

Thursday, 16 October 2025

1  
2 (10.00 am)  
3 **LADY HALLETT:** Ms Pottle.  
4 **MS POTTLE:** My Lady, may I call Dr Shona Arora.  
5 **DR SHONA ARORA (sworn)**  
6 **Questions from COUNSEL TO THE INQUIRY**  
7 **LADY HALLETT:** Thank you for coming along to help us.  
8 **MS POTTLE:** Please could you give your full name.  
9 **A.** My name is Dr Shona Arora.  
10 **Q.** Dr Arora, you should have in front of you a witness  
11 statement you prepared for the Inquiry, and it is  
12 INQ000588110. You are the director of Health Equity and  
13 Clinical Governance at the UK Health Security Agency.  
14 Is that right?  
15 **A.** That's correct. I'm also, since September 22 of this  
16 year, the interim Chief Medical Officer for the UKHSA,  
17 for the moment, as the post-holder for that,  
18 Professor Susan Hopkins, is now UKHSA's chief executive  
19 officer, so I've stepped up to provide some cover in  
20 that role as well.  
21 **LADY HALLETT:** Can you get closer to the microphone?  
22 **THE WITNESS:** Is that better?  
23 **LADY HALLETT:** Yes, thank you.  
24 **THE WITNESS:** Sorry, I have a soft voice.  
25 **LADY HALLETT:** You do.

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1 parliamentary cell.  
2 **Q.** Okay, and the Parliamentarian cell, that was giving  
3 advice to Members of Parliament; is that right?  
4 **A.** To them and to their officers and caseworkers. A lot of  
5 MPs' offices were, particularly at the beginning,  
6 receiving a lot of queries from their constituents, so  
7 this was one of the helplines PHE established to try to  
8 support and get information out to the public.  
9 **Q.** Okay. Turning then to PHE's role during the pandemic,  
10 PHE provided scientific research and advice to inform  
11 government decision making and policy development; is  
12 that right?  
13 **A.** That's correct.  
14 **Q.** And PHE also produced evidence-based guidance, and that  
15 advice was provided to government in a number of  
16 different ways, including by members of PHE  
17 participating in SAGE, for example?  
18 Also at a local level, participating in location  
19 action committee meetings? Is that right?  
20 **A.** That's correct.  
21 **Q.** Okay. What the Inquiry is particularly interested in,  
22 in this module, is advice and guidance that PHE produced  
23 touching on the provision of education to children  
24 during the pandemic, and on the detention of children in  
25 prison, but before I move on to those topics, there's

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1 **THE WITNESS:** I'll try and speak up.  
2 **LADY HALLETT:** Thank you.  
3 **MS POTTLE:** You are a trained medical doctor; is that right?  
4 **A.** That's correct.  
5 **Q.** Okay. And you worked at Public Health England during  
6 the pandemic, which is the predecessor organisation to  
7 UKHSA; is that right?  
8 **A.** That is correct, yes.  
9 **Q.** And what was your role at PHE during the pandemic?  
10 **A.** So, during the pandemic I was working part-time. My  
11 permanent role at that point was Deputy Director for  
12 Public Health Workforce Development, but during the  
13 pandemic one of the roles I took on was supporting  
14 a parliamentarian cell telephone helpline from about  
15 April through to July 2020, before returning to my  
16 substantive role to assist with the public health reform  
17 programme.  
18 **Q.** Today in your evidence I will be asking you some  
19 questions about PHE's role during the pandemic, covering  
20 various topics. But just so we are clear, you're giving  
21 evidence today from Public Health England's corporate  
22 perspective, not on matters that you yourself personally  
23 were involved in; is that right?  
24 **A.** That's correct. I had very limited direct involvement  
25 in the Covid pandemic, apart from my role in the

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1 one matter of general background that I'd like to  
2 explore with you, and that is whether PHE had  
3 a controlling say on the content of all public-facing  
4 health guidance under the so-called triple lock system.  
5 So, Dr Arora, in a witness statement which we don't  
6 need to pull up, but a statement of Elizabeth Ketch from  
7 the Department of Health and Social Care -- and the  
8 reference for the transcript is INQ000652113 -- in that  
9 statement Ms Ketch describes a triple lock system, which  
10 meant that public-facing health and behavioural guidance  
11 from about May of 2020 had to be agreed between the  
12 Chief Medical Officer, the Cabinet Office at Number 10,  
13 and also by senior PHE officials. Does that sound right  
14 to you?  
15 **A.** That does sound right, in terms of who a piece of  
16 guidance would need to go through before it was  
17 finalised.  
18 **Q.** Okay. And can we take from that that, for example, some  
19 Department for Education guidance, which we'll come on  
20 to, on school attendance, would have been agreed also by  
21 senior PHE officials?  
22 **A.** It would have -- the health components of DfE guidance  
23 would certainly have been put in front of PHE officials  
24 to comment on.  
25 **Q.** Okay. Before we go on to guidance touching on

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1 education, I'd like to cover with you a topic which is  
 2 infection control measures to make schools safer in  
 3 a future pandemic. So something that we've referred to  
 4 in the Inquiry as the "safer schools" topic. Before we  
 5 go on to the detail there are different names and  
 6 acronyms for these measures, but so that we're clear,  
 7 I will use the term NPI, so non-pharmaceutical  
 8 interventions. That is the term the Inquiry has used  
 9 most often. So we're not talking about vaccines here  
 10 but other measures, like social distancing, cleaning,  
 11 masks, ventilation, air cleaning, for example.

12 Firstly, what is the evidence -- what is the  
 13 standard of the evidence regarding the effectiveness of  
 14 infection control measures deployed during the pandemic?  
 15 You deal with this at paragraph 5.12 to 5.15 in your  
 16 witness statement, and what you say there is that there  
 17 isn't good evidence at present showing which measures in  
 18 particular were effective.

19 Have I understood that correctly?

20 **A.** I think -- so this is based on a systematic review of  
 21 available evidence that reviewed the literature up to  
 22 January '24, and particularly in the context of schools  
 23 and education, the evidence base is not the highest  
 24 quality, and that's for a number of reasons, including  
 25 the difficulty of studying this in real time and the

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1 effectiveness or an outcome, because we don't always  
 2 know how to control for them or identify them.

3 We sometimes use modelling studies, as well, to  
 4 inform the evidence base. But again, that -- models are  
 5 only as good as the assumptions that we put in, and they  
 6 also rely on having some basic data around, for example,  
 7 biological behaviour of a particular pathogen.

8 So if I compare it to the gold standard of RCTs and  
 9 sort of more clinical interventions --

10 **Q.** RCTs are --

11 **A.** Sorry, randomised control trials, where you can control  
 12 more successfully for those unknown variables that might  
 13 be the cause of why something is more or less effective,  
 14 which you can't do in an observational study in the real  
 15 population, as easily, which means that you can  
 16 sometimes get a result and make an association, but  
 17 it -- that could be really effective but actually it  
 18 might be due to something else that you haven't been  
 19 able to account for.

20 **Q.** I see. In your statement I think you also mention that  
 21 it's -- it would have been unethical to create a sort of  
 22 control group during the pandemic and withhold  
 23 interventions from that group.

24 **A.** Yeah.

25 **Q.** That might have given you a better idea of what

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1 fact that it's quite difficult to disentangle the impact  
 2 of one particular NPI from another, because in many  
 3 cases NPIs are implemented as a package.

4 So there is, if you like, in the context of strength  
 5 of evidence and the science and evidence base it is not  
 6 gold standard by any means and was lesser so  
 7 pre-pandemic.

8 **Q.** That might be thought as being quite surprising that,  
 9 several years on from the pandemic, where extensive use  
 10 was made of NPIs in schools, for example guidance given  
 11 about the system of controls, face masks, hand washing,  
 12 bubbles, that sort of thing. So am I right in thinking  
 13 that, still now, we don't have -- we don't really know  
 14 which measures from that selection actually worked to  
 15 prevent the spread of the virus?

16 **A.** We probably don't know with huge certainty. So if  
 17 I took, for example, a comparison with a clinical  
 18 measure like vaccination and -- where you can thoroughly  
 19 test it out through a clinical trial and what we might  
 20 call a randomised control trial where you can correct  
 21 for bias and other issues, a lot of our evidence is  
 22 based on what we call more observational studies in the  
 23 real world, so studying what's happening in populations,  
 24 but it means that we're less good at accounting for  
 25 things that might actually be influencing the

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1 interventions were working --

2 **A.** Yeah.

3 **Q.** -- but the ethical boundaries meant that wasn't  
 4 possible.

5 **A.** Yes, and that's -- and all research and trials do have  
 6 to go through an ethical process, but if there's  
 7 something that you think would genuinely help and save  
 8 lives sufficiently, that would stop you denying people  
 9 from that or the population from that, and that's the  
 10 situation we were very much in.

11 **Q.** Okay. You mentioned a moment ago a rapid review, and  
 12 I'd just like to take you to that quickly.

13 The reference is INQ000651524. Thank you very much.

14 And we can see here, this is just the front page, so  
 15 it's the "Effectiveness of non-pharmaceutical  
 16 interventions as implemented in the UK during the Covid  
 17 pandemic", a rapid review.

18 Just before we move to the conclusions, can you just  
 19 tell us what a rapid review is, exactly.

20 **A.** So it is a review of existing evidence and studies and  
 21 trials carried out usually more rapidly. So to actually  
 22 do this properly can usually take months and months to  
 23 go through. So obviously we don't have time in  
 24 a pandemic situation, or even in an outbreak situation  
 25 of something relatively new like Mpox, so we have an

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1 approach that uses particular techniques that allow you  
2 to still produce something of reasonable high quality to  
3 define the scope sufficiently, specifically and narrowly  
4 enough of the review but also then to research  
5 sufficiently to gather a range of materials. And those  
6 are then brought together and synthesised to try and  
7 establish whether or not you can conclude of the  
8 direction of travel in favour of a particular  
9 intervention or group of interventions or otherwise or  
10 in particular settings, or otherwise.

11 **Q.** Okay. So you're doing a sort of scan of the evidence  
12 that's available --

13 **A.** Yeah.

14 **Q.** -- and working out roughly what the state of play is?

15 **A.** Yes.

16 **Q.** Whether there's good evidence to support something or  
17 not?

18 **A.** Yeah.

19 **Q.** Okay. And this particular rapid review, this wasn't  
20 conducted during the pandemic; this is evidence up to  
21 I think you told us 2024?

22 **A.** -- '4.

23 **Q.** Is that right? Okay. So if we can turn then to  
24 page 28, please. Thank you very much.

25 The conclusions we are interested in are:

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1 activated during an epidemic or a pandemic ... Another  
2 approach is the delivery of rapid adaptive trials for  
3 the simultaneous testing of various NPIs ..."

4 Can you help us in, sort of, plain language what is  
5 needed in future pandemic planning to help us plug this  
6 gap in knowledge?

7 You can take that down now. Thank you.

8 **A.** Okay. So I think what we're -- what the initial opening  
9 sentence said was what we've discussed, which is the  
10 quality of the evidence is not as strong to give us as  
11 much confidence as we would like. One way we could  
12 address that, looking forward, it takes time to set up  
13 studies which will inform the evidence, and we can work  
14 on trying to design the frameworks for those studies and  
15 develop protocols that we wouldn't activate now but  
16 would be on the stocks, and use peacetime to more  
17 thoroughly test out the methodologies that we might use,  
18 because obviously in a pandemic, if you're starting from  
19 scratch, then, and designing something from scratch,  
20 you're more likely to not have thought through where  
21 biases might be and how you might correct for them.

22 So that's idea behind that.

23 The other approach is to have something -- the other  
24 approach referred to is something that, as you go  
25 through the trial, you bring in different elements, and

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1 "Consistent with other reviews, we found the  
2 validity and reliability of the available evidence to  
3 support the effectiveness of individual NPIs to control  
4 the spread of COVID ... to be weak and not to provide  
5 robust evidence to inform future pandemic preparedness."

6 So that we are clear, the NPIs that were reviewed,  
7 they included ventilation and air filtration; is that  
8 right?

9 **A.** I'd need to check in detail on that one, it'll be in one  
10 of the tables. But I know -- I've also looked -- we've  
11 referenced the McMaster --

12 **Q.** Yes --

13 **A.** And that also looked at ventilation and they looked in  
14 a number of community settings and their latest living  
15 evidence review identified studies in two educational  
16 settings -- (overspeaking) -- range.

17 **Q.** Okay, we will come on in a moment to evidence specific  
18 to ventilation air filtration but focusing now on this  
19 sort of rapid review, it says, to continue:

20 "The main lesson from this review is the need to  
21 improve evidence generation to support future pandemic  
22 decision making, including building rapid evaluation  
23 into the response to the pandemic and other public  
24 health emergencies. This includes the development of  
25 'sleeper' study platforms and protocols, which can be

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1 you create a more agile approach to looking at what  
2 you're trying to do sequentially.

3 **Q.** Is that something that UKHSA is undertaking at the  
4 moment?

5 **A.** It's something we, amongst others, are looking at and  
6 part of the research community. So through the National  
7 Institute for Health Research and the UK Research and  
8 Innovation approach, and through the DHSC Research  
9 Framework for Pandemics is something that's being  
10 developed through the current pandemic preparedness  
11 workstream.

12 **Q.** Okay. I'm going to move on now to a different topic,  
13 which is whether plans to make schools safer in the  
14 future ought to focus on airborne pathogens. You've  
15 dealt with this in your statement at paragraphs 5.2 to  
16 5.7, but can I just ask you generally whether plans to  
17 make schools safer should focus on pathogens which are  
18 transmitted through the air as opposed to pathogens  
19 which are transmitted via other routes of infection?

20 **A.** So, overall, our pandemic preparedness framework for the  
21 UK focuses on five routes of transmission, of which  
22 respiratory is one. It's fair to say that five out of  
23 the six pandemics that have occurred since the  
24 20th century have been respiratory and airborne. And  
25 I think our National Risk Register also signals that's

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1 still the highest risk. So it would certainly make  
2 sense to start with prioritising that.  
3 However, there are potentially still other routes of  
4 transmission that could cause a pandemic. So we do need  
5 to be mindful of that and be thinking about those routes  
6 as well, and not -- not be completely focused. But as  
7 a priority to start with, that would be one that is  
8 probably the most likely.

9 **Q.** Okay. I'm going to take you now to the witness  
10 statement prepared by Professor Sir Chris Whitty which  
11 deals with this topic, and just see if you agree with  
12 his conclusion.

13 So his reference is -- for his statement is  
14 INQ000588046, and we're looking here at paragraphs 7.5  
15 to 7.6.

16 The statement is:

17 "The route of transmission is also important. Touch  
18 and faeco-oral transmission may both be more likely in  
19 children, and especially younger children, than young  
20 adults. COVID-19 was a respiratory pandemic, but other  
21 routes of transmission would have different implications  
22 for the relative safety of, and proportion of the  
23 transmission to and from, children. Respiratory  
24 transmission remains the most likely route of pandemics  
25 because of its ease of spread, and in practice 4 of the

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1 children are much more susceptible to touch diseases  
2 than adults, a reason example being some clades of Mpx  
3 in central Africa. Adults touch children in normal  
4 caring roles, and children touch one another much more  
5 readily than non-related adults touch one another ...  
6 Preventing touch diseases requires different measures  
7 than were used for COVID-19. Children are generally  
8 less question in hygiene than adults, so faeco-oral  
9 diseases such as cholera are often more common in  
10 children; again the measures taken to reduce  
11 transmission would be different, requiring measures  
12 related to hygiene and safe food and water."

13 And finally:

14 "Vector-borne diseases are also important in  
15 childhood globally (such as malaria ...) ... with  
16 different countermeasures, but are unlikely to affect  
17 the UK as pandemics in the foreseeable future."

18 So, Professor Sir Chris Whitty there is giving us  
19 a bit of a rundown of the different routes of  
20 transmission, how children can be implicated in them,  
21 explaining that even illnesses that are not airborne  
22 still have implications for children, and some, such as  
23 touch diseases, would be perhaps more risky for  
24 children.

25 So, overall, other routes of transmission certainly

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1 last 5 pandemics that affected the UK (three influenza  
2 and COVID-19) were respiratory with only one ... by  
3 other routes [and that was the HIV pandemic]. It is  
4 therefore sensible to concentrate on respiratory routes  
5 of transmission. Children are as susceptible to  
6 respiratory routes as adults."

7 So it sounds like you're on the same page there.

8 **A.** Yeah.

9 **Q.** That it sounds the most likely but certainly you can't  
10 rule the others out, I think?

11 **A.** Yeah.

12 **Q.** If we can move on to then to 7.6:

13 "Historically ... other routes have caused major  
14 pandemics affecting children and there is no reason they  
15 cannot again. Sexual routes of transmission are much  
16 less likely to affect children ..."

17 And that's why the last pandemic, HIV, was  
18 predominantly a disease of young adults.

19 "Vertical bloodborne/breastfeeding transmission of  
20 HIV between mothers and ... babies shows that ..."

21 The transmission between mother to children is  
22 critical there.

23 "Hepatitis B which is a sexual and bloodborne virus  
24 is transmitted mother-to-child, and is readily  
25 transmitted between children in normal play ... Young

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1 can't be discounted, I think.

2 **A.** Yes.

3 **Q.** We can draw that conclusion from his evidence. And you  
4 would agree with that?

5 **A.** Yes.

6 **Q.** Is that right?

7 **A.** Yes.

8 **Q.** Thank you.

9 We can take that down.

10 You mentioned in your evidence the National Risk  
11 Register.

12 **A.** Mm-hm.

13 **Q.** Can you just tell us briefly what that is.

14 **A.** So the National Risk Register is, I think, owned by the  
15 Cabinet Office, and it's our -- it is what it says on  
16 the tin: it's an assessment of a whole range of risks  
17 facing the UK.

18 It's a public-facing document. And it sets out  
19 risks on all sorts of dimensions, not just health -- so,  
20 for example, cybersecurity is another one -- and  
21 attempts to rank the -- not rank, but -- but score the  
22 risks based on likelihood and impact, to give some  
23 indication of how serious they might be, and which ones  
24 are likely to be the most common.

25 And there is a section on health risks in there

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1 which includes risk of a future pandemic.  
 2 **Q.** And in that planning, it is a respiratory pandemic --  
 3 **A.** Yes.  
 4 **Q.** -- that's the predominant risk. Okay.  
 5 I'm going to move on now to evidence regarding  
 6 ventilation and filtration systems and their  
 7 effectiveness in reducing the transmission of disease in  
 8 schools.  
 9 You deal with that in your witness statement at  
 10 paragraphs 5.16 to 5.18, and also 6.8 to 6.12.  
 11 Professor Catherine Noakes has provided a statement  
 12 to the Inquiry, and she will give evidence next week  
 13 touching on this issue, specifically on this issue.  
 14 I understand you've had a chance to read her statement  
 15 it; is that right?  
 16 **A.** (No audible answer)  
 17 **Q.** If we could just pull up paragraph 6.8 of her statement,  
 18 which is INQ000588180, these are her conclusions about  
 19 the state of the evidence. So she says that:  
 20 "Evidence that demonstrates ventilation of air  
 21 cleaning reduces transmission of infection or illness is  
 22 very limited."  
 23 And she says:  
 24 "This is primarily because such data is challenging  
 25 to obtain for two reasons ..."  
 17

1 So we can, I think, readily see that if we had, for  
 2 example, a trial in a school providing air cleaning  
 3 technology, but those children travelled to the school  
 4 by bus and are exposed to pathogens in that way, it  
 5 would be difficult, perhaps, for the scientists to work  
 6 out exactly how much benefit the children were getting  
 7 from air cleaning.  
 8 Would you agree with -- firstly, with  
 9 Professor Noakes, about the evidence that's currently  
 10 available to support those ventilation and air-cleaning  
 11 technologies?  
 12 **A.** Yes, around these two paragraphs, around -- yes, I think  
 13 that's a very fair assessment.  
 14 **Q.** Yes, okay. And would you agree with her about the  
 15 reasons for the paucity of evidence, and that -- that  
 16 being that direct evidence is difficult to obtain for  
 17 the reasons she states, and also that -- the absence of  
 18 a linear relationship between the reduction in pathogens  
 19 in the air --  
 20 **A.** (Witness nodded)  
 21 **Q.** -- and infection rates in individuals?  
 22 **A.** Yes.  
 23 **Q.** That can be taken down now.  
 24 But bearing in mind that paucity of evidence,  
 25 Professor Noakes's view is that there is growing  
 19

1 And these will sound a bit familiar to us, after  
 2 your other evidence regarding NPIs, but firstly she  
 3 says:  
 4 "(1) There is not necessarily a linear relationship  
 5 between the reduction in the concentration of a pathogen  
 6 in the air ... and the reduction in the likelihood of  
 7 infection."  
 8 And then if we could just scroll down, please, to  
 9 the second point. Thank you.  
 10 And she says also:  
 11 "(2) Direct evidence from intervention studies is  
 12 difficult to measure. Unlike medical trials where  
 13 different treatments can be given to individuals and the  
 14 treatment only affects that person, ventilation is an  
 15 environmental measure which affects a building and  
 16 everyone in the space. As such it may have different  
 17 effects over a day or season depending on [things] such  
 18 as the weather and the occupant behaviours. It is hard  
 19 to conduct studies that compare directly between  
 20 different spaces which have different levels of  
 21 ventilation ... Where an intervention is applied in one  
 22 setting [for example a school] ... the same people can  
 23 be exposed through interactions in other spaces (eg  
 24 homes, transport, social settings) which can reduce or  
 25 even negate any effects in the intervention."  
 18

1 evidence that indicates that enabling better ventilation  
 2 and indoor air quality does have a positive effect on  
 3 the health of children, and that's for reasons, she sets  
 4 out in her statement, of reducing air pollution, for  
 5 example, or mould in classrooms.  
 6 **A.** Yes.  
 7 **Q.** So, bearing that in mind, in your view, should more be  
 8 done to improve the ventilation and air quality in  
 9 education settings to reduce -- well, actually, I'll  
 10 just stop there. Should more be done to improve  
 11 ventilation and air quality in education settings, in  
 12 your view?  
 13 **A.** So, obviously that isn't a decision for UKHSA to make,  
 14 but I think we've heard the narratives that -- and even  
 15 from the McMaster living review there is emerging  
 16 evidence, notwithstanding the fact that it's really hard  
 17 to get high-quality evidence, that indoor air quality  
 18 matters for a whole range of issues. Not just for  
 19 infectious disease transmission, but for concentration  
 20 or other matters of wellbeing. And that includes what's  
 21 described as thermal quality, so basically whether you  
 22 feel too hot or too cold.  
 23 There's -- I think there's definitely room for  
 24 extending this evidence base further, and I believe  
 25 there is a new UKRI-funded study called CHILI, which is  
 20

1 the Children and adolescent Health Impacts of Learning  
2 Indoor environments, that's been established, led by  
3 University College London, and UKHSA will be  
4 participating in that as well, and helping with one  
5 element of that.

6 And that, I think, will give us stronger focus on  
7 school settings in particular. So I think definitely  
8 the need to strengthen the evidence base. And that's  
9 because I think when you're applying a universal measure  
10 like that, it's -- obviously, there's a cost  
11 implication. You want to make sure you're doing the  
12 right thing and you want to understand also some of the  
13 complexities around some of the interventions. So  
14 I think, again, Professor Noakes refers to, sort of,  
15 anything mechanical needs to be maintained. There's  
16 often -- you know, there's a risk of false reassurance,  
17 there are trade-offs, particularly in a classroom  
18 environment, between noise and getting this right.

19 So I think we definitely need to start building that  
20 evidence base, particularly around some of those  
21 specifics, so that decisions can be made and informed by  
22 that more appropriately across the education sector.

23 **Q.** Okay. So if I understood you correctly, we need to  
24 build that evidence base prior to decisions being made  
25 about improving ventilation and air quality in

21

1 businesses might have or offices might have. And  
2 schools are obviously used by adults and children  
3 together, and some non-pharmaceutical interventions like  
4 mask wearing might be difficult for children to comply  
5 with, to use appropriately.

6 Would you agree that ventilation guidance specific  
7 to schools ought to have been given by PHE during the  
8 pandemic?

9 **A.** So this is a quite difficult one. I think if we go back  
10 to the start of the pandemic and what we knew about the  
11 virus at the time, there was a stronger focus on droplet  
12 spread and less so on aerosol spread and therefore  
13 a stronger focus on the measures that you would normally  
14 apply in that case.

15 I think the other thing is we knew there was  
16 guidance being produced by DfE for schools, and that  
17 I think that would have been the appropriate place to  
18 address that as the evidence base emerged. So I think  
19 we, as PHE, were providing much wider principles that  
20 could be used. There was also advice, again more  
21 general and not specific to schools, through the Health  
22 and Safety Executive, but I think in the early stages  
23 when we didn't really know the role of ventilation that  
24 it might play, I think it was difficult to have specific  
25 guidance at that point on ventilation. And later on

23

1 education? Is that what your advice would be, as UKHSA?

2 **A.** I mean, there is existing evidence. There is  
3 a trade-off, I suppose, on what other requests are made  
4 on limited resources. The schools estate is very mixed.  
5 I think the point that's also made is making sure that  
6 we have good building standards in place for  
7 particular -- and I think that's much easier to do with  
8 new builds. I think some of the challenge is around  
9 retrofitting but I think we just need to be careful that  
10 we are making sure that any investment is really going  
11 to produce the outcomes that are needed.

12 **Q.** While we're still on the subject of ventilation in  
13 schools, and building standards, in your statement you  
14 confirm that during the pandemic -- and we're going back  
15 now to 2020 -- during the pandemic, guidance on  
16 ventilation specific to schools wasn't provided by PHE.

17 **A.** Mm.

18 **Q.** Schools were referred to general guidance on ventilation  
19 which covered businesses, I think, in non-domestic  
20 settings.

21 **A.** Mm.

22 **Q.** Professor Noakes, in her evidence, makes clear that  
23 schools have certain unique features which are relevant  
24 to the transmission of pathogens. So for example,  
25 schools are unlikely to have mechanical ventilation as

22

1 I think it was picked up through the guidance produced  
2 by DfE.

3 **Q.** But if PHE was referring schools to generic guidance,  
4 I appreciate not as much was known at the time about  
5 transmission rates, but come -- at a certain point, it  
6 was clear that airborne transmission was a factor, and  
7 PHE did refer schools to ventilation guidance, there's  
8 no good reason, is there, for referring them to guidance  
9 which is applicable to offices as opposed to specific  
10 guidance relevant to schools?

11 **A.** I think at the time that reflected what we knew in terms  
12 of the evidence base, which was slightly stronger on  
13 multiple other settings. As I've said, the evidence  
14 base around school settings was quite thin, and has  
15 improved, because the pandemic has provided some  
16 opportunity to do that. And again, I think what we  
17 would see our role doing is then supporting sectors to  
18 produce specific guidance for those sectors that  
19 reflected the evidence base, but could then be more  
20 tailored to the sector understanding and sector context.

21 **Q.** But you would have had input in DfE guidance touching on  
22 health measures --

23 **A.** Yes.

24 **Q.** -- that's right, isn't it? Okay. But if I've  
25 understood you correctly, what you've also said is that

24

1 there wasn't enough -- there wasn't an evidence base at  
2 the time to enable you to develop guidance specific to  
3 a school setting?

4 **A.** Yes.

5 **Q.** Have I understood that correctly?

6 **A.** Certainly at the beginning, yes.

7 **Q.** Okay. I'd like to move on now to the measures, pardon  
8 me, to the recommendations made by Professor Noakes  
9 which touch on areas of UKHSA's responsibility.

10 So one of the recommendations that Professor Noakes  
11 makes is that there should be more effective monitoring  
12 with long-term data collection. So she cites an example  
13 of schools in the United States which had CO<sup>2</sup> monitors  
14 and they were able to feed back information in real time  
15 to a central data collection point so that there could  
16 be a long-term monitoring of the effectiveness of  
17 measures put in place.

