

Witness Name: Frances Oram

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UK COVID-19 INQUIRY

CORPORATE STATEMENT OF FRANCES ORAM

ON BEHALF OF THE

DEPARTMENT FOR EDUCATION

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I, FRANCES ORAM, OF THE DEPARTMENT FOR EDUCATION, SANCTUARY BUILDINGS, GREAT SMITH STREET, LONDON, SW1P 3BT, WILL SAY AS FOLLOWS:

1. Chapter 1 – Introduction

- 1.1 I, Frances Oram, was employed by the Department for Education (“DfE” or “the department”), together with my jobshare partner, as Directors for Children’s Social Care. We both left this role, and the department, on 15 June 2025. The position will be filled in accordance with the DfE/Civil Service recruitment policy.
- 1.2 I make this statement in response to the Covid-19 Inquiry’s (“the Inquiry”) request for evidence under Rule 9 of the Inquiry Rules 2006 sent on 12 September 2024 (“the Rule 9 request”). This statement addresses questions 90 to 116 of the Rule 9 request.
- 1.3 I have been assisted in preparing this statement by officials in DfE who worked in the relevant areas throughout this period. DfE officials have also searched for all relevant documents from the period.
- 1.4 DfE officials have searched thoroughly for any available evidence in order to set out what happened, when and why as fully as possible. Where there are any gaps in evidence about decision making, this is because DfE has not been able to find evidence to fill those gaps.
- 1.5 I am satisfied from the documents found and exhibited in this statement, assurance from current and former DfE officials who worked on this area through the pandemic and my own recollection that this statement sets out the key events that occurred during that period as accurately as possible.
- 1.6 As the Inquiry is already aware from evidence it received in Module 2, the central structures of decision making changed during the course of the pandemic (and the parameters and timeframes for decisions were often set centrally). During COVID-19, the Secretary of State for Education (“SSE”) did not have complete autonomy to make core decisions. Consequently, DfE cannot always give a complete picture of decision-making processes that took place outside the department.
- 1.7 This statement is supported by documentary evidence, which will be referred to in the format (Exhibit FO/XX - INQ0000).

- 1.8 This statement is predominantly framed around children’s social care (“CSC”) and the children that system supports. To support these children and young people, there are carefully constructed arrangements in place. Law and guidance are set by national government, with local government and a range of agencies and individuals providing support. To understand the role DfE plays in this area, the Inquiry is encouraged to read Annex 1 to this statement, providing a detailed summary of the various roles and responsibilities and legal framework governing the sector.
- 1.9 I took up post as Director of Children's Social Care in DfE in October 2019. I work in a jobshare with Sophie Langdale. We were initially jointly responsible for policy and strategy relating to social worker workforce, and children in care, including adoption, fostering, children's homes and alternatives to care. A parallel directorate (Children’s Social Care: Improvement and Learning Directorate) was responsible for the strategy and funding for the system, safeguarding and child protection. In Autumn 2020 we assumed responsibility for strategy and funding, and the social worker workforce team moved to the Safeguarding and Workforce directorate. CSC sat within the Social Care, Mobility and Equalities Directorate, which is now called Families Group.
- 1.10 The CSC system includes local government, adoption services, residential and foster care providers, and children’s charities (for example: Action for Children, NSPCC, Barnardo’s etc). A number of representative bodies provide sector views and leadership, such as the Association of Directors of Children’s Services (“ADCS”) and the Local Government Association (“LGA”).
- 1.11 SSE has a general statutory duty under section 7 of the Children and Young Persons Act 2008 to promote the wellbeing of children in England. However, other government departments (“OGDs”) have responsibility for policies which impact upon CSC. DfE therefore works closely with OGDs to ensure that the wellbeing of children is promoted in all government policies that may affect them.
- 1.12 In all local authorities in England with responsibility for education and children’s social services functions, Directors of Children’s Services (“DCSs”) have statutory responsibility for children’s services, including social care and education.
- 1.13 The Inquiry’s questions about DfE’s work to support children and young people with special educational needs and disabilities (“SEND”), and in relation to education more generally, are being addressed in separate statements.

1.14 This statement refers in a number of places to schools and other settings being 'closed to the majority of pupils' or 'reopened'. I should make clear that this is a shorthand, referring to periods when attendance restrictions were imposed and then lifted. Settings were always open to children of critical workers ("CCW") and vulnerable children, and I would like to record my gratitude to all the teaching and other school and college staff who attended in person throughout the pandemic period to enable this to happen. I would also like to thank staff involved in CSC who worked tirelessly to support children and young people throughout the pandemic.

2. Chapter 2 – Challenges in the children’s social care system

2.1 The Inquiry has asked what challenges the CSC system was facing at the outbreak of the pandemic. Reporting on pressures in CSC in 2019, the National Audit Office noted that both it, and the Committee of Public Accounts, had previously reported that local authorities’ finances and services were increasingly under strain. Pressures included:

- 2.1.1 Scale of demand: One in ten children had needed a social worker to keep them safe from abuse and neglect, with some local authorities reporting children’s services as their number one immediate pressure (Exhibits FO/001 - INQ000541119 and FO/002 - INQ000226717).
- 2.1.2 Spending pressures: 80% of local authorities overspent their children’s services budgets in each of the 5 years prior to 2020.
- 2.1.3 Quality of services: In March 2020, only 50% of local authorities’ children’s services were judged good or outstanding by the Office for Standards in Education, Children’s Services and Skills (“Ofsted”) with 21 local authorities judged as inadequate and in formal intervention with the department. This compared to 86% of schools being rated good or outstanding.
- 2.1.4 Workforce: Data from September 2019 showed 16.4% of local authorities’ social worker posts being vacant. There was a high turnover rate with 9.5% of all social workers who were local authority employed leaving child and family social work in 2019 and an existing reliance on agency workers as they made up 15.8% of the workforce. Research conducted between September 2019 and January 2020 showed that social workers were working an average of 7 hours overtime per week. Over half of respondents to the survey also agreed or strongly agreed that their workload was too high (Exhibits FO/003 - INQ000541159 and FO/004 - INQ000540918).

2.2 In March 2020, a national lockdown, including possible restrictions to attendance in education settings, started to be considered by government. This, paired with reasonable worst-case scenario information received from the Scientific Advisory Group for Emergencies (“SAGE”) on 26 February 2020 and the known existing pressures in the CSC system, led to the identification of these 3 inter-related

challenges for CSC (Exhibits FO/005 - INQ000074896 and FO/002 – INQ000226717):

2.2.1 The visibility of vulnerable children or potentially vulnerable children in the system would be reduced. The reduced visibility of these children could lead to an increase in 'hidden harms' (abuse or neglect that is not immediately visible or recognisable). This includes crimes that cause emotional and/or physical harm and abuse inside and outside the home.

2.2.2 The workforce in the CSC system could face a significant rate of staff absence caused by sickness, self-isolation and potentially mortality. The social work workforce is primarily female and therefore more likely to have caring responsibilities, potentially resulting in more time away from work. This was a concern because social workers were a key workforce for ensuring children's safety and protection and, if they couldn't support children and families, DfE was concerned that children could have been at increased risk of harm as a result of their reduced visibility and support.

2.2.3 Significant rates of serious illness could lead to an increase in the number of children requiring emergency care by local authorities should their adult carers not be able to care for them either temporarily or in the event of their death. There was already a shortage of placements for children in care with statistics from the year ending 31 March 2019 showing that 41% of children were placed outside their local authority's area. Any sudden increase in children needing care would have been very difficult to manage. There was no precedent that DfE was aware of for a significant number of children suddenly requiring the care of the state, and the potential for this to materialise was a concern at this point in the pandemic.

2.3 As DfE identified these key challenges, officials began planning and acting to prioritise support for children and the frontline workforce. As set out in Annex 1 to this statement, DfE is responsible for the legal and policy frameworks within which CSC operates, and local authorities and other partners are responsible for delivery and oversight of services on the ground. The interventions put in place by DfE were therefore primarily delivered through legislation, guidance to the sector, additional funding streams and access to COVID-19 specific support such as personal

protective equipment (“PPE”), testing and vaccinations. The specific measures taken by DfE to support the sector are detailed throughout this statement.

3. Chapter 3 - Chronological account of decisions and actions taken to support vulnerable children and young people

3.1 Question 90 of the Rule 9 request from the Inquiry requests a chronology setting out the decision making in relation to social care and the protection of children over the specified period. The chronology set out below provides an overview of the work carried out by the teams in DfE supporting vulnerable children and the CSC sector.

3.2 The Inquiry has asked specifically about DfE's work on CSC and child protection. Detail on this work is set out below. Detail is also provided on programmes set up by DfE to support vulnerable children. Children can be considered vulnerable for many reasons; it does not always mean that they are receiving support from social care or child protection services. However, children receiving support from social care and child protection are some of the country's most vulnerable. There will therefore have been a significant degree of overlap between these 2 groups which is why the work to support vulnerable children is included in this statement. Where the Inquiry has asked more detailed questions on particular topics, for example on care leavers and young carers, responses are set out in later sections of this statement.

3.3 On 24 January 2020, the first Cabinet Office Briefing Rooms ("COBR") meeting was scheduled on COVID-19 (Exhibits FO/006 - INQ000540770 and FO/007 - INQ000540768). In preparation for this, DfE's Emergency Response Group ("ERG") formally began work on COVID-19. The Minister of State for School Standards ("MoSSS") attended this first COBR meeting. The meetings became regular from February 2020 and were mainly attended by SSE or MoSSS on behalf of DfE. COBR was the key decision-making committee in the early stages of the pandemic response.

3.4 On 11 February 2020, DfE's central team commissioned policy teams for scenario planning based on the reasonable worst-case scenario outlined in the UK's pandemic influenza strategy. The CSC policy team provided information on issues which might arise for the CSC sector in a pandemic (Exhibits FO/008 - INQ000540773 and FO/009 - INQ000540774). The team's response detailed how the pandemic could impact the provision of support and placements to vulnerable children and young people; including, for example, how the sickness or death of large numbers of parents, carers, workers, and support staff could increase demand for and restrict the supply of services.

- 3.5 In February 2020, the government also began to prepare possible emergency legislation in response to the COVID-19 crisis, under the leadership of the Department of Health and Social Care (“DHSC”). This would in due course lead to the Coronavirus Act 2020. On 17 February 2020, the CSC directorate within DfE was commissioned to consider whether any legislation would be needed for inclusion in the emergency bill (Exhibit FO/010 - INQ000540775).
- 3.6 On 26 February 2020, SAGE provided an assessment of the reasonable worst-case planning assumptions and modelling of COVID-19. This document from SAGE increased concern within DfE about an impending pandemic and what that could mean for all children, including vulnerable children and young people. The information indicated that there was potential for a significant proportion of the population becoming ill, and for significant numbers of excess deaths. The SAGE document detailed a reasonable worst-case scenario of infection rates resulting in workforce absences of at least 15% nationally during peak times; just under 10 million people requiring assessment by health services; 3.6 million people requiring hospital care for an average six-day stay; and some 820,000 excess deaths (Exhibit FO/005 - INQ000074896).
- 3.7 On 27 February 2020, DfE schools’ policy officials raised with CSC officials the fact that schools providing boarding accommodation extending beyond 295 days in any year would have to go through the process of registering as a children’s home. This might arise if children were unable to return home due to the pandemic and had to stay in boarding accommodation for longer than expected. Officials enquired about what changes needed to be made to avoid applicable schools from having to register as a children’s home. These changes were made as part of the Coronavirus Act 2020 as detailed in paragraph 3.34 (Exhibit FO/011 - INQ000540776).
- 3.8 On 2 March 2020, DHSC contacted DfE to alert officials to powers being sought for emergency registration of health professionals (Exhibit FO/012 - INQ000540779). They suggested that similar powers should also apply to social workers.
- 3.9 On 11 March 2020, DfE officials sought agreement from SSE to pursue a power in the Coronavirus Act 2020, which would allow for the emergency registration of social workers. The power would enable the reinstating of registration for social workers who had recently left the profession. This intended to provide some additional capacity to effectively staff the sector should the anticipated workforce shortages emerge (Exhibit FO/013 – INQ000540787).

