

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

**Certificate of Exhibit KY/61 – INQ**

**EMAIL**

Peter Weir  
Minister for Education  
Department of Education  
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Ref: 20/AM/KY/116

26 August 2020

Dear Minister

**Re: Re-Opening of Schools**

I hope you are well. I am writing to synthesise and update NICCY's previous advice to you and the Department concerning the re-opening of schools.

We are now halfway through the first week back to school for some pupils. By next week, it is expected that all pupils will have returned. As set out in my previous letter of the 10<sup>th</sup> August, I welcome that all children and young people are returning to school on a full-time basis as it is vital for protecting their mental health, wellbeing and their futures. As reflected in the joint statement from the Chief Medical Officers and Deputy Chief Medical Officers of England, Scotland, Northern Ireland and Wales<sup>1</sup> there is a significant risk of long-term harm to many children and young people from not attending school. I also welcome last week's announcement from the Health Minister and Chief Medical Officer that keeping schools open is a top priority for the Executive.

Nonetheless, I note that the decision to return full time for all students has come very close to the new school year, at a time when post primary schools were dealing with the exam results situation. It has also come at a time when we are seeing a rise in the number of Covid-19 cases. Therefore the situation is ever evolving and, whilst I recognise that this means there is a need to continuously review and update the guidance, the range, scale, and timing of revisions has understandably led to consternation and anxiety.

<sup>1</sup> <https://www.gov.uk/government/news/statement-from-the-uk-chief-medical-officers-on-schools-and-childcare-re-opening>



With regards to the wearing of face coverings I acknowledge the need to reduce the risk to children's health as much as possible, however, I am concerned about how the wearing of face masks will be implemented and monitored by schools, particularly in those schools where it has become a mandatory part of the uniform. I am also concerned about the potential for disciplinary issues should a young person not wish to or be able to wear a face mask; and the fact that the announcement was made without any regard for the individual needs and circumstances of young people including pupils with special educational needs. I also note that the wearing of masks by others is restrictive for hearing impaired children who rely on lip-reading to communicate.

Furthermore the practicalities of face masks has yet to be addressed, such as the number of masks that young people will require, how frequently masks should be changed, and where the financial responsibility for purchasing and replacing masks lies. The costs associated with purchasing masks will be prohibitive for many families, therefore, the onus should not be on the family to purchase.

I recognise that the evidence regarding the wearing of face masks is continuously evolving, and that the World Health Organisation recently issued fresh guidance<sup>2</sup> regarding their use by children including over the age of 12. I also draw attention to the fact that, in this guidance, it is recommended that the use of masks for children of any age with developmental disorders, disabilities or other specific health conditions should not be mandatory and be assessed on a case by case basis by the child's parent, guardian, educator and/or medical provider. Going forward, **I expect further clear guidance to be provided which addresses all of the issues above. It is imperative that children and young people are encouraged and supported in the wearing of face masks and that there is a clear understanding amongst staff and pupils that some will not be able to do so.**

### **Supporting the safe and sustainable re-opening of our schools**

Given the timing of the announcement about the full-time return to school and the fact that the number of Covid-19 cases has risen, it is understandable that there is concern amongst children and young people, parents, and schools about whether it is safe for pupils to return. There is also concern about whether schools have had time to prepare for full-time re-opening. This has been compounded by continued gaps in the support and guidance available to schools, and a lack of evidence that schools have been able to fully

<sup>2</sup> <https://www.who.int/news-room/q-a-detail/q-a-children-and-masks-related-to-covid-19>



implement the requisite measures to protect pupils' health and wellbeing. In order to ensure the safe and sustainable re-opening of all our schools, **the following actions must be taken:**

- **The situation must be continuously reviewed and clear monitoring in place to ensure that all appropriate steps have been taken by schools to minimise the risk of transmission.**
- **Information must be provided on the processes for monitoring implementation of, and adherence to, preventative measures in schools.**
- **Clear guidance must be provided about the threshold for when a school may need to close, for example if there is a spike in cases in the local area or when an outbreak within a school cannot be contained.**
- **Robust contingency plans must be developed to allow the effective education of children to continue remotely, should there be the need for school closure.**