18 And Professor Noakes makes a recommendation that we  
19 have that long-term data collection across public  
20 buildings, supporting building the evidence base for  
21 environmental impacts on health.

22 Is that something that would sit within UKHSA's  
23 purview, spearheading that -- the development of that  
24 long-term data collection?

25 **A.** I think it wouldn't necessarily be us to spearhead.

25

1 responsibility in this sphere.

2 Where would you say, or where would UKHSA say, in  
3 government lies the overall responsibility to consider  
4 future NPI measures in schools?

5 **A.** So I think the responsibility has to sit with the  
6 government department responsible for that sector,  
7 because there's obviously schools, but there's  
8 businesses, there's all sorts of other sectors. I think  
9 our role in UKHSA is to support with advice --  
10 evidence-based, advice carrying out evidence-based  
11 reviews, contributing to the research where we can,  
12 using our data and surveillance to identify issues that  
13 might be coming up to provide an input into where we  
14 think the gaps are in research and evidence, and in  
15 appropriate interventions.

16 **Q.** So if we're talking about schools in particular, I take  
17 it from your answer you would say that it's DfE who hold  
18 the overall responsibility for considering future NPI  
19 measures in schools? And UKHSA's role would be to  
20 support with advice but perhaps, from what you've said,  
21 UKHSA would also be responsible for prioritising the  
22 kind of studies that are needed to plug the gaps in  
23 knowledge?

24 **A.** And again, I don't think we would do that alone.

25 I think we'd be one of a number of contributors with

27

1 I think we'd certainly be there to support, and I've  
2 alluded to our role in the CHILLI hub to support --  
3 again, DfE, I think, are taking a leadership role and  
4 have provided schools with carbon dioxide monitors and  
5 are looking at that, and there is another study that  
6 we're awaiting the publication of which will also help  
7 to inform approaches, I think it's now called the  
8 Bradford Class Study which, again, DfE have been very  
9 instrumental in.

10 So I think we would potentially have a supporting  
11 role alongside other academic institutions and other  
12 bodies with engineering and building expertise, but for  
13 the schools sector, I think DfE are absolutely critical  
14 in this.

15 **Q.** Just taking a step back, it seems that there's various  
16 government departments and academic organisations that  
17 could be involved in managing the school environment.  
18 You mentioned environmental expertise.

19 **A.** Mm.

20 **Q.** We know, also, that the Department for Education issues  
21 guidance, for example, on building design?

22 **A.** Yes.

23 **Q.** UKHSA is responsible for guidance on health protection  
24 measures within schools. So one gets the impression  
25 that there is a sort of group of actors that have shared

26

1 expertise in this field through the academic routes and  
2 the academic structures and governance that exist to  
3 support this.

4 **Q.** I see. I'm going to move on now to another topic, and  
5 that is the guidance given to clinically vulnerable and  
6 clinically extremely vulnerable children and young  
7 people. We're focusing here in this module on children,  
8 so I'm really going to focus on the guidance that  
9 touched on school attendance.

10 Just to set the background, in March of 2020, PHE  
11 issued guidance on shielding. We don't have to pull  
12 that up, but that guidance advised those with certain  
13 specific conditions who were clinically extremely  
14 vulnerable to shield for 12 weeks from the receipt of  
15 the letter. The guidance in that first iteration, it  
16 didn't distinguish between adults and children, but it  
17 said, at the end, that the guidance applies to  
18 clinically extremely vulnerable children. So that was  
19 the beginning.

20 If we move forward, then, to May of 2020, the  
21 Department for Education issued guidance concerning  
22 clinically vulnerable and immunocompromised children and  
23 young people, and we know, just before we go to it,  
24 Julia Kinniburgh, from the Department for Education, in  
25 her statement, she says that guidance was completed with

28

1 PHE's assistance, but we know from what you said earlier  
 2 that PHE would have had input on that public-facing  
 3 guidance in any event, under the triple lock procedure,  
 4 if I've understood your evidence correctly?  
 5 So if we move to that guidance now, it's  
 6 INQ000542889.  
 7 So it was termed "Supporting vulnerable children and  
 8 young people during the coronavirus ... outbreak --  
 9 actions for education providers and other partners".  
 10 Then if we scroll through, please, particularly to  
 11 page 5, yes, the "Summary of attendance expectations for  
 12 vulnerable children and young people". So this was  
 13 May 2020, the lockdown had been in place for over  
 14 a month, approaching two months.  
 15 This is attendance expectations for vulnerable  
 16 children.  
 17 Now, so that we're not confused, this is talking  
 18 about vulnerable children under the sort of Department  
 19 for Education's definition, so not -- that's not about  
 20 clinically vulnerable children but about children who  
 21 were required to attend school because they had, for  
 22 example, a social worker --  
 23 **A.** Mm.  
 24 **Q.** -- or an EHCP plan or were classed as otherwise  
 25 vulnerable.

29

1 needs, where relevant."  
 2 So it's giving parents and also other adults with  
 3 responsibility for that child, it's giving them  
 4 permission, if you like, to weigh competing interests,  
 5 including their health vulnerabilities, in deciding  
 6 whether attendance is appropriate for those children.  
 7 We can take that down now.  
 8 In your witness statement you explain that the  
 9 category of clinically vulnerable as opposed to  
 10 clinically extremely vulnerable was removed as regarding  
 11 children in May of 2020.  
 12 So if we can go to your witness statement,  
 13 INQ000588110, paragraph 3.94 deals with this. And it  
 14 says:  
 15 "While a cohort of children was considered, on  
 16 a precautionary basis to potentially fall within the CEV  
 17 group when it was originally defined, the guidance in  
 18 relation to CV children was reviewed by the RCPCH ..."  
 19 That's the Royal College of Paediatrics and Child  
 20 Health?  
 21 **A.** Mm.  
 22 **Q.** "... and the NHSE clinical director for children in  
 23 early May 2020. The conclusion they reached right was  
 24 that the middle ground category of CV was not meaningful  
 25 as applied to children, who were either [clinically

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1 And so this guidance is setting out attendance  
 2 expectations for them. And it says that their  
 3 attendance is expected.  
 4 And if we go to the first bullet point there, it  
 5 says:  
 6 "For vulnerable children and young people who have  
 7 a social worker, attendance is expected unless the  
 8 child/household is shielding or clinically  
 9 vulnerable ..."  
 10 So the "shielding" reference there would be to  
 11 children who are clinically extremely vulnerable, one  
 12 would imagine?  
 13 But there's also the separate category of children  
 14 who are clinically vulnerable. Do you see that?  
 15 **A.** Yes.  
 16 **Q.** Okay.  
 17 If we go over the page to page 6, under the first  
 18 bullet point, there's further guidance that says:  
 19 "For all these groups [of children], educational  
 20 providers, local authorities, social workers, parents  
 21 [and] carers and other relevant professionals ... should  
 22 work together closely to consider factors, such as the  
 23 balance of risk, including health vulnerabilities,  
 24 family circumstances, risks outside the home, and the  
 25 child or young person's assessed special educational

30

1 extremely vulnerable] or not at materially increased  
 2 risk from contracting the virus. It was agreed by the  
 3 UK CMOs that only those children with significant  
 4 neuro-developmental and other specific conditions needed  
 5 to be advised to shield."  
 6 Can you help us with why the DfE guidance issued  
 7 in May referred to clinically vulnerable children,  
 8 whereas it seems -- we don't have the exact date but  
 9 here it says in early May that category was made  
 10 obsolete as regards children?  
 11 **A.** So I think it was ... it's hard; I wasn't part of these  
 12 discussions at the time. The clinically vulnerable,  
 13 clinically extremely vulnerable programme was led from  
 14 the department because it did require significant input  
 15 from clinicians in the NHS.  
 16 **Q.** Yes.  
 17 **A.** I think probably it was a matter of timing, because  
 18 I think it was June before that evidence, which I sort  
 19 of talk about later on at 3.95, from the RCPCH was  
 20 perhaps made more strongly available.  
 21 **Q.** Yes.  
 22 **A.** So I think --  
 23 **Q.** Sorry, thank you very much. We've got it up here, we  
 24 can just have look.  
 25 **A.** Okay.

32

1 Q. This is:

2 "On 10 June 2020, the RCPCH announced updated advice  
3 for clinicians on shielding for [children and young  
4 people] ... That advice emphasised that: 'According to  
5 the new ... guidance, the majority of children with  
6 conditions including asthma, diabetes, epilepsy, and  
7 kidney disease do not need to continue to shield and  
8 can, for example, return to school as it reopens. This  
9 includes many children with conditions such as cerebral  
10 palsy and scoliosis, for whom the benefits of school --  
11 in terms of access to therapies and developmental  
12 support -- outweigh the risk of infection'."

13 A. So I think what this is showing is this is an illness  
14 that we haven't had much of a chance to know much about.  
15 It's moving quite quickly. As clinical evidence of  
16 severity was emerging, that evidence was being used to  
17 assess what was appropriate for different groups of  
18 children and young people.

19 But we're talking about sort of May 2020, June 2020,  
20 so I think that just illustrates, particularly at the  
21 beginning, how fast moving things were. And again,  
22 coming back to initially the -- the -- at the beginning,  
23 I think the thought was to be a bit more precautionary,  
24 which was why there was a wider net cast, but clearly  
25 the implications of shielding, and particularly for

33

1 evidence that they were being presented with through the  
2 clinical community.

3 Q. I see. So we will be hearing from  
4 Professor Sir Chris Whitty next week. We can ask him  
5 about that.

6 There's one other matter of clarification I'd like  
7 to ask on this point before we move on. CV Families,  
8 a Core Participant, have asked for clarification: their  
9 understanding is that children who had been "clinically  
10 extremely vulnerable" were sort of downgraded to being  
11 "clinically vulnerable" in September of 2021, and so  
12 their understanding is that the clinically vulnerable  
13 category was not removed for children but it was now the  
14 category that all the previously clinically extremely  
15 vulnerable children moved to.

16 And before I ask you to answer that, to give us your  
17 thoughts on that, I'd like to move to the guidance.

18 If we could pull that up, which is INQ000348076.

19 So this is guidance from both the Department of  
20 Health and Social Care and PHE from September 2021, and  
21 it's the guidance which indicated that children should  
22 no longer be classed as clinically extremely vulnerable.

23 And if we can move to page 3 of that.

24 It says here:

25 "What has changed

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1 children and young people, are huge.

2 So, being able to limit that to the ones who are  
3 really going to -- where the benefits really are going  
4 to outweigh any harms was really important. Which is  
5 why I think the sort of work being done by the RCPCH and  
6 through the NHS and the CMO was really important and  
7 being done at pace, whilst at the same time, we've  
8 got -- you know, from March to May, the -- still the  
9 taking a bit of a more precautionary approach.

10 Q. Okay. We can take that down now, thank you.

11 And can you tell us, did Public Health England agree  
12 with the RCPCH and NHSE that the clinically vulnerable  
13 category was not meaningful as applied to children who  
14 were either CEV or not at materially increased risk?

15 A. So, in the context of -- if I can just step back and  
16 look at how the clinically vulnerable cohort and  
17 programme was dealt with. It was, as I say, led by the  
18 CMO office, and it pulled in advice from Public Health  
19 England, but more around the epidemiology and those  
20 aspects.

21 The decisions around clinical categorisation really  
22 needed to be led from the right areas, so NHS England,  
23 the clinical directors, which is not PHE's area of  
24 expertise. So I think we would have accepted that it  
25 more important that the CMOs were happy with the

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1 "Recent clinical studies have shown that children  
2 and young people are at very low risk of serious illness  
3 if they catch COVID-19. As a result, children and young  
4 people under the age of 18 are no longer considered to  
5 be clinically extremely vulnerable and should continue  
6 to follow the same guidance as everyone else.

7 "A very small number of children and young people  
8 will have been advised to isolate or reduce their social  
9 contacts for short periods of time by their specialist,  
10 due to their general of infection rather than because of  
11 the ... pandemic. If this is the advice for your child,  
12 they should continue to follow the advice of their  
13 specialist."

14 With that guidance in mind, can you tell us, is it  
15 correct that children who had been clinically extremely  
16 vulnerable were downgraded into the category of  
17 clinically vulnerable?

18 A. That's not my reading of this particular guidance.  
19 I think what -- I think there's beginning to be a move  
20 away generally from overuse of "clinically extremely  
21 vulnerable" as, you know, vaccination programmes came  
22 onstream, we had better treatments. And I think what  
23 this was beginning to do was trying to return to a bit  
24 of a new normal.

25 So, there will always be a small group of children

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1 who, because they're very immunosuppressed or are  
2 undergoing chemotherapy or something like that, will be  
3 at risk of anything infectious disease, and I think what  
4 this was beginning to say, in the context of what we  
5 understood to be the overall impact and severity of  
6 Covid-19 in children, those children, their  
7 susceptibility should be managed -- to Covid should be  
8 managed in the same way that you would manage them in  
9 terms of their risk of any infectious disease, which  
10 they could equally well be very prone to.

11 So, that's, I think, what -- it's acknowledging that  
12 there are always going to be a small cohort of children  
13 who are very vulnerable to infectious disease, either  
14 acquiring it or suffering more severe consequences, but  
15 that's true of other infectious diseases and not just  
16 Covid.

17 So I don't think it was about downgrading from CEV,  
18 I think it was trying to assist in how we managed  
19 a return to -- integrating Covid into how we manage  
20 other infectious diseases as we start coming out of the  
21 more serious waves of the pandemic.

22 **Q.** Thank you.

23 One final question on this point. We've had  
24 evidence from Ms Lara Wong from Clinically Vulnerable  
25 Families, and their organisation uses a part of the

37

1 what are the mitigations, if they are in school, to keep  
2 them safe and protected?

3 **LADY HALLETT:** Also, as I remember the policy for  
4 vaccination, the committee chose the clinical route.  
5 Basically, priority was decided --

6 **A.** -- (overspeaking) -- clinical, yes.

7 **LADY HALLETT:** You may have all sorts of -- but that was the  
8 way they decided and it was based on some pretty  
9 standard evidence that --

10 **A.** Yes. So, JCVI tend to base their decisions very much on  
11 a very clinical -- clinically. You know, what is the  
12 biology behind this? What is someone's immune status?  
13 They are they likely to react to the vaccine?

14 The question you're asking in the context to  
15 a school is: what is the best thing we can do for this  
16 young person or child to give them the best possible  
17 health outcomes and keep them safe in all sorts of ways  
18 and protect their development?

19 **MS POTTLE:** Thank you.

20 PHE issued guidance on 4 August indicating that  
21 children who were clinically extremely vulnerable could  
22 stop shielding and could attend schools when they  
23 reopened. And we don't need to move to that guidance  
24 now, but the position when schools did reopen in  
25 September was that all children were required to attend.

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1 Green Book, which is a UKHSA publication which provides  
2 guidance in relation to immunisations. And it contains  
3 certain criteria for children who are classed as  
4 clinically vulnerable to Covid.

5 And I think there's some confusion here about  
6 children being classed as clinically vulnerable when it  
7 comes to vaccines, but not, for example, when it comes  
8 to schools.

9 Can you help us, why might there be a categorisation  
10 of vulnerability in relation to vaccines and not in  
11 relation to schools?

12 **A.** I think -- I guess it depends on the -- the answer to  
13 that is it's the questions being posed are different.

14 So, vaccine prioritisation is determined by -- or  
15 recommended by the Joint Committee on Vaccination and  
16 Immunisation, of which PHE and now UKHSA are a member,  
17 and provide support. But consists of a range of other  
18 experts. And they will be looking at the evidence of  
19 how effective a vaccine would be in either reducing  
20 transmission or preventing a severe outcome. And that  
21 might be different from -- in a school setting, the  
22 question you're asking is: how safe is it for this child  
23 to be in school in the round? What are the trade-offs  
24 by them not being in school? What harms are they  
25 experiencing by being taken out of that setting, and

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1 So shielding was still active but it had been paused at  
2 that stage for children.

3 And what I'd like to explore with you is whether the  
4 advice on school attendance for children struck the  
5 right balance between protecting health but also  
6 promoting education. So you've told us about this, sort  
7 of, trade-offs for young people.

8 **A.** Mm.

9 **Q.** Can you summarise for us what the evidence shows about  
10 the effect of school openings on transmission rates.

11 **A.** So again, I think it's not as straightforward as we  
12 would like it to be. There is some evidence that says  
13 if you open schools you're likely to see an uptick in  
14 the number of cases, but what the overarching message  
15 I would give is that school -- transmission in schools  
16 and the role of schools in Covid-19 is very much linked  
17 to background transmission and rates in the community,  
18 and prevalence in the community. So if you've got high  
19 rates of Covid circulating in the community, schools are  
20 part of that, and it's a dynamic two way. So if you've  
21 got low prevalence in the community, schools actually  
22 have very little negative impact -- ie, they don't  
23 contribute to transmission going up markedly.

24 **Q.** Can you, and this a slightly different question, but can  
25 you tell us whether children who attended schools in the

40

1 autumn of 2020 were more likely to catch the virus than  
 2 children who did not?  
 3 **A.** So in August 2020, overall community prevalence was  
 4 relatively low, and I think at that stage my  
 5 recollection was that they were not -- there was no  
 6 evidence to suggest that they were more likely to, so  
 7 that's obviously pre-Alpha wave, but at that point, when  
 8 schools reopened and overall community rates were low,  
 9 transmission rates in school would have been low, as  
 10 well.  
 11 **Q.** Okay. And I think you might have misheard me, I said  
 12 autumn 2020, not August.  
 13 **A.** Oh, sorry.  
 14 **Q.** Does that hold true for September, October?  
 15 **A.** So again, we were just beginning to see the emergence of  
 16 the Alpha variant then, and so community transmission  
 17 was beginning to go up, but that was across the  
 18 community, and not particularly in schools.  
 19 **Q.** Okay. But then again the, sort of, slightly separate  
 20 question of whether children who went to school, as  
 21 opposed to those that stayed home, would they have been  
 22 more likely, do you think, to catch Covid? Or can you  
 23 not tell us?  
 24 **A.** I think I -- I couldn't completely tell you that.  
 25 I don't think there was any evidence that looked at

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1 children and young people were also, of course, at risk  
 2 of developing Long Covid as a result of infection.  
 3 Now, I want to ask you, overall, given the risks of  
 4 infection to young people, and the risk of death, do you  
 5 think that the advice on school attendance struck the  
 6 right balance between protecting young people, their  
 7 health, and their access to education?  
 8 **A.** So I think that's a really -- it's difficult to answer  
 9 because with hindsight, and also not being there at the  
 10 time, but I think what I would say is it's often  
 11 quite -- you're balancing a lot of complex issues in the  
 12 messaging that you're giving out and you also want to  
 13 give sufficient clarity about what, on balance, you  
 14 think, in terms of overall risk, you should be steering  
 15 members of the public towards.  
 16 So I think it's always difficult to get that balance  
 17 right, and particularly at any one point, because again,  
 18 as I said, in August things felt very different from  
 19 November of that year, as well, and certainly in  
 20 December and January. So I think, at the time, I think  
 21 it was trying to send a clear signal that the data and  
 22 the evidence that we had on the behaviour of the virus  
 23 at that stage was that children did experience less  
 24 severe disease than adults, mortality was much lower in  
 25 children and young people, and keeping them away from

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1 that, answering that particular question, and I suppose  
 2 it depends what you mean by staying at home. If you  
 3 mean shielding, probably, because shielding is such a --  
 4 in any context, if there's any virus circulating then  
 5 you're really, really isolated, but staying at home  
 6 doesn't -- if you're not in that extreme setting, it  
 7 doesn't necessarily mean you're not going to be exposed  
 8 to the virus if you're out in other settings or  
 9 environments, and that you are equally likely to acquire  
 10 Covid from those.  
 11 **Q.** Okay. We know that tragically there were some deaths of  
 12 children and young people in England from -- with each  
 13 wave of the pandemic.  
 14 **A.** Yes.  
 15 **Q.** And we can see in your evidence a study which is at  
 16 INQ000413012, a study which looks at the deaths in  
 17 children and young people in England after infection.  
 18 It's actually very difficult to make out, but the  
 19 summary at the top tell us that -- we can see a total of  
 20 99.995% of children and young people with a positive  
 21 test survived, but there were 25 deaths of children and  
 22 young people due to Covid infection. You can see that  
 23 just above.  
 24 **A.** Mm.  
 25 **Q.** It's not dealt with in this study, but we know that

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1 school and imposing -- or not imposing but asking them  
 2 to shield was perhaps, you know, again, it's that risk  
 3 of, a balance of risk and benefit.  
 4 **Q.** Thank you. That can come down now.  
 5 I'm going to move on to one more topic before the  
 6 break, and that is Long Covid. Can you help us, when  
 7 did Public Health England become aware of the  
 8 susceptibility of children and young people to  
 9 Long Covid?  
 10 **A.** So I think, like the rest of the scientific community,  
 11 fairly early on, around, I think May time, there was  
 12 a sense there might be something. I mean, the other  
 13 thing is, I know it was mentioned in the previous  
 14 exhibit you showed, there was also an awareness of PIMS,  
 15 Paediatric Inflammatory Multisystem Syndrome, which also  
 16 was of great concern. But I think there was the  
 17 beginning of an awareness that there may be something  
 18 else as well, not just in children, obviously, but in  
 19 adults around Long Covid. It was very ill-defined, and  
 20 I think continued to be so, but as the pandemic went on,  
 21 I think again, there's more evidence emerging about it.  
 22 **Q.** Do you think, was there a lag between the appreciation  
 23 of Long Covid in adults as opposed to children?  
 24 **A.** I'm not sure there was. I personally haven't looked at  
 25 the evidence to see whether there was. I think there'll

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1 be naturally more of a focus on adults because adults  
 2 were experiencing more severe illness generally  
 3 speaking, and I think a reasonable hypo -- and there  
 4 would have simply been more of them and more  
 5 hospitalisations and more follow-ups, so it may have  
 6 been picked up, and I think the other thing that seems  
 7 to be emerging is that it may manifest itself slightly  
 8 differently in children and young people and  
 9 particularly it's -- you'd probably expect to see people  
 10 who have been seriously ill or been in ITU or been in  
 11 hospital might be more likely to have longer term  
 12 sequelae, and of course there were much fewer children  
 13 in that situation.

14 **Q.** Okay. I'd like to ask you now about views expressed by  
 15 a consultant paediatrician employed by PHE England in  
 16 a stakeholder meeting chaired by the Department for  
 17 Education in June of 2021.

18 If we could pull up the minutes from that meeting.  
 19 It's INQ000542824.

20 So we can see the meeting took place on 9 June. And  
 21 that's 2021. It took place via Teams. We can see the  
 22 list of attendees in the stakeholder meeting.

23 It's hosted by DfE, but there are attendees from  
 24 PHE, Dr Shamez Ladhani, who's a consultant  
 25 paediatrician, and there are attendees from trade

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1 you time to think, that it's not also clear that the  
 2 minutes are necessarily accurate.

3 **MS POTTLE:** That's correct, yes.

4 **A.** So, I think that was my first point --

5 **LADY HALLETT:** Oh, I see. Sorry to interrupt then.

6 **A.** Thank you. And, of course, none of us were in the room.  
 7 And I think -- I don't think anybody at the time was  
 8 denying the existence of Long Covid in children.  
 9 I think the issue that clinicians and public health  
 10 experts, not just in the UK but globally, were grappling  
 11 with was: what is this thing and how do we define it?  
 12 Because there were a long list of symptoms -- and  
 13 particularly at the beginning, at an early stage, when  
 14 you've got a complex syndrome emerging and you can't  
 15 spot an obvious -- there's not, you know, just one  
 16 really specific set of symptoms.

17 So I think the issue was about mislabelling, if you  
 18 like, and understanding -- making sure that you've got  
 19 a sufficient case definition that is sufficiently  
 20 specific that also means you can advise children and  
 21 parents and carers, and clinicians can take appropriate  
 22 action and not conflate it with other things that might  
 23 require a different response.

24 So I think that was the genuine issue that was being  
 25 grappled with at the time, and I think it's only fairly

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1 unions, Local Government Associations, and from schools,  
 2 as well. And if we scroll to page 3 of these minutes,  
 3 Dr Ladhani says:

4 "Long Covid could occur under a variety of scenarios  
 5 and Dr Ladhani highlighted the fact that any instances  
 6 of fatigue or prolonged sense of feeling unwell with  
 7 COVID-like symptoms in the last year would likely be  
 8 blamed on COVID-19.

9 "Cases in children do not give us an indication of  
 10 the general population. The pandemic has taken a huge  
 11 toll on children and families, irrespective of whether  
 12 they have had the virus or if it is due to lockdowns or  
 13 school closures. Dr Ladhani was clear that children  
 14 should not be labelled with Long Covid (ie a medical  
 15 condition) as this has the potential to cause  
 16 longer-term psychological harm."

17 It's not entirely clear whether Dr Ladhani is saying  
 18 that no children should be labelled with Long Covid  
 19 because it doesn't exist or whether he's saying that  
 20 it's being misreported or confused with other illnesses.  
 21 But if Dr Ladhani is saying that no child should ever be  
 22 labelled with Long Covid, because it's not -- doesn't  
 23 exist, is that a view which was widely held at PHE? Can  
 24 you --

25 **LADY HALLETT:** I should also say, before you answer, to give

46

1 recently, actually, that WHO have -- and the UK have  
 2 come up with tighter case definitions based on the CLoCK  
 3 study and some of the work that the UK has done  
 4 subsequently.

5 So, I don't think it was an attempt in any way to  
 6 dismiss or deny the existence. I think it was in the  
 7 context of -- and that's why I think the minutes may not  
 8 necessarily completely reflect the complexity here, but  
 9 the complexity of the issue that was being grappled  
 10 with, and how you identify exactly what this phenomenon  
 11 is in a way that is appropriate, and particularly in  
 12 children and young people, and then how you can respond  
 13 to that.

14 **MS POTTLE:** And just finally before the break, we've heard  
 15 evidence -- the Inquiry has heard evidence already from  
 16 an organisation, a Core Participant, Long Covid Kids,  
 17 about the real damage that a dismissal and denial of  
 18 Long Covid in children did to families and young people.

19 Is it Public Health England's -- well, now UKHSA's  
 20 position that Long Covid in children is a paediatric  
 21 illness and one that families and the sufferers, the  
 22 children themselves, ought to have support from the  
 23 government, and including UKHSA?

24 **A.** Mm, mm.

25 **Q.** And that a denial or dismissal is wrong?

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1 A. So, I think as I said earlier, I don't think it's ever  
2 been denied or dismissed. I think the difficulty is  
3 identifying something specifically enough that can then  
4 lead to an appropriate treatment and management pathway  
5 of support, and it is now something that -- that  
6 element, I think, increasingly will -- sits very much  
7 with the NHS and with clinicians and requires, really,  
8 further research and understanding to understand what  
9 interventions and what support needs to be put in place  
10 to really help children and young people who are  
11 suffering from some really severe and long-standing  
12 symptoms.

13 MS POTTLE: Okay. Thank you very much.

14 I think now is an appropriate time for a break,  
15 my Lady.

16 LADY HALLETT: It is, Ms Pottle. Thank you very much.

17 You were probably warned that we take breaks, but  
18 I promise you that we shall finish you by midday.

19 THE WITNESS: Thank you.

20 LADY HALLETT: So I shall return at 11.30.

21 (11.14 am)

(A short break)

23 (11.30 am)

24 LADY HALLETT: Ms Pottle.

25 MS POTTLE: Dr Arora, the last topic from me this morning is  
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1 groups.

2 "Risks include excess death rates; need for  
3 specialist NHS care ...

4 "A specific objective should be to reduce as far as  
5 possible all forms of shared accommodation.

6 "Single cell accommodation has distinct advantages  
7 in supporting ... [the] ('shielding') of vulnerable  
8 prisoners ..."