- 3.10 On 12 March 2020, SSE agreed to include the powers detailed in paragraph 3.9 regarding the emergency registration of social workers (Exhibit FO/014 - INQ000541136).
- 3.11 On 12 March 2020, DfE lawyers commissioned CSC policy officials to consider what secondary legislative changes might need to be made to support CSC services and what impact these changes may have. This work eventually became the Adoption and Children (Coronavirus) (Amendment) Regulations 2020.
- 3.12 On 12 March 2020, DHSC and DfE officials, including legal advisors, met to discuss Schedule 12 of the Coronavirus Act 2020. DHSC had contacted DfE about changes it was planning to make to provisions in the Care Act 2014 through the Coronavirus Act 2020 (Exhibits FO/015 - INQ000540788, FO/016 - INQ000540783, and FO/017 – INQ000540784). There is no available readout of this meeting. Schedule 12 disapplied the requirement (not the ability) for a local authority to make a needs assessment under the Care Act 2014 for a child transitioning to adult services, which included young carers. A needs assessment could still be conducted under the Children Act 1989. The intention behind this change was to empower local authority leaders to make risk assessed decisions to prioritise the protection of the most vulnerable, when capacity was under pressure as a result of the pandemic. DHSC is the lead department for the Care Act 2014. DfE did not conduct any impact assessment nor any subsequent monitoring of Schedule 12's use because DHSC led on both Acts and because of the DfE focus on the priorities identified at the outset of this statement.
- 3.13 Issues relating to the Coronavirus Act 2020 were raised in a letter from the Children's Commissioner, which DfE responded to jointly with DHSC (Exhibits FO/018 - INQ000540851 and FO/019 - INQ000540815). It has not been possible to find any record of the discussion with DHSC, so it is not possible to say why Schedule 12 is not specifically addressed in this letter.
- 3.14 On 13 March 2020, after DfE officials had determined that secondary legislation would be largely sufficient to respond to the challenges posed by the pandemic for CSC, ministers approved the inclusion of powers into the Coronavirus Act 2020. This included the power to avoid applicable schools from having to register as a children's home (Exhibits FO/020 - INQ000540778, FO/021 – INQ000540791, FO/022 – INQ000540790 and FO/023 - INQ000540793).

- 3.15 On 15 March 2020, an email was circulated within DfE (Exhibit FO/024 - INQ000540796) summarising SSE's conversation with the Prime Minister and the Secretary of State for Health and Social Care ("SSHSC") earlier that day. It was made clear in the note that the position of SSE was that education settings should remain open for as long as possible, at least until Easter. The readout included a steer from the Prime Minister that he wanted to keep school closure under close review and asked DfE to develop a proposal that considered a scenario in which schools were closed.
- 3.16 In response to the Prime Minister's request, DfE officials looked in more detail at the impacts that school closures would have on vulnerable children and set this out in a document entitled School Closures Note (Exhibits FO/025 - INQ000286012 and FO/026 - INQ000540794).
- 3.17 This identified that:
- "The most vulnerable children are much safer in school than out of school. Around 400,000 children are "Children in Need" ["CIN"] (they have a social worker) and school is a protective factor for these children. There is a risk of a rise in youth crime and children being at greater risk of the effects of inadequate parenting / witnessing domestic violence, particularly if families [sic] also facing the pressure of imposed isolation."*
- 3.18 DfE officials were clear that it was important that vulnerable children could attend schools. By 17 March 2020, when DfE produced a paper titled *Reducing School Provision* to set out what should happen if schools were to close, work had moved to defining vulnerable children. This paper recommended schools "*open only to vulnerable children and the children of key workers*", and this was shared with No.10. The recommendations were agreed by the Prime Minister in the COVID-19 Strategy meeting (a daily meeting chaired by the Prime Minister). The Prime Minister then announced at approximately 5pm on 18 March 2020 that schools would be closing from 20 March 2020, except for vulnerable children and young people, and the children of critical workers. Although it was not mentioned specifically in the Prime Minister's statement, colleges would also close on the same date. SSE reiterated this message in the House of Commons shortly afterwards (Exhibit FO/027 - INQ000075716). Restrictions to school attendance were put in place from 23 March 2020 (Exhibit FO/028 - INQ000107248).

- 3.19 On 17 March 2020, DfE also announced it would commit to pay local authorities (who were expected to pass this funding onto providers) for Free Early Education Entitlement places for 2, 3, and 4-year-olds even if settings were closed or children were not able to attend (Exhibit FO/029 – INQ000541153). This was to prevent closure of settings and ensure providers were able to resume business once out of lockdown. This was a result of advice provided to SSE on 11 March 2020 on the continuation of early years (“EY”) entitlements payments and the communication to local authorities on passing this funding onto providers (Exhibit FO/030 - INQ000540785). Please see further details on funding in Annex 3.
- 3.20 On 17 March 2020, DfE was commissioned by the Cabinet Office (“CO”) and Civil Contingencies Secretariat (“CCS”) to provide the details of the current stock and need for PPE (Exhibit FO/031 - INQ000540797). The CSC directorate fed into this request on 24 March 2020, providing the data on the workforce within each local authority for social workers, residential care homes, secure children’s homes, workers caring for unaccompanied asylum seeking children and workers caring for children in unregulated provision (Exhibits FO/032 - INQ000540810 and FO/033 - INQ000540812). This followed questions to CSC teams from councils and DCSs about the need for PPE. DfE had also raised issues with PPE supplies for CSC in the CCS chaired PPE Supplies meetings, which DfE attended (Exhibits FO/034 - INQ000540780 and FO/035 - INQ000540782).
- 3.21 On 17 March 2020, DfE created the Vulnerable Children’s Unit (“VCU”) to act as the central coordination function for all DfE support work associated with vulnerable children and young people during the pandemic. Indra Morris, then the Director General for Strategy, Disadvantage and Social Mobility, acted as DfE’s Senior Responsible Officer (“SRO”) for vulnerable children (Exhibits FO/036 INQ000541067 and FO/037 - INQ000540763). The same week, the VCU set up daily situation reports (“sitreps”) to provide a problem solving and information platform on the work happening to support vulnerable children during the response to the pandemic. Sitrep attendees were from across DfE policy areas and OGDs (these were: CO, the Home Office (“HO”), Department for Work and Pensions (“DWP”), Ministry of Justice (“MoJ”), Ministry of Housing, Communities and Local Government (“MHCLG”), Ofsted, Department for Culture, Media and Sport (“DCMS”), NHS England (“NHSE”) and Public Health England (“PHE”), including the Ofsted National Director, and Chief Social Worker for Children and Families. These sitreps eventually became weekly steering group meetings (Exhibits FO/038 – INQ000540806 and

FO/039 - INQ000541001). Governance arrangements for the VCU developed over time and from May 2020, the department wide COVID-19 Board was used as a forum for reporting and escalation of challenging issues (Exhibit FO/040 - INQ000540887).

3.22 The VCU led DfE's work to define vulnerable children and young people, ahead of the restrictions coming into place. This was so that schools and other settings could ensure that eligible children were able to continue to physically attend education settings. On 19 March 2020, the definition for vulnerable children and young people was first included in the guidance '*Guidance for schools, childcare providers, colleges and local authorities in England on maintaining educational provision*' (Exhibit FO/041 - INQ000541144). Due to the pace of the work, there was no opportunity for external consultation on the definition. This guidance stated that education settings were open to children who were vulnerable and children whose parents were critical to the COVID-19 response and who could not be safely cared for at home. The published definition was: "*Vulnerable children include children who are supported by social care, those with safeguarding and welfare needs, including child in need plans, on child protection plans, 'looked after' children, young carers, disabled children and those with education, health and care (EHC) plans*".

3.23 On 18 March 2020, in a meeting between senior officials from DfE, DHSC, MoJ, the Youth Custody Service and Ofsted, a decision was taken that for the purposes of guidance and communications relating to COVID-19, all secure children's homes would be treated as secure settings, like those used or run by the justice (or health) system. The intention at the time was that they should fall under the same operational guidance, same communications and the same access to equipment. At this point in time, DfE officials felt that this would better enable secure children's homes to access PPE via His Majesty's Prison and Probation Service's operational infrastructure (Exhibit FO/042 - INQ000540801).

3.24 On 19 March 2020, DfE officials commissioned colleagues in DfE's schools, EY, SEND, higher education ("HE"), further education ("FE"), and CSC teams to consider what regulations might need amending to respond to COVID-19. This linked to the work CSC colleagues were doing in response to the commission from DfE lawyers on the 12 March 2020 (paragraph 3.11). This work resulted in the Adoption and Children (Coronavirus) (Amendment) Regulations 2020, which are covered in more detail later in this statement (Exhibit FO/043 - INQ000540804).

3.25 On 19 March 2020, the Consortium of Voluntary Adoption Agencies (“CVAA”) wrote to Vicky Ford, Minister for Children and Families (“MfCF”), to alert the minister to the financial difficulties which these agencies could face without government intervention (Exhibit FO/044 – INQ000541034). Voluntary Adoption Agencies (“VAAs”) are not-for-profit organisations which provide adoption services to children, adopters and others involved in adoption. Their letter to MfCF set out concerns that many VAAs could lose a significant proportion of their income during the pandemic due to a significant reduction in placement activity (already seen since the start of the pandemic); placement fees being the primary income source for these agencies. To support these agencies, funding was secured from a DCMS-led package to support charities (see paragraph 3.49) and topped up with funding from DfE. £3 million of funding from the DCMS-led package was awarded to VAAs as well as additional funding from DfE, with a £250,000 cap per agency (Exhibits FO/045 - INQ000541062, FO/046 - INQ000540876 and FO/047 – INQ000541036). A further £3 million was awarded in June 2021, following Her Majesty’s Treasury (“HMT”) announcing up to £16 million in further funding, available to be bid for in December 2020 (Exhibits FO/048 - INQ000541060, FO/049 - INQ000541061, FO/050 - INQ000541063). Please see Annex 3 for further information on funding.

3.26 On 20 March 2020 DfE increased its engagement with five leading children’s charities, through weekly calls, to share intelligence and gain insights into the on-the-ground impact of the pandemic on children (Exhibits FO/051 - INQ000540800 and FO/052 - INQ000540816). DfE also sought to understand the capacity of these charities to continue to deliver key services such as helplines. Insights from this group helped to inform departmental work. For example, several issues regarding PPE were raised by children’s charities during a meeting on 1 June 2020 and through subsequent emails. DfE addressed these points, engaging with DHSC and MHCLG where necessary and providing clarification on questions and concerns (Exhibits FO/053 - INQ000541086 and FO/054 - INQ000541160).

3.27 On 21 March 2020 DfE published the guidance *Coronavirus (COVID-19): guidance on isolation for residential educational settings* (Exhibit FO/055 - INQ000519894). This guidance supported the management of children and young people with COVID-19 or symptoms of it in children’s homes and residential educational settings, including boarding schools and residential special schools. The guidance advised that if social workers or police needed to visit residential children’s homes and investigate child protection concerns, such professionals should be

admitted to the home while observing appropriate infection control procedures. It also set out that if a child in a residential care home developed symptoms of COVID-19, staff could continue to enter and leave the home as required but should follow infection control procedures. Other residents in the home should remain in isolation and not attend any off-site school for 14 days.

3.28 On 22 March 2020 DfE published the guidance *Supporting vulnerable children and young people during the coronavirus (COVID-19) outbreak - actions for educational providers and other partners* (Exhibit FO/056 - INQ000520192). This set out how these organisations should support vulnerable children and young people. This clarified the definition of vulnerable children and young people and set a new expectation that they should be attending education settings, so that they could gain the educational and wellbeing benefits of attending. Using the definition, schools were expected to work with social workers and families to ascertain whether certain children should attend school. Education providers were then expected to follow up with any pupil that they were expecting to attend who did not. The definition was deliberately framed to capture those whose vulnerability met a statutory threshold, but in this guidance a broader category was included to enable professionals, who knew the children and families best, to identify children who should continue to attend schools even if they did not meet the statutory threshold. Therefore, the definition was confirmed as those who:

3.28.1 Were assessed as being in need under section 17 of the Children Act 1989 (including those with a child in need plan, a child protection plan or who were a looked after child);

3.28.2 Had an education, health and care plan ("EHC plan"); or

3.28.3 Had been assessed as otherwise vulnerable by education providers or local authorities and could benefit from continued attendance e.g. young carers, those at risk of becoming not in education, employment or training ("NEET").

3.29 DfE was concerned that a proportion of vulnerable children and young people (or their parents) would have a preference not to attend school. Therefore, the guidance included information on how to support those who were unable to attend in person, ensuring there was monitoring and oversight of their wellbeing. The guidance stated that vulnerable children were generally expected to attend school, providing it

was safe to do so. However, for those with health vulnerabilities or who lived with vulnerable family members, schools were encouraged to work collaboratively with parents and social workers to assess each child's situation and discuss the safest, most supportive options for them. The guidance also:

- 3.29.1 Encouraged schools to share relevant PHE advice with parents to clarify the safety measures in place and, where possible, reassure them about work to reduce risks in the school environment.
- 3.29.2 Explained the process by which decisions were made as to whether children with EHC plans were able to go to school, directing schools to work with local authorities and parents on individualised risk assessments for children with EHC plans. These assessments helped to determine whether a child's needs could be more safely and effectively met at home or at school. DfE published guidance on best practice in April 2020 for the completion of these risk assessments (Exhibit FO/057 - INQ000519934), but DfE was not responsible for carrying out the assessments (these were carried out by the education setting or local authority in consultation with the parent/s).
- 3.29.3 Explained that schools did not need to conduct their usual day-to-day attendance processes to follow up on non-attendance for all pupils. Instead, it set out that schools should ensure they had a process in place to check on the welfare of any child in need who did not attend on any day (Exhibits - FO/058 - INQ000540802 and FO/059 - INQ000540803).
- 3.29.4 Instructed education providers to follow up on any pupil that they were expecting to attend who did not and also to follow up with any parent or carer who had arranged care for their child(ren) and the child(ren) subsequently did not attend, notifying the social worker where applicable.
- 3.29.5 Addressed how to support vulnerable children who relied on school meals but could not attend their education setting. Schools were given flexibility to provide free meals or distribute vouchers for supermarkets or local shops to eligible families.