Furthermore, children, young people, and their parents must be given a voice and any concerns about schools continuing to be opened must be listened to. Whilst I welcome that the guidance states that education settings should ensure regular, timely and clear communication with their school communities, **it is clear that many pupils and their parents feel they have not been appropriately consulted and that their concerns have not been addressed. Going forward, it is essential that children, young people, and parents are treated as active partners, and have the opportunity to regularly inform school plans.**

In the remainder of this letter, I set out the other issues that remain to be addressed, and the immediate and ongoing support required to enable the full re-opening of schools. Although I am pleased that the revised guidance took account of some of my previous recommendations<sup>3</sup>, it is evident that several gaps remain.

### **Risk assessments and protecting the most vulnerable**

Whilst I welcome that guidance states that 'risk assessments should be developed and implemented on a setting-by-setting basis', it is not clear how these will be monitored to ensure that health and safety legislation and guidance is fully adhered to. Furthermore, it is evident that there is a lack of guidance regarding the conducting of individual risk assessments, and I am greatly concerned that Principals feel unsupported in assessing

<sup>3</sup> NICCY (August 2020) Advice on the Preparations for Re-Opening Schools



whether it is safe for some vulnerable staff and pupils to return to school. **I seek urgent assurance on the immediate and ongoing assistance that will be given to Principals to ensure staff and pupils who are clinically vulnerable are kept safe.**

Information is also needed regarding the educational supports that will be provided to children and young people with pre-existing conditions who have been advised not to return to school. Whilst the joint statement from the UK Chief Medical Officers highlights that this number may be low, as the vast majority of children who were previously shielding have now been advised that they no longer need to do so, it is nonetheless evident that there may be a small number of children who have been advised to stringently follow the social distancing guidelines and to continue to learn from home.

**I seek clarity on the measures that will be put in place to ensure continuity of learning for these pupils, and how the quality and effectiveness of this learning will be robustly monitored.** I am concerned that the guidance states that *"schools may have to rely on a combination of their professional judgement and pupil's work on whether or not pupils have engaged with learning at home."* This is not sufficient. Our experience of lockdown has highlighted the exacerbation of educational inequalities, in part due to inconsistencies in quality and level of engagement with remote learning. It is critical that there is no further widening of the educational attainment gap, particularly for our most vulnerable children and young people, and therefore evidence must be provided that all children are experiencing their right to an effective education.

#### **Managing positive cases and outbreaks in schools**

As noted earlier in this letter, schools are re-opening at a time when the number of positive Covid-19 cases is significantly on the rise. This has undoubtedly caused concern amongst children, young people, parents and schools. Whilst the evidence largely suggests that the risk of children and young people contracting the virus is low, nonetheless, there have been recent cases and outbreaks associated with schools. I note that two schools in Northern Ireland have already had to delay school re-opening after positive Covid-19 cases were confirmed. It is not yet clear when these schools will be able to re-open. Therefore, **I reiterate that clear guidance must be provided that systematically outlines the processes to be followed in the case of local outbreaks.**

I recognise that the PHA's 'Test, Trace and Protect' service is anticipated to play an integral role in helping to contain transmission to pupils and staff in the case of a positive diagnosis. However, questions remain about the arrangements for testing, including who



will be conducting it, how tests will be carried out, and the capacity for testing for schools. I previously called for rapid testing of pupils and teachers 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. However, it is still unclear whether this will be available.

Recent research<sup>4</sup> has highlighted that, in order to prevent a second Covid-19 wave, any relaxation of physical distancing, including re-opening of schools, in the UK must be accompanied by large-scale, population-wide testing of symptomatic individuals and effective tracing of their contacts. This research set out the minimum proportion of contacts that would need to be tested in order to avoid a second wave of Covid-19 in the case of schools' re-opening full time. It is evident that careful monitoring of our testing and tracing levels is critical as schools re-open, and detailed information on the application in school settings essential.

