction etc on the basis that it was not in his remit.” They quote from a letter that he wrote in which he said that concerns about outdoor play should be directed to the Department of Health and Social Care.<sup>102</sup>
117. As outlined above, one of the concerning aspects of the evidence is that when pushed about the disproportionate impact of NPIs on children, those who were making the key decisions that impacted children, particularly Michael Gove and Matt Hancock, did not fully appreciate that children had been disproportionately impacted, something which was eminently predictable and had, in fact, been predicted pre-pandemic and early in the pandemic. We repeat that we do not submit that this demonstrates a lack of care about children. Mr Hancock pointed to his own children as evidence of his concern for children. Rather, it demonstrates the tendency to consider policy through an adult-centric lens and not from a child’s perspective, regardless of whether you are a parent or not. That is precisely why there need to be specific systems and processes in place, alongside someone at Cabinet level in government who is specifically tasked with responsibility to consider the impact of all high-level political decisions on children.
118. As we highlighted in our oral closing submissions, the invisibility of children in government is a structural problem. It is about much more than simply the individual

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<sup>101</sup> 25/147/9 – 25/148/16

<sup>102</sup> INQ000099722/14

failings of politicians and/or civil servants. In short, there are no embedded systems or processes in place that compel government to consider the rights of children.

### **High-Level Failings**

119. We invite the Inquiry to reach three key overarching conclusions about the impact of NPIs on children which clearly arise from a review of the Module 2 evidence:

- a) Children, as a group, were disproportionately impacted compared to adults, due to their developmental needs, the extra burden that isolation placed on them, their vulnerability, and the different effects that some of the social distancing restrictions had on them. This was especially true for younger children.
- b) The impacts on children were not uniform. Certain children, those from lower income households and those experiencing discrimination and structural inequality, for example, were more severely affected by the NPIs and the lockdown than other more privileged children.
- c) Some, but not all, of the impacts of the NPIs and the lockdown on children were unnecessary. We accept the pandemic was never going to leave children unscathed. We accept it may be necessary on occasion to limit children's socialisation to prevent the spread of a virus. However, it is clear that more could have been done to mitigate the harmful impact of some of the restrictions for children. Consequently, we ask the Inquiry to agree that much of the adverse effect on children was neither inevitable nor necessary.

120. More specifically, we invite the Inquiry to reach the following factual conclusions:

- a) Schools were not the last to close and the first to re-open, as they should have been.
- b) There were no contingency plans in place when schools closed for most children, meaning that little was done to support those children who had to stay at home, in terms of academic, digital or social support and safeguarding. This resulted in increasing attainment gaps in academic achievement, welfare and development goals, and increased abuse and neglect.
- c) Social distancing rules in England were not adjusted to mitigate for their disproportionate impact on children, as they were in Scotland and Wales.

- d) The rules concerning play were never adjusted, thereby increasing the social isolation of children.
  - e) Messaging was never aimed at children. Children were not allowed to ask questions at the daily press conferences.
121. Whilst further areas and issues will no doubt be explored in the future module on children and education, the Module 2 evidence supports the view expressed by Anne Longfield that “children were very much at the back of the queue, coming second and always being overlooked.”<sup>103</sup>
122. The question then is why did the government fail children so badly? It is important to reiterate that the high-level failings in respect of children that are raised by the evidence are not with the benefit of hindsight. Many CROs, educationalists, psychologists and other professionals attempted to persuade the government to take a different approach from the very start of the pandemic. The government did not listen and/or did not listen sufficiently.
123. It is clear from the Module 2 evidence that children were not adequately considered by high-level decision-makers, despite the fact that almost all the decisions they made affected children and often affected children in a different way to their parents and the adults that made the decisions.

### **Recommendations**

124. So how do we prevent such a failure of state from happening again when we face our next crisis? What are the lessons to learn? In addition to the political failings highlighted herein, many witnesses have suggested that SAGE was too focused on the epidemiological aspect of the pandemic, and that there was not enough done to consider the overall economic or societal impact of the government’s NPIs and other measures. Lord Gus O’Donnell, Cabinet Secretary and Head of the Civil Service under Prime Ministers Tony Blair, Gordon Brown and David Cameron, advocated a wellbeing approach as a method of analysing trade-offs.<sup>104</sup> The CROs submit that whatever the system and focus, there needs to be a recognition of the differing rights, needs and interests of children.