- 3.30 From the week commencing 23 March 2020, DfE increased its engagement with the Children's Commissioner at ministerial and official level and continued to have regular meetings throughout the pandemic (Exhibits FO/060 – INQ000541167, FO/061 – INQ000540821 and FO/062 – INQ000540805).
- 3.31 On 23 March 2020, education settings restricted attendance for most pupils but continued to be open for CCWs and vulnerable children and young people.
- 3.32 To ensure DfE could understand the impact of the attendance restrictions and how many vulnerable children were attending school, DfE sought to obtain quantitative data. This was included in *Coronavirus (COVID-19): guidance on vulnerable children and young people*, which outlined that DfE would introduce a way of recording the attendance of vulnerable children (Exhibits FO/063 - INQ000519886, and FO/059 - INQ000540803). In the week commencing 23 March 2020, an online tool was launched for schools to self-report attendance data on a daily basis (data collection on early years settings started on 16 April 2020). This was in line with when restrictions started. Attendance information, including the number of vulnerable children attending, was captured via the EdSet form (Exhibit FO/064 - INQ000540837). DfE collected data on children with a social worker, asking schools to provide the total number of students assessed as being in need under section 17 of the Children Act 1989. Children looked after by the local authority made up part of this group, but it was not possible to disaggregate the data to provide attendance figures specifically for children in local authority care. DfE aimed to balance the desire for detailed data breakdowns with the need for brevity and simplicity, particularly given that the survey was voluntary and the challenging circumstances schools were working under.
- 3.33 Between 23 March 2020 and the end of June 2020, the response rate for the education settings survey fluctuated between 30% and 77%, with lower rates during the four bank holidays and on 1 May due to technical issues. Attendance figures in this release were adjusted to account for non-responding settings, indicating variability in data completeness. The methodology used to adjust for non-response helped provide a more accurate national picture on attendance. The response rate for the local authority survey on early years settings remained stable at around 90% during the same period. Regular publication of attendance data started on 30 June 2020 (Exhibits FO/379 - INQ000624566, FO/380 - INQ000624565, FO/381 - INQ000624567, FO/382 - INQ000624568 and FO/383 - INQ000624587).

- 3.34 The Coronavirus Act 2020 came into force on 25 March 2020 and included 2 powers relevant to CSC (Exhibit FO/065 – INQ000352999). These were the power to disapply Section 1(6) of the Care Standards Act 2000, which would ensure schools providing boarding accommodation extending beyond 295 days in any year would not have to go through the process of registering as a children’s home, and the power to re-register social workers who had recently left the profession. Additionally, schedule 12 of the Coronavirus Act 2020 also came into force on 25 March 2020, which disapplied the requirement (not the ability) for a local authority to make a needs assessment under the Care Act 2014 for a child transitioning to adult services.
- 3.35 On 25 March 2020, DfE officials, via a submission, updated ministers on the secondary legislation the department proposed to amend in response to COVID-19, including legislation on CSC (Exhibit FO/066 - INQ000541140). The submission detailed which statutory instruments were recommended for amendment as well as those officials considered as already providing necessary provisions without amendment. By 30 March 2020, all junior ministers had confirmed they were content with the submission. No SSE response to the submission is recorded (Exhibits FO/067 - INQ000540826, FO/068 - INQ000540820, FO/069 - INQ000540825, FO/070 - INQ000540823 and FO/071 - INQ000540824).
- 3.36 On 26 March 2020, MfCF confirmed the power to re-register social workers was available to use in a letter to Social Work England. DfE worked together with Social Work England to promote the programme, with Social Work England temporarily reinstating the registration of 8,000 former social workers (Exhibits FO/072 - INQ000540818 and FO/073 - INQ000541163).
- 3.37 On 27 March 2020, DfE published the guidance *Coronavirus (COVID-19): safeguarding in schools, colleges and other providers* (Exhibit FO/074 - INQ000519928). This reminded education providers that the principles in the statutory guidance *Keeping children safe in education* still applied. It stressed that it was crucial for all staff who interacted with children, including remotely, to continue to look out for signs a child might be at risk and where appropriate referrals should still be made to CSC and, as required, the police.
- 3.38 At the end of March 2020, Regional Education and Children’s Teams (“REACT”) were established to significantly increase engagement between DfE, education providers and local authorities. The nine REACT teams were led in each region by the Regional Schools Commissioner. REACT brought together DfE and

Ofsted officials from across school improvement, CSC, SEND, the Education and Skills Funding Agency (“ESFA”), FE and EY. REACT teams used their full range of expertise (Exhibits FO/322- INQ000624559, FO/386- INQ000624564, FO/387- INQ000624555, FO/388 INQ000624579 and FO/389- INQ000624583):

- 3.38.1 Bring together intelligence from across DfE and Ofsted relating to activities within a local authority area into one central point.
- 3.38.2 Assess the levels of risk relating to each local authority area in relation to COVID-19 response across all children’s services, including a strong focus on vulnerable children and young people.
- 3.38.3 Streamline and focus communications with individual local authorities.
- 3.38.4 Prioritise DfE’s and Ofsted’s resources to provide support to those local authorities in greatest need.

3.39 At the end of March 2020, the Get Help with Technology (“GHWT”) programme was established (further detail is provided in the second Corporate Statement provided by Julia Kinniburgh (Exhibit FO/284 - INQ000587978). The programme aimed to support the wellbeing of vulnerable children and young people, minimise the impact of COVID-19 on overall attainment, and minimise any widening of the attainment gap. Support was targeted at disadvantaged children and young people who were otherwise unable to access education (Exhibits FO/075 - INQ000540864 and FO/076 - INQ000541079). This included Children in Need (“CIN”) a legally defined group of children under the Children Act 1989 who are assessed as needing help and protection as a result of risks to their development or health. The business case for the programme was retrospectively approved on 26 June 2020 and identified two priority groups for support (Exhibit FO/077 - INQ000541132):

“Group 1 – CIN (those on a child in need plan, child protection plan or in local authority care), and ‘care leavers’ that do not currently have access to a device and/or an internet connection.

Group 2 - Disadvantaged pupils in year 10 that do not currently have access to a device and/or an internet connection.”

3.40 The programme prioritised distribution to these children and young people because they were judged to be particularly vulnerable to a more negative impact of

COVID-19 than other children. The provision of devices and internet connectivity ensured that: social workers could provide virtual safeguarding and support; wellbeing was supported via online services for children, young people, families and care leavers; social isolation could be avoided; and remote learning was accessible. The first devices were ordered on 15 May 2020 and dispatched on 18 May 2020. The programme initially provided 220,494 devices as of the 26 August 2020 (Exhibits FO/078 - INQ000540928 and FO/079 - INQ000541073). Eligibility for the programme was subsequently widened, with 1.9 million devices provided as of April 2022 (Exhibits FO/080 - INQ000540973 and FO/081 - INQ000497831).

3.41 From March 2020, REACT teams called all local authorities to gather anecdotal evidence about how they and the schools in their area were managing in responding to the pandemic. From April 2020, officials had developed a plan for how to encourage vulnerable children and young people to attend education settings, keep them safe in those settings, and plan for vulnerable children and young people's educational recovery post-pandemic. This plan included how attendance data would be used to inform key strategic decisions. DfE's approach to data gradually evolved over the year; in paragraph 3.92 the use of a data dashboard is detailed. Before the pandemic, the Chief Social Worker and officials from DfE had a regular monthly meeting with Practice Leaders and Principal Social Workers. From March 2020, this meeting was increased to weekly. I attended these meetings regularly; they were a helpful forum to identify and discuss key issues being faced by social workers and local authorities (Exhibits FO/082 – INQ000540867, FO/083 – INQ000541131, FO/084 - INQ000540955 and FO/400 – INQ000624589).

3.42 In April 2020, the EY team provided REACT teams with suggested questions for local authorities, focusing on understanding childcare demand, provider behaviours in response to reduced demand, and the role of local authorities in supporting parents and providers during the pandemic. REACT noted that there were emerging themes related to the sufficiency of places and the financial stability of providers (Exhibits FO/384 - INQ000542892 and FO/385 - INQ000624556). To maintain capacity in the system and ensure there would be childcare places for vulnerable children, the department supported local authorities to move Free Early Education Entitlement funding around providers. This meant funding could be directed to those settings that were choosing to stay open and ensure there was sufficient capacity (Exhibits FO/085 - INQ000540843, FO/086 - INQ000540844 and FO/087 - INQ000540845).

3.43 Following the launch of the online attendance tool the previous week (see paragraph 3.32), on 1 April 2020, DfE estimated that around 11,000 of vulnerable children and young people with an EHC plan were attending onsite provision by schools, and around 17,000 children with a social worker were doing so – this represented around 5% of each of these cohorts (Exhibits FO/088 – INQ000541089 and FO/089 - INQ000541177). The next week, on 9 April 2020, saw the attendance reducing to circa 3% of the cohorts (6,000 for those children with an EHC plan and 12,000 for those with a social worker), probably because of the start of the Easter holidays (schools remained open to vulnerable and key worker children throughout the Easter holiday period, but many families will have made plans to have children at home in the holidays). Initially, attendance rates were reported as a single percentage of vulnerable children with either an EHC plan or a social worker. This later changed to be separate percentages for those with an EHC plan and those with a social worker (see paragraph 3.65 onwards). The percentages are the proportion of that cohort of vulnerable children and are not a percentage of all vulnerable children. Children with an EHC plan and with a social worker were the categories recorded via the online attendance tool, along with the number of CCW. DfE was not able to centrally calculate the proportion of the cohort of children deemed “otherwise vulnerable” who were attending, because of the flexibility left to schools and settings around who was included in this category.

3.44 On 3 April 2020, DfE officials provided a scientific summary to SSE, ministers and other DfE officials. The summary included information on the impact of allowing settings to remain open to CCWs and vulnerable children (Exhibit FO/090 - INQ000541088. The paper said:

“SAGE and SPI-M were asked to consider the impact of allowing schools to stay open for small numbers of children.

Models do not allow for detailed school opening scenarios to be run as they were not set up to do so.

SAGE have observed that small numbers of children continuing to attend school will reduce the efficacy of the intervention, but the impact will be marginal if numbers were small. This was considered to be unquantifiable and non-linear and schools closures effects interact with the other interventions”

- 3.45 DfE published the *COVID-19 - Guidance for Children's Social Care Services* on 3 April 2020 (Exhibit FO/091 - INQ000519580). This guidance provided instructions for managers and staff in open and secure children's residential homes, foster carers, social workers and other leaders in local authority CSC services. It aimed to help professionals handle the risks associated with the pandemic, ensuring that children in care continued to receive the support they needed. DfE notes that the Inquiry specifically asks about this guidance and the substantive changes made. A timeline of substantive changes can be found in Annex 2.
- 3.46 On 3 April 2020, CO named Indra Morris, DfE's Director General for Strategy, Disadvantage and Social Mobility, the cross-government SRO for the vulnerable children workstream. This was one of twenty priority workstreams, identified by the four Ministerial Implementation Groups, that would underpin the cross-government effort on COVID-19. This formalised the role of the VCU as the supporting function for the coordination of vulnerable children and young people work and planning across government, reporting into the COVID-19 Taskforce (Exhibits FO/092 - INQ000540866 and FO/093 - INQ000540827).
- 3.47 On 6 April 2020, DfE confirmed to the president of ADCS that PPE could be accessed by children's homes (secure and open homes, run by local authorities and other organisations) (Exhibit FO/094 - INQ000540833). DfE had advocated to CO and CCS for this sector in March 2020 to receive PPE, this was in response to social workers, and others (such as charity workers), engaging with families signalling frustration at sourcing PPE (see paragraph 3.20). The sector was able to access PPE from Local Resilience Fora ("LRF"), alongside other sectors such as the NHS and police (Exhibits FO/042 - INQ000540801, FO/095 - INQ000540849 and FO/096 - INQ000083588). DfE worked with Ofsted to ensure this message was communicated to all registered providers of children's residential care (as all children's homes are registered with Ofsted, they had the contact details required) (Exhibits FO/097 - INQ000541134, FO/098 - INQ000541138 and FO/099 - INQ000541139). This followed extensive work with DHSC to ensure the CSC workforce were prioritised in getting access to PPE (Exhibits FO/100 - INQ000540819 and FO/101 - INQ000540822). For reference, LRFs are multi-agency partnerships made up of representatives from local public services, including the emergency services, local authorities, the NHS, the Environment Agency, and others (Exhibit FO/102 - INQ000541120).