#### **Support for children and young people who display symptoms in school**

I have previously written to you about the necessary revisions to the guidance when a child displays Covid-19 symptoms in schools. I welcome that the guidance has been updated to reflect that any child who displays symptoms must be isolated with adult assistance. I also welcome that schools are required to fully document this process. I recognise variations in physical capacity and space across schools, however, emphasise the need for a consistent approach to be taken by schools when isolating/separating symptomatic children until they are collected by a parent and that ventilation should be provided.

#### **Social distancing**

As has previously been reflected, one of the most significant revisions in the new guidance is the relaxation of strict social distancing requirements between all pupils but with social distancing expected to remain in place between adults and, as far as it is practicable, between adults and pupils. I am concerned that insufficient clarity has been provided about the operations of the social distancing arrangements, particularly for Years 11 – 14 where a single consistent class group will not be possible. Although the guidance states that schools will be encouraged to keep movement and interactions within these year groups to a minimum, it is still not clear how this will be practically implemented.

<sup>4</sup> [https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642\(20\)30250-9/fulltext](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642(20)30250-9/fulltext)



I welcome that some clarity has been provided in the revised guidance regarding the social distancing requirements when providing one-to-one care for SEN or vulnerable pupils. However, I note some inconsistencies in the information provided. For instance, the main revised guidance states that where staff consistently remain with a pupil or a class, they should therefore be viewed as part of the protective bubble, and social distancing between adults and children can be relaxed. However, the supplementary guidance for special schools states that social distancing will remain in place *'as far as possible between adults and pupils as is practical where physical capacity, curriculum delivery and pupil care permit'*. I recognise that the supplementary guidance notes the challenges for special schools in adhering to social distancing and asks special schools to consider how best to implement these measures taking into consideration the needs of the pupils and the support provided to them. However, I remain concerned that the Departmental guidance is not clear.

### **School Transport**

In my previous advice<sup>5</sup>, I highlighted that school transport arrangements were amongst the greatest areas of uncertainty for pupils, parents, and school staff. I welcome that further information has been provided in the revised guidance and that your Department, Translink, and EA have put plans in place to increase the safety of pupils when using public transport this autumn. I am reassured that this includes the operation of extra school services and more "school only" services. I also understand that Translink and EA are working with schools to arrange pick-ups at schools to reduce the volume of pupils at bus stations. This is welcome and I look forward to hearing more about the outworkings of the plans.

It goes without saying that the absolute imperative is ensuring that children's and young people's safety and wellbeing is fully protected on school transport. I recognise the planning undertaken by your Department in partnership with EA, PHA and Translink, and that a series of mitigating actions have been outlined in the new guidance to minimise the risk of the virus. These are particularly critical in light of challenges in implementing social distancing on school transport vehicles. Nonetheless, I am concerned that the mitigation is lacking in detail and does not provide sufficient assurance that arrangements protect the health and safety of children and young people. It is evident that the guidance remains unclear for some pupils, parents, and school staff. This is largely due to confused messaging, such as that social distancing is not required on dedicated home to school

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<sup>5</sup> NICCY (August 2020) [Advice on the Preparations for Re-Opening Schools](#)



transport vehicles, but that where it is possible to socially distance pupils should do so. The message has been further confused by the fact that pupils using public transport services will continue to adhere to social distancing guidelines.

It also remains unclear how some proposals can and will be practically implemented. For instance:

1. the guidance states that the EA will work with schools and transport operators to consider how mixing might be minimised on dedicated school transport. It is suggested that schools and families/children should work with the EA and Translink to try to facilitate pupils sitting on a vehicle in the same groups wherever possible. **However, there remain significant gaps on how and by when this will be taken forward.**
2. The guidance also states that where it is not possible to have only pupils from one school on a dedicated school vehicle, or to socially distance or group these pupils, the mitigation measures put in place **should** minimise risks to pupils. Robust monitoring of these measures is required and more definitive assurance that they **will** minimise risk to pupils.

