

IN THE UK COVID-19 INQUIRY
MODULE 8

SUBMISSIONS ON BEHALF OF
ARTICLE 39
FOR THE SECOND PRELIMINARY HEARING ON 11 JUNE 2025

A. INTRODUCTION

1. These submissions are made on behalf of Article 39 in advance of the Module 8 second preliminary hearing on 11 June 2025.
2. Article 39 was designated as a Core Participant for Module 8 of the Inquiry on 31 July 2024. Article 39 was founded in 2015 and is a small, independent charity which advocates for the rights of children living in state and privately-run institutions (including children's homes, mental health inpatient units, prisons and supported accommodation for looked after children aged 16 and 17) in England. It takes its name from Article 39 of the United Nations Convention on the Rights of the Child ("UNCRC"), which entitles children who have suffered rights violations to recover in environments where their health, self-respect, and dignity are nurtured.
3. Article 39 continues to seek to ensure that the Inquiry considers the full impact of the pandemic on looked after children and young people, and those living in institutional settings.

B. SUBMISSIONS

(i) Rule 9 requests

4. At the first preliminary hearing in September 2024, Article 39 invited the Inquiry to issue Rule 9 requests to seven public bodies. Article 39 is grateful to the Inquiry for confirming in its monthly update notes that Rule 9 requests have been issued to four of those seven public bodies.

5. Article 39 renews its invitation for the Inquiry to issue Rule 9 requests to the following three public bodies:

- a. The Chief Social Worker for Children and Families: Article 39's draft Rule 9 statement makes a number of observations on the role of and actions taken by the Chief Social Worker for Children and Families both before and during the pandemic, including some critical observations. It is submitted that a Rule 9 request should be issued to the Chief Social Worker so that her role during the pandemic, particularly in relation to the deletion and dilution of important statutory obligations owed to children, can be better understood by the Inquiry. This is relevant to Issue 5 in the Provisional List of issues ("LoI"), in particular issue 5B, which is of critical importance to Article 39.
- b. The Child Safeguarding Practice Review Panel: Article 39's draft Rule 9 statement includes data from local authorities collected by the Child Safeguarding Practice Review Panel on children dying and suffering serious harm (serious incident notifications). As set out in the draft Rule 9 statement, the data confirms that there were notable increases in serious incident notifications for all age groups of children between 2020 and 2021, particularly for babies under one and children aged 16 and 17¹. It is submitted that a Rule 9 request should be issued to the Child Safeguarding Practice Review Panel so that this data can be interrogated by the Inquiry, and so that the Panel can be asked about the number of serious incident notifications for looked after children and those living in institutional settings during the pandemic. This is relevant to Issue 5 in the LoI.
- c. The Care Quality Commission: The Care Quality Commission ("CQC") inspects mental health inpatient care. It is submitted that a Rule 9 statement from the CQC setting out its observations on the experiences of children and young people detained under the Mental Health Act 1983 during the Specified Period is relevant to Issue 4 in the LoI, in particular whether there was sufficient support available to children for the treatment of mental illness. The Inquiry is invited to issue a Rule 9 request to the CQC.

¹ <https://explore-education-statistics.service.gov.uk/data-tables/fast-track/cfa2a9ee-160e-4016-9fd0->

(ii) Provisional List of Issues

6. Article 39 appreciates the detailed work undertaken by Counsel to the Inquiry and Solicitors to the Inquiry thus far to produce the LoI. It is acknowledged that the LoI is not intended to be an exhaustive or prescriptive document. Notwithstanding this, Article 39 makes the following overarching submissions:

- a. that each of the issues set out in the LoI should be considered through the lens of the UK's UNCRC obligations; and
- b. that the LoI should be expanded to include the below specific issues.

Issue 2

7. Issue 2 proposes to examine the extent to which children and young people were considered by the UK Government and the Devolved Administrations in respect of the application of non-pharmaceutical interventions, and the impact of those decisions. It is submitted that Article 12 UNCRC - the right of the child to express their views, wishes and feelings, and meaningfully participate in matters affecting them- is central to this issue. As such, it is submitted that the text at issue 2A should be expanded to expressly include:

- a. Any mechanisms in place to ensure that children and young people's views and experiences were considered, including the mechanisms in place for consultation with the respective Children's Commissioners.

Issue 3

8. Article 39 submits that for all children, but especially children in need, including looked after children and disabled children, education is central to their mental health and wellbeing, and not merely a means to reaching outcomes and milestones. Article 29 UNCRC sets out a broad set of aims for education, uppermost being the development of each child's personality, abilities and fullest potential. Article 23 UNCRC additionally emphasises the dignity and active inclusion and participation of disabled children. It is submitted that this wide understanding of the importance of education to children's happiness, wellbeing and inclusion should be reflected in the framing of the LoI.

9. With that in mind, it is submitted that, when examining the overall impact of the pandemic on the education of children and young people:

- a. the text at **Issue 3, A, xiv. c.** should be slightly broadened to include wellbeing as well as mental health; and
- b. 'wellbeing including mental health' should be the first consideration within the sub-list at **xiv**, ahead of 'attainment and learning'.

C. CONCLUSION

10. Article 39 intends to make brief oral submissions at the Second Preliminary Hearing on 11 June 2025 and is available to discuss any issues arising from these submissions prior to the hearing if that would be of assistance.

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