9 If we scroll down the page, please, Dr O'Moore  
10 explains why prisons would be more at risk of high  
11 infection rates, and he says:

12 "Prisons concentrate individuals who are susceptible  
13 to infection and those with a higher risk of  
14 complications. COVID-19 has an increased mortality rate  
15 in older people and in those with chronic diseases ...  
16 [and] multi-morbidity is normative among people in  
17 prison ..."

18 Then, towards the bottom of the page, the  
19 penultimate sentence, it says:

20 "However, HMPPS modelling (undertaken with PHE) has  
21 indicated the possibility of high numbers of deaths in  
22 custody and suggests in the region of 10 times the  
23 number that we would normally see, with c. 2,500-3,500,  
24 based on the reasonable worst-case scenario.  
25 Potentially half of those deaths may occur over three

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1 about Public Health England's advice provided to the  
2 Ministry of Justice concerning the detention of children  
3 in the youth estate.

4 A former colleague of yours, Dr Éamonn O'Moore, was  
5 primarily responsible for this work, and he provided  
6 a witness statement to the Inquiry.

7 And for the record, the reference for that is  
8 INQ000649899.

9 A criticism has been made by Ofsted that PHE's  
10 guidance was not sufficiently focused on the distinct  
11 needs of children as opposed to adults who were held in  
12 the secure state. And I'd like to take you through some  
13 of the guidance now to explore that issue.

14 Firstly, we have a briefing which was prepared by  
15 Dr O'Moore considering population management in response  
16 to the Covid-19 epidemic. And that briefing is from  
17 24 March, and it was relied upon as a basis for  
18 restrictions to the regime for prisoners, both for  
19 adults and children.

20 And the reference for the briefing is  
21 [INQ000591144]. And it's summarised at the head. It  
22 says:

23 "Prisons are high-risk settings for large outbreaks  
24 of COVID-19.

25 "Many people in prisons are in clinically vulnerable  
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1 weeks at the height of the pandemic."

2 Dr Arora, what I want to explore with you is whether  
3 this advice is appropriate to children as opposed to  
4 adults.

5 So, would you agree with me that it is not  
6 appropriate to children, because it is focused on adults  
7 in prison, who might have multi-morbidity, who are  
8 older, and who are at higher risk of Covid -- of  
9 a serious health deterioration from Covid, as opposed to  
10 children, who don't have those higher risks?

11 A. So I think it's fair to say this focuses predominantly  
12 on the adult prisoner population but it also focuses on  
13 prisons as a particular setting, and the closed nature  
14 of that environment, and also the particular issues of  
15 dealing with outbreaks in a closed setting, which  
16 I think could be applicable, and I think bearing in mind  
17 when this was written, at the very early stages of the  
18 pandemic, at that time, we also didn't really know how  
19 severe it was in children and young people versus older  
20 people.

21 So I think it is more focused on adults. There's no  
22 denying that.

23 And -- but I think it's also worth bearing in mind  
24 that it's not just the population; it's the setting that  
25 contributes to this. And we also had, at that point,

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1 very limited knowledge about how Covid-19 was going to  
2 affect different age groups.

3 **Q.** I'm going to move on now to the guidance which was in  
4 place later on in the pandemic, so 21 July 2021, and  
5 this is the -- preventing and controlling outbreaks of  
6 Covid-19 in prisons and places of detention. This is  
7 guidance which is issued by both the MoJ and also Public  
8 Health England. It's known as the PPD Guidance.

9 So this is quite a late iteration on --

10 **A.** Yeah.

11 **Q.** -- more than a year from the onset of the pandemic.

12 And we can see -- we don't need to move to it, but  
13 on page 3 it clarifies that it applies to young offender  
14 institutions, secure training centres and secure  
15 children's homes, and on page -- thank you, so quick --  
16 on page 10 it says that:

17 "... all new and transferred prisoners or detainees  
18 should be isolated in a Reverse Cohorting Unit ... for  
19 up to 14 days and tested for COVID-19 ..."

20 And it's clear that -- we don't need to go to it,  
21 but on page 12 it makes clear that those arrangements  
22 applied equally to young offenders institutions and  
23 secure training centres.

24 And this reverse cohorting meant, in practice, that  
25 children held in young offenders institutions and secure

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1 managing Covid-19, that was still quite a serious issues  
2 in prisons at the time for adults.

3 **Q.** If I could just pause you there. There was specific  
4 guidance, but this, the PPD guidance, continued to  
5 apply --

6 **A.** Yes.

7 **Q.** -- and while there were still outbreaks in adult  
8 prisons, this guidance applied to young offenders  
9 institutions and secure training centres.

10 **A.** Mm.

11 **Q.** So there could have been separate PPD guidance for  
12 children --

13 **A.** Mm.

14 **Q.** -- but there wasn't. And my question is whether this  
15 guidance was appropriate to be applied in institutions  
16 that held children?

17 **A.** Again, I think it's quite difficult to comment and  
18 I think you'd probably have to ask Dr O'Moore as to the  
19 rationale as to why. I think one of my reflections is,  
20 if I go back pre-Covid, Children and Young People's  
21 Secure Estate was always included in how, in the  
22 multi-agency approach to outbreak management, and  
23 I think there has probably been a bit of a continuation  
24 of "That's what we did before so we'll carry on doing  
25 that". Covid was, obviously, different from, you know,

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1 training centres, when they returned to the prison from  
2 a court appointment, for example, or when they entered  
3 the prison for the first time, or if they were  
4 transferred there, that they would be held separately  
5 from other prisoners for 14 days and in some cases, as  
6 we'll hear this afternoon, were not able to leave their  
7 cells, sometimes for days at a time, sometimes for only  
8 half an hour.

9 And what I want to ask is, this is some 15 months  
10 into the pandemic. By this stage, there were few  
11 restrictions in the community, and children, even  
12 clinically vulnerable children, had returned to school  
13 almost a year before. Was it appropriate at that stage  
14 to have this level of severe restriction on children in  
15 custody, bearing in mind it was known by that point that  
16 the risks to their health were very low?

17 **A.** So I can understand why basic infection prevention and  
18 control principles would still want to apply, and there  
19 were still outbreaks occurring in adult prisons.  
20 I think there was some associated more operational  
21 guidance that was provided, I think, by the Youth  
22 Offending Service and NHS England, to try to make it  
23 more specific to the settings where children and young  
24 people were being held.

25 I think, it's fair to say, this is very focused on

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1 outbreaks do happen but they're usually bit more limited  
2 and I think one of the learnings that we've really taken  
3 away from this is that we need to understand more about  
4 the diversity, both of the population and the nature of  
5 the settings within the Children and Young People Secure  
6 Estate, and the reasons why children are there.

7 So I think the Ofsted points were -- actually, have  
8 been helpful to us in creating a slightly different  
9 paradigm about how we go forward.

10 **Q.** Okay, well, just before we end, then, I'll just show you  
11 the Ofsted criticism as it's set out, so can you tell us  
12 if there's anything you don't agree with. That's  
13 INQ000588111, paragraphs 722 of the statement and 724.

14 It says:

15 "... one of the most significant problems faced by  
16 [young offenders institutions and children's homes and  
17 training centres] was that public health guidance was  
18 focused on adult settings, rather than children. This  
19 was regularly raised ... in 'joint partnership' meetings  
20 ... The response was not consistent and [the] ...  
21 guidance contained many mixed messages. [It] exhibited  
22 a lack of understanding of the operation and needs of  
23 children's secure settings ..."

24 And I think you would agree with that? You said  
25 that was a learning point for you, that it was necessary

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1 to have that greater understanding?  
 2 If we can just scroll down --  
 3 **LADY HALLETT:** Sorry, was that a "yes"?  
 4 **A.** So, you asked me if I disagree with this particular  
 5 statement, and I -- I do -- it's slightly more nuanced  
 6 than that. If you don't mind putting it --  
 7 **MS POTTLE:** No, please, let's go back up.  
 8 **A.** I think -- the joint partnership is really important,  
 9 and it's something that's -- we try and work with our  
 10 partners, because what we are experts at in Public  
 11 Health England and UKHSA is infectious disease and  
 12 environmental threats and how they might play out at  
 13 general population level. We do rely on working really  
 14 closely with other government departments and sector  
 15 specialists to understand how to operationalise good  
 16 infection control and prevention evidence into their  
 17 setting and we cannot possibly understand all the  
 18 nuances and how things are working. And the partnership  
 19 is between NHS England, PHE at the time, now UKHSA, MoJ,  
 20 HMPPS and DfE.  
 21 So I think -- I think there's a question here about  
 22 what guidance can really achieve and then how we need to  
 23 work with other government departments nationally, but  
 24 also locally. Every public sector organisation -- well,  
 25 a whole range of organisations have access to our

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#### Questions from MS IENGAR

1 **MS IENGAR:** Dr Arora, I ask questions on behalf of  
 2 Long Covid Kids and Long Covid Kids Scotland.  
 3 I have some short questions on PHE and UKHSA's  
 4 response to Long Covid. You told us this morning that  
 5 PHE, along with the rest of the scientific community,  
 6 became aware of Long Covid in children from May 2020 and  
 7 of course you've explained that PHE provided scientific  
 8 advice to D of E. When did PHE share that understanding  
 9 with D of E?  
 10 **A.** I'm afraid I'd have to go back and look at the detailed  
 11 timeline for that.  
 12 **Q.** Would you be able to give us a sort of time period  
 13 whether that was in late 2020 or whether it was at some  
 14 point in 2021? I ask because your statement doesn't  
 15 touch on Long Covid so we're trying to fill some  
 16 knowledge holes, if I might put it that way.  
 17 **A.** I would -- partly, as I say, because I'm relying on sort  
 18 of the evidence and paper trail myself, I would struggle  
 19 to kind of answer that without being able to factually  
 20 check that.  
 21 **Q.** But -- so if we could speak in broader terms in that  
 22 sense, the Inquiry has heard evidence of teachers  
 23 frequently dismissing pupils' symptoms, pupils'  
 24 Long Covid symptoms, out of a lack of understanding of

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1 regional health protection teams, who will give specific  
 2 advice based on anything going on at the time. So  
 3 I think I can see that -- as I said, I think it has made  
 4 us really sit back and think about this, but I think  
 5 it's -- it's partly how we work in partnership and get  
 6 the right information and intelligence, and work  
 7 together to make sure that we have guidance that both  
 8 really does do what it's there to do and protect people  
 9 from infectious disease, but, also, we're making  
 10 appropriate interventions to balance any risks that  
 11 implementation might produce.

12 And although this is an account of issues being  
 13 raised with PHE, from our records, I've not really been  
 14 able to find an audit trail so it's a little bit  
 15 difficult for me to particularly answer that one, one  
 16 way or another. But I appreciate things were moving  
 17 fast and -- rapidly. But I know the Health and Justice  
 18 team were present at a lot of outbreak meetings and  
 19 really keen to work in partnership.

20 **MS POTTLE:** I see. Thank you very much, Dr Arora.

21 That's the end of my questions for you. There are  
 22 some additional questions for you from some Core  
 23 Participants.

24 **LADY HALLETT:** There are. Ms Iengar goes first, and she is  
 25 just there.

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1 the disease, not knowing that the disease existed.  
 2 Would you agree that teachers, parents and schools would  
 3 be helped by timely, basic information that Long Covid  
 4 exists in children, that it causes debilitating  
 5 disabling symptoms, and that that inevitably has an  
 6 impact on educational attainment and educational  
 7 attendance?

8 **A.** And I think that was certainly an issue in 2021, wasn't  
 9 it, about what information should be provided and could  
 10 be provided. I think, again, it -- I'm always in favour  
 11 of sharing as much as we know about something with the  
 12 public, even if it's to say, "This is what we don't  
 13 know", as well, but I think they are -- it was clearly  
 14 a complex area throughout -- 2020, it was just beginning  
 15 to emerge, but 2021, even then I think there were a lot  
 16 of complexities around it, but I do, as a principle,  
 17 think that it is always good to share as much as you  
 18 possibly can with professionals and the public.

19 **Q.** You said it's a complex area but the question is really  
 20 a very simple one on whether the existence of  
 21 Long Covid, something that PHE was aware of from  
 22 May 2020, should have been shared in a timely way with  
 23 teachers and schools so that that dismissal of pupils  
 24 didn't endure, so the pupils could access education.  
 25 Would you agree with that principle?

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1 A. So I think there was general understanding, again across  
2 DHSC, CMOs, and widely, that Long Covid was  
3 a phenomenon, but I think it's the level of detail of  
4 what we understand about it, how you diagnosis it  
5 specifically enough, and what you should -- what you can  
6 then respond to and do about that.

7 I think, for me, there's something about any child  
8 or young person who was experiencing difficulties in  
9 being at school or returning to school, whether it's  
10 Long Covid or anything else, needs to be supported  
11 appropriately. But I think there was some understanding  
12 of the possibilities of Long Covid at the time, but even  
13 in PHE, we didn't have -- we might have been aware of it  
14 but we really did not have very good understanding of it  
15 even in 2021, and even today, I think it's still  
16 a complex area to define, diagnose, and then decide what  
17 you need to do about it. But certainly, I think there  
18 was awareness at the time that it could be an  
19 explanation.

20 Q. You've said that it's a complex area and more needs to  
21 be done. What is UKHSA doing to build that evidence  
22 base on paediatric Long Covid now, five years after the  
23 onset of the virus?

24 A. So UKHSA, at this stage I think a lot of this now is  
25 about understanding the more clinical nature of the

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1 evidence-based data to develop guidance and effective  
2 symptoms of surveillance. The UK, in relation to  
3 paediatric Long Covid, is flying blind in relation to  
4 the surveillance and monitoring of Long Covid in  
5 children and young people. There's no national  
6 monitoring of prevalence or the impact. Would you agree  
7 that it would be helpful if DfE required schools to use  
8 specific codes to monitor Long Covid absences, that that  
9 might assist policymaking, for example?

10 A. Good data collection and granular data collection is  
11 always helpful, so I think it's an area to explore. But  
12 also, again, through the NHS. Now that we have a case  
13 definition and codes, I think quite often a lot of  
14 research will be based on what's picked up, both through  
15 primary care and hospital coding as well.

16 MS IENGAR: Dr Arora, thank you.

17 Thank you, my Lady.

18 LADY HALLETT: Thank you.

19 Ms Peacock, who is down the end there.

#### 20 Questions from MS PEACOCK

21 MS PEACOCK: Thank you, my Lady.

22 Good morning, I ask questions on behalf of the  
23 Trades Union Congress. The topic is air filtration  
24 devices in schools, which you've already addressed to  
25 some extent in your evidence.

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1 illness, and also, what interventions can be put in  
2 place to assist recovery, to help identify whether  
3 there's groups of children and young people who may be  
4 more prone to longer time periods of suffering. And  
5 a lot of that is now much more in the realm of what  
6 I would call more clinical research and academic  
7 research, and with the NHS.

8 We're obviously keen to continue as an organisation  
9 to review the evidence. We supported WHO in helping to  
10 come up with a case definition because you need a case  
11 definition to do research, as well.

12 Q. Which we now have.

13 A. Yes.

14 Q. But is UKHSA currently doing anything on paediatric  
15 Long Covid? So aside from the clinicians, aside from  
16 NHSE?

17 A. Not -- I would need to go back and confirm that but I'm  
18 not aware that we're doing any active research. But we  
19 will be reviewing the evidence base regularly, because  
20 obviously it is part of our understanding of the  
21 longer-term consequences of Covid and its impact on  
22 population health.

23 Q. And my final question, which is one that looks forward,  
24 you've said in your witness statement that it's critical  
25 to have good data to inform advice, to have

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1 Taking into account the lack of mechanical  
2 ventilation in many school buildings and the practical  
3 difficulties faced by schools in terms of improving  
4 manual ventilation, such as windows which do not open,  
5 thermal comfort issues, did the provision of  
6 air-cleaning devices in schools, mainly taking place in  
7 2022 and 2023, come too late?

8 A. So, again, this links back to our understanding of the  
9 evidence base, and understanding how effective  
10 air-cleaning devices could be in those settings, what  
11 the constraints might be, whether some devices were  
12 better than others, how many devices you might need in  
13 a given classroom, and any consequences of those devices  
14 that might also adversely impact, such as noise or  
15 safety issues with young children around.

16 So I think what we've tried to present is that the  
17 evidence through the pandemic has provided us with an  
18 opportunity to improve the evidence base, but certainly  
19 it's something -- and so it's something that we can  
20 certainly build on for the future.

21 Q. On that point, and just by way of follow-up, your  
22 statement says that:

23 "Since ventilation and filtration are generally  
24 accepted to be effective interventions to reduce the  
25 transmission of respiratory infections in all indoor

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1 spaces, this evidence is equally relevant to school  
 2 settings."  
 3 And just for the record, that's at paragraph 5.16.  
 4 On reflection, couldn't the guidance have reflected  
 5 that point of general principle from an earlier stage in  
 6 the pandemic, given it was a novel pandemic, quickly  
 7 evolving, and perfect evidence of interventions in  
 8 schools, as you've outlined today, is very difficult, if  
 9 not impossible, to obtain?  
 10 **A.** So I think this links back to what was understood and  
 11 the approach taken at the start of the pandemic, when  
 12 very little was known about SARS-CoV-2, and the earlier  
 13 hypotheses about method of spread, if you like, was more  
 14 around droplets and fomite spread, and it was only as,  
 15 I think, it became obvious that aerosol had a bigger  
 16 role than had first been identified that the issues  
 17 around ventilation then became more salient.  
 18 **Q.** Given, though, that aerosol transmission was recognised  
 19 perhaps in 2020, was not that then lag in these devices  
 20 not reaching schools until 2022 and 2023 not quite  
 21 significant?  
 22 **A.** I mean, again, we don't have a hugely strong evidence  
 23 base for saying, you know: this is absolutely going to  
 24 make a huge impact and we need to do this really early  
 25 and it's going to make a big difference to the risk

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1 you said earlier in your evidence that if you go back to  
 2 the start of the pandemic, what we knew about the virus  
 3 at the time, there was a stronger focus on the droplet  
 4 spread and less so on air -- aerosol spread, and  
 5 therefore a strong focus on the measures you would  
 6 normally apply in that case.  
 7 Just going to page 6 of this document, please -- I'm  
 8 sorry, page 5.  
 9 And you can see there -- if we can just get that box  
 10 on the second half of the page that says "System of  
 11 controls".  
 12 I'm sure you're familiar with these, but you can see  
 13 there, these are the prevention actions which the school  
 14 must take, so the mandatory actions.  
 15 It says there:  
 16 "1) minimise contact with individuals who are  
 17 unwell ...  
 18 "2) clean hands thoroughly ...  
 19 "3) ensure good respiratory hygiene by promoting the  
 20 'catch it, bin it, kill it' approach  
 21 "4) introduce enhanced cleaning, including cleaning  
 22 frequently touched surfaces often, using standard  
 23 products such as detergents and bleach.  
 24 "5) minimise contact between individuals and  
 25 maintain social distancing ...

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1 here.  
 2 So I think there's also some logistics, and that  
 3 logistics and operational side is not really for UKHSA  
 4 to comment on. But clearly, I think, for me, it's more  
 5 about what we do to make all our public buildings and  
 6 schools, sort of, more resilient to, sort of, external  
 7 threats, whether that's infectious disease or climate  
 8 change challenges.  
 9 **MS PEACOCK:** I think that's my time.  
 10 Thank you.  
 11 **LADY HALLETT:** Thank you, Ms Peacock.  
 12 Mr Douglas, who is just there.  
 13 **MR WAGNER:** I'm afraid to say it's me.  
 14 **LADY HALLETT:** Oh, Mr Wagner, I'm so sorry.  
 15 **Questions from MR WAGNER KC**  
 16 **MR WAGNER:** No, it's fine. It's a disappointment for  
 17 everyone.  
 18 Good morning, my name is Adam Wagner and I act on  
 19 behalf of Clinically Vulnerable Families.  
 20 I want to ask you first, Dr Arora, about the DfE's  
 21 system of controls which you referred to in your  
 22 statement, and I want to ask you about first -- sorry  
 23 the guidance in July 2020.  
 24 It is at INQ000648028, please.  
 25 Now, you just referred to it with Ms Peacock, and

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1 "6) where necessary, wear appropriate ... (PPE)."  
 2 So those are the mandatory controls.  
 3 Would you accept that in July 2020 those -- that  
 4 system of controls was unlikely to be -- have  
 5 significant effect against an airborne virus like  
 6 Covid-19?  
 7 **A.** So, obviously, at the time, that was based on the  
 8 evidence available at the time. Some of that would have  
 9 had some impact on an airborne virus and I wouldn't say  
 10 we wouldn't do any of those, even if it was an airborne  
 11 virus. In fact, we would do them as well, as part of  
 12 that package of interventions.  
 13 **Q.** But they wouldn't be what -- those measures aren't the  
 14 measures you would describe for an air -- if you'd  
 15 thought the virus was airborne? You'd have other  
 16 measures as well?  
 17 **A.** I think quite -- yes, and I think that appeared as the  
 18 guidance evolved, and we saw different measures being  
 19 promoted and brought into guidance.  
 20 **Q.** Yes. But looking back, and in retrospect, those  
 21 measures were insufficient for an airborne virus?  
 22 **A.** I think they weren't completely effective, but I think  
 23 it's always going to be hard to be completely effective,  
 24 but yes, I think there could be other measures under  
 25 consideration, if your primary focus is aerosol.

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1 **Q.** Sorry. Obviously, it's always going to be hard to be  
 2 completely effective but isn't that a bit of a cop out?  
 3 Isn't it the reality that if you had known, if we had  
 4 known there was an airborne virus, those measures  
 5 definitely wouldn't have been sufficient to control it?  
 6 **A.** I think, if we had known, we obviously would have been  
 7 thinking about what else we knew about transmission, and  
 8 there was a lot of work going on at the time to try and  
 9 establish how it did spread to see what else we should  
 10 be considering.  
 11 **Q.** I want to ask you now, please, about reopening schools  
 12 in March 2021. And at paragraph 3.72 of your statement  
 13 you summarise the analysis that supported that  
 14 reopening, and that included testing and isolation  
 15 measures implemented to detect Covid-positive students.  
 16 And at that point the isolation period for children  
 17 was reduced to three days. Do you agree that by  
 18 reducing that isolation period as well as restricting  
 19 testing unless advised by a healthcare professional,  
 20 that meant that infectious children were likely to be  
 21 returning to classrooms?  
 22 **A.** I think by then we also knew much more about the  
 23 infectious period, and viral shedding, and so again,  
 24 I think it's a judgement here, about balance of risk  
 25 versus benefit, and minimising school absence whilst, at  
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1 at the time, and gone through proper processes and  
 2 scrutiny.  
 3 **Q.** And was any assessment made of the disproportionate  
 4 impact that that shortened isolation period and  
 5 restricted testing would have on clinically vulnerable  
 6 children and children who had clinically vulnerable  
 7 family members?  
 8 **A.** I'm not aware of any specific assessment made, if  
 9 anything had been picked up, for example, through  
 10 presentations at hospital, I think that would have been  
 11 detected through data and concerns provided through the  
 12 NHS.  
 13 **MR WAGNER:** Thank you, Dr Arora.  
 14 **LADY HALLETT:** Thank you, Mr Wagner.  
 15 I've just checked, that completes the questions for  
 16 you today and also the demands that the Inquiry has been  
 17 making upon the UKHSA.  
 18 Please -- thank you personally for all you've done  
 19 to try and help us today, but thank your colleagues,  
 20 too, for all the help they've provided over the course  
 21 of the inquiry.  
 22 **THE WITNESS:** Thank you, my Lady.  
 23 **LADY HALLETT:** Thank you.  
 24 Right, is it Mr Lee now?  
 25 **MR LEE:** My Lady may I please call Ms Carlyne Willow.  
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1 the same time, taking adequate precautions that reduce  
 2 the level of risk of further infections and  
 3 transmission. So again, that would have been based on  
 4 the best evidence available at the time.  
 5 **Q.** So it's always going to be -- balancing risk is always  
 6 going to be important but don't you agree that by  
 7 reducing the period to three days and by reducing the  
 8 need for testing, you're going to be making it more  
 9 likely that infectious children are going to be in the  
 10 classrooms?  
 11 **A.** I think the other thing to bear in mind is there was the  
 12 higher levels of population immunity. We were beginning  
 13 the vaccines programme, as well, so I think there are  
 14 other factors that would have influenced why it felt  
 15 reasonable to move to a less burdensome testing regime,  
 16 and reducing the period for isolation.  
 17 **Q.** Sorry, if I wasn't clear, that wasn't the question  
 18 I asked. I asked, do you agree that that reduction in  
 19 time period and the reduction in testing would make it  
 20 more likely infectious children would be in the  
 21 classroom?  
 22 **A.** I mean, I can't really comment on that because I haven't  
 23 seen the detailed data and evidence that led to that  
 24 conclusion, but the process would have been that that  
 25 would have been based on the data and evidence available  
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1 **LADY HALLETT:** Thank you.  
 2 **MS CAROLYNE WILLOW (affirmed)**  
 3 **LADY HALLETT:** I hope we haven't kept you waiting. I think  
 4 you've been following proceedings anyway.  
 5 **Questions from COUNSEL TO THE INQUIRY**  
 6 **MR LEE:** Thank you, Ms Willow, you have provided a witness  
 7 statement to this inquiry dated 11 August 2025, and the  
 8 reference we have for that is INQ000588071.  
 9 Can you confirm, please, that the contents of that  
 10 statement are true to the best of your knowledge and  
 11 belief?  
 12 **A.** That's correct.  
 13 **Q.** Ms Willow, to start with, Article 39 and your  
 14 professional background. You explain in your witness  
 15 statement that Article 39 is a small independent charity  
 16 which fights for the rights of children living in state-  
 17 and privately-run institutions in England. You founded  
 18 Article 39 in 2015, and served as its director from that  
 19 time up until 2024.  
 20 However, prior to founding Article 39, you had  
 21 a career in social work which started in 1988; is that  
 22 correct?  
 23 **A.** That's correct.  
 24 **Q.** You became a children's rights officer for children in  
 25 care, and care leavers in the early 1990s, and you've  
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1 held specialist posts at the National Children's Bureau  
2 and you led the Children's Rights Alliance for England  
3 between 2020 and 2012? And finally, in addition to that  
4 experience, you've served on many different advisory  
5 groups that had a specific focus on children and their  
6 care.

7 Would that be a fair reflection of your experience?

8 **A.** That's fair.

9 **Q.** Ms Willow, can you help us with how you define state-  
10 and privately-run institutions? What type of  
11 institutions would that include?

12 **A.** They are institutions where children live in group-based  
13 settings, so they're not in a family environment, they  
14 include children's homes, supported accommodation for  
15 children in care aged 16 and 17, mental health units,  
16 and prisons.

17 **Q.** And Ms Willow, prior to the pandemic, just to touch upon  
18 the day-to-day and the practical workings of Article 39,  
19 it's right, isn't it, that Article 39 would raise  
20 awareness of the rights, the views and the experiences  
21 of children, you would provide legal education and  
22 tailored advice to independent advocates for children  
23 and young people, you would run national campaigns and  
24 you, where you deem necessary, would pursue strategic  
25 litigation, that challenge what you would define as

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1 **A.** So, a core part of the charity, as you've said, is  
2 emboldening, informing, equipping, independent advocates  
3 who stand right next to the child, whether they live in  
4 a children's home, a prison or mental health inpatient  
5 unit, to understand, to know, and to be able to apply  
6 the law and the rights of that child in that given  
7 situation. And the uniqueness of independent advocates  
8 is that they are there for the child and no one else.

9 We were called children's rights officers back in  
10 the day, which is how I got into children's rights, and  
11 all of our work with advocates is working on what  
12 children and young people have brought, and expressed  
13 and shared with their advocates. So we have a direct  
14 route about the concerns and the experiences and views  
15 of children.