**It is essential that further robust guidance is provided on the practical outworkings of the proposed arrangements.**

Finally, I am particularly concerned about the lack of detailed guidance regarding transport arrangements for those with SEN and disability. Although the revised guidance states that EA will ensure that it takes account of the individual needs of pupils with special educational needs and work with the parents and schools in considering the implementation of these measures for these pupils, **it is not yet apparent that this has been undertaken.** The supplementary guidance for special schools, published on 24<sup>th</sup> August, adds little extra to the overarching New School Day guidance with regards to transport arrangements. It does note that, where it is considered necessary in some individual cases of pupils with special educational needs, the EA will carry out a risk assessment in respect of a pupil's home to school transport and take forward action as necessary. Clarity is required on what is deemed a necessary case and by when the risk assessment will be undertaken. **With all schools set to re-open next week, an urgent update is required from EA.**

The revised guidance strongly recommends face coverings for all pupils, regardless of age, on all buses, trains or taxis for the journey to school *'where it is appropriate for them*



*to do so and they are able to handle them as directed'*. I understand the additional benefits in wearing masks on school transport where it is not possible for children to socially distance, however, it is evident that issues and gaps in the guidance remain. Again, it is not clear from the guidance who has financial responsibility for purchasing face masks, be it the school or families. Although the guidance acknowledges the challenges of wearing face masks for younger children and those with special educational needs or disabilities, it must be clearer that the wearing of face coverings for children with SEN and disability has to be considered on a case-by-case basis and with a full assessment of a child's individual needs. Further information must be provided in this regard and, critically, children, young people, and their parents must be fully consulted.

#### **Pupils with special educational needs**

In the previous paragraphs I have outlined some of my concern about the guidance for children and young people with SEN in both mainstream and special school settings. I am concerned that significant gaps remain and that not enough has been done to support the transition back to school for these pupils. I welcome the revocation of the Temporary Modifications Notice and that children will again be entitled to their full legal requirements. However, I still question why these modifications were in place for as long as they were, and why the Notice was not revoked much sooner. The cancellation was made on the 24<sup>th</sup> August, the day that schools were due to re-open for vulnerable children and young people. The lateness of this cancellation means that schools will not have had time to fully reinstate the necessary provisions, and consequently, pupils will have been delayed a return to school.

Last week, I became aware that some parents had not received information from their child's special school in relation to a date for return. Others had received correspondence that the school would not be re-opening until updated guidance was provided and schools' concerns were resolved. I was later informed by your Department that supplementary guidance would be released that would address the concerns raised by special school Principals. I was therefore disappointed when the supplementary guidance was published on Monday. It was not only issued on the day that schools were to re-open for vulnerable pupils, but was scant and added little to the main guidance. It still remains unclear what additional resource will be provided to make sure every child gets the education and care that meets their assessed needs.

I have consistently highlighted the negative impact of school closures on children and young people with SEN and disability. I was therefore concerned that the supplementary



guidance highlighted that a 24<sup>th</sup> August return date for special schools may not be possible. Rather, it has been agreed that *"special schools should, in consultation with parents, prepare to bring back all pupils within the first two weeks of term"*.

I am fully mindful of the additional complexities in re-opening special schools. The safety and wellbeing of children and young people is of paramount importance and therefore it is essential that schools are fully prepared to re-open safely. Nonetheless, these children have gone months without the education, therapeutic and social supports provided by their school environment. **It is essential that they are able to return to school; this must be facilitated for all pupils with SEN and disability by the end of next week.**

In addition, I reiterate my concern that the revised guidance does not adequately address the needs of all children and young people. I have consistently 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. **Further information and support is necessary to ensure that children's additional needs are fully met in the return to school. Evidence must be provided of same.**

