

**DRAFT WITNESS STATEMENT OF  
NICCY MODULE 2C UK COVID  
INQUIRY**

**Certificate of Exhibit KY/60 – INQ**

EMAIL

Peter Weir  
Minister for Education  
Department of Education  
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Ref: 20/AM/KY/105

10<sup>th</sup> August 2020

Dear Minister

**Re: Preparations for the re-opening of schools**

Firstly, I write to you to convey my support for last week's announcement regarding the full-time return to school for all children and young people from the end of August. I am pleased that children's well-being and education are being prioritised by the Executive. However, I recognise that some children and young people, parents, and school staff are concerned about the full-time return to school. Therefore, in this letter, I set out what is required to facilitate the safe, sustainable, and effective re-opening of all our schools. My advice builds on the series of recommendations<sup>1</sup> that NICCY has previously issued to your Department with regards the additional provisions needed to ensure the fulfilment of children and young people's rights upon return to school. It is intended that the advice in this letter will inform the upcoming revisions to the New School Day guidance, due to be published later this week.

**Ensuring the safe re-opening of schools**

As noted above, children, young people, parents and schools have a range of concerns about schools re-opening and specifically, whether it is safe for pupils and staff to return to school on a full-time basis. **Nonetheless, this should not negate a mandatory**

<sup>1</sup> NICCY (June 2020) A Child's Right to Education and Covid-19 - Next Steps, A Child Rights Approach.



requirement for all schools to re-open full-time unless an exemption is explicitly granted by your Department.

Furthermore, it is imperative that the updated guidance:

- **Comprehensively sets out the measures and procedures to be taken by schools to maximise the safety of pupils and staff while guaranteeing their access to education.**
- **Outlines how the Department will monitor implementation of and adherence to such measures.**
- **Recommends that regular risk assessments are conducted to ensure that health and safety legislation and guidance is fully adhered to. As proposed in the Department's original guidance, the EA should ensure that good practice risk assessments are shared across education settings via existing communication channels.**

I note that one of the most significant revisions that will be reflected in the upcoming guidance is the relaxation of strict social distancing requirements between all pupils from a *'specific distance to the best spacing that can be achieved'*. However, social distancing is expected to remain in place between adults and, as far as it is practicable, between adults and pupils. I reiterate my concern<sup>2</sup> that it is practically impossible for staff in Special Schools to adhere to such social distancing measures, particularly when dispensing medicine and providing personal and pastoral care. **Further consideration of the challenges to social distancing for special school settings, and appropriate mitigations, must be reflected in the revised guidance. It is critical that appropriate levels of personal protective equipment (PPE) are available for schools re-opening and training provided with regard to their use.**

I recognise that whole-class protective bubbles are to be used to help limit the number of different interactions between groups, to reduce the risk of transmission, and improve the ability to focus the tracking and tracing of the virus in circumstances where there is a positive test. **Much greater clarity is required regarding the proposed operation of protective bubbles to ensure that these are implemented as safely and effectively as possible. Whilst this clarity is necessary for all year groups, it is most essential for post-primary settings and for Years 11 – 14 where a single consistent class group will not be possible.**

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<sup>2</sup> NICCY (June 2020) Advice on the Re-Opening of Special Schools



### Managing positive cases and outbreaks in schools

There has been some debate about the risk of children and young people contracting and transmitting the virus, with the evidence to date suggesting that the likelihood of both is low. Nonetheless, the evidence is not conclusive, and there has been acknowledgement by the Chief Scientific Officer of the potential for cases and outbreaks associated with schools. Whilst the onus has, and should continue to be, on preventative measures, it is **critical that the revised guidance systematically outlines the processes that will be established to manage local outbreaks.**

Clarity is required in the guidance regarding (1) the arrangements to be made by schools should a child or staff member display symptoms of Covid-19 in school and (2) the processes to be followed by those who are part of the same protective bubble as someone who has/develops symptoms and/or who tests positive for Covid-19. The revised guidance must prioritise the safety and wellbeing of children and young people, whilst minimising the disruption to pupils' learning. **Rapid testing of pupils and teachers is critical so that any confirmed Covid-19 cases and their close contacts can isolate at home without necessarily having to send entire classes or year groups home.**

I have previously written to you expressing concern at the proposed use of isolation where a child displays Covid-19 symptoms in schools. I welcome that, in your letter of 28th July 2020, you indicated that your officials would review and update the existing guidance to be more explicit in terms of ensuring that any child who has symptoms is not left alone. I emphasise that **this must be addressed in the next iteration of the guidance, and in any supplementary advice to schools that reflects similar e.g. the DE guidance to support safe working in educational settings.**