16 **Q.** Ms Willow, would that include independent advocates  
17 going into secure institutions, speaking to children  
18 maybe over the phone, or would it be a variety of  
19 different ways you would actually communicate with those  
20 children?

21 **A.** Yes, it does. Being a small children's rights charity  
22 and very visibly there for children also means that we  
23 regularly hear from parents, from carers, from loved  
24 ones, including of children in prison, who tell us what  
25 life is like for children. And we also run groups and

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1 serious and/or systematic children's rights breaches; is  
2 that right?

3 **A.** That's correct.

4 **Q.** Did the pandemic have any impact on the delivery or the  
5 focus of Article 39's work?

6 **A.** We continued all of that work, and if I may say that the  
7 name of the charity comes from Article 39 of the United  
8 Nations Convention on the Rights of the Child, which  
9 grants children who have been abused, chronically  
10 neglected or exploited or suffered other rights  
11 violations, the right to recover in environments where  
12 their health, self-respect and dignity are nurtured, and  
13 that's a really important starting point for the  
14 charity, because the whole ethos of the charity is  
15 children's recovery. Children being known, understood,  
16 their perspective, their perception of their needs and  
17 what will make life better for them must prevail.

18 **Q.** And you say, Ms Willow, in your statement, that  
19 Article 39 has a rare insight into the challenges facing  
20 looked-after children across the country, as  
21 communicated by them.

22 Can you help us with how, practically, this  
23 information gets from them to you, taking into  
24 consideration that many of these children live in secure  
25 institutions?

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1 activities and events for children and young people.

2 **Q.** Ms Willow, the Inquiry has heard evidence from  
3 Mr Charlie Taylor, His Majesty's Chief Inspector of  
4 Prisons through England and Wales, and how the  
5 inspectorate gains that information from a different  
6 perspective. He summarised that at times children were  
7 spending up to 23.5 hours in their cells, face-to-face  
8 education stopped and was replaced with worksheets and  
9 work packs, and prison visits were suspended, meaning  
10 that children were going many months without  
11 face-to-face contact with their families and friends.

12 Were these findings consistent with what you were  
13 hearing on the ground of parents, carers, and from the  
14 children inside these institutions?

15 **A.** Absolutely consistent, and the description of the  
16 injury, the psychological and emotional injury to  
17 children, is also what we were hearing and aware of.  
18 And of course, when you've been in social work and  
19 children's rights for an awful long time, previous  
20 research, investigations, inquiries, proclamations as to  
21 how things will be different for children in the future,  
22 they're always there. They're always in your head  
23 whenever you read or hear from children, read about  
24 children or hear directly from them.

25 **Q.** Ms Willow, on the topic of oversight, you've mentioned

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1 how you have an independent children's advocate network.  
 2 The Inquiry has heard evidence from Mr Charlie Taylor.  
 3 You explain in your witness statement that Article 39  
 4 feared the loss of external oversight for children.

5 The Inquiry knows that His Majesty's Inspectorate of  
 6 Prisons suspended inspections of young offender  
 7 institutions on 17 March 2020 and introduced short  
 8 scrutiny visits from April 2020. And in a similar  
 9 fashion, Ofsted, who inspect -- or who lead inspections  
 10 of secure training centres, also suspended inspections  
 11 in March 2020 but didn't introduce assurance visits  
 12 until September 2020.

13 The Inquiry heard evidence that the main reason for  
 14 that was on the back of public health advice. And of  
 15 course, there's a balance between inspectorates getting  
 16 into prisons but inspectorates trying to stop bringing  
 17 Covid-19 into prisons where children are, so it -- in  
 18 one sense it could be counterproductive.

19 Where does that balance lie? And is there any  
 20 solution as to how, in the event of a future pandemic,  
 21 the inspectorates can function whilst maintaining the  
 22 safety of children in prison and complying with future  
 23 public health advice?

24 **A.** The public health advice needs to take the whole child,  
 25 needs to take in their physical, their psychological,

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1 able to pass that to the inspectors.

2 However, it has to be an imperative that the  
 3 inspectors get in there, and that has to be the headline  
 4 task for those giving advice to government, because of  
 5 the knowledge of the risk of closed institutions  
 6 developing punitive, coercive, cultures. There is  
 7 decades of evidence of the risk and the injury caused to  
 8 children when there isn't an external oversight.

9 And it's not just that an external oversight exists,  
 10 it's also that it's seen to exist.

11 **Q.** Ms Willow, just so I'm clear before we move on to the  
 12 next topic, is your evidence that the balance between  
 13 managing the risk of potentially bringing the virus into  
 14 the prisons, but then not -- inspectorates not getting  
 15 into the prisons because of the potential risk of  
 16 regimes and what's happening, is your evidence that that  
 17 balance would fall in favour of inspectorates getting  
 18 into prisons?

19 **A.** Absolutely. Children have taken their own lives because  
 20 of abuse in prisons. Children have suffered  
 21 horrendously from self-harm because of abuse in prisons,  
 22 and that information is known, and that has to be part  
 23 of the reckoning as to what are we going to do in this  
 24 scenario to make sure that we can do our absolute best  
 25 to prevent harms to children?

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1 their emotional health, and to seriously consider the  
 2 impact of advice and decision making on children as  
 3 whole people. And the literature, the body of knowledge  
 4 that is known about the risks for children of closed  
 5 institutions goes all the way, my knowledge of  
 6 inquiries, goes all the way back to the 1960s.

7 And --

8 **Q.** Ms Willow, I'm sorry to pause you there. I think the  
 9 point you're making is that independent inspections are  
 10 still needed in the event of a pandemic. Can you help  
 11 us with practically, if inspectorates can't get into the  
 12 particular institutions, how can people achieve that  
 13 level of oversight?

14 **A.** Well, one aspect of the prisons inspectorate process is  
 15 surveys of children, which they have been doing for over  
 16 20 years. So of course that can continue. To be able  
 17 to have, when they are prevented, due to lack of  
 18 knowledge, the initial weeks of panic and having to work  
 19 out responding to the virus, they can connect into the  
 20 prisons through remote means and also, critically, to  
 21 have contact with children's loved ones, because  
 22 children's loved ones, parents, carers and others that  
 23 are by the child, will know about the child, the  
 24 individual child. They will know what they were already  
 25 suffering and dealing with before, and they would be

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1 **Q.** Ms Willow, remaining in the pandemic times of the prison  
 2 system and the youth justice system, I want to now ask  
 3 you about the process by which the changes were made to  
 4 the regimes. The Inquiry has also heard evidence that  
 5 the temporary regime restrictions were applied across  
 6 the adult and the youth estate from 24 March 2020, but  
 7 we then know that amendments were made in May and July  
 8 of that year to the Prison and Young Offender  
 9 Institution Rules 2000, and the Secure Training Centre  
 10 Rules 1998, and the purpose of that was to reflect in  
 11 legislation the current operational situation of the  
 12 temporary restricted regime that had already been  
 13 implemented, as we know, within the different children's  
 14 prisons.

15 And I want to ask you about your views as to the  
 16 process those changes were made, because you explain in  
 17 your statement that in July 2020, Article 39 made  
 18 a Freedom of Information Request for the child rights  
 19 and equality impact assessments undertaken before the  
 20 government made the amendments.

21 Could you outline your headline concerns to as why  
 22 you wanted that and why you felt it was important?

23 **A.** These were very substantial and serious changes to legal  
 24 protections for extremely vulnerable children. Over  
 25 half of children who are in prison and were in prison in

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1 March 2020 had been in care. A third were disabled.  
2 And many had health conditions and needs that required  
3 the best of protection and care during the pandemic.

4 So the context is that these are highly vulnerable  
5 children. If you are going to take away legal  
6 protections that are there because we know children can  
7 just about survive prison by seeing their mum or their  
8 grandma or their dad, that children can just about  
9 survive prison by having something to do, and not being  
10 stuck in a cell the size of a small bathroom for 20, 22,  
11 23 hours a day.

12 Then, if you are going to take that away, then you  
13 have to follow a robust, rigorous process. Otherwise  
14 all the child protection legislation we have in place,  
15 all of the procedures, all of the systems we have in  
16 place, count for very little. And that Freedom of  
17 Information Request was systematically going through:  
18 did you seek advice from the Children's Commissioner?  
19 Did you carry out a children's rights impact assessment?  
20 Did you inform children? Did you inform their parents  
21 and loved ones? And so on.

22 And that was to hold the Ministry of Justice to  
23 account. This is what you are meant to be doing if what  
24 you say in paper -- and there's an awful lot of paper  
25 surrounding child prisons -- is correct, and is to be

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1 paragraph 271 that this statement says that:

2 "As throughout the pandemic, operational decisions  
3 were taken which considered the needs of children and  
4 the particular impact of restrictions on them."

5 Did you feel, from what you know and what you were  
6 hearing on the ground, that the government did in fact  
7 give sufficient consideration and weight to children's  
8 rights and decision making during the pandemic?

9 **A.** There was no evidence of that.

10 **Q.** And if we focus specifically on the pandemic, and what  
11 was happening in prisons during the pandemic, what was  
12 Article 39 doing to try to help to promote and protect  
13 the rights of children? You've given us one example  
14 where you were writing to the Ministry of Justice asking  
15 for impact assessments. Was there anything else you  
16 were doing with government to say this has to change?

17 **A.** We coordinated a joint letter which was sent to  
18 government on 18 March 2020 to call for children who  
19 could be safely released into the community for that to  
20 happen.

21 **Q.** Ms Willow, just on that point, I think it's right, isn't  
22 it, that whilst that process would have started in  
23 March, during the pandemic, and I'll be corrected if I'm  
24 wrong, that actually no children were released under the  
25 early release provisions?

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1 believed.

2 **Q.** Ms Willow, I was going to move on to ask you a question  
3 that what the Ministry of Justice or the government may  
4 say is that, given the situation they found themselves  
5 to be in, which we'll hear more about this afternoon,  
6 that irrespective of a child rights impact assessment,  
7 the amendments would have needed to change in any event.  
8 And I was going to ask you, well, what purpose would the  
9 child rights impact assessment have served, but is your  
10 evidence that it was simply to hold the government to  
11 account to make sure they were considering impact?

12 **A.** Much more than that.

13 **Q.** Could you expand on that, please?

14 **A.** If those processes had been followed, hopefully they  
15 would get a series of responses which in technicolour  
16 remind them that these are highly vulnerable children  
17 and you cannot amend the law which will legitimise  
18 treatment and arrangements that will cause great injury,  
19 psychological, emotional, physical injury to children.

20 **Q.** Ms Willow, I now want to move on to government  
21 understanding.

22 And if we can have on screen, please, INQ000588042.

23 This is a witness statement from Lucy Frazer King's  
24 Counsel, the former Minister of State for Justice  
25 responsible for prisons and probation. We can see at

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1 Can you just provide us with your opinion as to why  
2 that might have been the case, when we know many, many  
3 adults were released.

4 **A.** That's correct. Fundamentally, I think it comes down to  
5 the low status and the low priority given to children,  
6 the narrative that children were not at risk of dying  
7 from the virus, rather than looking at the whole child  
8 and what the virus could do to them in terms of how  
9 prisons would then make children spend prolonged periods  
10 in their cells, stop education, stop the family contact.  
11 So there wasn't a full understanding of children and  
12 their needs.

13 And the calls for the safe release of children  
14 continued throughout, including from many other  
15 organisations and bodies. I have to say that I haven't  
16 reviewed evidence and -- and disclosure that I hadn't  
17 previously seen, to read, for example, that children who  
18 didn't have a home, children who were in care, couldn't  
19 be released to a bed and breakfast or released to  
20 homelessness. Well, that's not good enough. If there  
21 are children in care, they should have homes to go to.

22 **Q.** Ms Willow, we're going to cover that topic later this  
23 afternoon, but just on the point of the government  
24 understanding the needs of children, if we can turn,  
25 please, to His Majesty's Prison and Probation Service

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1 operational guidance, we know that, following the  
2 restrictions on 24 March 2020, that around three weeks  
3 later the Ministry of Justice and HMPPS issued, as we  
4 can see on screen, amended guidance dated 15 April 2020.

5 And this guidance sets out how prisons would ensure  
6 that inmates had access to the essential services,  
7 including meals, showers, telephone contact with loved  
8 ones, access to legal advisers, and access to health  
9 services.

10 This is a 42-page document that we've simply not got  
11 time to go through today but we know that there's around  
12 two pages that are dedicated specifically to the youth  
13 custody estate.

14 If we could move, please, to the second document  
15 INQ000575485.

16 We can see that this is another piece of key  
17 guidance, this time the COVID-19: National Framework for  
18 Prisons Regimes, published in June 2020.

19 And it's correct, isn't it, that it was this  
20 document that provided a conditional roadmap to how  
21 prisons would ease out of the restrictions. And some  
22 may suggest that this document also provides limited  
23 reference to children and the children's secure estate.

24 But to be fair and to be clear, that this isn't all  
25 of the guidance, but if I understand it right you did

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1 "Children in Secure Children's Homes received a much  
2 better offer. Although the initial period of lockdown  
3 was crisis-management, in a very short time [Secure  
4 Children's Homes] generally got to grips with the  
5 restriction requirements. They applied a child-centred  
6 approach resulting in children for the most part having  
7 a normal routine, including attending education."

8 Is this something that Article 39 recognised during  
9 the pandemic from speaking to children?

10 **A.** Absolutely. Secure Children's Homes are part of local  
11 authority children's services. They follow the same  
12 law, standards, regulations, as children's homes in the  
13 community. They are child establishments. They are  
14 staffed by multi-disciplinary teams that are there for  
15 children. They are, in every respect possible,  
16 different from prisons.

17 And just because we say "child prisons", because it  
18 has "child" in front of it, make no mistake, child  
19 prisons are prisons. They are adapted in some ways, but  
20 fundamentally, the child's experience is the same as an  
21 adult's experience.

22 **Q.** Ms Willow, if we could now turn to residential  
23 children's homes generally. Can you help us, please,  
24 with how many people in March -- sorry, how many  
25 children in March 2020 were living in children's homes?

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1 read the guidance at the time and you've read it  
2 subsequently?

3 **A.** Correct.

4 **Q.** It's been suggested, Ms Willow -- and we've heard the  
5 Ofcom criticism -- sorry, the Ofsted criticism about the  
6 guidance this morning, but in your overall view, did the  
7 guidance issued during the pandemic by HMPPS or the  
8 Ministry of Justice recognise and promote the distinct  
9 needs of children, or was it the case, as suggested by  
10 others, that adult guidance was simply shoe-horned into  
11 the youth estate?

12 **A.** The guidance is completely inadequate for children. So  
13 the answer is: no, children are invisible in these  
14 documents, apart from the words "Youth Custody Service"  
15 and -- and "children". There's no tangible, practical,  
16 standalone -- and why are children in the same documents  
17 in any case, when there is meant to be a separate secure  
18 estate for children?

19 **Q.** Ms Willow, if we can now turn to Secure Children's  
20 Homes, please.

21 If we can have on screen INQ000588111.

22 We can see at paragraph 724 -- this is a witness  
23 statement from Mr Matthew Coffey, provided on behalf of  
24 Ofsted, and we can see in his statement that he says  
25 that:

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1 **A.** Just under 7,000 children.

2 **Q.** And we will return to residential children's homes but  
3 I want now to move on to the amendments to social care  
4 regulations, to ask about the context behind those  
5 before we return to the particular impact those  
6 amendments had on residential children's homes.

7 We know that one of the main changes to the  
8 provision of social care was introduced via the Adoption  
9 and Children (Coronavirus) (Amendment) Regulations 2020.  
10 At a very high level, can you please just explain what  
11 the government was proposing to change in March and  
12 April 2020?

13 **A.** Well, in April 2020 it actually did change, radically  
14 change, the children's statutory scheme. So overnight,  
15 between 23 and 24 April 2020, over a hundred changes  
16 were made to ten separate statutory instruments, and of  
17 those over a hundred changes, 65 safeguards for children  
18 were deleted or diluted.

19 **Q.** Did any of the changes increase legal protections, or  
20 was it simply they were diluted?

21 **A.** There was not a single increase. And if I may share  
22 some examples of the changes, the deletions and the  
23 dilutions?

24 **Q.** Ms Willow, we're going to come back on to the specifics  
25 but I just want to ask you before we get there, please,

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1 that the Inquiry heard from Baroness Anne Longfield, as  
2 you know, the former Children's Commissioner for  
3 England, and she described feeling horrified about the  
4 changes when she found out about them on 16 April 2020,  
5 and the Inquiry has already heard about the consultation  
6 and the background to that with Baroness Longfield, but  
7 I want to ask when you first became aware of the  
8 proposed changes?

9 **A.** I became aware when they were published and somebody  
10 emailed me. We were expecting a statutory instrument  
11 relating to children's homes, we were not expecting what  
12 was published. And so then I sat at my desk for several  
13 hours until after 10 pm that evening working out exactly  
14 what the statutory instrument did and took away from  
15 children.

16 **Q.** What was your understanding as to why the government was  
17 seeking those changes, which we know changes were --

18 **A.** The explanatory memorandum which was published at the  
19 same time depicted these changes as changes to  
20 administrative burdens, to procedural matters, and that  
21 this was to ensure that children's social care could  
22 continue to operate, so that core safeguarding could  
23 continue to operate.

24 Now, that was a fallacy because the changes that  
25 were included in the statutory instrument included core,

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1 child.

2 So another of the changes was to extend that to  
3 24 weeks and to say the connected person aspect does not  
4 apply. So this can be anyone. And there was already  
5 provision in the law to -- for a nominated officer to  
6 increase that to another eight weeks. So here you had  
7 32 weeks where a child could be placed with somebody  
8 that doesn't know them, that they don't know, for  
9 32 weeks, and another removal was to dispense with the  
10 nominated officer's approval if a child was sent out of  
11 their area.

12 Now, all of these safeguards are in law because  
13 things have gone wrong, and things are known to have  
14 gone wrong for children. That is why the out-of-area  
15 approval, for example, because social work knows that  
16 children who are sent out of area are much more  
17 vulnerable than children who are in their local  
18 authority.

19 **Q.** Ms Willow, just on that point, the Inquiry heard that  
20 Baroness Longfield concluded in her evidence that there  
21 wasn't an understanding about the level of risk to some  
22 children. Some children were living day-to-day. In  
23 your view, was there a disconnect between policymakers  
24 and what was actually happening on the ground?

25 **A.** I don't believe they had any understanding, and actually

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1 substantial safeguards for children. They are and were  
2 safeguarding duties.

3 So, for example, social worker visits. I started my  
4 career as a local authority social worker, visiting  
5 children in care. I know how critical they are to  
6 children's protection, wellbeing, sense of belonging,  
7 and being wanted. And also, what you can see when you  
8 go and visit the child. Now, not only did the  
9 regulations define a visit as having a phone call or  
10 a video call, it also took away the very clear statutory  
11 requirement to visit a child at minimum every six weeks.

12 So here we had the Department for Education saying  
13 children in care, the most vulnerable children in  
14 society, "Local authorities, you do not have to even  
15 call them once every six weeks", because that was taken  
16 away from the statutory scheme.

17 Another example. The temporary approval of what was  
18 in law before of connected people to children in care.

19 So that would be, say, a teacher or a grandma or an  
20 auntie or an uncle. There was provision already in the  
21 law that a full assessment of those people didn't have  
22 to happen for 16 weeks, if the local authority was  
23 satisfied that, broadly speaking, it was suitable. For  
24 connected people, it's obvious why. It would be people  
25 that the child already knew, that already knew the

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1 the Court of Appeal and the High Court share that, maybe  
2 not in the same short assessment that I'm giving, as to  
3 the magnitude of the statutory scheme taken together and  
4 the individual safeguards. Remember the  
5 characterisation of these individual safeguards, and  
6 what the minister, Vicky Ford, was told in her briefing  
7 is that these are minor burdens, procedural.

8 Now, if you are a minister who has been in post for  
9 about a month and you get a briefing from civil servants  
10 that tell you these are minor, these are burdens, these  
11 are procedural, and "Minister, we have to do this in  
12 order to save children's social care generally", then  
13 unless you come with a whole load of experience of  
14 children in care, with a professional background, then  
15 you're likely to give your approval, which of course  
16 she did.

17 **Q.** Ms Willow, can you help us with this please: we know the  
18 amendment regulations came into force on 24 April 2020.  
19 Were they time limited until 25 September 2020?

20 **A.** They -- that was what the statutory instrument said, but  
21 there had been government statements elsewhere that they  
22 may be used as a testing ground to see whether these  
23 minor burdens could be done without in the longer term.  
24 Also, it was tied to the Coronavirus Act. So it was  
25 very probable, from our perspective, and many other

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1 children's rights advocates, that these changes could  
2 continue in the longer term.  
3 **Q.** And we know that Article 39 started legal proceedings to  
4 challenge the amendment regulations soon after they came  
5 into force.

6 Did you bring your concerns to the attention of the  
7 government before the legal action?

8 **A.** Well, the pre-action protocol sets that out, of course,  
9 the letter that goes to government. On the day the  
10 statutory instrument was published, our website set out  
11 in detail that evening the consequences for children of  
12 this statutory -- of this change to the statutory  
13 scheme, and we also made any noise we could in the  
14 media.

15 Article 39 is a charity that is known by the  
16 Department for Education. They watch, and would have  
17 been well aware, even before that pre-action protocol  
18 letter, and it was published in the sector press also.  
19 And there was lots of social media coverage, including,  
20 of course, from the Association of Directors of  
21 Children's Services, Local Government Association, the  
22 Network of Principal Social Workers, who confirmed that  
23 they were not aware of the full magnitude of what the  
24 Department for Education had pushed through.

25 **Q.** And Ms Willow, we know that the government's position,  
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1 mindset carried over to the Covid times. Had there been  
2 a real understanding of the importance of social worker  
3 visits, as to the importance of statutory reviews, of  
4 children in care, as to the importance of having  
5 oversight when children or put into -- babies,  
6 largely -- put into fostering for adoption placements,  
7 as to the importance of having an independent monthly  
8 check in children's homes, had they understood all of  
9 that -- and actually, if they didn't understand any of  
10 that, then they could have come to children's rights  
11 organisations, who stand next to children, and ask us.

12 **Q.** Ms Willow, I need to just cover two topics very quickly  
13 if I may, please, because we're about to run out of  
14 time, but in terms of whether the changes were used,  
15 a statement has been provided by or on behalf of the  
16 Department for Education by Ms Frances Oram. And to  
17 summarise what it says in those statements, we can see  
18 at paragraph 21 that:

19 "DfE has not subsequently, specifically or  
20 distinctly measured the impact (if any of the  
21 regulations), partly because reported use of the  
22 exception was low."

23 And at paragraph 4.9, again it reiterates the point  
24 that, after gathering regular feedback from a variety of  
25 sources, including local authorities, social workers,  
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1 certainly at that time, was that the changes were needed  
2 because, as you've already alluded to, they were  
3 described as administrative burdens and minor changes.  
4 And you've also alluded to the fact of fears of staffing  
5 issues, and that the danger of the pandemic would have  
6 led, if the changes weren't made, to children and their  
7 care almost being non-existent.

8 Is it your evidence that, in terms of the  
9 government's balancing act between staffing issues and  
10 risk, the issue is that the government didn't actually  
11 or properly understand the risk and the practical  
12 consequences of what the amendments were about to  
13 achieve?

14 **A.** They didn't properly understand what they were doing.  
15 This also came after several years of other attempts by  
16 government, including through legislation, to "relax",  
17 inverted commas, safeguards, and to give local  
18 authorities more "flexibility", inverted commas.

19 So they didn't understand the safeguards. They were  
20 in a mindset of deregulation that local authorities are  
21 overburdened -- their words, not mine -- overburdened  
22 with duties towards highly vulnerable children, and they  
23 needed to have leeway and freedom to change their  
24 practice.

25 So that was pre-Covid. From my perspective, that  
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1 charities, Ofsted and other key partners, that the  
2 engagement with those stakeholders indicated that the  
3 amendments had not been widely used overall.

4 Just very briefly, was that your view?

5 **A.** Who knows? The statutory instrument itself placed  
6 a statutory duty on the Secretary of State for Education  
7 to review the effectiveness of the regulations. As far  
8 as I can see, from what has been published and released  
9 by the Department for Education, that the one-sided  
10 consultation that happened in the -- producing the  
11 statutory instrument continued when they were seeking  
12 information as to their implementation.

13 And there is a fundamental fallacy at play if you  
14 look at some of the documentation from the Department  
15 for Education when they were sending out surveys to  
16 local authorities or ringing up their contacts in local  
17 authorities: are you using the flexibilities? So-called  
18 flexibilities.

19 Well, we did only have one version of the statutory  
20 instruments from 24 April 2020. It wasn't that all of  
21 the ten statutory instruments that were previously in  
22 law were still there, and then we had all these  
23 amendments; the statutory instrument had fundamentally  
24 changed the statutory scheme for children.

25 So, asking local authorities, "Are you still with  
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1 the old law?" betrays a lack of understanding. And of  
2 course, it's self-reporting. This is requiring,  
3 expecting local authorities to report to central  
4 government that: yes, we've stopped having six-weekly  
5 telephone contacts with children in care, we've stopped  
6 reviewing their welfare, we've let people who are not  
7 connected to children look after them without a full  
8 assessment, we've stopped placement plans, which were  
9 very clear in law before.

10 You are expecting the local authority to say: we've  
11 done that, and could you tell the minister that this is  
12 the effect on children.

13 And of course, they were never asked, actually, the  
14 effect and impact on children. They were just asked,  
15 "Are you using the flexibilities or not?"

16 **Q.** Ms Willow, final question.

17 Having time to reflect on what happened during the  
18 pandemic, what can be done to better protect the rights  
19 of children living in institutions and being part of  
20 decision making in the event of a future pandemic?  
21 Could you maybe simplify, clarify, or provide us with  
22 your headline points.

23 **A.** Two headline points. Firstly, we need a cabinet  
24 minister for children, a cabinet minister who has the  
25 status, and the department that is taken seriously

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1 Anyway, thank you very much indeed for the help  
2 you've given and for the participation that Article 39  
3 have had in the Inquiry. Thank you.

4 Very well, I shall return at 1.45.

5 (12.47 pm)

(The Short Adjournment)

7 (1.45 pm)

8 **LADY HALLETT:** Ms Pottle.

9 **MS POTTLE:** My Lady, may I please call Lucy Frazer KC.

**MS LUCY FRAZER KC (sworn)**

**Questions from COUNSEL TO THE INQUIRY**

12 **LADY HALLETT:** Thank you very much for coming along to help  
13 us, Ms Frazer.

14 **MS POTTLE:** Can you please state your full name.

15 **A.** Lucy Claire Frazer.

16 **Q.** Ms Frazer, thank you for providing a helpful witness  
17 statement to the Inquiry. You should have it in front  
18 of you, and it's INQ000588042 for the Inquiry's  
19 reference.

20 Before I begin with my questions about the children  
21 and young persons secure estate, I would just like to go  
22 through your professional background first.

23 You were elected as a Member of Parliament for  
24 South East Cambridgeshire in 2015; is that right?

25 **A.** That's right, yes.

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1 across government, and which is the overall cabinet  
2 position for matters relating to children.

3 And secondly, in order to make sure that children  
4 are not put to the side, in order to make sure their  
5 needs, their perspectives, their rights are properly  
6 considered at all levels of government, and are taken  
7 seriously, we need the United Nations Convention on the  
8 Rights of the Child to be made part, fully part, of our  
9 domestic law.

10 And that is because we need a fundamental cultural  
11 shift across government, but also, children need the  
12 back-up, the legal back-up, of having enforceable rights  
13 and entitlements that cannot be just removed at a whim.

14 And if I may add a third, a statutory duty on  
15 government departments to consult and then to give  
16 weight to the statutory children's rights body, which is  
17 the Children's Commissioner for England.

18 **MR LEE:** Ms Willow, thank you for that.