3.48 On 6 April 2020, DfE began drafting guidance specifically for CSC settings. This was in response to the published PHE guidance on PPE not covering the CSC workforce specifically (Exhibits FO/103 - INQ000540834). This guidance was published on 14 May 2020 (Exhibit FO/104 - INQ000519846) along with the '*Coronavirus (COVID-19): implementing protective measures in education and childcare settings*' guidance published on 11 May 2020 (Exhibit FO/105 - INQ000519964), which provided guidance for education and childcare settings on how to implement protective measures, including PPE. This reiterated the process, which was already operating, of the CSC sector accessing PPE via local supply chains and local authorities, but if that was not able to meet the PPE needs, the local authority approaching the nearest LRF.

3.49 As well as funding for local authorities announced on 19 March 2020 (Exhibit FO/106 - INQ000541121) on 8 April 2020 the Chancellor announced a £750 million package of support for charities to ensure they could continue their vital work supporting the country during the COVID-19 outbreak (Exhibit FO/107 – INQ000215567). DCMS was the department administering and overseeing the distribution of this funding. £360 million was allocated for departments, with £200 million set aside for hospices and £160 million available for OGDs to bid for, to support voluntary, community and social enterprise programmes of their choosing. DfE made successful bids for grants for the following initiatives to provide support for vulnerable children (Exhibits FO/108 – INQ000541025 and FO/109 - INQ000541085), about which further details are provided in Annex 3:

3.49.1 Voluntary Adoption Agency Funding (Exhibit FO/110 - INQ000541032);

3.49.2 Barnardo's See, Hear, Respond Programme (Exhibit FO/111 - INQ000541004);

3.49.3 Care leaver charities (Exhibit FO/112 - INQ000540861); and

3.49.4 Fostering and kinship care charities (Exhibits FO/113 - INQ000541031 and FO/114 - INQ000541030).

3.50 On 15 April 2020 MfCF approved the making of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. These regulations would temporarily amend ten sets of regulations relating to CSC in England (Exhibits FO/115 - INQ000540842, and FO/116 - INQ000540854). The changes were intended to enable the sector to continue to function during the pandemic, by helping local

authorities prioritise the needs of children and maintain appropriate statutory safeguards.

3.51 On 17 April 2020, DfE established the Vulnerable Children and Young People National Board to ensure external voices were systematically part of the conversation when identifying risks and plans to mitigate the impact of the pandemic on vulnerable children and young people. Members included education and care system leaders, to support a coherent system wide response to vulnerable children and young people through the pandemic (Exhibits FO/117 - INQ000497845, FO/118 - INQ000497604, FO/119 - INQ000497842, FO/120 - INQ000497843 and FO/121 - INQ000497844).

3.52 On 17 April 2020, DfE raised children under 1 year old as a specific cohort of concern within a General Public Sector Ministerial Implementation Group meeting. DfE was concerned that children under 1 in danger of abuse or neglect were at risk of not being captured by the system, because of reduced visibility due to the re-deployment of health visitors, closure of settings (play centres, baby weighing drop in facilities), and the suspension of some professional engagements (e.g. birth registrations). Many of these services were the lead responsibility of OGDs, but DfE worked to raise the issue across government to seek actions to safeguard these young children (Exhibit FO/122 – INQ000540850). This cohort was then regularly discussed through various vulnerable children governance arrangements and actions were taken to support them (Exhibits FO/123 - INQ000541164, FO/124 - INQ000540956 and FO/125 - INQ000541165). This included working with PHE to prevent re-deployment of health visitors to COVID-19 work; working with HO to introduce partial birth registrations; and supporting new parents through the See, Hear, Respond programme.

3.53 On 18 April 2020, £1.6 billion of additional funding was announced by the government (Exhibit FO/126 - INQ000541122). DCSs were encouraged by SSE to use the funding to support care leavers, and this message was included in a daily press briefing by SSE on 19 April 2020, where DCSs were asked to ensure no one had to leave care during the pandemic. This was also promoted in a letter to DCSs on 21 April 2020 (Exhibit FO/127 - INQ000540874). Further information on how care leavers were supported can be found in paragraph 5.2 onwards.

3.54 On 19 April 2020, recognising the relatively low proportion of children with a social worker who were attending educational settings (as of 16 April 2020, DfE recorded only a circa 4% attendance rate for vulnerable children with an EHC plan or a social worker, with around 7,000 children with an EHC plan and around 15,000 with

a social worker attending settings in person that week) (Exhibits FO/088 – INQ000541089 and FO/089 - INQ000541177), education providers were instructed to work together with local authorities and social workers to ensure adequate and appropriate arrangements were in place to keep in touch with vulnerable children and young people, such as by letter, phone or visit. This was done via an update to the guidance '*Supporting vulnerable children and young people during the coronavirus (COVID-19) outbreak - actions for educational providers and other partners*' (Exhibit FO/128 - INQ000519887).

- 3.55 The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 were laid in Parliament on 23 April 2020 and came into force on 24 April 2020 (Exhibits FO/129 - INQ000540899 and FO/130 – INQ000540862).
- 3.56 Polymerase chain reaction (“PCR”) testing was initially only available for those caring for hospital patients with pneumonia or acute respiratory illness, frontline NHS staff and then all symptomatic care home residents and staff (Exhibit FO/131 - INQ000497611). From 23 April 2020, all essential workers (including the education, childcare and CSC workforce) in England and members of their households who were showing symptoms of coronavirus could get tested (Exhibits FO/132 - INQ000497452 and FO/133 - INQ000497612).
- 3.57 Following Ofsted communicating to the providers of children’s residential care about PPE access (outlined in paragraph 3.47), on 30 April 2020, DHSC wrote to all eligible service providers (including CSC settings). They advised them that, where they were unable to source PPE through their usual suppliers and dedicated wholesale routes, they could approach their LRF who had been provided with stocks of PPE to help respond to urgent local spikes in need. Where LRFs were unable to meet their needs, CSC settings were also eligible to contact the National Supply Disruption Response (“NSDR”) helpline (Exhibit FO/134 - INQ000050234). Since the confirmation on 6 April 2020 (see paragraph 3.47), this system for accessing PPE had been in operation, and feedback from CSC settings suggested that immediate needs were being met, but that they lacked certainty about supply week to week. There were also concerns that once schools reopened to all children, there might not be adequate supplies (Exhibits FO/135 - INQ000540878 and FO/136 - INQ000540879).
- 3.58 Between April and June 2020, in response to the pandemic, some funds from the Adoption Support Fund (“ASF”) were repurposed to create the Adoption Support

Fund COVID-19 Scheme. Prior to the pandemic, the ASF provided funds to local authorities and Regional Adoption Agencies (“RAAs”) to pay for essential therapeutic services for eligible adoptive and special guardianship order (“SGO”) families (Exhibit FO/137 - INQ000541074). The COVID-19 Scheme provided emergency funding to RAAs and local authorities to support children who had left care either through adoption or with an SGO, and their families, to meet needs arising from the pandemic. For the COVID-19 Scheme, services had to be delivered by the end of December 2020 (Exhibit FO/138 - INQ000541037). Please see further details on funding in Annex 3.

3.59 In May 2020, recognising the pressures fostering and kinship care would be facing, including the risk of breakdown in fostering placements, DfE provided £148,660 to Grandparents Plus (“GP+”) to increase their capacity to expand services and reach more vulnerable kinship care families during the COVID-19 pandemic (Exhibit FO/139 - INQ000540871). In June 2020, DfE provided further funding, as part of the GP+ funding bid, to:

3.59.1 Family Rights Group’s (“FRG”) Family and Friends Adviceline (£80,000 in addition to £350,000 received prior to the pandemic) (Exhibits FO/140 - INQ000541117 and FO/139 - INQ000540871).

3.59.2 FosterTalk (£125,000 additional funding) (Exhibit FO/141 - INQ000540767).

3.60 On 1 May 2020, the following funding bid (Exhibit FO/142 - INQ000540860) was confirmed as successful for three charities supporting care leavers and £150,000 (£50,000 per care leaver charity) was awarded in full (Exhibit FO/112 - INQ000540861). These charities were Become, The Care Leavers Association and the Drive Forward Foundation, who were already working with care leavers and supporting local authorities in meeting their legal obligations as corporate parents. Please see further details on this funding in Annex 3.

3.61 In May 2020, HO allowed local birth registration centres to undertake partial registrations over the phone and supported the centres’ reopening within COVID-19 guidelines of the time. There was concern that, as the legal requirement on parents to register their child’s birth was lifted due to them not being able to fulfil this requirement during lockdown, there would be a cohort of children who were unknown in the system. It was important for these registrations to take place to ensure

professionals could continue their role of checking the safety of children (Exhibits FO/143 - INQ000541069 and FO/377 – INQ000541040).

3.62 To identify and understand the risk of gaps in CSC support, DfE asked local authorities to complete a new data collection form, to ensure timely data on the national picture. The vulnerable children and young people local authority survey was conducted from 4 May 2020 until July 2022. The collection covered information on the number of looked after children, CIN, and children with protection plans who were contacted by social care services in the last four weeks; the number of social care workers who were able to work in their usual way; and the number of children who became a looked after child. This data collection helped DfE quantify the impact of COVID-19 on local authorities' CSC; without it, DfE would have only had annual data from pre-existing collections. The survey showed on average the number of Children Looked After ("CLA") was 3% higher throughout the pandemic when compared to the same time in 2019-20. For the number of children with protection plans, from January 2021 until the survey ended in July 2022, the numbers were 2% lower on average. The number of children starting to be looked after also fluctuated, the numbers falling by 8% in 2020-21 compared to 2019-20 but returning to around the same as 2019-20 by 2021-22. For the CSC workforce, the pattern of residential care staff and social workers being unavailable to work due to COVID-19 generally followed each COVID-19 wave, with a peak in May/June 2020 of 27% and 13% staff unavailable respectively and falling to 4% and 1% by July 2022 (Exhibit FO/144 – INQ000541150).

3.63 On 11 May 2020, Ofsted published the *Registering children's homes in an emergency: priority applications* guidance, which allowed for the emergency registration of children's homes, including during an emergency situation such as a pandemic (Exhibit FO/145 - INQ000541145). This followed DfE discussing with Ofsted the need to take immediate steps to prioritise applications and registrations of new children's homes to expand capacity in the system (Exhibit FO/146 - INQ000541130).

3.64 Recognising the concerns raised around low on-site attendance by vulnerable children and young people, on 15 May 2020, DfE signposted technology support, the Oak National Academy and the Hungry Little Minds campaign, as well as details on resources for SEND pupils, to educational providers and local authorities, along with advice on supporting vulnerable children and young people's learning via home education. This was done via an update to the guidance '*Supporting vulnerable*

children and young people during the coronavirus (COVID-19) outbreak - actions for educational providers and other partners' (Exhibit FO/147 - INQ000519888).

- 3.65 On 15 May 2020, DfE specifically included children living in temporary accommodation within the definition of vulnerable children and young people (Exhibit FO/147 - INQ000519888).
- 3.66 On 20 May 2020, the daily DfE sitrep showed that vulnerable children and young people's attendance rates had steadily increased with around 9% (23,300) of children and young people with an EHC plan attending and 10% (38,200) of children and young people with a social worker attending (Exhibits FO/148 - INQ000512871 and FO/089 - INQ000541177).
- 3.67 On 20 May 2020, DfE officials submitted a note, following ministers' comments and a meeting between the DfE Permanent Secretary and his counterparts in MHCLG and DHSC, on the role of LRFs in responding to any unmet need for PPE in education and childcare settings. In this, it confirmed the approach to CSC providers remained unchanged, that they were eligible for direct support from LRFs (Exhibits FO/149 - INQ000540880 and FO/150 – INQ000540881).
- 3.68 On 22 May 2020, DfE officials advised DHSC officials that unaccompanied asylum seeking children, children in foster care and children in children's homes were some of the groups DfE wished to be eligible for asymptomatic testing. The sector was facing challenges in obtaining testing due to the multiple demands on available capacity (Exhibit FO/151 - INQ000540897). The proposal was put to the DHSC Prioritisation Board in July 2020 who approved ongoing asymptomatic testing for all children entering new placements. The Prioritisation Board also approved one-off testing for unaccompanied asylum seeking children and one-off prevalence testing of all staff and residents/children in children's homes to understand the risk of COVID-19 (Exhibit FO/152 – INQ000540909). At the point that this was approved, DHSC stated that they expected approximately an 8 week wait for tests to be delivered to new entrants into care and children's homes. However, demand for testing outstripped supply, which meant that in practice asymptomatic tests were not delivered to children's homes (Exhibits FO/153 – INQ000540924, FO/154 - INQ000540990 and FO/155 - INQ000540991).
- 3.69 Also on 28 May 2020, the Prime Minister announced at a COVID-19 press conference that a phased reopening of settings would begin from 1 June 2020 (Exhibit FO/156 - INQ000551632). On 1 June 2020, the phased reopening of settings

began for children in nursery (where applicable), reception, year 1 and year 6, alongside the provision offered for priority groups on a full-time basis.