### The use of masks in schools

In recent times, there has been increasing debate about the requirement for masks in school, particularly for older pupils and school staff. I understand from discussion with the Chief Scientific Officer, that face coverings would be of benefit to older school children where social distancing cannot be maintained. I also recognise that the Irish government has recommended that secondary school students and teachers should wear face coverings when a distance of two metres cannot be maintained. However, I don't underestimate the logistical challenges in implementing the use of face masks and note the associated costs. **My advice at this stage is that the use of masks is actively encouraged amongst older pupils but not mandated.**



I recognise that masks are one of a number of preventative measures including enhanced hygiene and cleaning measures. **It is important that this is kept under continuous review and, most critically, that young people are at the heart of discussions regarding the wearing of masks in school.**

I also stress that clarity is needed regarding school uniforms. Some young people have expressed concern that Coronavirus can land on fabrics and remain for some time, particularly items that are less commonly washed, such as school ties. **Definitive guidance is required to alleviate concerns and provide clarity around the requirements for washing school uniforms.**

#### School Transport

One area of great uncertainty that remains for pupils, parents, and school staff is that of school transport arrangements. Some have expressed concern that social distancing is not required on dedicated home to school transport vehicles, and are confused at last week's advice that 'where it is possible to socially distance pupils should do so'. This has been further confused by the fact that pupils using public transport services will continue to adhere to social distancing guidelines.

Whilst I appreciate the logistical difficulties in implementing social distancing on school transport vehicles, **the guidance must be clear.** I welcome that the revised guidance will provide details on mitigating actions on school transport vehicles. Such mitigation must be sufficiently detailed, robust, and provide assurances to parents and schools **that transport arrangements protect the health and safety of children and young people.**

#### School meals

In your letter to Principals on 06 August, you note that the Summer Food Payment scheme will end on 31 August 2020 and that it is your intention that school meals will be available in schools from the week commencing 31 August. You also note that it is expected that *'where possible a hot meal, suitable as the main meal of the day, will be available for free school meals pupils and other pupils who wish to avail of them'*. **Assurance must be provided from your Department and EA that meal provision in the new term will be as it was pre-Covid-19.**

#### Pupils with special educational needs

I have repeatedly called for continuity of educational provision for children with SEN and



disability, and therefore, warmly welcome the full return to school for these children and young people.

However, I reiterate my strong opposition to the renewal of the Temporary Modifications Notice on 30th July and the fact that this was again made without addressing concerns about the impact on children with SEN. As the school re-opening date draws closer, I am deeply concerned that as a result of the ongoing modifications, significant numbers of children will not have been assessed, not received a school placement, nor have had a review of their statement and therefore the appropriate services may not be available. I reiterate that the Notice must be revoked before schools' re-open and that the full range of services set out in a child's statement must be in place for school re-start.

#### Further updates required to the school guidance

I anticipate that updated guidance will be produced for special schools' re-opening. This must address the range of concerns expressed in my previous advice to the Department<sup>3</sup>. Schools must be given every additional resource necessary to make sure every child gets the education and care that meets their assessed needs.

In addition, I reiterate that the revised guidance must address the needs of all children and young people. For I have previously highlighted the lack of detailed guidance which reflects the specific circumstances, and additional provisions that may be required to facilitate an enhanced transition for children with SEN in mainstream settings, including children with SEN in Irish Medium settings and newcomer pupils. I also remain concerned about some of the recommendations, and language used, within the existing New School Day Guidance; the fact that this doesn't always reflect children's age and stage of development nor account for children's additional needs.

I draw particular attention to instruction in the current New School Day guidance which states that *'the school's pupil behaviour policy should be reviewed to ensure that it covers COVID-19 related incidents and should make provision for the school to be able to sanction, up to and including exclusion, pupils who wilfully refuse to adhere to arrangements of social distancing and deliberately cough or spit at pupils or staff, putting them at risk'*. Whilst I recognise that schools need to have measures in place to ensure the protection of pupils and staff and to reduce the spread of the virus, these must be proportionate. The proposal that schools should implement sanctions, up to and including exclusion, in the case of willful in adherence to arrangements of social distancing is simply

<sup>3</sup> Ibid



not proportionate nor acceptable on a number of levels.

Firstly, and fundamentally, **disciplinary measures such as suspension and exclusion from school should only ever be used as a measure of last resort.** Secondly, many children's emotional well-being has suffered during the lockdown and the transition back to school will be challenging after many months outside of the school environment. These challenges will be compounded by new rules regarding social distancing and protective bubbles; rules which are likely to continue to evolve in line with the latest scientific evidence, and therefore, may be complex and confusing for some pupils. The new arrangements will likely be particularly challenging for younger children and for children with complex needs or disabilities. Therefore, whilst the guidance regarding updated behavioural policies is concerning in and of itself, it is all the more worrying that it does not explicitly account for pupils' age, ability, aptitude and any Special Educational Needs they may have. Nor does it reflect the stress for many children and young people returning to school after many months of lockdown, and the potential subsequent impacts on their behaviours.