19 My Lady, those are my questions. Do you have any  
20 questions?

21 **LADY HALLETT:** No, I don't. Thank you very much indeed.  
22 I'm very grateful to you. You're a very passionate and  
23 effective advocate. I think you're trying to do  
24 Mr Twomey out of a job, and I see you were called to the  
25 Bar as well, so he'd better watch his step.

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1 **Q.** And you served as an MP until 2024?

2 **A.** I did.

3 **Q.** From July of 2019 until March of 2021, you were  
4 a minister of state at the Ministry of Justice?

5 **A.** Yeah.

6 **Q.** The Ministry of Justice at that point was led by the  
7 Secretary of State for Justice, who is also the  
8 Lord Chancellor, and who was at that point the Right  
9 Honourable Sir Robert Buckland King's Counsel?

10 **A.** Yes.

11 **Q.** Your ministerial portfolio was prisons and probation --

12 **A.** Yes.

13 **Q.** -- is that right? And you assisted the Lord Chancellor  
14 in his duties. He was accountable to Parliament for  
15 Her Majesty's Prison and Probation Service --

16 **A.** That is right.

17 **Q.** -- is that right? Which we'll refer to as HMPPS. He  
18 was also accountable to Parliament for policy of HMPPS  
19 and oversight?

20 **A.** Yes.

21 **Q.** And you supported him in that role?

22 **A.** That's correct.

23 **Q.** Okay. You set out in your witness statement that your  
24 role was to support the Lord Chancellor in the decision  
25 and framework around the lockdown of prisons and the

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1 lifting of restrictions as the pandemic progressed; is  
 2 that right?  
 3 **A.** Yes, that's right. I was sort -- in my witness -- I was  
 4 responsible to support him in his role, so far as it  
 5 related to my portfolio. I tried in my witness  
 6 statement to pick out the key things, so that was one of  
 7 the key things.  
 8 **Q.** Yes. So you supported him insofar as his role touched  
 9 on your portfolio of prisons and probation?  
 10 **A.** Exactly.  
 11 **Q.** Okay. And I think you also say in your statement that  
 12 in the first months of the pandemic you were more  
 13 involved than usual in operational matters in prisons;  
 14 is that right?  
 15 **A.** Yes, in broad terms. I also say in my statement  
 16 that I was not responsible for the operations of the  
 17 estate. That was the responsibility of HMPPS. But  
 18 inevitably over this period, I had a much closer  
 19 relationship with HMPPS than I had done previously.  
 20 **Q.** Yes.  
 21 And -- sorry, I think the [draft] transcript, it  
 22 says "operations of the state", do you mean the --  
 23 **A.** The estate.  
 24 **Q.** Estate, yes. That's right.  
 25 **A.** Prison estate might be a better way of putting it.

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1 **A.** That's correct.  
 2 **Q.** And at the time of the pandemic, there were roughly 800  
 3 children in custody in England and Wales?  
 4 **A.** That's right.  
 5 **Q.** And the adult estate had roughly 80,000 adults?  
 6 **A.** That's correct.  
 7 **Q.** So, children made up roughly 1% of the entire population  
 8 of detainees that you were -- had responsibility for?  
 9 **A.** That's statistically correct.  
 10 **Q.** Okay.  
 11 There are three types of institutions that hold  
 12 children in England and Wales. There are youth offender  
 13 institutes; is that right? Institutions, rather.  
 14 **A.** Yeah, yeah.  
 15 **Q.** And they're for offenders aged 15 to 21. They are  
 16 larger sites and have lower staff-to-child ratios --  
 17 pardon me -- have higher staff-to-child ratios than  
 18 secure training centres and secure children's homes?  
 19 **A.** Just repeat that.  
 20 **Q.** Sorry.  
 21 They hold children 15 to 21?  
 22 **A.** Yeah.  
 23 **Q.** They are larger sites?  
 24 **A.** Yeah.  
 25 **Q.** And of the three, there are fewer staff per child?

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1 **Q.** So HMPPS was responsibility for the day-to-day running  
 2 of the prisons estate?  
 3 **A.** Yes.  
 4 **Q.** You and, ultimately, the Lord Chancellor had oversight  
 5 over it?  
 6 **A.** Correct.  
 7 **Q.** But in the immediate months after the pandemic, you had  
 8 more involvement than usual because it was an  
 9 exceptional time, I suppose?  
 10 **A.** Yes, I -- during the course of the pandemic, at the  
 11 beginning, I had a one-to-one daily meeting with the CEO  
 12 of HMPPS, which was not what I had done prior to that.  
 13 **Q.** No, okay. And finally, just on the question of your  
 14 role, you also ensured that appropriate legislation was  
 15 in place to respond to the pandemic, and, for example,  
 16 you laid several statutory instruments before Parliament  
 17 to facilitate, for example, the early release of  
 18 prisoners and changes to the prison regime; is that  
 19 correct?  
 20 **A.** That's correct.  
 21 **Q.** And we'll go on to talk about those in detail later on.  
 22 But before we get into the substance, I'd like to ask  
 23 you, your responsibilities were, of course, not limited  
 24 to the secure estate as regards children. Your  
 25 responsibilities extended to the adult estate as well?

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1 **A.** Yes, that's right.  
 2 **Q.** Yeah, okay. And secure training centres hold children  
 3 under the age of 15 who have been sentenced to a  
 4 detention and training order; is that right?  
 5 **A.** That's correct.  
 6 **Q.** Okay. And during the specified period, there were two  
 7 in operation, Oakhill Secure Training Centre, and  
 8 Rainsbrook Secure Training Centre?  
 9 **A.** Yes, that's right.  
 10 **Q.** Okay. Secure Children's Homes are smaller sites still,  
 11 and they're designed to accommodate children and young  
 12 people between the ages of 10 and 17. They can  
 13 accommodate children on welfare or justice grounds, and  
 14 they're operated by local authorities.  
 15 **A.** Correct.  
 16 **Q.** Okay. So now that we have a picture of the secure  
 17 estate --  
 18 **A.** Could I add to that? Because when you said the adult  
 19 estate, I would distinguish between the adult male  
 20 estate and the adult female estate, and there were  
 21 distinctions between the adult male estate, the female  
 22 estate, and the youth estate, and I was responsible for  
 23 all of those.  
 24 **Q.** I see. So you would draw, sort of, three groups?  
 25 **A.** I would draw three groups with distinct needs --

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1 Q. Distinct needs.  
 2 A. -- that we needed to consider differently, generally,  
 3 and throughout the pandemic.  
 4 Q. Okay, thank you. Before we consider the impact of the  
 5 pandemic on the youth estate, which is of course what  
 6 this module of the Inquiry is focused on, I'd like to  
 7 take a brief snapshot of the, sort of, state of  
 8 children's prisons on the eve of the pandemic, looking,  
 9 in particular, at time out of cell and education.  
 10 And to do that, I'd like to bring up the  
 11 inspectorate report from 2019 to 2020. This is the  
 12 annual report, it was actually published in November, so  
 13 after the pandemic, and the restrictions had come to  
 14 pass. But it gives us a picture of what the prisons  
 15 were like just on the eve of the pandemic.  
 16 So if we can turn, please, to page 9. Yes, this is  
 17 just in definitions which I think is helpful. The  
 18 Inspectorate defines solitary confinement as:  
 19 "When detainees are confined alone for 22 hours or  
 20 more a day without meaningful human contact ..."  
 21 Then if we can scroll down, please, to page 72.  
 22 This is the chapter focused on children. And looking at  
 23 the report on time out of cell, it says:  
 24 "While children had reasonably good time out of cell  
 25 on weekdays at Parc and Werrington [these are youth  
 105

1 A little under half were good, but more than half were  
 2 "requires improvement" or "inadequate".  
 3 Would you accept that this inspection report shows  
 4 that there were significant problems in the management  
 5 of prisons for children, and particularly in respect of  
 6 their time out of cell and in the education standards  
 7 that prevailed?  
 8 A. I accept that there had been some assessments of the  
 9 estate, of the youth estate, and many of the  
 10 institutions should and could have -- should have been  
 11 operating better on a number of levels.  
 12 I should say that we, one of the -- you mentioned  
 13 the work that I was doing during my time as prisons  
 14 minister and obviously in this period a lot of it was  
 15 spent dealing with the pandemic, but it wasn't the only  
 16 thing I dealt with during the pandemic and one of the  
 17 things I was looking at over this period whilst I was  
 18 prisons minister was how should we treat young people in  
 19 prisons? And one of the things that we were doing as  
 20 a policy matter was moving from YOIs to secure schools,  
 21 so away from a prison system and into an institution  
 22 that offered education as its core, where children were  
 23 still in the secure environment, and we did manage to  
 24 set in train the process to set one of those up, and  
 25 that was what we were trying to do to move away from  
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1 offender institutions] elsewhere, they simply did not  
 2 have enough time outside of their cell -- in many cases,  
 3 including time for education -- to access everyday  
 4 basics, including association, showers and telephone  
 5 calls. At Feltham A, children were unlocked on average  
 6 for only 4.2 hours on a weekday and much less at the  
 7 weekends. At the weekends, the experience of the  
 8 children was poor across the estate ... only 27% said  
 9 they spent more than two hours out of their cell on  
 10 a Saturday or Sunday."  
 11 That two hours is an important distinction because  
 12 less than two hours is tipping into solitary confinement  
 13 territory. It also says:  
 14 "Time spent in the open air was also not good  
 15 enough, more than half of children said they did not get  
 16 daily access to exercise outdoors.  
 17 "The continued inability of many sites to provide  
 18 children with enough time out of cell to access  
 19 sufficient education, exercise, and meaningful human  
 20 contact with others significantly affected outcomes  
 21 across all areas."  
 22 And if we can just turn, please, to the next page,  
 23 page 73, which is considering education. So the table,  
 24 table 12, reflects Ofsted assessments in education, and  
 25 it shows that none of the institutions were outstanding.  
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1 this type of system into a new system.  
 2 Q. I see. So the objective, if I've understood correctly,  
 3 is to move away from youth offender institutions, for  
 4 example, which are prisons, towards a secure school  
 5 system. I think we've heard evidence already in the  
 6 Inquiry about, I think, the Oasis group setting up --  
 7 A. Exactly, so that was the one that was our first -- was  
 8 going to be our first secure school, run by what is  
 9 essentially an academy trust.  
 10 Q. Yes. And so can I take from that there's an  
 11 understanding that the secure estate wasn't operating as  
 12 it should, and that it was therefore necessary to move  
 13 away from prisons for children towards a different  
 14 model?  
 15 A. I think those are two distinct issues. One is the  
 16 estate, as shown by this, could have been operating  
 17 better. And secondly, what is the right policy proposal  
 18 for children who have offended.  
 19 Q. Of course.  
 20 Moving on, then, from the period before the  
 21 pandemic, and I should, just for the sake of  
 22 completeness, you were aware of the issues in the estate  
 23 before the pandemic arose?  
 24 A. Yes, and it's not confined to the youth estate.  
 25 Q. Okay. So then if we move on now to the response to the  
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1 pandemic and the lockdown of prisons in March of 2020.  
 2 In your witness statement you address your evolving  
 3 understanding of the pandemic and the steps taken by the  
 4 Ministry of Justice to ensure readiness for the impact  
 5 of the pandemic on prisons, and initially, the plan was  
 6 to operate normal regimes for as long as possible in  
 7 line with advice from PHE, and I think we have here  
 8 a public statement made by you on 12 March, it's  
 9 INQ000611331.

10 If we can scroll, please, to -- yes, page 2 of --  
 11 this is a public statement made by you.

12 And the last bullet point is:

13 "We understand that prisoners and their loved ones  
 14 might be concerned about the situation. But we can  
 15 assure them that we will continue to operate normal  
 16 regimes with the minimum disruption, for as long as we  
 17 can."

18 Do you remember that statement?

19 **A.** That was the feeling by other ministers, by HMPPS, and  
 20 was the advice of our expert Dr O'Moore. Yes.

21 **Q.** Yes. And was that because a sort of normal regime, if  
 22 we're focusing on children for the time being, that  
 23 a normal regime for children would be better for them,  
 24 that they would be able to have activities outside of  
 25 their cells, that they could have access to education

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1 Decisions from the COBR meeting were circulated [just  
 2 after 7] and the Prime Minister announced a national  
 3 lockdown in a television broadcast at 2030."

4 I think almost all of us remember that televised  
 5 broadcast.

6 And then at paragraph 95:

7 "Given the decision had been made and publicly  
 8 communicated, it was our role and immediate priority for  
 9 the [Ministry of Justice] to implement the national  
 10 lockdown across its business areas including the prison  
 11 estate. On 24 March 2020 my Private Secretary emailed  
 12 me at 0701 hours stating: 'As mentioned last night, the  
 13 team is working on what the PM's announcement yesterday  
 14 means for prisons and probation.'"

15 Can I take it from your statement that it was at the  
 16 point of that public announcement by the Prime Minister  
 17 that the plan for prisons had changed and that to you  
 18 would, therefore, sort of pursue a national lockdown.

19 **A.** So, can I give you a little bit of context, because  
 20 you're factually accurate but I don't think it exactly  
 21 explains what was happening in prisons at that time.

22 **Q.** Please.

23 **A.** So we were in the position -- we wanted to continue  
 24 a regime as normal as possible, but by that time the  
 25 regime was not normal. So we had a pandemic within our

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1 visits?

2 **A.** Absolutely. Yeah.

3 **Q.** And so the intention was to keep that running as long as  
 4 possible.

5 **A.** Well, actually, it wasn't just because of the -- I mean,  
 6 we know that you get better rehabilitation if you have  
 7 purposeful activity, have better wellbeing if you are  
 8 occupied and engage with human contact. You get better  
 9 outcomes if you get education. So those are the  
 10 advantages of continuing a normal regime. But also, you  
 11 know, we also have to think about prison disruption and  
 12 riots, and obviously the more content the children were,  
 13 the easier it is for staff as well, and the more --  
 14 obviously the environment is better for everybody who  
 15 works there.

16 **Q.** At a certain point the plan changed away from operating  
 17 a normal regular for as long as possible to implementing  
 18 a national lockdown.

19 If I can take you to your witness statement now at  
 20 paragraphs 94 and 95, where you deal with that. You  
 21 say:

22 "On 23 March ... the Lord Chancellor attended the  
 23 COBR meeting at 1700 hours. Shortly before the meeting,  
 24 the Cabinet Office circulated a paper on 'Social  
 25 Distancing: Temporary Additional Measures'. Actions and

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1 prisons. We had staff going sick, we had prisoners  
 2 getting sick, and we had arrangements within prisons  
 3 already, as advised by PHE, as to how we should deal  
 4 with separating people according to whether they were  
 5 showing symptoms or not, and also when they were coming  
 6 new into the prison.

7 I think we were operating at that time at 50%  
 8 operational capacity. We were always very concerned  
 9 about losing staff, and being able to operate our  
 10 prisons effectively. So, by the time of the national  
 11 lockdown, HMPPS had prepared guidance, which you might  
 12 be taking me to, but at this stage we had guidance which  
 13 could be put in place if we had to go to a system  
 14 that -- were a particular prison was so infected that it  
 15 could not operate as it usually was and had to be  
 16 severely restricted in its operations.

17 So you're right to say that we implemented  
 18 a national lockdown because the Prime Minister announced  
 19 a national lockdown and we had to implement that and  
 20 follow what he had stated, but there was a transitional  
 21 period between a normal regime and where we were.

22 **Q.** Yes, I see. Well, I don't think I need to take you to  
 23 the guidance but it's certainly right that there had  
 24 been guidance circulated by HMPPS to prisons explaining,  
 25 as you say, that they might have to have a more

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1 restricted regime if they were unable to meet minimum  
2 staffing levels, I think MSL it's called, the guidance?

3 **A.** Yes, that's right.

4 **Q.** Yes, that's right.

5 **A.** Yeah.

6 **Q.** And so the position was if they were unable to operate  
7 a normal regime --

8 **A.** Exactly.

9 **Q.** -- they would have a severely restricted one.

10 **A.** Yeah.

11 **Q.** But it wasn't envisaged until the announcement that,  
12 whatever the staffing levels, there was going to be  
13 a lockdown of all prisons?

14 **A.** No, what we were preparing for was that we thought it  
15 was likely that individual prisons would go into  
16 a lockdown scenario, because that was required from  
17 a health perspective, but on the -- when the  
18 Prime Minister made his announcement, it became clear  
19 that we had to go to a national lockdown across the  
20 estate.

21 **Q.** Okay. Then, moving on to 24 March, so the day after the  
22 announcement, you describe the decision making in your  
23 statement here at paragraph 96, so you say:

24 "The Lord Chancellor, I and officials met on the  
25 morning of [the 24th]. I cannot remember this meeting  
113

1 terms of the decision making that we had -- that we were  
2 making and factors we were considering at that time --

3 **Q.** Please?

4 **A.** -- before I go on to address your question about the  
5 mirroring of the community?

6 **Q.** Yes.

7 **A.** So at this stage, we were advised by our expert, with  
8 whom, you know, we -- who had been advising us for  
9 a long time, and whose instincts we shared.

10 So, if you remember, PHE had advised that we should  
11 be open up for as long as possible. So, in that  
12 context, the advice that we needed to lockdown, and the  
13 consequences of lockdown, we trusted, because our  
14 instinct and his instinct initially had been the same.  
15 So he advised that if we did nothing, we were looking at  
16 2,500-3,500 people dying in prisons, which, as you can  
17 imagine, as a minister, you take extremely seriously  
18 that that might happen on your watch, and your  
19 responsibility.

20 We were also really worried about staff. So in our  
21 preparations that we were doing for this, as you said,  
22 the minimum service levels, mainly we were thinking  
23 about: what do we do if we don't have enough staff to  
24 run the prisons? And that was our main issue because  
25 that was the biggest threat.

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1 and the readout I have seen does not state who attended  
2 or provide details of the discussion. The Lord  
3 Chancellor would have been the decision-maker. I am  
4 sure that we would have been advised by HMPPS, following  
5 their overnight reflections, that as a result of the  
6 Prime Minister's decision to introduce the first  
7 national lockdown, we needed to move to full lockdown.  
8 We would have also considered all the factors which we  
9 were already aware of and had sought advice on,  
10 including the risk of transmission within the confined  
11 custodial estate and the operational considerations. It  
12 was recognised by everyone that we needed to mirror the  
13 impacts on the community within prisons."

14 What I want to ask you about is this idea of  
15 mirroring the impacts on the community within prisons.

16 If we're considering just children for the moment,  
17 there are significant differences between a lockdown in  
18 the community for children and a lockdown in prisons.  
19 So, for example, children in the community at this stage  
20 were, in the main, required to stay in their own homes  
21 with their families. That's right, isn't it?

22 **A.** Can I give a bit of -- you're right, and that is what  
23 I say and it is one of the considerations, but would you  
24 mind if I set out what we were considering, because  
25 I don't know whether it comes across sufficiently in  
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1 Now, if people were dying in prisons and catching  
2 Covid and giving it to staff, the staff not only would  
3 suffer, and we had a duty of care to staff, but also  
4 they wouldn't be able to come in and service the prison.  
5 That meant we possibly wouldn't be able to even provide  
6 the basic level of care. We wouldn't be able to feed  
7 people, we wouldn't be able to open up for their showers  
8 and take them to the toilet. So we were really worried  
9 about whether we were going to have staff that were  
10 coming in at all, and would they refuse to come in? You  
11 know, they were all scared. They were at home, and  
12 would they just not come in? Some of them had caring  
13 responsibilities, some of them had ill illnesses that  
14 meant that they might have been significantly affected.

15 So those two factors: we were responsible for people  
16 potentially dying and we were responsible for making  
17 sure -- duty to our staff, and that they came into  
18 service prisons, were foremost in our mind at the time.

19 **Q.** I see.

20 **A.** But also, we were worried about riots -- we were -- not  
21 just worried about riots because of our own obligations  
22 to the prisons and looking after young people, but if we  
23 had a riot in the prison at a time when we were trying  
24 to keep the public calm and have a sense that the  
25 government was in control of coronavirus, that wasn't  
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1 going to really reflect well on the government and,  
2 therefore, the country as a whole.  
3 So we had all these wide considerations to take into  
4 account, and I'm sure we'll come on to how did we think  
5 about children within that context.  
6 **Q.** Yes.  
7 **A.** But many of those -- obviously the deaths were going  
8 to -- would have been less significant in the youth  
9 estate, but the other factors were exactly the same:  
10 would we have staff to come in to look after the -- what  
11 would -- would there be a riot in the youth estate?  
12 **Q.** Yes.  
13 **A.** So those were the key factors that we were thinking  
14 about. So yes, we did also think about we needed to  
15 mirror the community, we needed to think about how did  
16 the direction that the Prime Minister make actually  
17 literally apply in prisons and what we were advised was  
18 that a household was a cell, not a wing and not  
19 a prison. And so we had to implement all of that, and  
20 at the same time, we thought it was reasonable to think  
21 about the restrictions in the community and implementing  
22 them in prisons, not only so we would be doing the right  
23 thing as a matter of law and following the policy, but  
24 so that people would understand what we were doing and  
25 we could communicate it in that way.

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1 is, you know, we were all at home, all of us. You know,  
2 I was at home, my kids were at home. You know, school  
3 was restricted. You weren't allowed to go outside much.  
4 You know, you were restricted to how much you went  
5 outside. You weren't allowed to go to the gym. People  
6 weren't allowed to come to your house. So those were  
7 the sort of broad levels of community restrictions which  
8 were applying to everybody across the country and those  
9 were the sort of things we were thinking we needed to do  
10 in prisons.  
11 **Q.** Yes. But children in custody weren't in their homes  
12 with their parents, they were alone in their cell,  
13 separated from their caregivers and not allowed to have  
14 visits. So it's quite a big distinction, wouldn't you  
15 agree?  
16 **A.** So I went into politics because I care deeply about  
17 young people and wanted to make sure that all young  
18 people have opportunities, and I think that we did very  
19 carefully think about how did this affect the youth  
20 estate. We restricted social visits because nobody was  
21 allowed social visits from their families, and I don't  
22 think any parents would have come in any event.

23 But you're right, you know, if you're asking me:  
24 were children in prison particularly affected? Was it  
25 very difficult for children in prison at this time? Of

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1 **Q.** I see. We will come on to discuss, in due course, the  
2 deaths in the prison and the advice about that, and also  
3 about minimum staffing levels, but if we can just, for  
4 the time being, focus on the mirroring in the community  
5 because that's at least one of the reasons. Yes.  
6 **A.** Sure.  
7 **Q.** So would you agree with me, therefore, that children in  
8 the community, that there are important differences,  
9 that they were required to stay in their own homes with  
10 their families, so not separated from their parents or  
11 carers?  
12 **A.** I think we asked HMPPS, "What did it mean?" and they  
13 said a cell was equivalent to a household. So that was  
14 our starting point. I think it's very difficult,  
15 I mean, I can answer your questions clinically, if you  
16 like.  
17 **Q.** Yes.  
18 **A.** But I think it's very difficult to do an exact  
19 comparison: what do we mean "in the community" and what  
20 do we mean "in prison"?  
21 **Q.** Yes, I mean, I think that's the point I'm trying to  
22 make. You were talking about the importance of  
23 mirroring conditions, so drawing a sort of comparison  
24 there.  
25 **A.** Well, people were -- what I mean by mirroring conditions

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1 course it was very difficult for children in prison.  
2 They were isolated, they were without their families.  
3 It was difficult for them, whether they were in lockdown  
4 or not and it was exacerbated by lockdown, yes. If  
5 that's what you're asking, absolutely, yes.  
6 **Q.** Yes, and that, unlike children in the community,  
7 vulnerable children who were in the community were able  
8 to attend school. Children in prison, on the whole,  
9 were vulnerable, more than half of the children in  
10 custody were care experienced. They couldn't attend  
11 school. So the question is, if I can just put it this  
12 way --  
13 **A.** Sure, yeah.  
14 **Q.** -- is, you referred to mirroring conditions in the  
15 community as a reason for imposing this national  
16 lockdown, but my point is that there was no mirroring.  
17 The conditions for children in custody were in fact  
18 a lot more severe and a lot worse than children in the  
19 community.  
20 **A.** So I think mirroring the provisions in the community  
21 were one of a number of factors of which was probably  
22 the least important. The most important was that we  
23 were stopping people dying on our watch and that we  
24 wanted staff to come into prisons and we didn't want  
25 riots across our estate. So those were the most

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1 important factors. And that prisons were a vector for  
2 illness. So it was, if you -- we knew that if you're in  
3 an enclosed environment, it was more likely you were  
4 going to suffer from getting coronavirus.

5 So those were the overarching factors that we  
6 considered when we made our decisions.

7 But we needed to lock down, you know, we were told  
8 we needed to lock down, so we did.

9 Do you want me to address the education point at  
10 this point?

11 **Q.** Well, we will come on to that because firstly --

12 **A.** Because I would say to you that we did try and we did  
13 provide for education to continue in the youth estate.

14 **Q.** Ms Frazer, we will get to that.

15 **A.** All right -- (overspeaking) --

16 **Q.** There's an order that we're trying to proceed through.

17 **A.** Sure.

18 **Q.** I'd like to deal now just with the advice about the risk  
19 of deaths. So this is the advice of Éamonn O'Moore.

20 If we could pull that up now. It's INQ000591144.

21 So this advice from Éamonn O'Moore, dated  
22 24 March 2020, so the day after the Prime Minister's  
23 announcement. It's a briefing paper. "Prison  
24 population management considerations in response to  
25 COVID".

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1 based on wouldn't apply. So, for example, children are  
2 not older, obviously they're children. And if we just  
3 zoom in to the background section. Dr O'Moore says:

4 "Prisons are epicentres of infectious disease  
5 because of higher background prevalence of infection,  
6 the higher levels of risk factors ... the unavoidable  
7 close contact in often overcrowded and poorly ventilated  
8 and unsanitary facilities ..."

9 So children's prisons were not overcrowded. We know  
10 that.

11 Furthermore, all children's prisons have single-cell  
12 accommodation and children's prisons don't concentrate  
13 individuals who are susceptible to infection and those  
14 with a high risk of complications.

15 Quite the opposite: children's prisons would  
16 concentrate individuals who weren't at a higher risk.

17 So this advice, though startling and pointing out  
18 high numbers of deaths that could occur, is really only  
19 appropriate to the adult estate and not to the  
20 children's estate.

21 **A.** So advice, this particular advice, is mainly about  
22 releases, which we will come on to.

23 **Q.** Yes.

24 **A.** But the fact that we were going to see -- the fact that  
25 there was a high risk -- let's just take a step back.

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1 The summary is that, I think as you alluded to:

2 "Prisons are high-risk settings for large outbreaks  
3 of COVID-19

4 "Many people in prison are ... clinically  
5 vulnerable ...

6 "Risks include excess death rates; need for  
7 specialist NHS care ...

8 "...

9 "Single cell accommodation has distinct advantages  
10 in supporting protective isolation ... of vulnerable  
11 prisoners."

12 And if we scroll down the page, please, we have this  
13 figure that you've mentioned, in the penultimate line:

14 "... HMPPS modelling (undertaken with PHE) has  
15 indicated the possibility of high numbers of deaths in  
16 custody and suggests in the region of 10 times the  
17 number that we would normally see with ...  
18 2,500-3,500 based on the reasonable worst-case scenario.  
19 Potentially half of these deaths may occur over three  
20 weeks at the height of the outbreak."

21 Is this the briefing from Dr O'Moore that you recall  
22 receiving in the early stages of the pandemic?

23 **A.** Yeah.

24 **Q.** Okay. This briefing doesn't mention children and young  
25 people, and many of the factors which the advice is

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1 We all knew that -- the ship that had -- I think it  
2 was in Japan --

3 **LADY HALLETT:** The Diamond Princess?

4 **A.** Yes, the Diamond Princess. Contagion had spread  
5 throughout the prison at a significant rate. We all  
6 knew that, whether we had expert evidence or not.