3.70 From 1 June 2020, all pupils in EY, reception, year 1 and year 6 could attend school and from 15 June 2020, students in year 10 and year 12 were also able to return. Data indicated that attendance for vulnerable children and young people had increased following the easing of attendance restrictions. As of 11 June 2020, the attendance of vulnerable children and young people with an EHC plan had increased to 19% (50,000) and the attendance of vulnerable children and young people with a social worker increased to 17% (52,000) (Exhibit FO/157 - INQ000541091).

3.71 In June 2020, as part of their weekly calls with local authorities, the REACT teams collected information on the attendance of vulnerable children (those children with an EHC plan or a social worker). These conversations looked to understand why a local authority might have comparatively lower attendance rates to local authorities with similar COVID-19 incidence rates, or lower attendance overall compared to the national average. It also looked to identify what actions local authorities were taking to support vulnerable children and encourage attendance, including how DfE could support this. In addition, via these calls, REACT teams collected information on why in certain local authorities, vulnerable children had a lower engagement with social workers and how this could be improved. This information could be used by DfE, including the VCU, to better understand the attendance of vulnerable children and how best to support local authorities (Exhibits FO/158 - INQ000540902 and FO/159 - INQ000540989). The REACT calls revealed some of the key reasons for low attendance were:

3.71.1 Concerns within BAME communities about COVID-19 risk;

3.71.2 Concerns about the robustness of data, with several local authorities indicating that their own attendance figures were higher than DfE statistics;

3.71.3 Parental anxiety; and

3.71.4 Some parents felt stigmatised by the designation of vulnerability.

Local authorities also fed back on actions they had taken to address these challenges.

These included:

3.71.5 Promoting attendance through social care systems;

3.71.6 Establishing consistent messaging for families;

3.71.7 Creating targeted communications for BAME communities; and

3.71.8 Working with schools to implement gradual reintegration strategies for students and ensuring safeguarding measures for children unable to attend (Exhibit FO/404 - INQ000624572).

3.72 In relation to those local authorities with low social worker engagement, some local authorities attributed it to their reporting systems underreporting actual contact rates. These systems often failed to capture all forms of contact, such as virtual visits or telephone calls. One authority had introduced a new system for recording contact, but social workers were not yet fully compliant, leading to underreporting. Other factors included delays in reporting due to social workers' inability to access data entry at home, affecting the accuracy of reported contact rates, and differences in data interpretation across local authorities, resulting in inconsistencies. Despite these reporting issues, DfE understood that many authorities maintained regular contact with vulnerable children through strong partnerships with schools, and virtual communication methods. (Exhibits FO/397 – INQ000624569 and FO/398 – INQ000624570).

3.73 In June 2020, DfE launched the See, Hear, Respond programme, which was coordinated by Barnardo's. The programme aimed to support 'hidden' children who were at heightened risk of neglect, abuse or exploitation due to challenges posed by lockdown measures, as well as providing direct support to new parents. DfE provided £7.3 million of funding for the programme, distributed between Barnardo's and the delivery partners (Exhibit FO/111 - INQ000541004).

3.74 On 3 June 2020, Ofsted, on DfE's behalf, emailed all secure and open children's homes to advise that DHSC/MHCLG had arranged for an additional drop of PPE for children's homes to be distributed via the LRFs and to contact their LRF if they needed to access the supplies from this drop (Exhibit FO/160 - INQ000540898).

3.75 On 19 June 2020, the Prime Minister and SSE announced a £1 billion Covid "catch-up" plan to tackle lost learning time, which included a £650 million catch up premium for the academic year 2020/21 to help schools support all pupils. Headteachers were to decide how the funding would be spent, with DfE advising schools to focus tutoring on groups that most needed it, such as vulnerable children. In addition, a £350 million National Tutoring Programme ("NTP") was announced, which was to support access to high-quality tuition for the most disadvantaged young people (Exhibit FO/161 - INQ000541081). Vulnerable children were supported through the education recovery package, with further announcements throughout

2020 and 2021. DfE monitored children's attainment recovery, which informed the development of the education recovery package, with the particular aim of supporting the most disadvantaged.

3.76 On 26 June 2020, Article 39 (a children's rights charity), was granted permission to have DfE's decisions on consultation prior to laying The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 and the impact of these regulations judicially reviewed. DfE successfully defended its decisions in the judicial review in the High Court but, in November 2020, the Court of Appeal ruled against DfE for making the regulations without consulting the Children's Commissioner. More detail is provided at paragraph 4.8 (Exhibits FO/162 – INQ000540922 and FO/163 – **INQ000231395**).

3.77 Throughout the pandemic, there were ongoing concerns about the vulnerability of teenagers who were not in school and were exposed to risks both inside and outside the home. In particular, there were concerns about safeguarding risks (criminal exploitation, serious violence, exposure to domestic abuse), as well as the mental health challenges adolescents faced (Exhibit FO/164 - INQ000541070). Consequently, on 30 June 2020, MFCF and the Minister for Crime, Safeguarding and Vulnerability wrote jointly to police and crime commissioners and directors of Violence Reduction Units. This letter encouraged ongoing collaboration across organisations to help identify vulnerable children and young people and support their school attendance (Exhibits FO/165 - INQ000540904 and FO/166 - INQ000540906).

3.78 On 15 July 2020, the DfE Coronavirus Response Unit sought confirmation from DHSC that all settings, once the LRFs were no longer required for PPE distribution, would be able to request PPE via DHSC's PPE Portal (Exhibits FO/167 - INQ000540916 and FO/168 - INQ000540917). Following this, on 13 August 2020, Ofsted emailed all children's homes providers (on DfE's behalf) with an invitation to submit their information via an online form if they wanted access to DHSC's PPE Portal (Exhibit FO/169 – INQ000540925). DfE passed provider information to DHSC and on 22 September 2020 DHSC confirmed that invitations to join the portal had been sent to all providers who had provided their details (Exhibit FO/170 - INQ000540934).

3.79 DfE sought to equip social workers to support children to attend education settings, particularly ahead of the national expectation that all pupils returned to school in September 2020. In August 2020, a social worker toolkit was published on

the website, 'What Works for Children's Social Care' (Exhibit FO/171 - INQ000540923), an organisation funded by DfE.

- 3.80 On 4 August 2020, the guidance *Supporting vulnerable children and young people during the coronavirus (COVID-19) outbreak - actions for educational providers and other partners* was withdrawn (Exhibit FO/147- INQ000519888). This was ahead of education settings returning to full on-site attendance in September 2020 and guidance on vulnerable children being embedded into the *Guidance for children's social care services* and *Actions for schools during the coronavirus outbreak* guidance (Exhibits FO/172 - INQ000075666 and FO/173 - INQ000075719).
- 3.81 On 20 August 2020, SSE confirmed that DfE should go ahead with the plan first announced on 2 July 2020 (Exhibit FO/174 - INQ000541143) to ask settings to open full time for all pupils from the start of the autumn term 2020 (Exhibit FO/175 - INQ000075598).
- 3.82 The Adoption and Children (Coronavirus) (Amendment) (No.2) Regulations 2020 were laid before Parliament on 28 August 2020, under the negative procedure. Further detail is set out in paragraphs 4.9 to 4.12 (Exhibits FO/176 - INQ000540927 and FO/177 - INQ000540926).
- 3.83 In August 2020, DfE established a cross-government task and finish group to focus solely on pupils transitioning out of year 11 and those not in employment, education or training (Exhibit FO/178 - INQ000540919). The focus on this specific area was discussed with the Children's Commissioner and school and college leaders in July 2020, and the resulting task and finish group sought to ensure a strategic approach to reducing the risk this cohort of young people faced from having missed education and summer holiday programmes (Exhibits FO/179 - INQ000231362 and FO/180 - INQ000231363).
- 3.84 From 1 September 2020, attendance restrictions were lifted (Exhibit FO/181 - INQ000541146). Although some children continued to isolate, attendance rates began aligning with expected levels. In the week beginning 20 September 2020 (Exhibits FO/182 - INQ000541107 and FO/183 - INQ000541176), in fully open state-funded schools, attendance was 82% (217,000) for vulnerable children and young people with an EHC plan and 83% (126,000) for vulnerable children and young people with a social worker. This was just a few percentage points below overall attendance, which had levelled out between 86% and 87%. Though attendance rates

were lower for vulnerable children and young people than for all pupils, the data showed the gap was roughly in line with the gap that existed pre-pandemic (91% attendance for vulnerable children and young people with an EHC plan, 89% attendance for vulnerable children and young people with a social worker, 95% for all pupils) (Exhibits FO/088 – INQ000541089 and FO/182 - INQ000541107).

- 3.85 On 17 September 2020, SSE wrote to SSHC stressing the vital importance of the education and CSC workforces and requested that both sectors were top of the priority list for access to asymptomatic testing as capacity grew. SSE highlighted the children's homes were very vulnerable to staff shortages and that access to testing was vital to ensure children are not put at risk by setting forced to close (Exhibits FO/184 - INQ000540932 and FO/185 - INQ000497660).
- 3.86 On 25 September 2020, DfE officials sent a note to DHSC setting out DfE's proposal to prioritise testing in CSC settings and the risks posed to CSC by the pandemic (Exhibits FO/186 - INQ000540935 and FO/187 - INQ000540936).
- 3.87 The DHSC Prioritisation Board had given their in-principal agreement on 8 October 2020 to prioritising testing for CSC settings, following a joint DfE/DHSC note put to the Chief Medical Officer ("CMO") (Exhibit FO/188 - INQ000540939). The CMO's office had requested that the advice go to DHSC's Prioritisation Board, of which DfE was not a member (Exhibit FO/189 - INQ000540937).
- 3.88 On 9 October 2020, DfE officials updated SSE on testing prioritisation following the DHSC Prioritisation Board's recommendation to approve 25,000 testing kits for children's homes (Exhibits FO/190 - INQ000540943 and FO/191 - INQ000540944).
- 3.89 On 15 October 2020, SSHSC signed off the agreement to earmark 25,000 symptomatic tests a month for children's homes (Exhibit FO/192 - INQ000540952).
- 3.90 The Adoption and Children (Coronavirus) (Amendment) (No.2) Regulations 2020 came into force on 25 September 2020. Further detail is set out in paragraph 4.12 (Exhibits FO/176 - INQ000540927 and FO/177 - INQ000540926).
- 3.91 From 1 October 2020, DfE improved how it reported the findings from the attendance data collection launched in the week commencing 23 March 2020. This data was used to create an additional interactive data dashboard which focused on vulnerable children and young people data. The dashboard, as a power BI resource captured daily survey data, allowing users to filter information by region and local

authority areas. This allowed for a clearer analysis of vulnerable children and young people's attendance and supported DfE to have a targeted approach to its interventions, including REACT and VCU jointly calling those schools with low attendance statistics (Exhibit FO/193 - INQ000540938). From its inception, REACT primarily worked with local authorities, and also with Multi-Academy Trusts, in coordinating their response to the COVID-19 pandemic with respect to education and children's services. There were instances where other DfE policy teams collaborated directly with schools, such as the Vulnerable Children and Young People London Attendance Roundtable on 14th July 2020, which involved direct engagement with headteachers in London (Exhibits FO/399 – INQ000624580 and FO/401 - INQ000624590).

3.92 As DfE prepared for schools full attendance, there was an increased focus on engaging directly with schools to prepare them for reopening and to ensure good levels of attendance, (Exhibit FO/401 - INQ000624590). As of 5 October 2020, the weekly sitrep showed that for state-funded schools who responded to the survey, 85% (246,000) of children and young people with an EHC plan attended their setting and 84% (142,000) of children and young people with a social worker attended (Exhibits FO/194 - INQ000542575 and FO/183 - INQ000541176).

3.93 In October 2020, the VCU also used REACT to gather information on attendance (Exhibit FO/195 - INQ000540954). Of the local authorities they contacted, they found the reasons for low attendance amongst children with an EHC plan or a social worker included: parent anxiety, family anxiety (especially those with complex medical conditions), children's anxiety due to the constant change in routine, concerns around transmission on transport to school, and the challenge of effectively following up and chasing those pupils who weren't attending as the list of those absent changed from day to day. Actions being taken by local authorities to resolve these issues were varied and included, for example: risk assessments, multi-agency working, daily contact, introducing family visits, following up with non-attenders, targeted work with specific families, employing a team of liaison officers to work directly with the social worker and in at least one instance a local authority set up a local authority governance group to monitor attendance (Exhibit FO/084 - INQ000540955).