Furthermore, the guidance does not reflect the fact that children with complex behavioural needs may cough, spit, or display other similar behaviours which are often a manifestation of their stress and anxiety. The incidence of these behaviours has the potential to be heightened upon children's initial return to school, therefore, additional and effective support for these children is required. I acknowledge that the Department's guidance to support safe working in educational settings provides information for staff on the care of non-symptomatic children who present behaviours which may increase the risk of droplet transmission (such as spitting, biting or scratching). I also note that supplementary guidance recognises that the implementation of social distancing will look different across the various ages and stages of learning, and dependent on whether a child has additional needs. **Both considerations should be fully reflected in the New School Day Guidance regarding behavioural policies.** This is particularly critical in light of the findings from *Too Little, Too Little* which highlighted the disproportionate rate of suspension and expulsion for children with SEN in mainstream settings.

The guidance must make explicit that harmful practices such as 'internal suspensions' (i.e. the use of seclusion and/or isolation of pupils for infringements of schools rules), 'informal suspensions' (parents being told to take their child home) and when children are 'managed out' of a school (told to find another school to avoid expulsion) are never permissible. Again, I stress the need for clarity from the Department on how it will monitor the measures taken by schools and ensure that these are reasonable and proportionate.



### Ensuring equity of provision

I have previously<sup>4</sup> raised the fact that, during lockdown, children and young people described vastly different levels of support and education from schools, as well as from different teachers within the same school. The closure of schools has undoubtedly exacerbated educational inequalities, which were previously well documented before the pandemic.

One factor driving this inequality is that several children and young people were without a digital device for the duration of lockdown. Indeed, some continue to be without. Whilst I recognise investment by your Department in additional devices and a free wi-fi scheme for disadvantaged pupils, this does not compensate for months of lost learning for the many children who have been without access to devices.

Although all schools are now re-opening on a full-time basis, the need to address digital exclusion remains, both to ensure equity of experience and in case of future waves of the virus. It is imperative that children without access to a digital device or the internet receive this immediately. I seek assurance that robust mechanisms have been established by the DE and EA to ensure that all children in need of a device have received this by the start of the new term.

Information must be provided by DE and EA on how they will assess and mitigate the impact of the delay in allocating devices on children and young people, including the additional supports that will be provided to these children upon their return to school. This should include, but not be limited to, the additional supports to be provided to children through the proposed 'Engage' Programme.

Furthermore, I reiterate<sup>5</sup> that ETI should assess the effectiveness of the education that children have received during lockdown and as schools re-open. This assessment should identify best practice as well poor practice. It should clearly articulate the barriers and challenges that schools and children, young people and families have faced. Essentially, it must monitor the quality and consistency of remote learning approaches.

I previously called on the Education and Health Bodies, working in partnership with the voluntary and community sectors, to use the summer months to identify those children whose education and wellbeing has been most adversely impacted by school closures. I stressed the need for these bodies to implement a recovery programme to commence

<sup>4</sup> NICCY (June 2020) [A Child's Right to Education and Covid-19 - Next Steps, A Child Rights Approach](#).

<sup>5</sup> Ibid



immediately. Whilst I welcome that the Department funded additional support measures for children this summer, I am concerned that the majority of schools have not engaged with the summer school scheme and therefore many children have been unable to access these additional supports. I am particularly concerned about children with special educational needs in both mainstream and special schools, the vast majority of whom have continued to be without access to additional supports and therapies. **I understand that the Department intends to determine the overall impact of the summer schools; this must include an assessment of the scheme's effectiveness in meeting the needs of the most vulnerable children and young people, a thorough review of any unmet need, and an outline of the additional supports that will be provided in the coming months to address this unmet need.**

Finally, I emphasise my call for ongoing planning to be in place for possible future waves of Covid-19, so that disruption of services and education for children can be kept to a minimum. This should include assessing needs for future home study and inter-agency planning to promptly meet the needs of vulnerable children and young people, including those who may be required to shield. Continuity of quality education provision is critical in the weeks and months ahead, and children, young people, and their parents must be proactively consulted by schools, the Department, and the EA. It is imperative that children and young people's perspectives are reflected in any forthcoming guidance.

I would welcome the opportunity to meet to discuss the range of issues considered in this letter, and to ensure that children and young people's rights and best interests are fully protected in the return to school.

Yours sincerely

Personal Data

Koulla Yiasouma  
Commissioner