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<sup>103</sup> 4/45/6-8

<sup>104</sup> 6/52/10

125. Lord O'Donnell also stressed the importance of having structures and processes in place when a crisis hits and needing systems that "bring together all of the information in a sensible way, to get to the ultimate decision-makers – who are of course ministers and, in a form in which they can understand and apply their judgment to that information and evidence that you've given to them."<sup>105</sup>
126. As we have highlighted already, the evidence is that children are structurally invisible at the highest echelons of government. Whilst core decisions may ultimately be a matter for ministers, if the structures and processes are not in place so that the information and analysis underpinning those decisions is not before ministers, then the final judgments made by ministers will likely remain incomplete and consequently flawed.
127. The recommendations put forward by the CROs are intended to make children structurally visible, ensure their rights are put into the balance, and ensure someone at the Cabinet table is responsible for giving due consideration to those rights.
128. The Inquiry has heard evidence from a number of witnesses, including Professor Steven Riley<sup>106</sup>, Lee Cain<sup>107</sup> and Helen MacNamara<sup>108</sup>, about the need for greater diversity in government, the civil service and SAGE to ensure better decision-making. Ms McNamara stated that she didn't believe that decision-makers "were willfully and deliberately deciding to cause harm to particular groups, but that it wasn't even considered was a real problem." The importance of diversity in decision-making bodies underlines one of the fundamental problems about decision-making concerning children, namely that it will never be feasible for children to be government ministers, civil servants or members of SAGE. Therefore, more robust structures need to be put in place to compensate and ensure that children are sufficiently represented and their rights, needs and interests sufficiently considered by those in power.

#### *Nine recommendations*

129. In our opening submissions at §78, we proposed nine recommendations the CROs

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<sup>105</sup> 6/5/1-6

<sup>106</sup> 11/64/23 – 11/67/10

<sup>107</sup> 15/57/16-25

<sup>108</sup> 16/117/8-14



have endorsed as practical solutions that will ensure children are not neglected next time, and the Covid generation of children are not forgotten. These recommendations are also included in *What About the Children?*<sup>109</sup>, a report by the CROs that was published in September 2023 and which we commend to the Inquiry. The report and its recommendations have been supported by a wide range of charities, academics, NGOs and civil society organisations in the children’s sector, as set out at page 2 of the report.

130. The nine recommendations are as follows:

- a) **Ensure children’s rights are embedded in decision-making**
  - i) By incorporating the UNCRC in full into domestic law.
  - ii) By making Child Rights Impact Assessments (“CRIAs”) a statutory requirement for all new policy and legislation, using the existing template developed by the Department for Education, and ensuring the CRIAs are robust and place children at the heart of decision making.
  - iii) By appointing a Cabinet Minister for Children with cross-departmental responsibility for protecting children’s rights across all policy making and ensuring that oversight and co-ordination of a Children’s Rights Strategy and Action Plan takes place at the highest levels of government.
- b) **Ensure the government fully takes children’s rights and best interests into account before and during future crises**
  - i) By publishing a Children’s Rights Strategy and Action Plan, which would include a cross-departmental strategy to tackle child poverty, and which would set out the government’s vision for children with a clear road map for how it will meaningfully improve their lives and tackle inequalities that children and families experience.
  - ii) By strengthening parliamentary oversight and scrutiny before schools can be closed in future emergencies, and ensuring the decision to close schools cannot be made by ministers alone and is considered only as a last resort; this should also ensure that if schools do need to be closed that adequate steps are taken to mitigate the worst harms.

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<sup>109</sup> INQ000048872

- iii) By testing future pandemic policy guidance with children and families, creating child and youth accessible, friendly and relevant information about accessing health services, and recognising and safeguarding opportunities to play and stay safe.
    - c) **Supporting the Covid generation to thrive and honouring children's contribution to overcoming the pandemic**
      - i) By providing the full £13.5 billion of educational recovery funding that was recommended during the pandemic directly to schools, nurseries and colleges, and focusing on children's social and emotional development and mental health, so children can thrive and fulfil their potential.
      - ii) By setting out a comprehensive, long-term funding settlement for children's services and children's social care that invests at least £4.6 billion a year in early intervention and therapeutic services.
      - iii) By investing in child poverty reduction so all families can afford essentials, scrapping the two-child limit and expanding free school meals for all families that receive Universal Credit.
131. Our first set of recommendations are about embedding children's rights in decision-making to ensure that children are not overlooked and marginalised in a future crisis, as they were during the Covid pandemic. However, they involve structural changes that are relevant to government at all times, not just in times of crisis. This, we submit, is the only way such recommendations could achieve their goals. As the Inquiry heard in Module 1, the UK was not prepared for a pandemic and lacked resilience. The evidence that the Inquiry has heard about child poverty and the invisibility of children in decision-making was uncovered by the pandemic, not created by it, and meant that children were in a more precarious position when Covid struck. Without meaningful structural change, we will not be ready for the next crisis.
132. The UNCRC was signed by the UK government in 1990 and ratified in 1991. It is the most widely ratified human rights treaty in history. It recognises important rights that are specific to children. However, it has not been incorporated into domestic law, and its protections remain largely unavailable to many children across the UK.
133. It is instructive to contrast the approach of the UK government to children during the pandemic with that of the Scottish and the Welsh governments. It is no coincidence

that the Scottish and Welsh governments, who are taking steps to incorporate the UNCRC into their domestic law, also implemented far more child-friendly policies during the pandemic than the UK government did, policies that have not been criticised by anybody.