3.94 On 7 October 2020, PHE's Chief Nurse wrote to local health trusts to advocate for the safeguarding role of health care professionals taking part in health visits and advise that health visitors should not be redeployed onto COVID-19 or

other NHS priorities over winter. The intent was to minimise redeployment and secure 'eyes on' children under 1-year old via regular contact with health visitors (Exhibit FO/196 - INQ000541068).

- 3.95 On 13 November 2020, SSE attended the Covid O meeting on vaccine prioritisation. SSE was prepared to set out the case for prioritisation of the education and childcare workforce as part of phase 2 of the vaccination programme (vaccination of those under 50 and specific public sector workers), asking that as a minimum, *“staff across education to be prioritised in an earlier wave of vaccinations; and confirmation that the priority given to social care includes children’s social care”*. However, SSE did not get the opportunity to raise this within the meeting (Exhibits FO/197 - INQ000540957 and FO/198 - INQ000540958).
- 3.96 On 30 November 2020, Ofsted emailed all registered children’s homes (on behalf of DfE and DHSC) with information on how to register for access to symptomatic testing kits via DHSC’s testing portal (Exhibit FO/199 - INQ000540967).
- 3.97 On 30 November 2020, DfE agreed with CO to have exceptions in national legislation which would support parents and carers with children under 1. These exceptions allowed all households with a baby under 1 to mix with one other household, and to allow parent and child groups to continue to meet with up to 15 participants (excluding the children). These exceptions intended to reduce the risk of parental isolation and increase the visibility of the under 1s (Exhibit FO/200 - INQ000540966).
- 3.98 As detailed in paragraph 3.41, DfE’s approach to local authorities and attendance data evolved over the pandemic. In December 2020, DfE used the focused vulnerable children and young people attendance data, launched on 1 October 2020, to make targeted calls to local authorities where the data showed concern about low education attendance from vulnerable children. The calls enabled local authorities to be alerted to attendance concerns and to also alert DfE to the context around the data. DfE was then able to better understand challenges faced by the sector and could use it to inform policy work (Exhibits FO/201 - INQ000540969 and FO/202 - INQ000540968).
- 3.99 On 8 December 2020, DHSC informed DfE that CSC staff would not be included under the definition of ‘care workers’ for priority access to the vaccine. DfE

officials were concerned about this and sought to advocate for the definition to be extended (Exhibit FO/203 - INQ000540970).

- 3.100 On 14 December 2020, the guidance, *Coronavirus (COVID-19): guidance on isolation for residential educational settings* (Exhibit FO/055 - INQ000519894), was withdrawn, with the information within the guidance included in other guidance published at the time.
- 3.101 On 28 December 2020, DfE officials recommended that SSE implement weekly testing for secondary and FE pupils. Officials also recommended that if any new scientific evidence came to light that clearly demonstrated that transmission was high in younger pupils, DfE should consider invoking the *Contingency Framework* decision-making process to implement setting closures in all high prevalence areas from the week commencing 4 January 2021, including the possibility of extending restrictions to childcare and EY settings (Exhibit FO/204 - INQ000075682).
- 3.102 In w/c 25 January 2021, REACT call scripts on domestic abuse CSC referrals were used to assist the Vulnerable Children and Young Peoples' Board in monitoring safeguarding risks (Exhibit FO/205 - INQ000540988) and REACT "temperature checks" identified where referrals featured children previously unknown to CSC. In the week starting January 25, 2021, 112 local authorities reported referrals to CSC involving domestic abuse. A significant number (61%) noted an increase in such referrals compared to the previous year, with 22% observing a substantial rise, particularly in the East Midlands. Approximately 80% of authorities indicated that 'some' or 'over half' of these referrals involved children previously unknown to them, highlighting the prevalence of new cases. 26% reported that 'over half' of the referrals were for new children, with London, the North-West, and the West Midlands being the top regions for these new referrals. Meanwhile, 54% noted 'some' new children, with London, the south-east, and the north-west leading this category. Additionally, nearly half (49%) of the local authorities emphasised the increasing complexity of cases as a critical issue (Exhibit FO/206 - INQ000540983). REACT also started monitoring attendance of vulnerable children via their weekly national REACT report (Exhibit FO/207 - INQ000541142) as well as attendance being discussed in weekly REACT meetings, attended by Regional Schools Commissioners, REACT partners and Ofsted on a monthly basis (Exhibit FO/208 - INQ000540974).
- 3.103 On 4 January 2021, the Prime Minister announced, in a televised address, that a third national lockdown was to start from 5 January 2021 and that all primary schools, secondary schools, and FE settings across England would move to remote

education. Addressing the impact of the new lockdown on settings, the Prime Minister confirmed everyone would still be able to access EY settings, and that whilst most children at primary schools, secondary schools and FE settings across England would learn remotely from 5 January 2021, vulnerable children and CCW should continue to attend settings (Exhibit FO/209 - INQ000086664).

- 3.104 Throughout December 2020, DfE officials undertook planning for mass testing in schools and colleges, and this was set out to SSE (Exhibit FO/210 - INQ000075503). From 4 January 2021, regular mass lateral flow device (“LFD”) testing commenced in secondary schools and FE colleges for staff, vulnerable children and CCW. The primary school workforce, who attended their workplace, were also advised to carry out the same level of regular LFD testing as their secondary school counterparts in this phase, but there continued to be no LFD testing for primary school pupils.
- 3.105 On 10 January 2021, DHSC communications about who was included under the definition of care workers for priority access to the vaccine did not make it clear to the sector that CSC staff would not be included and as a result, many local authorities arranged for CSC staff to be vaccinated. This was raised at a Covid O meeting on 10 January 2021, where DHSC representatives advised that local areas should be using the definition of ‘health and social care’ provided in the *Public Health England Green Book* (Exhibit FO/211 – INQ000305158). This did not specifically mention staff working in CSC.
- 3.106 On 14 January 2021, DfE officials became aware that DHSC were developing a Standard Operating Protocol (“SOP”) to provide guidance to local systems on vaccinating social care workers. This SOP was published on 14 January 2021 and clarified that CSC workers were included, if they cared for children who were clinically vulnerable to COVID-19. However, those working with children who were not considered priority within the context of the JCVI priority cohorts 1 to 9 (children under 16 who did not have underlying health conditions leading to greater risk of disease or mortality and children who had no underlying health conditions) were not eligible. Local authority directors of adult social services had ultimate responsibility for identifying eligible social care workers in their areas.
- 3.107 On 13 January 2021, the weekly sitrep showed 34% (103,000) of children and young people with an EHC plan attended their setting and 40% (74,000) of children and young people with a social worker attended (Exhibits FO/212 - INQ000541095 and FO/183 - INQ000541176). That meant that vulnerable children’s attendance was

significantly higher than March 2020 to May 2020, but lower than autumn term 2020. DfE officials explained that there had been reports of parental confidence being low for parents of vulnerable children sending their children to settings due to high numbers of CCW also attending. Actions highlighted on the sitrep included "*Working to balance between the need to increase vulnerable children's attendance, against managing attendance of children of critical workers and anxiety in schools about being at capacity*". Overall reporting showed that the vast majority of schools continued to be able to meet the demand for places. Other actions included, strengthening communications to support clarification on pupils eligible to attend and developing further guidance for special and alternative provision settings, which had high proportions of vulnerable children on roll. These sitreps were shared weekly throughout January, February and March 2021 with SSE, ministers and senior civil servants. The reports included information on attendance, vulnerable children and remote education.

- 3.108 In February 2021, DfE updated the *Actions for schools during the coronavirus outbreak* guidance again to strengthen the guidance on vulnerable children with a social worker. DfE emphasised that there was an expectation for vulnerable children with a social worker to attend (subject to public health advice), given their safeguarding and welfare needs. Although attendance was not mandatory, DfE considered it vital that settings continued to work together with the parent or carer, local authority and where applicable, social workers, to explore the reason for any absence. The VC team continued to monitor and analyse the available data, initiating appropriate support measures when attendance was low. This included working with REACT teams to arrange phone calls with specific local authorities. REACT also continued to follow up with schools not providing vulnerable children places. (Exhibits FO/213 - INQ000540985, FO/394 - INQ000542640, FO/395 - INQ000623420 and FO/396 - INQ000623419).
- 3.109 For the week ending 12 February 2021, the sitrep showed for all state-funded schools, the attendance rates for groups was 36% (109,800) of children and young people with an EHC plan attending and 43% (81,000) of children and young people with a social worker attending (Exhibits FO/214 - INQ000541100 and FO/183 - INQ000541176).
- 3.110 On 24 February 2021, the government announced a new education recovery premium package for children and young people totalling an additional £700 million. This focused on an expansion of one-to-one and small group tutoring programmes,

as well as supporting the development of disadvantaged children in EY settings, and summer provision for those pupils who needed it the most (Exhibit FO/215 - INQ000541082).

- 3.111 Following the announcement on 22 February 2021 by the Prime Minister of a 4-step roadmap for easing lockdown restrictions in England at his COVID-19 press conference (Exhibit FO/216 - INQ000075711), from 8 March 2021, schools and colleges gradually returned to full attendance. There was twice weekly testing for secondary school pupils, alongside staff testing that had been in place since January 2020 across primary and secondary schools and colleges.
- 3.112 The Adoption and Children (Coronavirus) (Amendment) Regulations 2021 were laid before Parliament on 9 March 2021 (Exhibits FO/217 - INQ000540994, and FO/218 - INQ000540995).
- 3.113 From 22 March 2021, open children's homes' staff and residents were included in the expansion of the asymptomatic testing programme (Exhibit FO/219 - INQ000540996). Please see paragraphs 3.67 and 3.86 for previous DfE actions to secure asymptomatic testing for CSC.
- 3.114 For the week ending 26 March 2021, the sitrep showed in all state-funded schools, the attendance rates for groups was 84% (254,400) of children and young people with an EHC plan attending and 82% (153,200) of children and young people with a social worker attending. This compared to 91% and 90% usual attendance rates for children and young people with an EHC plan and with a social worker respectively (Exhibits FO/220 - INQ000541108 and FO/183 - INQ000541176). DfE continued to provide sitreps up to January 2022, with the attendance rates of vulnerable children and young people with an EHC plan and those with a social worker above 80% month-on-month. Reports from April 2021 (Exhibit FO/221 - INQ000541109), May 2021 (Exhibit FO/222 - INQ000541111), June 2021 (Exhibit FO/223 - INQ000541112), September 2021 (Exhibit FO/224 - INQ000541113), October 2021 (Exhibit FO/225 - INQ000541114), November 2021 (Exhibit FO/226 - INQ000541115), December 2021 (Exhibit FO/227 - INQ000541116) and January 2022 (Exhibit FO/228 - INQ000541048) have been provided for information.
- 3.115 The Adoption and Children (Coronavirus) (Amendment) Regulations 2021 came into force on 30 March 2021. These regulations further extended the amendments relating to virtual working/visits, medical reports, and Ofsted inspections

to September 2021. More detail is provided at 4.1 onwards (Exhibits FO/217 - INQ000540994, and FO/218 - INQ000540995)

- 3.116 The See, Hear, Respond programme closed in March 2021. Stakeholders, including from Barnardo's, its partners and DfE, set out that the programme was a short-term response to the pandemic, preventing additional harm and aiming to connect young people with sustainable support (for example, a key aim was to ensure children and young people were ready to return to education as and when schools reopened). By the time See, Hear, Respond ended, it had reached over 100,000 children and families. Feedback indicated that See, Hear, Respond met its objectives, with 98% of families reporting helpful support, and case closures showing that needs were met in 84% of cases (Exhibit FO/111 - INQ000541004).
- 3.117 From 01 April 2021, secure children's homes' staff and residents were included in the expansion of the asymptomatic testing programme (Exhibit FO/219 - INQ000540996).
- 3.118 From 09 April 2021, everyone in England could access two COVID-19 tests a week for free if they did not have symptoms, using rapid lateral flow tests (Exhibit FO/229 - INQ000541166). This was in addition to any measures brought in specifically for the children's social care sector.
- 3.119 After the 2021 Easter break, vulnerable children and young people's attendance rates were estimated to have reached their highest levels since pupils returned on 8 March 2021, following the third national lockdown. For the week ending 23 April 2021, the sitrep showed in all state-funded schools, the attendance rate was 88% (270,250) for children and young people with an EHC plan and 85% (160,000) for children and young people with a social worker. This was lower than the overall attendance rate of 93% (Exhibits FO/221 - INQ000541109 and FO/183 - INQ000541176). As mentioned in paragraph 3.115 these compared to 91% and 90% usual attendance rates for children and young people with an EHC plan and with a social worker respectively (Exhibit FO/220 - INQ000541108). Attendance rates continued to be monitored in the weekly sitrep. Overall, attendance correlated with COVID-19 rates and parental confidence, and therefore when infection rates went down and confidence increased, there was an increase in attendance. This pattern was seen across the country and throughout the pandemic period.
- 3.120 On 24 May 2021, DfE launched the alternative provision Year 11 Transition Fund (a £8 million fund). This provided alternative provision settings with £750 per

year 11 pupil to support them until February 2022, to ensure they successfully transitioned to post-16 education (Exhibit FO/230 - INQ000541006). This was a result of a 'deep dive' into attendance at alternative provision settings starting in April 2021, following concerns that attendance rates were lower than before the pandemic, including for vulnerable children in these settings. The VCU worked with the REACT team, who contacted 24 alternative provision settings to better understand the cause of the increased low rate of attendance (Exhibit FO/231 - INQ000541000). This analysis identified year 11s to be at particular risk. The REACT calls found that the COVID-19 pandemic had posed significant challenges in maintaining positive attendance patterns, particularly among pupils who were already disengaged or faced substantial barriers to attendance before the pandemic. Pupils in medical alternative provision settings, who had pre-existing medical conditions, experienced heightened anxiety about returning to face-to-face learning. Some settings had also found it more difficult to enforce attendance without the usual measures, such as fines, which were suspended for parts of the previous year. This resulted in the re-run of the alternative provision Year 11 Transition Fund, as well as recommending continued monitoring of attendance rates within these settings and promoting a summer school programme. Actions highlighted also included writing to all alternative provision settings to ask them to prioritise attendance and working with DHSC to reassure families that these settings were safe to attend (anxiety in returning to face-to-face learning amongst pupils in medical alternative provision settings with pre-existing medical conditions had been found) (Exhibits FO/232 - INQ000541009 and FO/233 - INQ000541010).