7 Now, if we had -- you're right to say, and the  
8 advice is right to identify, that the people who are  
9 most at risk were people who were seriously ill and who  
10 were older. So of course, the risk was higher for those  
11 in the adult estate, and particularly where they were  
12 elderly. But that didn't mean that the children were  
13 not at any risk at all. And if we'd seen one child die  
14 on our watch, that would have been a significant issue  
15 for us as ministers.

16 So of course the risk was lower but it wasn't nil.  
17 But in addition to that, if the kids had got sick and  
18 infected the staff, (a) the staff might not have been  
19 able to go into work, wouldn't have been able to provide  
20 basic care, (b) they might have overwhelmed the NHS  
21 facilities in the local community, if we had a situation  
22 where we had a huge number of people who were sick  
23 although not about to die.

24 So, yes, of course, it was stronger, and the risk  
25 was higher in the adult male -- in the adult estate, and

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1 particularly in some prisons where we had sex offenders  
2 who were older. But there was risk everywhere, and we  
3 were responsible as ministers for that risk.

4 So we needed to take this advice and the advice we  
5 were given more broadly about what we knew about -- and  
6 remember, we only knew later that Covid wasn't as  
7 serious as we thought it was. So at this stage we'd  
8 been told, very recently, that we could see thousands of  
9 people dying on our watch, and that we might be -- have  
10 a staff situation that is overwhelming.

11 So those are the factors that we took into account.  
12 Plus we have a national lockdown situation where we've  
13 been basically ordered to lack down. Those are the  
14 factors that we take into account at the time.

15 **MS POTTLE:** The Inquiry's reviewed the advice provided by  
16 Public Health England to the MoJ and cannot find any  
17 that relates to the specific needs and vulnerabilities  
18 of children until November of 2020, when advice was  
19 given concerning the new restrictions which were brought  
20 into force at that time.

21 Can you help us, was a decision taken not to  
22 commission a similar piece of advice for children in  
23 March 2020? Or was it simply -- (overspeaking) --

24 **A.** Of course there wasn't a decision not to provide advice.  
25 So Éamonn O'Moore, who was our expert in whom we all had  
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1 institution-by-institution basis, and we followed his  
2 advice.

3 **Q.** Okay. But what I would suggest to you is that he was  
4 focused on the adult estate, which was 99% of the  
5 prisoners with which he was concerned with?

6 **A.** And that's why I said we didn't -- that's why  
7 I corrected you. We had three different types of  
8 estate. They were all important to us. We took  
9 specific individual decisions in relation to pregnant  
10 women, who were very few in number, because they were  
11 important.

12 We tried, and I'm sure we'll come on to it, to  
13 ensure that the youth estate was treated differently,  
14 with human contact and education. So of course, it took  
15 us a huge amount of time, and there were more incidents  
16 across the estate, there were more outbreaks in the  
17 adult male estate, there were more issues to deal with,  
18 but as I've looked back over my papers I see peppered  
19 throughout it reference to the youth estate.

20 **Q.** Yes?

21 **A.** And in fact at one stage I see a note where my private  
22 office is recording a meeting --

23 **Q.** Ms Frazer, I'm sorry to stop you, but there are some  
24 questions that I need to ask you.

25 **A.** Very happy to answer your questions.  
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1 a huge amount of faith, and whose instincts we agreed  
2 with, was advising, as far as I was aware, HMPPS on  
3 a regular basis. Every single time we had a virus in  
4 a particular prison, Éamonn O'Moore went into that  
5 prison -- or, I don't know how he did it, but he advised  
6 specifically on what arrangements ought to be adopted in  
7 that particular prison.

8 So, he was responsible for advising on the estate as  
9 a whole, which included the youth estate and the female  
10 estate. And we did have some infections in the youth  
11 estate.

12 **Q.** Yes.

13 **A.** We also had discretion in the rules according --

14 **Q.** Yes, we'll come on to the rules and the guidance in  
15 a moment.

16 **A.** But I think you're suggesting that we didn't take into  
17 account the children. We had an expert -- and I would  
18 refute that. We had an expert who was advised -- who  
19 was specifically there to advise us on our entire  
20 estate.

21 He didn't say to us, "By the way, do something  
22 totally different in the children estate, and I suggest  
23 we do this", and we all follow it. We followed his  
24 advice as to what he gave us to do across the estate,  
25 and he went into institutions and advised on an  
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1 **Q.** Yes. So if I could just put the question.

2 What I would suggest to you, with respect to the  
3 advice from PHE England, is that that advice which we  
4 saw was focused on adults, at that stage in the  
5 pandemic, in March, and he didn't provide advice  
6 specific to children and you didn't ask for advice  
7 specific to children. And in that way, in the haste of  
8 a national lockdown which wasn't planned for, the needs  
9 and specific vulnerabilities of children were  
10 overlooked.

11 **A.** I don't accept that. I think, if he had wanted to  
12 advise on doing something very different in the youth  
13 estate, we would have taken that advice, and we  
14 certainly didn't instruct him not to advise us on  
15 particular parts of the estate.

16 And we had regular meetings with him and asked him  
17 questions. And we did provide, and I look forward to  
18 coming on to it, for different rules in relation to the  
19 youth estate.

20 **Q.** Yes, well, let's move on now to the impact of the  
21 national lockdown on the youth estate.

22 If I can begin with the guidance that was put in  
23 force, first on 24 March.

24 So if we could bring that up, please. It's  
25 INQ000530765.  
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1 And if we just look -- yes, so this is "COVID-19  
 2 Operational Guidance Temporary regime to reduce risk".  
 3 If we just go to page 3. It sets the background:  
 4 "On 23 March ... the government announced new rules  
 5 on staying at home ..."  
 6 That was the Prime Minister's announcement.  
 7 Then it says at the bottom there:  
 8 "In prisons, this means that people in prison will  
 9 spend more time in their cells. They will, however, be  
 10 given access to essential services including meals,  
 11 showers, telephone contact with loved ones and legal  
 12 advisers, access to health services, and where possible,  
 13 time in open air."  
 14 And it also says:  
 15 "All non-essential activities involving groups of  
 16 people should be stopped. This includes social visits,  
 17 education, non-essential work, association, communal  
 18 dining, periods of mass prisoner movement, religious  
 19 services, and access to the gymnasium."  
 20 On page 7, we come to the Youth Custody Service. It  
 21 says:  
 22 "The [Youth Custody Service] will operate under the  
 23 same temporary guiding principles as the rest of the  
 24 adult estate when it comes to carrying out the  
 25 Government's instructions on social distancing. All

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1 rooms", I suppose, but there wasn't a clear statement in  
 2 this guidance to say that children should still have  
 3 face-to-face education in their classrooms. That's  
 4 right, isn't it?  
 5 **A.** Well, you can read what it says.  
 6 **Q.** Yes.  
 7 **A.** I would say you're sort of looking at it as a lawyer  
 8 after the event, when things were developing at massive  
 9 pace, and what I see when I read this document, and  
 10 I think back and I reflect on what I felt at the time as  
 11 evidenced by the documents, is that there was a shared  
 12 understanding at a ministerial level which was reflected  
 13 at an HMPPS, a leadership level, that education should  
 14 be provided for young people.  
 15 So that's what I discussed in the meeting that I had  
 16 the afternoon after the decision was made, I was told by  
 17 Helga and Dr Farrar that education would be provided,  
 18 and we can go through all the, you know, all the  
 19 incidents and the evidence, but the view I had at the  
 20 time was that education would be provided. It would not  
 21 be provided in the same way, potentially in a classroom  
 22 setting, but in small groups. But it was the clear  
 23 intention of the management and the ministers at the  
 24 time that education would be provided in the youth  
 25 estate and would not be provided in the adult estate.

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1 non-essential activities and activities involving large  
 2 groups of people or a mass movement of young people have  
 3 been ceased."  
 4 Children would have access to telephones in their  
 5 rooms and have be given extra credit to keep in touch  
 6 with their families.  
 7 "Children in custody are recognised as  
 8 a particularly vulnerable group and additional  
 9 safeguards should be considered by governors and  
 10 directors of STCs where necessary. Human contact is  
 11 especially important for children and this should be  
 12 provided where possible and practicable, via teachers,  
 13 key workers, youth workers, etc, whilst still adhering  
 14 to strict principles of social distancing. Provision of  
 15 additional in-room activities, and education should be  
 16 considered and routinely provided."  
 17 So this was the guidance which came into force  
 18 straight away.  
 19 **A.** Yes.  
 20 **Q.** It is not entirely clear whether education for children  
 21 would continue or not, I would say. At the beginning it  
 22 says that there would be no education. And then when  
 23 you go on to the section dealing with children it says  
 24 "human contact is important". And there's ambiguity, it  
 25 seems in the last sentence "You might have education in

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1 **Q.** Okay. And when you say not in the normal way, in small  
 2 groups, so face-to-face, not in the room but in smaller  
 3 groups so you could comply with social distancing; is  
 4 that what you had in mind?  
 5 **A.** I'm not in charge of operations or indeed how it plays  
 6 out. My understanding at the time was that education  
 7 would be provided, in some way. As far as ... so the  
 8 guidance gave the institutions discretion which was  
 9 necessary and they were all required to do their own  
 10 plans and as a minister I asked to see a plan because  
 11 I wanted to make sure that each institution was doing  
 12 their own plan. And each institution should have been  
 13 able to think: what can we provide in terms of education  
 14 and human contact within the confines of a pandemic.  
 15 **Q.** Okay.  
 16 **A.** And that's what they should have been doing on an  
 17 institution-by-institution basis working with providers,  
 18 their staff and the children.  
 19 **Q.** Yes, Ms Frazer, I just want to check with you. You said  
 20 there was a common understanding --  
 21 **A.** Yes.  
 22 **Q.** -- and I just want to explore whether that understanding  
 23 was that education would be, you know, worksheets pushed  
 24 under the door or would it be -- well, not in  
 25 a classroom but -- (overspeaking) --

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1 A. No, I understood -- I understood it was some form of  
2 face-to-face education.

3 Q. Okay.

4 A. Not worksheets. I mean, worksheets were definitely  
5 discussed and I knew worksheets were happening. I knew  
6 things were being pushed through doors and that was the  
7 bare minimum that I was hoping or expecting would  
8 happen. But my understanding was that, at the outset,  
9 it was -- each institution should be considering and  
10 providing education.

11 Q. Of course. Well, if we can move to your witness  
12 statement, paragraph 203. So that's reference  
13 INQ000588042.

14 This is a part of your statement where you discuss  
15 expectations around education.

16 Yes. So just prior to that, sorry. We can scroll  
17 up the page. Pardon me.

18 Yes, so on 24 March, the Children's  
19 Commissioner wrote to you raising concerns and you  
20 wanted to highlight the position on education within the  
21 youth estate. This was one of the main areas of  
22 differences for children as opposed to adults, and:

23 "It was our clear position that education should  
24 continue ... this was resisted by the ... providers."

25 And you refer to correspondence between the Youth  
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1 Does that accord with your understanding at the time  
2 that there would be an exploration of on-unit  
3 outreach-type activities?

4 A. Well, I continue the sentence:

5 "... while strictly adhering to social distancing  
6 requirements ..."

7 Q. Yes.

8 A. And I'd emphasise the words "human contact". I mean, I  
9 don't even know whether I saw this letter at the time  
10 but my understanding was that each institution --  
11 I don't think you can read particular words and  
12 therefore deduce a particular -- I'm just --

13 Q. I'm just trying to understand --

14 A. So my understanding is that there would be, you know,  
15 they're talking about adhering to social distancing  
16 requirements. That, to me, envisages a situation where  
17 you're in the room with somebody else --

18 Q. I see.

19 A. -- getting some sort of provision.

20 Q. Okay.

21 A. It refers to human contact which, to me, envisages  
22 you're in the room with another human.

23 So, my understanding at the time -- and, you know,  
24 as you said, I'm dealing with a large estate, and the  
25 youth estate, and policy considerations and a load of

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1 Custody Service and the providers.

2 "On 24 March ... the managing director of Novus,  
3 a contracted education provider, sent a notification to  
4 all Novus staff saying that: 'All non-essential  
5 activities involving groups of people should be stopped.  
6 This includes social visits, education, non-essential  
7 work, association, communal dining ... and access to the  
8 gymnasium.' This ... was forward to the [Youth Custody  
9 Service]."

10 So this was their understanding that there would be  
11 no education.

12 And if we scroll down, please, to paragraph 203:

13 "[The Youth Custody Service] replied to [the  
14 education provider] saying: 'We fully accept that  
15 classroom-based education needs to cease (and indeed  
16 has).'"

17 And that's in line with your, sort of,  
18 understanding, is that right, that the classroom-based  
19 education would cease. But:

20 "... given the particular vulnerabilities of the  
21 children in our care, and the importance of some human  
22 contact and structure ... we are exploring what on-unit  
23 outreach ... type activities can be provided ... while  
24 still strictly adhering to social distancing  
25 requirements placed on all of us'."

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1 other issues, but my overall understanding at the time  
2 was that we wanted to provide education of some kind  
3 that -- and that was Dr Farrar's clear position in all  
4 my conversations with her, and that didn't happen, as we  
5 later see, and we can go on to the reasons why that  
6 didn't happen, but we were intending to provide human  
7 contact through education.

8 Q. Okay, well, the guidance in place at the time, and the  
9 guidance --

10 A. Can I just correct myself, it did happen in Parc, sorry.

11 Q. That's right, yes.

12 A. And it did potentially happen in some other places as  
13 well.

14 Q. Yes. But the guidance in place at the time, and it was  
15 amended from time to time, until we got to the national  
16 framework for coming out of lockdowns, none of the  
17 guidance ever said, in terms, that children should have  
18 face-to-face education. And what I'm trying to explore  
19 with you is whether that was a miscommunication between  
20 you and HMPPS, or was it a resistance from HMPPS to do  
21 that?

22 A. I don't know why the guidance didn't explicitly say it,  
23 because -- but it did imply it. At a minimum. I think  
24 it did more than that. It said human contact was  
25 necessary and education should be considered. And it

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1 was my understanding that that's what HMPPS was trying  
 2 to provide.  
 3 **Q.** We have heard evidence from Charlie Taylor --  
 4 **A.** Could you (inaudible) just repeat your question, because  
 5 I'm not sure I answered your particular questions. I'm  
 6 happy to if you want me to.  
 7 **Q.** No, I think you have.  
 8 **A.** Okay.  
 9 **Q.** -- (overspeaking) -- I think. Thank you.  
 10 We've heard evidence from Charlie Taylor from  
 11 Her Majesty's Inspectorate of Prisons already, that  
 12 face-to-face education did continue at YOI Parc, as you  
 13 mentioned.  
 14 **A.** Yeah.  
 15 **Q.** And his evidence was that HMPPS prevented education from  
 16 taking place.  
 17 And I'd like to take you to the transcript of his  
 18 evidence, if I could.  
 19 **A.** Sure.  
 20 **Q.** It's reference PHT000000202, page 72, lines 6-17,  
 21 please. Yes.  
 22 So he was asked:  
 23 "... what do you mean ... 'efforts were undermined'?  
 24 Was it the case that governors were ready to bring back  
 25 face-to-face education?"

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1 on the estate and that HMPPS wasn't stopping it.  
 2 So I can't -- to answer your first question --  
 3 **Q.** Yes, you can --  
 4 **A.** This --  
 5 **Q.** Ms Frazer, sorry, you can, but I think I've got one more  
 6 piece of evidence on this to put to you.  
 7 **A.** Okay, so I'll do it --  
 8 **Q.** I'll do that first and then you can answer.  
 9 **A.** Right, so let me answer your specific question.  
 10 **Q.** All right.  
 11 **A.** Because the Children's Commissioner -- I had a number of  
 12 conversations with the Children's Commissioner, and  
 13 I always -- when I was concerned by what the Children's  
 14 Commissioner said to me, I always raised them with  
 15 Dr Farrar. I had a daily meeting with Dr Farrar, and  
 16 when any stakeholder raised an issue with me, I raised  
 17 it with Dr Farrar, usually the next day.  
 18 So, the Children's Commissioner said to me, "HMPPS  
 19 is stopping education."  
 20 And I said to Dr Farrar in one of my meetings, and  
 21 there's a note of it, I said, "I hear that you're  
 22 stopping education."  
 23 It was on 1 June. She said, "We are not stopping  
 24 education, the unions are preventing education."  
 25 So that's what was reported to me.

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1 This is Mr Taylor's response:  
 2 "... the trade union for the education providers had  
 3 decided to withdraw members from those prisons. But it  
 4 was the directive. As we saw often during the pandemic,  
 5 was that directives were about prisoners generally and  
 6 the needs of children were an afterthought, very often,  
 7 here, and you'll see some of the correspondence from my  
 8 predecessor, Peter Clarke, about that. But the result  
 9 was that a guillotine was placed on education. And  
 10 attempts to reopen education were quickly -- and nothing  
 11 really got going until we were back in the summer, later  
 12 on in the summer."  
 13 So do you accept that HMPPS played a role in  
 14 stopping face-to-face education?  
 15 **A.** So can I just tell you what I knew? So, first of all,  
 16 I don't agree with Charlie Taylor that the directive was  
 17 a guillotine. And my reading of the guidance, education  
 18 was to be considered and provided. So I don't accept  
 19 that that's what the directive -- if he's referring to  
 20 the guidance -- I don't accept that's what it says.  
 21 Secondly, Charlie Taylor wasn't in post at this  
 22 time. Peter Clarke was in post at this time.  
 23 And if I could just go through a couple of incidents  
 24 which maybe draw out why I believed education was being  
 25 sought to be provided and potentially was being provided

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1 **Q.** I see. If I could take you to the Independent  
 2 Monitoring Board's report from 2019 to 2020.  
 3 That's the front page of the report. And if we  
 4 could go to page 16, please.  
 5 This is another report. It says:  
 6 "At Cookham Wood, Novus education staff provided  
 7 remote resources, including individual work packs,  
 8 newsletters and prison radio podcasts that were pushed  
 9 under room doors within lockdown. Within two weeks ...  
 10 [they] had developed a risk assessed plan for partial  
 11 return to education."  
 12 Which was supported by local staff, management and  
 13 unions.  
 14 "However, it was rejected at higher levels in the  
 15 prison service by HMPPS Gold Command, though a very  
 16 similar plan was implemented four months later."  
 17 So this is another report from another independent  
 18 agency looking at prisons --  
 19 **A.** Yeah.  
 20 **Q.** -- which repeats, in essence, the same claim that  
 21 Mr Taylor has made.  
 22 **A.** Sure.  
 23 **Q.** Do you think that they both got it wrong?  
 24 **A.** Well, let me tell you what I knew at the time. So,  
 25 first of all, this issue of Novus preparing something

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1 and HMPPS rejecting it was never raised with me, as far  
2 as I can recall. And I think had it been raised with  
3 me, I would have put it to Dr Farrar, as I did all other  
4 issues.

5 I spoke regularly to all the providers. Every  
6 single time I made an announcement I spent -- I did  
7 20 calls. This happened about five times during my --  
8 during the course of the year, and the IMB were one of  
9 my stakeholders, and I don't recall this particular  
10 issue being raised.

11 This report was produced after I left office, so  
12 I didn't investigate it because it wasn't in my time.

13 Can I just give you a couple of points which  
14 hopefully show you why I -- why that is my recollection,  
15 that HMPPS were trying to provide education, which are  
16 contemporaneous at the time.

17 So, first of all, we've already seen Novus, and  
18 you've seen -- so Novus is the provider that you're  
19 referring to here.

20 **Q.** Yes.

21 **A.** And it was Novus that wrote saying: please stop  
22 education.

23 **Q.** Yes.

24 **A.** And you saw YCS's response to that, which is to push  
25 back against Novus, saying: No, you do have to provide

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1 in the meeting, and I asked them all how things were  
2 going, and they had an opportunity to share any concerns  
3 with me. One of the institutions said education will  
4 start imminently.

5 So, that was 13 May, before the guidance had come  
6 out. So, not only was Dr Farrar telling me they wanted,  
7 but there was a problem, institutions were telling me  
8 that they were trying to provide it, and they had plans  
9 to provide it. So they were -- obviously had read the  
10 guidance in the way we had intended it to have been  
11 drafted. In the national framework obviously we set out  
12 specifically that education should be provided.

13 And then the other incident that underlies that it  
14 was the POA that were pressing for education not to be  
15 provided is on 30 December -- so a long time later, when  
16 we have provided education in the new national  
17 framework -- specifically on 30 December, Dr Farrar  
18 tells me that the POA say they want to stop education.

19 **Q.** Yes.

20 **A.** So it was clear to me that the POA were raising issues  
21 around education. So obviously that's very difficult  
22 for HMPPS. And that's how I saw the situation at the  
23 time.

24 **Q.** Well, there could be two different barriers, couldn't  
25 there, to education. There could be the Prison

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1 something.

2 Another interaction I had on education was the POA  
3 came to see me and the Lord Chancellor in late April,  
4 I think it was 27 April. And in that meeting they  
5 complained that education was being provided at Parc.

6 **Q.** Yes.

7 **A.** And they asked the Lord Chancellor to stop education at  
8 Parc.

9 So it was clear that the PAO did have a view that  
10 education would stop, and they were putting up some  
11 resistance to it, because they personally raised it with  
12 me and the Lord Chancellor.

13 **Q.** Yes. And the POA, that's the Prison --

14 **A.** Sorry, the Prison Officers' Association.

15 **Q.** So a sort of trade union for the prison officers?

16 **A.** It's the trade union, who we -- and the third thing is  
17 that you'll recall from my witness statement that I did  
18 virtual visits, and the first virtual visit I did was --  
19 I wanted to know what was happening on the ground.

20 Most of my information came from Dr Farrar.

21 I wanted to hear firsthand from people other than the  
22 stakeholders, so I asked to visit the prisons virtually,  
23 because I couldn't go face-to-face.

24 My first one was on 13 May. I asked for it to be  
25 the youth estate. There were three governors virtually

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1 Officers' Association and, at the same time, directives  
2 from some senior members of HMPPS.

3 When -- (overspeaking) --

4 **A.** That's entirely possible. All I can tell you is what  
5 was told to me and what I believed at the time.

6 So if I answer your question from a different  
7 perspective, and it's possible. It's possible. I don't  
8 know what I wasn't told, and I wasn't on the ground.  
9 But what I do know, because I spoke to Dr Farrar every  
10 single day, is that I understood she shared my views  
11 that education should be provided.

12 **Q.** Well, assuming that the reports from the Independent  
13 Monitoring Board and the Inspectorate of Prisons are  
14 accurate, it sounds as though Dr Farrar either didn't  
15 know or wasn't telling you the full picture.

16 **A.** You're suggesting, and supposing hypothetical things  
17 that I don't know.

18 **Q.** Well, we have the reports from the Independent  
19 Monitoring Board and we have the reports from the  
20 Inspectorate.

21 **A.** You have got two bits of evident and I have a year's  
22 worth of understanding. You might be right. I can only  
23 tell you what I heard.

24 **Q.** Okay. You mention in your witness statement a sensitive  
25 relationship with the Prison Officers' Association. Did

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1 the need to heed those sensitive relationships and their  
 2 views about the provision of education contribute to the  
 3 reduced provision of education for children?  
 4 **A.** I can only -- I wasn't involved in any of the  
 5 discussions with HM -- I wasn't involved with any of the  
 6 discussions with the POA. I know it was a sensitive  
 7 issue, and the HMPPS told me they had to handle it very  
 8 carefully. I don't know what was discussed.  
 9 **Q.** You told us a moment ago that you were at a meeting  
 10 where they raised it.  
 11 **A.** Yeah, they did.  
 12 **Q.** Okay. So you were involved in some discussions, then,  
 13 with --  
 14 **A.** I was in -- well, we didn't discuss it. They told us at  
 15 that meeting that they didn't want to provide education,  
 16 and sort of intimated that the Lord Chancellor -- who  
 17 was leading the meeting -- should intervene in order to  
 18 stop education at Parc.  
 19 **Q.** And did he say, "Absolutely not, education must continue  
 20 for children"?  
 21 **A.** There's a readout, I don't want to misquote him, but  
 22 I think he said, "We'll look into that."  
 23 **LADY HALLETT:** Sorry, he said?  
 24 **A.** I think he said, "We'll look into it." I don't  
 25 remember, I don't remember exactly but I think he

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1 **Q.** Mm-hm. You say that you don't think it's the minister's  
 2 job to disrupt that delicate relationship.  
 3 **A.** At this --  
 4 **Q.** At that critical time -- (overspeaking) --  
 5 **A.** -- (overspeaking) -- very difficult conversations with  
 6 the POA at other times but we were managing a pandemic.  
 7 **Q.** Ms Frazer, I have to ask you to wait for the question,  
 8 please. Do you accept that the management of that  
 9 relationship ought not to have come at the cost of  
 10 providing essential services to children in prison?  
 11 **A.** Well, I'll answer --  
 12 **LADY HALLETT:** I think that's a loaded question, to be  
 13 honest, Ms Pottle.  
 14 Don't worry about answering it, Ms Frazer.  
 15 **MS POTTLE:** Okay. I'll move on now to time outside of the  
 16 cell. That was one of the impacts of the regime.  
 17 **A.** Sure.  
 18 **Q.** Okay. In March, the Children's Commissioner had written  
 19 to the Lord Chancellor and knew about her concerns that  
 20 children would be held in solitary confinement, and in  
 21 April the Inspector for Prisons carried out a short  
 22 scrutiny visit of several young offenders institutions  
 23 that showed, for example, that all children in  
 24 Cookham Wood were locked in their cells for more than  
 25 23 hours a day.

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1 said -- I think he said something like "I'm sure that  
 2 complies with the social distancing guidelines but  
 3 I will look into it."

4 **MS POTTLE:** I see.  
 5 Is it the responsibility of the Lord Chancellor and  
 6 also the minister to manage industrial relations with  
 7 the prison service?  
 8 **A.** So yes, and no. So I've tried to get over, in a number  
 9 of ways, how important it was for the staff to come in  
 10 every day. And Phil Copple, who was the Director  
 11 General of HMPPS, had a very good relationship with the  
 12 POA. And that was critical to the operation of the  
 13 estate, including the children's estate.  
 14 And Dr Farrar told us that the -- it was a -- that  
 15 they were having difficult conversations with HMPPS.  
 16 I don't think it's the minister's job to disrupt  
 17 that delicate relationship and make matters worse, and  
 18 therefore, I don't think it would have been -- if  
 19 someone had asked me to get involved with that  
 20 discussion, I would absolutely a hundred per cent have  
 21 done it. Nobody did. And I didn't offer it, whereas  
 22 you'll see throughout my statement I offered assistance  
 23 on a whole range of other things proactively, because  
 24 I felt that this was a matter that was better resolved  
 25 by HMPPS.