134. When asked about the different approaches in Scotland and Wales, Anne Longfield stated “there was a very different approach because they have a much more strengthened approach to their adoption of the United Nations Convention on the Rights of the Child, which is the framework for the Children’s Commissioner. They had impact assessments not only on particular policies but they also had it on their approaches overall for children.”<sup>110</sup>
135. The CROs submit that children’s rights in England would be immeasurably strengthened were the UNCRC statutorily embedded in domestic law. Children would be able to enforce their fundamental rights under the UNCRC if those rights were violated. This could only be a force for good. We urge the Inquiry to be bold and adopt our recommendation that the UNCRC is incorporated into domestic law.
136. For substantially the same reasons, the CROs submit that making CRIAs a statutory requirement for all new policy and legislation would ensure that there is a more structured approach when considering the impact of high-level decisions on children. CRIAs consider policy or legislation through a “child rights lens”, using the UNCRC as the framework for assessing whether the new policy or law protects and respects individual rights in the UNCRC. No policy or law is child neutral. Every policy or law can directly or indirectly have an impact on the lives of children, either positive or negative. It is the failure to appreciate and evaluate this important point that lies at the heart of the problems experienced by children during the pandemic. We urge the Inquiry to accept this important point and recommend that CRIAs are made mandatory in order to limit the possibility of new policies or laws in future having inadvertent, unintended effects that cause great harm to children.
137. As far as the recommendation that there should be a Minister for Children at Cabinet level, we acknowledge that the Inquiry may take the view that it is for individual governments to decide how to structure their Cabinets, how many Ministers to appoint and what precisely their briefs should be. Nevertheless, we do invite the

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<sup>110</sup> 4/49/18-23

Inquiry to recognise the need for a Minister at Cabinet level, whatever their precise title, with primary responsibility for taking the lead on all matters that impact on children, especially during times of crisis.

138. We do not intend to elaborate to any great extent on the second and third sets of recommendations, the purpose of which, we trust, is self-evident. Suffice to say that the £4.6 billion a year figure comes from the Independent Review of Children's Social Care published in May 2022, and the £13.5 billion figure comes from the Education Policy Institute response to the spending review in October 2021<sup>111</sup>, which drew on learning carried out for the DfE and the recommendations of Sir Kevan Collins. These recommendations are set out in more detail in the CRO's *What About the Children?* report."<sup>112</sup> Whilst the Inquiry has not heard evidence itself on the levels of funding required, we invite the Inquiry to refer to this Review, to acknowledge the sacrifices that were made by children and the harm done to children during the pandemic, as set out above, and recognise that more needs to be done by government as a matter of urgency to support the Covid generation of children.
139. In addition to the above recommendations, it is worth emphasising firstly the importance of deciding the scope of the future module on children and education in consultation with children themselves, and secondly the importance of consulting children from a variety of backgrounds to ensure that the scope truly reflects the diverse concerns and experiences of children who lived through the pandemic. We trust the Inquiry will ensure that the views of children expressed during the listening exercise, *Every Story Matters*, will be properly reflected when the scope of the future module on children and education is shaped and finalised.

## **Conclusion**

140. In conclusion, we ask the Inquiry to look at their findings from the perspective of a child. To think, for example, of a child who was four years old in 2020. Who was suddenly deprived of any contact with children of their own age and had to stay indoors in an overcrowded flat with no garden for weeks on end, while their family and loved ones fell ill. A child whose start to school was heavily disrupted, without

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<sup>111</sup> *EPI Response to Spending Review* (Education Policy Institute, 27/10/21)

<sup>112</sup> *What About the Children?* (Save the Children, 22/9/23)

digital access to join classes online, who missed out on their first Nativity play, and who went hungry without access to free school meals.

141. That child is now eight years old. We know they are much more likely to be struggling with their social and emotional skills, their learning and their relationships – as a direct result of the political and administrative decisions taken during the Covid pandemic. By the time the Inquiry completes its work, that child will be in secondary school. For a majority of their life, adults will have been talking about what lessons to learn from the pandemic, and yet not putting in place the help that decision-makers know would help this child and millions like them to thrive or the necessary checks and balances to ensure that a child won't suffer in the same way in a future crisis.
142. We all owe a debt to the Covid generation of children who sacrificed so much. We ask the Inquiry to recognise this debt, and to recognise the fierce urgency and responsibility that the evidence places on the Inquiry, and on us all.
143. Finally, we cannot improve on the aspirational words of Sir Al Aynsley-Green, the first Children's Commissioner for England, and Dr Sunil Bhopal:

“A decent post-Covid response puts promotion of child health and well-being both front and centre. Needs are identified, intervention is early. The country recognises that what happens in childhood has life-long ramifications for individuals, which, in turn, determines the kind of societies we build into the future. The prize if we choose to accept this challenge? The chance to re-set British childhood and move into a post-Covid world creating a better, more resilient society for generations to come.”<sup>113</sup>

144. We urge the Inquiry to accept the challenge.

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**15<sup>th</sup> January 2024**

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<sup>113</sup> *Hope for the Future: A manifesto for the next ten years, where patients, people and communities come first* (College of Medicine, March 2021), chapter 6 – cited in *The Children's Inquiry* by Liz Cole & Molly Kingsley (Pinter & Martin, 2022), p221