3.121 On 2 June 2021, DfE announced a total of £1.4 billion was being invested. This included £1 billion to support up to 6 million children, providing 15-hour tutoring courses for disadvantaged school children, as well as an expansion of the 16 to 19 tuition fund, targeting subjects such as maths and English (Exhibit FO/234 - INQ000541083). An additional funding package was also announced on 27 October 2021, including a one-off £1 billion recovery premium to support disadvantaged pupils in all state-funded primary and secondary schools (Exhibit FO/235 - INQ000541084).

3.122 On 16 June 2021, DfE announced over £16 million in funding to extend the role of Virtual School Heads ("VSH"), a person in the local authority who promotes the educational achievement of its looked-after children, ensuring their attainment and progress are monitored and evaluated as if those children attended a single

school. A £3 million pilot program was also announced to enable VSHs to support looked-after children and care leavers in post-16 education settings starting from October 2021. This funding boost meant there would be a local champion for children with a social worker in every local authority in England, targeting support earlier on in these young people's lives and helping improve how they engage with education (Exhibit FO/236 - INQ000541169).

3.123 Following the launch of the alternative provision Year 11 Transition Fund in May 2021 (see paragraph 3.121), on 24 June 2021, MfCF, Vicky Ford, wrote a letter to all special and alternative provision schools, promoting the funding available for summer schools. £200 million of funding was to support children with their mental health and wellbeing and to catch up on missed face-to-face learning. For special and alternative provision schools, £1,791 per pupil for a 2-week summer school was available and the letter also promoted the Holiday Activities and Food programme running again in summer 2021, providing £220 million to local authorities to coordinate free holiday provision, providing nutritious food, as well as activities like arts and crafts, sport, and music (Exhibit FO/237 - INQ000541011).

3.124 In July 2021, DfE developed a CSC COVID-19 Recovery Action Plan (Exhibit FO/238 - INQ000541012) which SSE signed off. The action plan was taken forward by the relevant policy teams in DfE. It set out six focuses for stabilising the system as it transitioned out of the pandemic. The action plan also sat alongside the CSC COVID-19 Regional Recovery and Building Back Better Fund. This was a CSC recovery fund created in July 2021 by tilting existing DfE programmes of funding. It aimed to improve local CSC services. This enabled a coherent approach to allocating circa £24 million funding to local authorities, regions and other partners, with an overarching aim of stabilising the system and building resilience to manage operational risks in the wake of the pandemic (Exhibit FO/239 - INQ000541123). Please see further details on this funding in Annex 3 (Exhibit FO/240 - INQ000541005). Alongside this, the department developed plans for longer-term reform to improve the outcomes from CSC. This was informed by the Independent Review of Children's Social Care, which launched in March 2021 and was published in May 2022

3.125 On 29 July 2021, in response to a commission from No.10 officials, DfE officials prepared and issued attendance strategy slides for No.10. The slides identified COVID-19 related absence causes and the recommended strategy to improve attendance. This strategy aimed to focus efforts on communications and

continued data collection. The September attendance strategy slide also identified family vulnerability as an important area of focus. It noted the efforts made to support the attendance of vulnerable children and young people before the start of the 2021 autumn term, including the impact of the See, Hear, Respond programme and the support provided by summer schools would have provided (Exhibits FO/241 - INQ000541013 and FO/242 - INQ000541017).

- 3.126 The Adoption and Children (Coronavirus) (Amendment) Regulations 2021 lapsed as planned on 30 September 2021. As a consequence, all provisions amended by these regulations reverted to their previous full effect.
- 3.127 In December 2021, DfE announced support for vulnerable children in serious violence hotspots (Exhibit FO/243 - INQ000541137). This included targeted support, backed by funding of £30 million, as part of a rollout of SAFE taskforces and Alternative Provision Specialist Taskforces (“APST”) in ‘hotspot’ areas, where incidents of serious youth violence were highest. APSTs are multi-agency, co-located teams embedded in alternative provision schools providing joined-up support to children and young people most in need. The SAFE taskforces programme aimed to provide support to address barriers to attendance, support behaviour and prevent children and young people from becoming NEET.
- 3.128 On 14 December 2021, the SSE received advice on proposed plans to protect vulnerable children and young people should further measures be taken to manage the spread of the Covid-19 pandemic. This advice formed part of DfE’s contingency planning and focused on ensuring effective safeguarding and managing workforce pressures (Exhibits FO/244 - INQ000541044 and FO/245 - INQ000541045).
- 3.129 Vaccination had been available to all 12-15 year olds from September 2021, a decision that was taken by SSHSC (Exhibit FO/246 - INQ000541023) following input from DfE on attendance modelling and the likely loss of education with and without vaccination of that age group (Exhibits FO/247 - INQ000541018 and FO/248 - INQ000541019). On 22 December 2021, JCVI advised that children aged 5 to 11 years in a clinical risk group, or who were a household contact of someone who was immunosuppressed, should be offered two 10 micrograms doses of the Pfizer-BioNTech COVID-19 vaccine (Comirnaty®) with an interval of 8 weeks between the first and second doses. This potentially enabled young carers in this age group to receive vaccinations (Exhibit FO/249 - INQ000147458).

- 3.130 On 29 March 2022, the DfE daily sector bulletin (Exhibit FO/250 - INQ000541051) announced that in-school vaccination would end on Friday 1 April 2022. The bulletin explained that 12 to 15-year-olds would still be able to access the vaccine outside of school, at a vaccination centre, pharmacy or walk-in centre. Healthy 5 to 11-year-olds would also be offered the COVID-19 vaccine from the beginning of April 2022, with vaccinations taking place outside of school.
- 3.131 On 1 April 2022, the guidance *COVID-19 - Guidance for Children's Social Care Services* was withdrawn (Exhibit FO/251 - INQ000519602).

4. Chapter 4 – Legislation

Adoption and Children (Coronavirus) (Amendment) and (Amendment) (No.2) Regulations 2020

- 4.1 This section of the statement addresses questions 92 to 97 from the Inquiry.
- 4.2 As outlined in paragraph 2.2, DfE was concerned about the safeguarding of vulnerable children, the availability of placements for children in care, and the availability and wellbeing of the CSC workforce.
- 4.3 On 12 March 2020, as mentioned in paragraph 3.11, CSC officials were commissioned by DfE lawyers to identify what legislative amendments might be required in response to the pandemic, to support vulnerable children and young people against the backdrop of the department's concerns (see paragraph 4.2). Consequently, DfE developed proposals which became the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 ("the regulations"). In summary, these regulations temporarily modified statutory requirements in CSC, relating to issues including adoption, fostering, and safeguarding, to address challenges posed by the pandemic. The regulations altered processes such as visits, reviews, and approval timelines. A more detailed breakdown of the temporary changes made by the regulations can be found in paragraph 4.6 (Exhibits FO/129 - INQ000540899 and FO/130 – INQ000540862).
- 4.4 The following paragraphs set out how DfE developed the regulations. Prior to laying, officials engaged with stakeholders to understand the risks to children and what support the sector might need to cope with the impact of COVID-19. During the initial phase of the pandemic, DfE faced a multitude of challenges as the COVID-19 crisis disrupted the delivery of children's services. In response to these unprecedented pressures, DfE prioritised engaging with key stakeholders directly responsible for delivering children's services. From mid-March 2020 until the regulations were finalised, DfE officials liaised by email and via virtual meetings with Ofsted, the ADCS, the LGA, Principal Social Workers and practice leaders to get their views on the pressures on CSC during the COVID-19 pandemic and how the government could support them in their frontline work with vulnerable children and families. These discussions focused on how the DfE could best support the sector to support the children and families that needed help. Given the Department has a strategic, not a service-delivery role, the focus was on supporting local authorities in their work on frontline delivery. The level of consultation with the OCC was found to be inadequate

in the appeal against the Judicial Review, and the DfE recognises this finding. In hindsight, building in more directly the views of children and their advocates should have been done at the time. I and my team engaged very regularly with the Children's Commissioner and her team throughout the covid period, on a wide range of issues affecting children, including informal conversations about the measures the government was taking to support services during the pandemic (Exhibits FO/002 - INQ000226717, FO/252 - INQ000540808, FO/253 - INQ000540807, FO/254 - INQ000540809, FO/255 - INQ000540798 and FO/116 - INQ000540854).

4.5 This engagement informed the proposed approach to the draft regulations which were submitted to MfCF on 6 April 2020. MfCF approved the making of the regulations on 15 April 2020, on the proviso that the Children's Commissioner was informed prior to them being laid. Officials informed, but did not formally consult, the Office of the Children's Commissioner ("OCC") on 16 April 2020. The OCC replied on 17 April 2020, providing views on the regulations which DfE officials took note of; DfE sought to reassure the OCC, addressing each point of their specific concerns about the regulation changes, in their email response on 22 April 2020, however no changes were made to the regulations as a result of the OCC's feedback. DfE also outlined how the guidance would be updated to reflect changes to the regulations and ensure that the information provided to local authorities was clear and effective. The guidance was regularly updated during the pandemic to ensure clarity about expectations regarding the use of amended regulations. The views of the OCC were also considered in subsequent formal reviews of the regulations, alongside formal public consultations that were carried out, for example in advance of the second set of regulations which were introduced later in the year. (Exhibits FO/256 - INQ000540865, FO/116 - INQ000540854, FO/115 - INQ000540842, and FO/257 - INQ000540846).

4.6 The regulations were laid on 23 April 2020 and came into force on 24 April 2020. The regulations (Exhibits FO/129 - INQ000540899 and FO/130 – INQ000540862) had the following effects:

4.6.1 Statutory timeframes for review processes relating to complaints and inspections (including Ofsted's written responses) were extended to "as soon as reasonably practicable". Mandatory inspection intervals for children's homes by Ofsted were suspended, though inspection powers remained active.

- 4.6.2 Medical checks and Disclosure and Barring Service (“DBS”) checks for adoption could be completed in stage 2 (the final stage) rather than stage 1, expediting the start of the process. Also, adoption panel requirements were amended, allowing reduced quorum numbers, and panel meetings were made optional. Finally, timeframes for assessments and progress in the adoption process were made conditional on feasibility of being able to meet those timeframes.
- 4.6.3 Local authorities could adjust their visit and review schedules for privately fostered children, as well as amend the timing for foster carer approval reviews, allowing reviews to be completed "as soon as reasonably practicable". It was clarified that visits from a child's responsible authority could also be conducted by telephone, video-link or other electronic means.
- 4.6.4 Fostering panels were no longer mandatory for foster carer assessments and the minimum number of panel members required was reduced. Foster carer applicants could self-report health details temporarily and approvals could proceed while awaiting medical and DBS checks. Short break foster placements were permitted to last up to 75 consecutive days and requirements for an officer to visit every child who was being fostered could be met remotely. Temporary approvals and extended placement durations for non-connected persons were permitted to enable quicker foster placements in emergencies. Finally, the requirement for a nominated officer's approval for 'Foster to Adopt' placements was removed, which allowed local authorities to approve these placements directly.
- 4.6.5 The requirement for the registered person of a residential family centre to make provision for the care, treatment, education and supervision of residents was amended to allow for that person to use “reasonable endeavours”. Also, the regulations amended timeframes around the registered person of a residential family centre when contacting a complainant and eased requirements in relation to registered provider visits (including enabling the use of telephone or video-link equipment as appropriate). Monthly inspections and meetings with family members could be conducted remotely if in-person contact was not feasible.

4.6.6 Residential facilities enforcing self-isolation for COVID-19 positive children could temporarily deprive children of their liberty, but these were limited to health protection protocols and required public health officer input.