I recognise that the guidance regarding behavioural policies has been updated, however, I remain concerned about how the Department will monitor the measures taken by schools and ensure that these are reasonable and proportionate. I am not clear on what constitutes a *'flagrant abuse of the Covid-19 risks'* and I reiterate that disciplinary measures such as suspension and exclusion from school should only ever be used as a measure of last resort. 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. I reiterate that the new school arrangements will likely be particularly challenging for younger children and for children with complex needs or disabilities. I remain concerned that the guidance does not explicitly account for pupils' age, ability, aptitude and any Special Educational Needs they may have. This must be addressed. I again note that this is particularly critical in light of the findings from *Too Little, Too Late* which highlighted the disproportionate rate of suspension and expulsion for children with SEN in mainstream settings.



### **School meals**

The updated guidance sets out the revised arrangements that schools may need to adhere to in relation to provision of school meals, such as staggered break and lunch times. 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'*. Whilst this is welcome, the message must be definitive. It is essential that meal provision in the new term will be as it was pre-Covid-19.

The guidance makes no mention of access to drinking water. In light of likely restrictions in use of water fountains, and the fact that pupils may be staying longer in the classroom, it is essential that water is readily available.

Some children and young people are concerned about the environmental implications associated with bringing lunch in disposable containers, as has been advised by some schools. Although I recognise that this may reduce the risk of transmission, young people have legitimate concerns about the damage caused by single use plastics. I suggest that schools are encouraged to discuss and consider better alternatives with their pupils.

### **Funding**

I greatly welcome Monday's announcement that a significant package of funding will be made available for the first term of the new academic year to help support the safe re-opening of schools. This (I assume additional) resource will be essential in supporting schools to re-open safely. I understand that the funding is intended to go towards the cost of substitute teachers and other school expenditure, PPE, school wellbeing initiatives, home to school transport, and to support special educational needs.

Further information on the distribution of the funding would be useful, including the additional supports that will be provided for special educational needs. I acknowledge that you have expressed your intent to monitor funding requirements as schools re-open and as the pandemic progresses, to secure adequate funding to keep schools open and protect our children and young people. This will be absolutely vital in ensuring that schools are able to remain open.

### **Curriculum delivery**

As I have previously advised<sup>6</sup>, there needs to be a dual emphasis for children's return to

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<sup>6</sup> NICCY (June 2020) A Child's Right to Education and Covid-19 - Next Steps, A Child Rights Approach.



school. In the first several months schools should concentrate on: a) supporting children and young people to get back on track with their education; and b) assessing and supporting children's emotional well-being and mental health identifying and referring on to special supports as required. I am therefore pleased that there is a focus on prioritising pupils' personal, social, and emotional wellbeing in the curriculum guidance.

However, I am concerned that decisions are yet to be made regarding potential changes to GCSE and GCE qualifications for the Summer 2021 series. Although I welcome that CCEA recently launched its consultation on proposed changes, **I emphasise the need for urgent clarity regarding the arrangements for qualifications in 2021, and the subsequent impact on curriculum delivery.**

### **Blended learning**

I have previously<sup>7</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. It is therefore essential that robust plans are established to facilitate blended learning 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. This will be critical in case of further waves of the pandemic, in case of local outbreaks, or in individual cases where some pupils may be required to isolate.

Whilst I welcome that contingency planning for the delivery of remote learning has been reflected in the new guidance, I query how your Department will monitor these plans. I am also concerned that there is insufficient guidance for pre-school settings with regards to remote learning approaches. **I reiterate<sup>8</sup> that ETI should assess the effectiveness of the education that children have received during lockdown and as schools re-open. This assessment must monitor the quality and consistency of remote learning approaches.**

I remain greatly concerned that I am yet to receive an update on the number of children and young people who remain without a digital device. 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**

<sup>7</sup> Ibid

<sup>8</sup> Ibid



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.

Again, 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.

Finally, I stress that 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.

Please do not hesitate to contact my office if you would like to discuss any of these matters further.

Yours sincerely

Personal Data

Koulla Yiasouma  
Commissioner