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1 In May the Children's Commissioner published  
 2 a public briefing on the issue, and noted that for the  
 3 majority of children, and children in YOIs and secure  
 4 training centres, they'd been spending between 40  
 5 minutes and just over three hours out of their cells  
 6 each day. Do you recall hearing these updates from the  
 7 Children's Commissioner and the Inspectorate for  
 8 prisons?  
 9 **A.** Yes, where there's records of the Children's  
 10 Commissioner and the Inspectorate raising things with  
 11 me, I recall them.  
 12 **Q.** Okay. In the Children's Commissioner's update, she says  
 13 that the Youth Custody Service had introduced a new  
 14 method for calculating time outside of the cell, and  
 15 that until August 2020, there wasn't a reliable  
 16 calculation for time outside of the cell.  
 17 And I just wondered if you could help us with why  
 18 there was a delay for the Ministry of Justice monitoring  
 19 data about the time outside of the cell?  
 20 **A.** I think there's quite an extensive paragraph in my  
 21 witness statement dealing with time out of cell, but  
 22 I'll tell you my instincts on that.  
 23 So I pressed for time out of cell to be -- time to  
 24 be recorded because I wanted to hold the institutions to  
 25 account, given the time out of cell stories, you know,

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1 reports that I was hearing.  
 2 It wasn't a -- it wasn't something that had been  
 3 measured beforehand and I think it took HMPPS some time  
 4 to work out how to do it consistently across the estate.  
 5 And if you could just bear in mind, HMPPS is dealing  
 6 with a pandemic, it's collecting huge amounts of data on  
 7 a whole range of issues. This is a really critical one,  
 8 which is why it was important we collected it. But  
 9 that's possibly why it wasn't collected as early as it  
 10 could have been or should have been.  
 11 **Q.** Okay. Mr Taylor gave evidence to the Inquiry that as  
 12 late as June of 2025, many young offender institutions  
 13 are still operating restricted regimes and access to  
 14 education remains reduced, and he gave examples of  
 15 restrictions, including excessive amounts of time in the  
 16 cell, far too many children having less than two hours  
 17 out of the cell a day, and very poor access and  
 18 provision of education and other purposeful activity.  
 19 I appreciate this is after you left the Ministry of  
 20 Justice.  
 21 **A.** Right.  
 22 **Q.** But the difficulties, the lack of provision within the  
 23 youth estate continued from lockdown until now --  
 24 **A.** I can't -- yeah, I can't answer to any things that go  
 25 over my time.

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1 introduced later --  
 2 **A.** Yes.  
 3 **Q.** -- to provide a legal basis for that reduced regime?  
 4 **A.** Correct, yeah.  
 5 **Q.** All right. I'd like to focus in particular on the  
 6 changes in the secure training centre rules --  
 7 **A.** Sure.  
 8 **Q.** -- which came into force on 2 July 2020.  
 9 The exploratory memorandum to those changes states,  
 10 for example, that:  
 11 [As read] "There is a temporary minimum restricted  
 12 regime for children which reduces their time out of room  
 13 to at least 1.5 hours out of their room a day."  
 14 It would normally be 14 hours but it was reduced to  
 15 1.5 hours out a day.  
 16 [As read] "It also reduced access to classroom  
 17 education."  
 18 The statutory instrument also permitted the  
 19 suspension of family visits and certain welfare  
 20 obligations. It was passed, as I said, in July -- came  
 21 into force in July 2020 at a time when lockdown in the  
 22 community was easing so non-essential retail, for  
 23 example, had reopened. People were permitted to gather  
 24 in small groups.  
 25 At that time, did you feel that it struck an

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1 **Q.** Okay. I'm going to ask you now about legislation  
 2 reducing --  
 3 **A.** Could I ask -- because you've -- time out of cell  
 4 I think is really critical and there's a few things I'd  
 5 just like to say very briefly about it.  
 6 So time out of cell was linked to education. You  
 7 can't take them separately. If kids had got education  
 8 as we had planned, they would have had more time out of  
 9 cell. And in my view, the way to fundamentally, as  
 10 a minister, to fundamentally change the picture was to  
 11 change the national standards. So that's what I could  
 12 do as a minister. I couldn't operate each institution  
 13 but I could make sure that we opened -- we had wider  
 14 allowance, you know, fewer restrictions on the national  
 15 restrictions when we opened up. I could make sure we  
 16 prioritised the youth estate for opening up, which  
 17 I pressed Dr Farrar to do, and which I think we did do,  
 18 and I could consistently raise and measure time out of  
 19 cell to make sure that was done. So those were a few of  
 20 the steps that we took internally.  
 21 **Q.** Mm-hm. I'm going to move on now to the legislation  
 22 which reduced the regimes in the Children and Young  
 23 People Secure Estate. So we know that the lockdown  
 24 occurred on 24 March quite quickly, and it's right,  
 25 isn't it, that legislation -- statutory instruments were

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1 appropriate balance between the rights of children and  
 2 the measures needed to reduce the transmission of the  
 3 virus?  
 4 **A.** I think you captured the reason why we brought this  
 5 legislation in in your question to me. We needed to  
 6 make sure that what we were doing was legal and  
 7 therefore we needed to pass a statutory instrument to  
 8 ensure that what was practically happening on the ground  
 9 was provided for by legislative base, otherwise we could  
 10 have been challenged, which wouldn't have been very  
 11 helpful.  
 12 So that's what this did. We didn't have time to do  
 13 it beforehand. I think we only spotted the STCs -- we  
 14 hadn't done it for STCs at a later date because  
 15 obviously we did for YOIs earlier. That's why we  
 16 brought in the legislation.  
 17 I think if you read paragraph 7.2, if you'd carried  
 18 on you'd have said:  
 19 [As read] "It is the minimum expected level of  
 20 delivery during a secure estate alert level broadly  
 21 comparable with level 4. At all times, STCs will be  
 22 required to deliver the highest possible regime whilst  
 23 still complying with health guidelines."  
 24 So all we were doing was setting out a legal basis  
 25 for what was possible, ie, very, very minimum regime,

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1 but we were not saying this is the minimum standard. We  
 2 were saying -- we were not saying this is the standard;  
 3 we were saying: this is the minimum we expect but we  
 4 actually expect you to go much higher than that, we  
 5 expect you to deliver the highest possible regime whilst  
 6 complying with the health guidelines.

7 **Q.** But you've provided them with the option to lawfully  
 8 keep children in their rooms --

9 **A.** We were legislating -- (overspeaking) --

10 **Q.** -- for 23 and a half hours --

11 **A.** -- (overspeaking) -- for what was practically happening.

12 **Q.** Ms Frazer, let me ask the question. You were  
 13 legislating to allow secure training centres to keep  
 14 children in their rooms for 23 and a half hours a day  
 15 which would qualify as solitary confinement?

16 **A.** We were putting together a legal base to ensure that  
 17 what we did was legal. We were not -- we were, as we do  
 18 with many policies and laws, we make sure that we have  
 19 provided a legal base. We were in no way suggesting at  
 20 this time that this was what we expected of our  
 21 institutions.

22 **Q.** Okay. And just to finish up on this topic before the  
 23 break, there was no consultation undertaken with the  
 24 Children's Commissioner prior, no equality impact  
 25 assessment or child right impact assessment; is that

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1 **LADY HALLETT:** Certainly. I shall return at 3.10.  
 2 And I promise you, we will finish you this evening.

3 **THE WITNESS:** Thank you.

4 (3.00 pm)

5 (A short break)

6 (3.11 pm)

7 **LADY HALLETT:** Ms Pottle.

8 **MS POTTLE:** Yes.

9 Ms Frazer, I'd like to move on now to ask you about  
 10 the urgent notification issued in respect of Rainsbrook  
 11 Secure Training Centre.

12 **A.** Yes.

13 **Q.** The Inquiry has heard evidence from Charlie Taylor about  
 14 the failings which led to the notification being issued  
 15 in December 2020.

16 In October and November of 2020, Her Majesty's  
 17 Inspector of Prisons carried out assurance visits at  
 18 Rainsbrook. And the visit in October of 2020 showed  
 19 that newly admitted children who have to self-isolate  
 20 are locked in their bedrooms for 14 days and only  
 21 allowed out for 30 minutes. And the report said that  
 22 there was no rational reason to support this practice.

23 Were you aware at that stage, after the assurance  
 24 visit in October, that there were these concerns about  
 25 Rainsbrook Secure Training Centre?

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1 right?

2 **A.** So I saw the -- yeah, can I -- just on consultation,  
 3 though it's -- it's possible, yes, and probable,  
 4 though -- there was no specific consultation prior to --  
 5 with the Children's Commissioner prior to this coming  
 6 into force.

7 But if I could just put consultation into context.  
 8 Prior to the pandemic, I had no -- that my office -- my  
 9 former office has found I had no contact with the  
 10 Children's Commissioner.

11 During the -- between 30 March and 9 July, I met the  
 12 Children's Commissioner five times. So whenever she  
 13 wanted to speak to me, I met her. Whenever she wrote to  
 14 me, I met her. Whenever I had something to say to her,  
 15 I met her. So she had plenty of opportunity, as did  
 16 many stakeholders, to raise concerns with me. And as  
 17 we've already identified, the YOI amendments came in  
 18 before the STC ones.

19 So, I think -- in a normal scenario, before we bring  
 20 legislation, you consult with a range of people. This  
 21 was not a normal scenario, but there was plenty of  
 22 opportunity for people to engage with me throughout this  
 23 period.

24 **MS POTTLE:** Okay. We can pause there, I think, my Lady, for  
 25 a break.

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1 **A.** So looking back at what I -- my recollection of this  
 2 isn't as strong as some of the other areas that we've  
 3 covered. So -- but looking back at the notes, and the  
 4 evidence, I was first made aware of this on 2 November,  
 5 but it was not informing me; it was just share -- it  
 6 wasn't anything for me to decide or personally act;  
 7 I was just shared a copy of a briefing note for  
 8 information that was sent to Dr Farrar.

9 And then Charlie Taylor raised this with me in  
 10 a call that I had on 12 November.

11 **Q.** I see.

12 **A.** And then I suspect I spoke to my private office about  
 13 it, although I can't recall, because on 13 of November  
 14 my private office told me that the Lord Chancellor was  
 15 dealing with it.

16 **Q.** I see. So if the Lord Chancellor was dealing with it,  
 17 do I understand, then, that you didn't take any further  
 18 action at that stage?

19 **A.** No, I did take some action but on some things where the  
 20 Lord Chancellor was dealing with it, I didn't always  
 21 take as proactive a stance as I did when I wasn't told  
 22 that. So I got a briefing note on 16 December,  
 23 discussed it with Jo on the -- so I didn't -- it doesn't  
 24 look like I did much after 13 November, and then I think  
 25 we get the UN on the 16th, at the same time of December,

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1 I get a briefing note, I discuss it immediately with  
2 Dr Farrar on the same day and I asked to speak to the  
3 CEO of MTC, David Hood, and I speak to the CEO to raise  
4 my concerns about it on 21 December.

5 **Q.** Okay. In his evidence to the Inquiry, Charlie Taylor  
6 was asked if he was given an explanation for the failure  
7 to heed the October report, because there's the October  
8 report and then the December report.

9 **A.** Mm.

10 **Q.** And if we can just pull up the transcript, please, to  
11 see his evidence. He says:

12 "It was astonishing. It's almost as if no one was  
13 really checking. It was very early when, when I'd just  
14 started at the Inspectorate and we'd just assumed that  
15 going in there and writing the initial report that we'd  
16 written, saying that for goodness sake, you know, there  
17 are ways of doing this in a more creative -- we know  
18 it's difficult but there are ways of doing this more  
19 creatively. And it was just really astonishing that  
20 monitors, leaders, the Youth Custody Service, none of  
21 these people had picked it up."

22 And what he's referring to here about "doing it more  
23 creatively" is the scheme by which newly arrived  
24 children were placed in isolation for 14 days, and only  
25 allowed out of their cells for 30 minutes.

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1 too close to -- so, first of all, Rainsbrook -- MTC did  
2 not accept -- my understanding was that MTC did not  
3 accept that there were issues at Rainsbrook. And  
4 secondly, the HMPPS people who were meant to be  
5 monitoring it were a little bit too close to the  
6 management at Rainsbrook.

7 So that's all I recall of possibly why the issues  
8 hadn't been resolved earlier.

9 **Q.** I see. Well, you became involved, I think you became  
10 involved once the urgent notification --

11 **A.** Yeah.

12 **Q.** -- or more heavily involved, if I can put it that way.

13 **A.** Yeah.

14 **Q.** And what action did you take once you received the  
15 urgent notification?

16 **A.** So I -- remember the Lord Chancellor is dealing with it.  
17 So I asked to speak to the CEO of MTC to find out what  
18 was happening, and then a statutory -- once the urgent  
19 notification is made, a statutory process kicks in and  
20 what happens is that HMPPS put a number of proposals as  
21 to how improvements need to be made, they put that. So  
22 I had updates from Dr Farrar as to whether MTC were  
23 complying with those requirements and from memory, my  
24 understanding is that they were, and I left in March,  
25 and I think things evolved after that, as well.

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1 What I want to explore with you is, can you provide  
2 us with any insight as to why the Inspectorate's  
3 concerns after that visit went unheeded?

4 **A.** What's the period that he's talking about where they've  
5 gone unheeded?

6 **Q.** He's talking about the October visit, they go and they  
7 notice that children are being held for 14 days, only  
8 allowed out of their cells for 30 minutes at a time.  
9 And he's asked why no one had picked it up, and he said  
10 it was astonishing and so I wanted --

11 **A.** It didn't come to my attention, as I said, until  
12 November, and when he personally raised it with me, the  
13 Lord Chancellor said he was dealing with it. I do have  
14 a recollection of some conversations that I had with  
15 Dr Farrar but I can't a hundred per cent recollect when  
16 exactly they were but I'm very happy to share them with  
17 you. And I haven't found any documentary evidence which  
18 bears any of what I'm about to say out, but I can tell  
19 you what I think I recollect, if that would be helpful.

20 **Q.** Please do.

21 **A.** So I think the position was that -- so Rainsbrook was  
22 a private prison, a private institution, and the way  
23 that that's monitored is that there are people from  
24 HMPPS who monitor it. And I think Dr Farrar was under  
25 the impression that those people had got a little bit

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1 **Q.** I see. Do you accept that there is a general failure of  
2 oversight of HMPPS as regards Rainsbrook Secure Training  
3 Centre?

4 **A.** I would just repeat what I've said on this particular  
5 occasion. I think Dr Farrar had thought that HMPPS had  
6 got the -- the HMPPS staff hadn't picked up some of the  
7 issues and Rainsbrook wasn't taking responsibility for  
8 the errors that it was making.

9 **Q.** But you, and of course the Lord Chancellor have that  
10 oversight role over HMPPS --

11 **A.** Mm.

12 **Q.** -- so some of the responsibility, of course, lies with  
13 you and, ultimately, the Lord Chancellor?

14 **A.** Yes. And as soon as the urgent notification was issued,  
15 a process was followed which ultimately led to MTC  
16 losing its contract.

17 You have to remember that it's a contract, so there  
18 are -- we can't just step in and immediately take over.  
19 You know, there are consequences of shutting down an  
20 institution or there are legal consequences of taking  
21 away a contract. So we had to go through some  
22 procedures in order to make sure that we gave MTC the  
23 chance to prove that it could operate the institution.

24 And as it transpired, it didn't come up to those  
25 standards that we required of it.

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1 But I wasn't involved. I left the office the  
2 following March, early March, I think the 2nd.  
3 **Q.** At the beginning of your evidence you accepted that the  
4 youth estate wasn't functioning as it should and that  
5 was one of the reasons why. As I understand it, you  
6 were exploring in your time in office moving to a system  
7 of secure schools, for example.

8 Did the urgent notification being triggered at  
9 Rainsbrook, was that -- did that help inform your  
10 thinking -- (overspeaking) --

11 **A.** No, I believed the secure schools are the way forward in  
12 order to rehabilitate young people who have committed  
13 crimes, and that's why I was pursuing policy of secure  
14 schools.

15 **Q.** Did you draw any conclusions or any lessons from the  
16 urgent notification which was issued at Rainsbrook?

17 **A.** What do you mean by lessons?

18 **Q.** Well, any lessons to be learned for the future  
19 management of the secure estate?

20 **A.** I'm afraid it's -- I don't have all the details to hand  
21 of what they -- obviously they weren't operating as they  
22 should, particularly in relation to how I think they  
23 received people in during the pandemic. Obviously that  
24 was wrong and wasn't -- it wasn't happening at different  
25 institutions, and I hope that -- I'm sure HMPPS took

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1 **A.** Sure, of course.

2 **Q.** -- in oversight.

3 So moving on now to the early release scheme. So in  
4 your statement you deal with the scheme. You say:

5 "The key reasons for early release were to reduce  
6 the population in order to allow single cell occupancy  
7 for isolation and to release clinically vulnerable  
8 prisoners. We all recognised the need for decisions on  
9 release to be based on scientific evidence. In a note  
10 from the Lord Chancellor's private office following  
11 a meeting on 21 March ... which I and the  
12 Lord Chancellor attended, it is recorded that: '[The  
13 Lord Chancellor] asked for work to start identifying the  
14 vulnerable cohorts and the practical steps we would need  
15 to release them. He also wanted clear scientific  
16 rationale for who we would be releasing'."

17 We've already seen the evidence -- the briefing,  
18 pardon me, from PHE, from Dr O'Moore, setting out the  
19 need for -- to reduce overcrowding in the estate and to  
20 have single-cell occupancy to reduce the risks of  
21 infection in prisons.

22 We can take that down now.

23 In the end, it's right, isn't it, that no children  
24 were released under the early  
25 release -- (overspeaking) --

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1 those matters on board in relation to making sure other  
2 institutions were operating fully and appropriately.

3 **Q.** Did you draw from that experience that there was also  
4 not just a failure within Rainsbrook and the company  
5 that operated it, but a failure of oversight from HMPPS?

6 **A.** I don't have any more to add to what I've already said.

7 **Q.** Okay.

8 I'm going to ask you now about the early release  
9 provisions, which were brought into force at an early  
10 stage in the pandemic to reduce the prison population.

11 I think you deal with it at paragraph 130 of your  
12 witness statement, the reasons for the scheme. If we  
13 could just bring that up, please.

14 Yes, page 32, paragraph 130.

15 **A.** I mean, just coming back to Rainsbrook, because I'm just  
16 reflecting, like you said. I don't think you -- I think  
17 the problem lay with MTC. I don't think you can say it  
18 was all HMPPS's fault. The problem lay with them. But  
19 of course HMPPS had a duty also to oversight.

20 I just wanted to add that.

21 **Q.** Yes, I think --

22 **A.** It wasn't a public institution.

23 **Q.** Yes, I think we can agree on that. It's not that  
24 there's no fault with MTC, but that HMPPS also has  
25 a role to play --

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1 **A.** That's correct.

2 **Q.** But adults were released?

3 **A.** Some adults were released.

4 **Q.** Some -- yes, not all. But some adults were released?

5 **A.** Yeah.

6 **Q.** Okay.

7 And would you agree with me that the reason that  
8 children weren't released, they had the same eligibility  
9 criteria as the adults, but in the end children weren't  
10 released because, of course, they were held in  
11 single-cell accommodation anyway, there was sufficient  
12 headroom within the youth custody estate to absorb any  
13 additional demand on bed spaces, and there weren't many  
14 children who were clinically vulnerable? So the real  
15 goals for the early release scheme didn't apply to  
16 children in the same way as they applied to adults;  
17 would you agree with me?

18 **A.** Those were definitely factors, but if I could outline  
19 why I think no children were released in a bit more  
20 detail.

21 So, first of all, we only released people who hadn't  
22 committed serious offences. And, as you quite rightly  
23 stated, we had under 800 young people in the estate.  
24 Some of those, therefore -- you only get -- go to prison  
25 if you're a young person if you've committed a very

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1 serious offence or you're a persistent offender. So  
 2 there was a reason why those people were in the  
 3 institution and therefore there's a reason why they  
 4 probably weren't eligible under the scheme.  
 5 And the second reason is -- and this is a really  
 6 important reason and I'm not sure it comes out  
 7 sufficiently -- is that, as ministers, we had a duty to  
 8 protect the public. And we'd be having a very different  
 9 inquiry right now if we had released someone, child or  
 10 adult, and they had gone on to commit a serious crime.  
 11 And as a -- I was responsible for probation as well as  
 12 for prisons, and during my time as the minister for  
 13 probation, the parole board had released somebody and  
 14 they had gone on to commit a very serious crime and  
 15 there was an inquiry -- an investigation as to why we  
 16 had allowed that person -- why the Parole Board had  
 17 allowed that person to be released.  
 18 So releasing someone when you're a minister has  
 19 a number of issues you have to consider, and protecting  
 20 the public is a significant one.  
 21 And the other one that you haven't mentioned that's  
 22 relevant is where -- in order for -- to release a child,  
 23 particularly a child, you have to make sure that they're  
 24 going to be protected when they go into the community.  
 25 And if you think about -- I'm sure you've heard evidence  
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1 interests of public health, not because it was difficult  
 2 in prisons but because they might contract coronavirus.  
 3 And as you rightly said, Ms Pottle, there wasn't  
 4 that issue in the youth estate, (a) children were less  
 5 affected by the virus and (b) they had single cells  
 6 anyway. So there wasn't the impetus to release people  
 7 but still there was a scheme available and then we got  
 8 on to, well, if they've satisfied all the criteria, is  
 9 it appropriate to release them?  
 10 And then we look at that next factor, which is:  
 11 where will they go? Is there a place to go?  
 12 **Q.** Yes, I see.  
 13 The Children's Commissioner had written to you on  
 14 25 March calling for the release of children in order to  
 15 protect their rights during the pandemic.  
 16 **A.** Sure.  
 17 **Q.** So not as a sort of infection control measure,  
 18 I think --  
 19 **A.** Yeah.  
 20 **Q.** -- in order to ensure that they weren't adversely  
 21 affected by drops in staffing levels, for example, or no  
 22 visits, or a drop in their time out of their rooms. And  
 23 all of those things, of course, came to pass.  
 24 But the reason, I suppose, that no children were  
 25 released, is that the criteria were designed -- and  
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1 of the state of education, the state of social care, the  
 2 state of looked-after children during the course of this  
 3 Inquiry, and we were very conscious that we would be  
 4 releasing people potentially to places where they would  
 5 have no education, they'd have no healthcare, they'd  
 6 have no mental health support, and they possibly  
 7 wouldn't have the appropriate home in the community.  
 8 So it's not just it's great to release people  
 9 because then they're free, you've got to think about  
 10 also what is the scenario which they then face.  
 11 **Q.** So you would agree that the extent to which children  
 12 were released was hampered by a lack of availability and  
 13 capacity to find them suitable homes in the community?  
 14 **LADY HALLETT:** That was one factor.  
 15 **MS POTTLE:** One factor.  
 16 **A.** So it's one factor -- and actually you don't get to that  
 17 question. That question is later on.  
 18 So the first question is: what's the level of  
 19 offence and protection of the public? And then there's:  
 20 do we actually need to release? I mean, you remember  
 21 there was a lot of pushback from Number 10 not to  
 22 release anybody at all. I pushed very hard, very hard,  
 23 to persuade the Prime Minister to allow us to release  
 24 people in the interests public health. That's why we  
 25 were releasing people. We were releasing people in the  
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1 they're the same eligibility criteria for children as  
 2 adults -- and they were designed to release offenders  
 3 who wouldn't pose a risk to the public, and they were  
 4 designed to avoid, you know, deaths in custody, which  
 5 was really more of a problem for adults than for  
 6 children; is that correct?  
 7 **A.** Yes, I set out the criteria why we considered them and  
 8 I think they were the appropriate criteria.  
 9 **Q.** You don't think that it was appropriate to have  
 10 different criteria for children --  
 11 **A.** Well, we did --  
 12 **Q.** If I can just ask --  
 13 **A.** -- (overspeaking) -- we did have the same --  
 14 **Q.** I just need to ask the question.  
 15 **A.** Of course.  
 16 **Q.** You didn't think it was appropriate to have different  
 17 criteria for children so that they could be released in  
 18 order to protect them from the poor regime in the  
 19 children's secure estate?  
 20 **A.** So you'll see if you look through the subs that during  
 21 the course of discussing this, the Lord Chancellor  
 22 specifically said, "I think we should consider children  
 23 separately". There's a sub where the HMPPS say, "We are  
 24 looking at children separately". So we did think about  
 25 should there be a different regime for children? And we  
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1 concluded -- I think HMPPS advised us, in the interests  
2 of public protection, but anyway, the advice was that we  
3 shouldn't have a separate regime. But that's not to say  
4 we didn't consider it.

5 I'd really like to get over, because I know a lot of  
6 people have given evidence about, and are disappointed  
7 with the outcomes of the decisions we might have made  
8 but I would really like to get over that I cared deeply  
9 about young people, the Lord Chancellor cared deeply  
10 about young people, and Dr Farrar cared deeply about  
11 young -- and we were all on the same page about the  
12 importance of young people, and at every single stage in  
13 the course of our considerations and decisions, we  
14 considered young people.

15 Now, people might not be happy with the outcome, the  
16 decision that we actually came to, because in the end it  
17 ended up being the same as adults, but that's not to say  
18 we didn't consider it at the outset. So --

19 **Q.** Okay.

20 **A.** -- the Lord Chancellor had specifically said, "Can we  
21 consider whether we have a different position for young  
22 people", and in the end we didn't.

23 **Q.** I'd like to pull up, please --

24 **A.** But, for the fact, that each person was considered on  
25 a case-by-case basis.

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1 no children have been released to date."

2 If we turn over the page, he says:

3 "We would recommend reviewing the criteria being  
4 applied to children under [the scheme] to develop a set  
5 of criteria, particularly for children, rather than  
6 overlaying the criteria for adults."

7 So you were being advised by your officials that,  
8 you know, no children were being released, you were  
9 aware of that, and that you should consider developing  
10 specific criteria for children and a decision was taken,  
11 I presume, not to do that?

12 **A.** So the YJB -- you describe Colin Allars and the YJB as  
13 an official -- I wouldn't -- I mean, HMPPS are the main  
14 agency responsible for youth custody estate, and we took  
15 advice from them, and I have said we did think about  
16 whether there should be a specific regime. We'd already  
17 considered whether there should be the same criteria for  
18 young children and for a variety of reasons we decided  
19 that there shouldn't be.

20 I did press HMPPS on a number of occasions as to why  
21 more people were not coming through the system. I was  
22 really disappointed, because I had expended political  
23 capital on getting this regime through Number 10, and  
24 we'd really said, "We need to release people". We  
25 impressed on them that we needed to do it in order to

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1 **Q.** Okay. I'd like to pull up, please, a document which was  
2 a briefing given to you as the scheme progressed and it  
3 became clear that no children were being released, and  
4 the document is INQ000567552.

5 So this is from Colin Allars, from the Youth  
6 Justice Board, to you and he's providing a briefing on  
7 the impact of Covid on the youth justice sector, and if  
8 we can scroll, please, to page 3, it's secure estate,  
9 and he gives an update as to -- thank you --  
10 difficulties in the secure estate.

11 And at the bottom paragraph he says:

12 "Although the numbers of children in the secure  
13 estate has been reducing, the [Youth Justice Board] has  
14 been working to support the [Ministry of Justice] and  
15 the Youth Custody Service to further reduce the numbers  
16 ... in custody. We have worked with [Youth Custody  
17 Service] to advise on their arrangements for the  
18 Emergency ... Temporary Release ... by providing  
19 specific support and guidance on ensuring the safety and  
20 suitability of [children's] release arrangements ... We  
21 have also worked to resolve issues around communication  
22 with a child on release and transportation. You will  
23 know that there are currently 9 children scope for  
24 release in the next 100 days ... It is disappointing  
25 that more children are not in scope for release and that

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1 manage the estate properly, and very few numbers were  
2 coming through. So on a number of occasions I said to  
3 Dr Farrar, and I think I say at one stage, "This scheme  
4 is being operated too leisurely".

5 So I was pressing for people who were within the  
6 criteria to come through. And no one came to me.

7 I did the -- my office -- in preparing for this, we  
8 did look at why -- I keep saying "my office", of course  
9 they're not my office -- they're the -- officials have  
10 looked at why the individuals who did satisfy the  
11 criteria, why they did not come through. And there were  
12 individual reasons for each one. Like they were being  
13 released anyway, on different types of scheme, because  
14 their time was up or they weren't suitable for various  
15 high-risk reasons.

16 **Q.** Yes.

17 In your witness statement you say:

18 [As read] "On reflection, a custodial sentence is  
19 a matter of last resort and so the seriousness of the  
20 offence might have excluded them from release."

21 But that is a matter which could have been  
22 appreciated at the time of the eligibility criteria  
23 being drawn up --

24 **A.** Well, we did consider it at the time and that's why  
25 there were so few children within scope.

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1 **Q.** And so the priority was not to release children in order  
2 to improve their conditions in custody?  
3 **A.** No, the priority was to release people in order to free  
4 up space.  
5 The advice we'd been given by -- the reason we were  
6 doing this was because Dr O'Moore had advised that in  
7 order to operate the prison system, for health reasons,  
8 we needed to release significant numbers of people.  
9 **Q.** Ms Frazer, one final question from me.  
10 Taking a step back from all the issues that we've  
11 covered this afternoon, the use of the same criteria for  
12 adults and children in the early release provisions,  
13 applying the same operational guidance on social  
14 distancing to children in custody, for example, would  
15 you agree that, being 1% of the prison population,  
16 children's specific needs and vulnerabilities were not  
17 given sufficient consideration by you during the  
18 pandemic?  
19 **A.** No. I would not agree with that. At each stage when we  
20 made a decision, we thought about the particular cohorts  
21 within our estate very carefully, because we all cared  
22 about children. And we thought about them. We didn't  
23 always make a differential decision, but we certainly  
24 considered it.  
25 **MS POTTLE:** Thank you very much.

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1 Ofsted, that while some oversight was maintained of  
2 young offender institutes in the form of short scrutiny  
3 visits, there was no oversight of secure training  
4 centres at all for six months. And in the absence of  
5 that independent oversight, did you take any steps to  
6 ensure the information you received was accurate, for  
7 example by speaking to children directly?  
8 **A.** Thank you very much for your question, and on a very  
9 important subject about monitoring.  
10 I encouraged any monitoring -- I was keen to have  
11 any information come my way so that I could fulfil my  
12 job as effectively as possible as prisons minister. So  
13 if any of the institutions who were responsible for  
14 monitoring prisons wanted to continue to monitor their  
15 prisons, I encouraged and supported it.  
16 So, for example, Her Majesty's prisons inspectorate  
17 asked to continue to monitor. HMPPS were a little bit  
18 nervous about that considering the burden that it placed  
19 on them, but I said that it needed to continue to take  
20 place. The IMB continued to monitor prisons.  
21 The Children's Commissioner Asked for evidence.  
22 When she asked for evidence, I made it available to her.  
23 I tried to speak to people on the ground. So, as  
24 I've mentioned during the course of my evidence, I spoke  
25 to the prison governors of the youth estate, and indeed

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1 I have no further questions.  
2 **LADY HALLETT:** Thank you, Ms Pottle.  
3 Ms Jichi, who is over there.  
4 **Questions from MS JICHI**  
5 **MS JICHI:** Ms Frazer, I'm asking questions on behalf of  
6 Children's Rights Organisations.  
7 I want to ask how the MoJ monitored the impact of  
8 restrictions on children in custody during the pandemic  
9 when independent oversight was suspended in March 2020.  
10 In your statement at paragraph 263 you note that  
11 the MoJ received data on time out of cells, and you told  
12 us today in your evidence that it was a really critical  
13 measure.  
14 In July 2020, the data showed the lowest mid-week  
15 average per day was YOI Cookham Wood, with 2.3 hours,  
16 and the highest was Rainsbrook, with an average of  
17 6.5 hours out of room across June. However, as we've  
18 heard, Ofsted found during their independent monitoring  
19 visit to Rainsbrook in October 2020 that children were  
20 still being locked in their cells for 23.5 hours a day,  
21 prompting an urgent notification in December 2020.  
22 This was akin to solitary confinement and is very  
23 different from the 6.5 hours out of cell time that was  
24 reported to you in June.  
25 Did you raise concerns with anyone, for example with

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1 prisoners -- governors of other prisons as well. And  
2 I tried to collect data as well and tried to encourage  
3 HMPPS to collect data.  
4 So we've heard about --  
5 **Q.** Ms Frazer, I'm sorry for interrupting, but specifically  
6 on secure training centres, you were aware that there  
7 was no independent oversight of those for almost  
8 six months. Did you take any steps to ensure that the  
9 information you were receiving on such an important  
10 measure, that you recognised yourself, was correct?  
11 **A.** So it's for the institutions to decide, because they  
12 have the duty of care to their staff, how they were  
13 going to manage the pandemic. If Ofsted had said to me  
14 they wanted to continue to go into institutions, I would  
15 have been in favour of it.  
16 I did meet the -- Amanda Spielman of Ofsted to  
17 discuss their inspection of the institutions.  
18 **Q.** Moving -- turning now, please, Ms Frazer, to considering  
19 all the restrictions on children in custody, including  
20 lack of meaningful access --  
21 **LADY HALLETT:** Can you go closer to the microphone?  
22 I can't -- it's probably my age and hearing.  
23 **MS JICHI:** Apologies, my Lady.  
24 **LADY HALLETT:** Thank you.  
25 **MS JICHI:** Turning now to all restrictions on children in

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1 custody, including having no meaningful access to  
2 education and stopping of visits, how frequently was the  
3 impact and proportionality of placing children under  
4 such severe restrictions reviewed? And what steps were  
5 taken to ensure children were treated in a way that  
6 recognised their distinct needs and vulnerabilities?

7 **A.** So we constant -- you know, each institution -- the  
8 framework that we set out allowed for a discretion for  
9 each institution to manage the pandemic in the way that  
10 it saw fit. And so they had a discretion to change what  
11 they were doing in accordance to what they thought ought  
12 to be happening on the ground.

13 We also had the level -- the -- we had a framework  
14 which set out a number of levels, and if an institution  
15 felt that it could go to the next level and decrease  
16 restrictions, there was a gold command procedure to  
17 enable it to do that.

18 And so there was provision to enable people to adapt  
19 as circumstances changed.

20 **LADY HALLETT:** Thank you very much, Ms Jichi.

21 **MS JICHI:** Thank you, my Lady.

22 **LADY HALLETT:** Mr Gardner, I've given you permission for  
23 a question but looking at it I'm not quite sure where  
24 it's going, but see if you can make it clear to me and  
25 see if Ms Frazer can understand.

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1 **A.** I think it's difficult to extrapolate from two  
2 particular institutions the entirety of policy, and  
3 children's -- secure children's homes were the -- were  
4 not my responsibility. So it's difficult for me to  
5 comment on the question you raise.

6 I mean, just in relation to Parc, I saw what Charlie  
7 Taylor said about it, and this is only speculation on my  
8 part, but I do think that Parc operated well before the  
9 pandemic, and therefore operated well after -- during  
10 the pandemic and indeed after the pandemic. I went to  
11 see it. It's a very good institution. And in addition,  
12 because it's a private institution, it was managed --  
13 its education providers were -- both its staff and its  
14 education providers were both provided by G4S and  
15 I think that was why it did so well, and I think it also  
16 probably underlines that it wasn't the guidance, they  
17 didn't have the same problems with the unions.

18 **MR GARDNER:** Yes. If I may just very briefly follow up,  
19 my Lady, very briefly?

20 **LADY HALLETT:** It better be brief.

21 **MR GARDNER:** Of course, I'm very grateful, my Lady.

22 In which case that's operational and I understand  
23 the difference there. In terms of the formulation of  
24 policy, so you had a lot of consultation with Public  
25 Health England; did Public Health Wales ever become

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1 **MR GARDNER:** I am very grateful, my Lady.

### 2 Questions from MR GARDNER

3 **MR GARDNER:** Ms Frazer, I represent the Children's  
4 Commissioner for Wales. You'll be aware that in Wales  
5 youth justice policy is not a devolved matter but public  
6 health is a devolved matter.

7 Now, this Inquiry has heard evidence from Charlie  
8 Taylor already that suggests that during the pandemic,  
9 YOI Parc, for example, managed to work effectively with  
10 Public Health Wales and produced, in his view, a much  
11 better situation than the YOIs in England.

12 Now, conversely, the Children's Commissioner for  
13 Wales has had to work with Hillside Secure Children's  
14 Home to deal with problems that she experienced,  
15 including a difficulty in understanding the guidance  
16 that they should follow, in struggling to obtain testing  
17 kits because of a lack of clarity over which body should  
18 be providing them, and in practices of lengthy isolation  
19 periods.

20 Now, with that varied background, may I ask for your  
21 views on how public health guidance coming from Welsh  
22 institutions but prison policy coming from the  
23 UK Government had an impact on both the formulation of  
24 MoJ policy and your views on the wider impact on  
25 children and young persons in secure estate in Wales?

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1 involved?

2 **A.** Well, as you say, health was a devolved matter, and I'm  
3 sure that Éamonn O'Moore liaised with -- well, I'm not  
4 sure, I hope Éamonn O'Moore liaised with Public Health  
5 Wales. He was my main contact.

6 **MR GARDNER:** I'm grateful, my Lady.

7 **LADY HALLETT:** Thank you, Mr Gardner.

8 Ms Pottle, I think that completes the questions for  
9 Ms Frazer.

10 **MS POTTLE:** Yes.

11 **LADY HALLETT:** Sorry, anything more for this witness?

12 **MS POTTLE:** No, thank you.

13 **LADY HALLETT:** Thank you very much indeed for your help,  
14 Ms Frazer. That completes all the questions we have for  
15 you.

16 **THE WITNESS:** Thank you very much.

17 **LADY HALLETT:** I'm tempted to ask whether life in the  
18 private sector is better or worse than in public, but I  
19 won't do that, but thank you for your help.

20 **THE WITNESS:** Thank you very much. Thank you for all your  
21 time on this very important issue.

22 **LADY HALLETT:** Thank you.

23 Ms Pottle.

24 **MS POTTLE:** My Lady, that completes the oral evidence for  
25 week 3 of Module 8. With your permission, we will also

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1 adduce into evidence a number of witness statements  
 2 relevant to the evidence you've heard this week on  
 3 education, social care, health and youth justice. These  
 4 include statements from UK Government departments,  
 5 inspectorates, and qualifications bodies, public health  
 6 organisations, as well as a number of charities and  
 7 non-governmental organisations.

8 These will shortly be published on the Inquiry's  
 9 website. Thank you.

10 **LADY HALLETT:** Thank you very much indeed, Ms Pottle, and  
 11 that includes the statement from Éamonn O'Moore, about  
 12 whom Ms Frazer has been speaking.

13 Thank you very much. I shall sit again at 10.30 on  
 14 Monday, 20 October. Thank you.

15 **(3.46 pm)**

16 **(The hearing adjourned until 10.30 am**  
 17 **on Monday, 20 October 2025)**

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<b>MR GARDNER: [5]</b>	<b>11.30 [2]</b> 49/20 49/23	60/14 60/22 65/19	<b>3</b>	<b>95 [2]</b> 110/20 111/6
178/1 178/3 179/18	<b>12 [5]</b> 28/14 53/21	66/23 68/3 73/3 77/7	<b>3,500 [2]</b> 51/23	<b>96 [1]</b> 113/23
179/21 180/6	106/24 109/8 156/10	77/8 77/11 77/12 80/6	115/16	<b>99 [1]</b> 127/4
<b>MR LEE: [3]</b> 71/25	<b>12.47 [1]</b> 99/5	80/17 81/1 83/18 85/2	<b>3.00 [1]</b> 155/4	<b>99.995 [1]</b> 42/20
72/6 98/18	<b>13 [1]</b> 156/13	85/4 85/18 87/25 88/9	<b>3.10 [1]</b> 155/1	
<b>MR WAGNER: [3]</b>	<b>13 May [2]</b> 142/24	88/12 88/13 88/15	<b>3.11 [1]</b> 155/6	<b>A</b>
66/13 66/16 71/13	143/5	89/4 92/18 92/19	<b>3.46 [1]</b> 181/15	<b>able [20]</b> 7/19 25/14
<b>MS IENGAR: [2]</b>	<b>13 November [1]</b>	96/20 105/11 109/1	<b>3.72 [1]</b> 69/12	34/2 54/6 58/14 59/13
59/2 63/16	156/24	111/11 121/22 125/18	<b>3.72 [1]</b> 69/12	59/20 75/5 78/16 79/1
<b>MS JICHI: [4]</b> 174/5	<b>130 [2]</b> 162/11	125/23 140/2 148/15	<b>3.94 [1]</b> 31/13	109/24 112/9 116/4
176/23 176/25 177/21	162/14	151/8 151/21 155/15	<b>3.95 [1]</b> 32/19	116/5 116/6 116/7
<b>MS PEACOCK: [2]</b>	<b>14 [5]</b> 53/19 54/5	155/16 155/18 174/9	<b>30 [3]</b> 155/21 157/25	120/7 124/19 124/19
63/21 66/9	155/20 157/24 158/7	174/14 174/19 174/21	158/8	132/13
<b>MS POTTLE: [22]</b>	<b>14 hours [1]</b> 151/14	<b>2021 [11]</b> 35/11	<b>30 December [2]</b>	<b>about [135]</b> 2/14 2/19
1/4 1/8 2/3 39/19 47/3	<b>15 [5]</b> 54/9 85/4	35/20 45/17 45/21	143/15 143/17	4/11 5/9 6/11 13/5
48/14 49/13 49/25	103/15 103/21 104/3	53/4 59/15 60/8 60/15	<b>30 March [1]</b> 154/11	17/18 19/9 19/14
57/7 58/20 99/9 99/14	<b>16 [4]</b> 73/15 89/4	61/15 69/12 100/3	<b>32 [2]</b> 91/7 162/14	21/25 23/10 24/4
125/15 146/4 147/15	90/22 140/4	<b>2022 [2]</b> 64/7 65/20	<b>32 weeks [1]</b> 91/9	27/16 29/18 29/19
154/24 155/8 166/15	<b>16 December [1]</b>	<b>2023 [2]</b> 64/7 65/20	<b>39 [15]</b> 72/13 72/15	29/20 32/19 33/14
173/25 180/10 180/12	156/22	<b>2024 [3]</b> 9/21 72/19	72/18 72/20 73/18	33/19 35/5 37/17 38/5
180/24	<b>16 October 2025 [1]</b>	100/1	73/19 74/7 74/19 77/3	40/6 40/9 43/13 44/21
<b>THE WITNESS: [8]</b>	1/1	<b>2025 [4]</b> 1/1 72/7	80/17 83/12 87/8 93/3	45/14 47/17 48/17
1/22 1/24 2/1 49/19	<b>16th [1]</b> 156/25	149/12 181/17	93/15 99/2	50/1 53/1 56/3 56/9
71/22 155/3 180/16	<b>17 [3]</b> 73/15 104/12	<b>203 [2]</b> 133/12	<b>39's [1]</b> 74/5	57/21 58/4 60/9 60/11
180/20	137/20	134/12		61/4 61/6 61/7 61/17
'	<b>17 March 2020 [1]</b>	<b>2030 [1]</b> 111/3	<b>4</b>	61/25 65/12 65/13
	77/7	<b>20th century [1]</b>	<b>4.2 [1]</b> 106/6	66/5 66/20 66/22 67/2
<b>'24 [1]</b> 5/22	<b>1700 [1]</b> 110/23	12/24	<b>4.9 [1]</b> 95/23	69/7 69/7 69/11 69/22
<b>'4 [1]</b> 9/22	<b>18 [1]</b> 36/4	<b>21 [3]</b> 95/18 103/15	<b>40 [1]</b> 148/4	69/24 75/14 76/23
<b>'According [1]</b> 33/4	<b>18 March 2020 [1]</b>	103/21		78/4 78/23 80/3 80/15
<b>'All [1]</b> 134/4	83/18	<b>21 December [1]</b>	<b>5</b>	81/7 81/8 82/5 86/5
<b>'As [1]</b> 111/12	<b>19 [19]</b> 13/20 14/2	157/4	<b>5.12 [1]</b> 5/15	88/4 89/3 89/4 89/5
<b>'catch [1]</b> 67/20	15/7 36/3 37/6 40/16	<b>21 July 2021 [1]</b> 53/4	<b>5.15 [1]</b> 5/15	91/21 92/9 94/12
<b>'efforts [1]</b> 137/23	46/8 50/16 50/24	<b>21 March [1]</b> 163/11	<b>5.16 [2]</b> 17/10 65/3	95/13 99/20 102/21
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<b>'shielding' [1]</b> 51/7	55/1 68/6 77/17 85/17	<b>22 hours [1]</b> 105/19	<b>5.2 [1]</b> 12/15	112/9 114/14 115/4
<b>'sleeper' [1]</b> 10/25	122/3 129/1	<b>23 [3]</b> 88/15 153/10	<b>5.7 [1]</b> 12/16	115/20 116/9 116/20
<b>'Social [1]</b> 110/24	<b>1960s [1]</b> 78/6	153/14	<b>50 [1]</b> 112/7	116/21 117/5 117/14
<b>'We [1]</b> 134/14	<b>1988 [1]</b> 72/21	<b>23 hours [2]</b> 81/11		117/14 117/15 117/21
-	<b>1990s [1]</b> 72/25	147/25	<b>6</b>	118/2 118/3 118/22
-- it [1] 156/23	<b>1998 [1]</b> 80/10	<b>23 March [2]</b> 110/22	<b>6-17 [1]</b> 137/20	119/16 119/19 121/18
.		129/4	<b>6.5 hours [2]</b> 174/17	123/21 124/23 125/5
<b>' [1]</b> 134/16	<b>2</b>	<b>23.5 hours [2]</b> 76/7	174/23	125/5 135/15 138/5
	<b>2,500-3,500 [2]</b> 51/23	174/20	<b>6.8 [2]</b> 17/10 17/17	138/8 141/7 145/2
<b>0</b>	115/16	<b>24 [3]</b> 88/15 96/20	<b>65 safeguards [1]</b>	147/14 147/19 148/19
<b>0701 hours [1]</b>	<b>2,500-3,500 based [1]</b>	133/18	88/17	150/1 150/5 155/9
111/12	122/18	<b>24 April 2020 [1]</b>	<b>7</b>	155/13 155/24 156/12
	<b>2.3 hours [1]</b> 174/15	92/18	<b>7,000 [1]</b> 88/1	157/4 157/22 158/4
	<b>20 [1]</b> 81/10	<b>24 March [6]</b> 50/17	<b>7.2 [1]</b> 152/17	158/6 158/18 162/8
		111/11 113/21 128/23		165/25 166/9 168/24

<p><b>A</b></p> <p><b>about...</b> [14] 169/6 169/9 169/10 169/10 169/11 171/15 173/20 173/22 173/22 175/9 175/18 176/4 179/7 181/11</p> <p><b>about:</b> [1] 115/23</p> <p><b>about: what</b> [1] 115/23</p> <p><b>above</b> [1] 42/23</p> <p><b>absence</b> [3] 19/17 69/25 175/4</p> <p><b>absences</b> [1] 63/8</p> <p><b>absolute</b> [1] 79/24</p> <p><b>absolutely</b> [9] 26/13 65/23 76/15 79/19 87/10 110/2 120/5 145/19 146/20</p> <p><b>absorb</b> [1] 164/12</p> <p><b>abuse</b> [2] 79/20 79/21</p> <p><b>abused</b> [1] 74/9</p> <p><b>academic</b> [5] 26/11 26/16 28/1 28/2 62/6</p> <p><b>academy</b> [1] 108/9</p> <p><b>accept</b> [12] 68/3 107/3 107/8 128/11 134/14 138/13 138/18 138/20 147/8 159/2 159/3 160/1</p> <p><b>accepted</b> [3] 34/24 64/24 161/3</p> <p><b>access</b> [21] 33/11 43/7 57/25 60/24 85/6 85/8 85/8 106/3 106/16 106/18 109/25 129/10 129/12 129/19 130/4 134/7 149/13 149/17 151/16 176/20 177/1</p> <p><b>accommodate</b> [2] 104/11 104/13</p> <p><b>accommodation</b> [6] 51/5 51/6 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<p><b>A</b></p> <p><b>also... 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<b>whether [40]</b> 4/2 9/7 9/16 12/13 12/16 20/21 31/6 40/3 40/25 41/20 44/25 46/11 46/17 46/19 52/2 55/14 59/14 59/14 60/20 61/9 62/2 64/11 66/7 75/3 92/22 95/14 112/4 114/25 116/9 120/3 124/6 130/20 132/22 135/9 136/19 159/22 169/21 171/16 171/17 180/17	<b>who [87]</b> 4/15 27/17 28/13 29/20 30/6 30/11 30/14 31/25 34/2 34/13 35/9 36/15 37/1 37/13 38/3 39/21 40/25 41/2 41/20 45/10 48/1 49/10 50/11 51/12 52/7 52/7 52/8 52/10 58/1 61/8 62/3 62/9 63/19 66/12 67/16 71/6 74/9 75/3 75/24 77/9 77/9 80/25 83/18 84/17 84/18 91/16 91/17 92/8 93/22 95/11 96/5 97/6 97/24 100/7 100/8 104/3 108/18 110/14 114/1 115/8 120/7 123/13 123/16 124/8 124/9 124/9 124/22 125/2 125/25 126/18 126/18 127/10 142/16 145/16 146/10 155/19 158/24 159/4 161/12 163/16 164/14 164/21 168/3 172/5 172/10 174/3 175/13	<b>without [6]</b> 59/20 76/10 92/23 97/7 105/20 120/2	<b>Workforce [1]</b> 2/12	<b>would [171]</b> 4/16 4/20 4/22 4/23 7/21 8/7 8/8 11/11 11/16 13/1 13/7 13/21 15/11 15/23 16/4 19/5 19/8 19/14 22/1 23/6 23/13 23/17 24/17 24/21 25/22 26/10 27/2 27/2 27/17 27/19 27/21 27/24 29/2 30/10 30/12 34/24 37/8 38/19 40/12 40/15 41/9 41/21 43/10 45/4 46/7 51/10 51/23 52/5 54/4 54/18 56/24 59/13 59/18 59/19 60/2 60/2 60/25 62/6 62/17 63/6 63/7 67/5 68/3 68/8 68/11 68/14 69/6 70/3 70/14 70/19 70/20 70/24 70/25 71/5 71/10 73/7 73/11 73/19 73/21 73/23 73/24 73/25 75/16 75/18 75/19 78/25 79/17 82/7 82/8 82/15 83/22 84/9 85/5 85/21 90/19 90/24 93/16 94/5 99/21 104/19 104/24 104/25 107/3 109/23 109/24 111/18 113/9 113/15 114/3 114/4 114/8 114/23 116/2 116/10 116/12 117/8 117/10 117/11 117/11 117/22 117/24 118/7 119/22 121/12 122/17 123/15 124/14	<b>wouldn't [17]</b> 11/15 25/25 68/9 68/10 68/13 69/5 116/4 116/5 116/6 116/7 119/14 123/1 124/19 152/10 166/7 168/3 171/13
<b>whether I [1]</b> 135/9	<b>who's [1]</b> 45/24	<b>women [1]</b> 127/10	<b>worried [4]</b> 115/20 116/8 116/20 116/21	<b>writing [2]</b> 83/14 157/15	
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<b>while [7]</b> 22/12 31/15 55/7 105/24 134/23	<b>whom [4]</b> 33/10 115/8 125/25 181/12	<b>wondered [1]</b> 148/17	<b>worry [1]</b> 147/14	<b>wrong [6]</b> 48/25 83/24 91/13 91/14 140/23 161/24	
	<b>whose [2]</b> 115/9 126/1	<b>Wong [1]</b> 37/24	<b>worst [2]</b> 51/24 122/18	<b>wrote [3]</b> 133/19 141/21 154/13	
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<p><b>Y</b></p> <p><b>yes... [56]</b> 109/21 112/22 113/3 113/4 115/6 117/6 117/12 117/14 118/5 118/17 118/21 119/11 120/4 120/5 120/6 123/23 124/4 124/24 126/12 126/14 127/20 128/1 128/20 129/1 130/19 131/6 132/19 132/21 133/16 133/18 135/7 136/11 136/14 137/21 139/3 141/20 141/23 142/6 142/13 143/19 146/8 148/9 151/2 154/3 155/8 155/12 160/14 162/14 162/21 162/23 164/4 167/12 168/7 172/16 179/18 180/10</p> <p><b>yesterday [1]</b> 111/13</p> <p><b>YJB [2]</b> 171/12 171/12</p> <p><b>YOI [4]</b> 137/12 154/17 174/15 178/9</p> <p><b>YOIs [4]</b> 107/20 148/3 152/15 178/11</p> <p><b>you [521]</b></p> <p><b>you'd [6]</b> 45/9 55/18 68/14 68/15 152/17 152/18</p> <p><b>you'll [5]</b> 138/7 142/17 146/22 168/20 178/4</p> <p><b>you're [41]</b> 2/20 9/11 11/18 11/20 12/2 14/7 21/9 21/11 38/22 39/14 40/13 42/5 42/6 42/7 42/8 43/11 43/12 67/12 70/8 78/9 92/15 98/22 98/23 111/20 112/17 114/22 119/23 119/23 120/5 121/2 124/7 126/16 131/7 135/17 135/22 139/21 141/18 144/16 164/25 165/1 165/18</p> <p><b>you've [34]</b> 12/14 17/14 24/25 27/20 40/6 40/18 40/20 47/14 47/18 59/8 61/20 62/24 63/24 65/8 71/18 72/4 72/25 73/4 75/1 76/18 76/25 83/13 86/1 94/2 94/4 99/2 122/13 141/18 150/3 153/7 164/25 165/25 166/9 181/2</p> <p><b>young [72]</b> 13/19 14/18 14/25 28/6 28/23 29/8 29/12 30/6 30/25 33/3 33/18 34/1 36/2 36/3 36/7 39/16 40/7 42/12 42/17</p>	<p>42/20 42/22 43/1 43/4 43/6 43/25 44/8 45/8 48/12 48/18 49/10 52/19 53/13 53/22 53/25 54/23 55/8 55/20 56/5 56/16 61/8 62/3 63/5 64/15 73/23 75/12 76/1 77/6 80/8 99/21 104/11 107/18 116/22 119/17 119/17 122/24 130/2 131/14 147/22 149/12 150/22 161/12 164/23 164/25 169/9 169/10 169/11 169/12 169/14 169/21 171/18 175/2 178/25</p> <p><b>younger [1]</b> 13/19</p> <p><b>your [99]</b> 1/8 2/9 2/18 5/15 7/20 12/15 16/10 17/9 18/2 20/7 20/12 22/1 22/13 27/17 29/4 31/8 31/12 35/16 36/11 42/15 59/15 62/24 63/25 64/21 66/21 67/1 68/25 69/12 71/19 72/10 72/13 72/14 73/7 74/18 76/22 77/3 79/12 79/16 80/15 80/17 80/21 82/9 84/1 86/6 89/16 91/23 92/15 93/6 94/8 96/4 97/22 99/14 99/22 100/11 100/23 100/23 101/9 101/11 102/13 102/23 102/24 109/2 109/2 110/19 111/15 113/22 115/4 115/18 115/18 118/15 119/6 127/25 133/11 133/14 134/17 135/1 137/4 137/5 139/2 139/9 144/6 144/24 152/5 161/3 161/6 161/9 162/11 163/4 171/7 172/17 174/10 174/12 175/8 178/20 178/24 180/13 180/19 180/20 180/25</p> <p><b>yours [1]</b> 50/4</p> <p><b>yourself [2]</b> 2/22 176/10</p> <p><b>youth [51]</b> 50/3 54/21 80/2 80/6 85/12 86/11 86/14 103/12 104/22 105/5 105/25 107/9 108/3 108/24 117/8 117/11 119/19 121/13 126/9 126/10 127/13 127/19 128/12 128/19 128/21 129/20 129/22 130/13 131/24 133/21 133/25 134/8 134/13 135/25 142/25 148/13 149/23 150/16 157/20 161/4 164/12 167/4</p>	<p>170/5 170/7 170/13 170/15 170/16 171/14 175/25 178/5 181/3</p> <hr/> <p><b>Z</b></p> <hr/> <p><b>zoom [1]</b> 123/3</p> <hr/> <p><b>É</b></p> <hr/> <p><b>Éamonn [8]</b> 50/4 121/19 121/21 125/25 126/4 180/3 180/4 181/11</p>		
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