4.7 The timeline for developing and laying the regulations was truncated due to their urgency. DfE was concerned that the additional pressure from staffing shortages and increased demand could put vulnerable children and young people at further risk. Therefore, DfE carried out an expedited consultation exercise, as set out in paragraph 4.4, and a shorter than usual Statutory Instrument (“SI”) laying process before the legislation came into effect. The shorter than usual SI laying process was required to enable the continued smooth functioning of CSC services in circumstances which had already led to the closure of schools to most children and a national ‘lockdown’ at the end of March 2020. The sector stakeholders (referred to in paragraph 4.4) who were consulted by DfE asked for these changes to be in force as a matter of urgency. This was set out at paragraph 3.1 of the Explanatory Memorandum to the regulations (Exhibit FO/129 - INQ000540899).

4.8 The Inquiry has referred to the findings of the High Court. As referred to in paragraph 3.77, the children’s charity, Article 39, was granted permission to apply for judicial review of these regulations in June 2020. DfE was successful at defending this judicial review in the High Court but was subsequently unsuccessful at appeal in the Court of Appeal. The High Court found that: there was not an error in law in not consulting the OCC or Article 39 (et al.), the regulations were not unlawful, and DfE had taken into account section 7 of the Children and Young Persons Act 2008 (the general duty of the SSE to promote the well-being of children in England). The Court of Appeal, however, found that it was irrational to not include the OCC in the expedited consultation exercise referred to in paragraph 4.4. By this stage, Article 39 was not seeking to quash the regulations, and the Court of Appeal simply made a declaration that the SSE acted unlawfully by failing to consult the OCC and other bodies representing the rights of children in care before introducing the regulations. DfE accepts this judgment and has always acknowledged that the consultation process was truncated due to the urgency of the situation. In normal circumstances, DfE consults the OCC when appropriate to do so (Exhibits FO/162 – INQ000540922, FO/163 – INQ000231395 and FO/409 - INQ000624588).

4.9 The regulations were due to expire on 25 September 2020, and DfE did not intend to extend this end-date unless there was a demonstrable COVID-19-related need to do

so. After the regulations came into force, to understand which amendments were being used and why, DfE gathered regular feedback from a variety of sources including local authorities, social workers, charities, Ofsted and other key partners via weekly, fortnightly, and monthly engagement. A note to the MfCF on 24 June 2024 provided an update on the monitoring of the regulations in May and June. This engagement indicated that the amendments had not been widely used overall. However, amendments relating to virtual working/visits, medical reports, and Ofsted inspections were the most commonly used. (Exhibit FO/378 - INQ000540905). Further detail regarding the usage of the regulations, obtained during calls between REACT and local authorities in early July 2020, was provided in advice to the Minister on 8 July 2020. This advice included recommendations on which regulations should be extended or allowed to lapse by the expiry date of September 25, 2020. The advice also incorporated stakeholder views from ADCS, Ofsted and the Office of the Children's Commissioner, detailing the usage of each amended regulation. The advice set out information which DfE had collected from local authorities on their use of the regulations. It noted that some amendments, such as those concerning virtual contact, were used by local authorities and recommended for continuation. For instance, Regulation 8(13) was amended to allow visits to be conducted via telephone, video-link, or other electronic means (Regulation 28(1A)), and to adjust visit timescales when in-person visits were not feasible (Regulation 28(1B)). Five, out of the 81 local authorities spoken to in July, had used this regulation. Two of the three additional stakeholders were also in favour of retaining Regulation 1A. However, many amendments saw little to no use, and with a reduction in cases and social distancing measures, some flexibilities were deemed no longer necessary and were recommended to lapse (Exhibits FO/390 – INQ000624573, FO/391 – INQ000624578, FO/392 – INQ000623400, FO/393 – INQ000624574).

4.10 On 3 July 2020, officials presented ministers with the following criteria which were used to assess which of the initial regulations should expire as planned or be proposed for extension (Exhibit FO/258 - INQ000541056):

4.10.1 Whether the regulations were frequently, rarely, or never used to manage the impact of the pandemic at that time;

4.10.2 The practical implications of not having the regulations. For example, whether they would have provided a necessary contingency in the event

of any “local lockdowns” or another national flare up of the COVID-19 virus;

4.10.3 Whether removing them would have increased pressures on other parts of the system stretched by COVID-19. For example, some regulations were due to pressures on the NHS in doing medical assessments; and,

4.10.4 The impact of the regulation change, for example, on children’s lived experiences within CSC.

4.11 Following this, DfE proposed to extend the amendments relating to virtual working/visits, medical reports, and Ofsted inspections. These amendments were chosen for extension to align with test and trace requirements, reduce the burden on the NHS, and to allow Ofsted a period of catch-up before it could resume normal service for inspections (Exhibit FO/259 - INQ000541075). DfE then formally consulted on these proposals from 16 July 2020 to 5 August 2020. Responses to the consultation broadly supported DfE’s proposals and confirmed that overall, the amendments had been infrequently used, and where they had been used, this had been with senior management oversight. Most respondents had supported extending regulations to allow virtual visits when face-to-face visits were not possible, especially for resuming visits in COVID-19 cases. ADCS noted that hybrid approaches increased visit frequency when children were not seen in school. Many suggested a future hybrid model, as some young people responded better to virtual contact. Barnardo’s recommended training and best practice guidance for virtual visits. DfE sought views from children and young people in four local authorities, with mixed responses: some preferred virtual visits, others acknowledged barriers and limitations, and many expressed a preference for a mixture of both virtual and face-to-face contact. Local authorities commented the flexibilities had been rarely applied and only with management oversight and they should be trusted to use flexibilities in a proportionate, risk assessed way to meet the needs of children, young people, and families. The consultation report, *Children’s Social Care, Government consultation response, August 2020*, outlined government’s rationale for extending the regulations and emphasised the amended extended regulations would be explicit that virtual visits were only permitted in the context of coronavirus risk and ensure that the primary mode of contact would be face-to-face unless contrary to public health advice (Exhibits FO/260 - INQ000540931 and FO/261 - INQ000540914).

- 4.12 After considering the responses to the consultation, on 28 August 2020, DfE laid the Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020. On the same date, DfE also confirmed that the remaining amendments would end, as planned, on 25 September 2020 (Exhibits FO/176 - INQ000540927 and FO/177 - INQ000540926).
- 4.13 The Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020 were due to lapse on 31 March 2021. After a consultation launched on 9 February 2021, they were extended by the Adoption and Children (Coronavirus) (Amendment) Regulations 2021 from 31 March 2021 to 30 September 2021 (Exhibit FO/262 - INQ000540977). On the 30 September 2021, the modifications made by the series of Adoption and Children (Coronavirus) (Amendment) Regulations lapsed entirely (Exhibits FO/217 - INQ000540994, FO/263 - INQ000541076 and FO/218 - INQ000540995).

Impact assessment

- 4.14 The Inquiry requested that DfE set out what assessment of effect and impact it made regarding the regulations. DfE prepared 2 impact assessments on the Adoption and Children (Coronavirus) (Amendment) Regulations 2020: a Children's Rights Impact Assessment ("CRIA"), 15 April 2020 (Exhibit FO/264 - INQ000540857); and a Public Sector Equality Duty Assessment ("PSED"), 20 April 2020 (Exhibit FO/265 - INQ000540858). Further information about the CRIA and PSED assessments are set out in paragraph 4.16 onwards.
- 4.15 No other impact assessments were produced because the changes were temporary and, as set out in the Explanatory Memorandum to the Adoption and Children (Coronavirus) (Amendment) Regulations 2020, DfE found that there was no significant impact on businesses, charities, voluntary bodies, or the public sector (Exhibit FO/129 - INQ000540899).
- 4.16 The CRIA outlined the changes which focused on "*administrative processes and timescales, and on visits and contact for children in care and those who may enter care as result of COVID-19*" it also stated, "*No changes are being made to the substance of the services being provided to these children*". This reflected the service, the child's access to and interaction with social care professionals, would continue to be delivered with modifications due to public health risks. The changes would not "*reduce or remove any responsibility that local authorities had towards*

children. Local authorities are still expected to provide children's services and to identify, support and protect vulnerable children." The impact assessments recognised the negative consequences of these adjustments, which are detailed below.

- 4.17 In the CRIA, the following examples of the possible impacts of the amendments on children were detailed (Exhibit FO/264 - INQ000540857):
- 4.17.1 Children in residential care could have found they were more frequently speaking remotely to family or advocates, rather than face-to-face;
 - 4.17.2 Children in residential care might have been deprived of their liberty where they had, or were suspected of having, COVID-19;
 - 4.17.3 Children in private foster care arrangements might have had to wait longer for their local authority to visit their placement;
 - 4.17.4 Children in temporary foster care might have been in that arrangement for longer than usual; and
 - 4.17.5 Children who complained about the services they received from their local authority might have had to wait longer than usual for a response from their local authority.
- 4.18 Also in the CRIA, regarding the relevance to the United Nations Convention on the Rights of the Child ("UNCRC") main articles, DfE detailed the following (Exhibit FO/264 - INQ000540857):
- 4.18.1 Article 2 (non-discrimination): Officials were confident that these changes would not lead to a discriminatory application of the UNCRC. The temporary changes to processes and timescales would not fundamentally change the existing provisions of support and protection for children in care.
 - 4.18.2 Article 3 (best interests of the child): These changes were made to empower frontline operations during the COVID-19 pandemic. Safeguarding and acting to ensure that decisions were made in the best interest of the child was integral to the operational guidance issued (*Coronavirus (COVID-19): guidance for local authorities on children's*

social care) and was the first principle set out in the guidance.

4.18.3 Article 6 (life, survival and development): Safeguarding and acting to ensure that decisions were made in the best interest of the child were integral to DfE's response to COVID-19. DfE believed that the new temporary powers could make an important contribution to the rights under this article by helping to minimise the spread of COVID-19 amongst children in residential care. For more vulnerable children, who might be at greater risk, it might have been that a visit done over a video-call wouldn't be enough. It was determined that it would be for the local authority to risk assess on an individual basis and not for central government to dictate.

4.18.4 Article 12 (respect for the views of the child): Officials were confident that none of these changes removed any mechanism that gave a voice to children in care. DfE recognised that some of the changes impacted the way in which children could make their voices heard (e.g. speaking to advocates did not happen face-to-face, local authority responses to complaints may have been slower). However, DfE aimed to strike a balance between supporting local authorities and providers to prioritise the most essential activities as well as continuing to make sure the voice of the child could still be heard.

4.19 In the PSED, DfE detailed the view that core child protection and safeguarding requirements remained unchanged as a result of the amendments, as did the clear principle that the best interests of the child should always be the primary consideration in the delivery of CSC services. The amendments made to the regulations were largely procedural in nature, and officials did not identify any negative impacts that would affect those with certain protected characteristics more than others. Only in the case of ethnicity, where children from some minority ethnic backgrounds were over-represented in residential care, did government identify an indirect impact on this characteristic, but any such impact was considered to be low given the nature of the regulations (Exhibit FO/265 - INQ000540858).

4.20 For the Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020, DfE conducted a CRIA and a PSED. The outcomes were published alongside the publication of the consultation on 16 July 2020 (Exhibits

FO/266 - INQ000540929 and FO/267 - INQ000540930). As above, there was little or no perceived impact on children's rights and protected characteristics as a result of these regulations (Exhibit FO/265 - INQ000540858).

4.21 The Inquiry has requested information in relation to any assessment of the impact of the changes DfE made to the provision of CSC during the pandemic. The main changes made were regarding the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. As detailed in paragraphs 4.14 – 4.19 above, the department did not anticipate any substantive impacts on children as a result of these changes. DfE has not subsequently specifically or distinctly measured the impact (if any) of the regulations, partly because reported use of the exceptions was low. However, the department does collect relevant CSC data, which may give an indication of the impact of the regulations, or the pandemic more generally, on children supported by CSC, and this is listed in further detail in paragraph 4.22.

4.22 The data shows that the number of adoptions and fostering placements has remained largely consistent since 2019, suggesting that the objective of the regulations, to support these normal processes to continue to operate during the pandemic, was successfully met (Exhibits FO/268 - INQ000541148, FO/269 - INQ000541149 and FO/270 - INQ000540766). The data collected via the vulnerable children and young people survey (Exhibit FO/144 – INQ000541150), showed that the number of referrals to CSC services between May 2020 to July 2022 was around 9% lower on average. This could be as a result of the reduction in referrals from schools. This might suggest that there were children who would have normally been referred to CSC who ultimately were not assessed by CSC. However, following schools reopening, these trends largely returned to usual pre-pandemic levels. There were also fewer children leaving the social care system. This might have been due to a combination of court backlogs, local authority risk appetite, and COVID-19 restrictions preventing children from moving household as easily. In relation to serious harm to children and young people, the department collects data on all serious incidents. During the COVID-19 pandemic, there was an increase in Serious Incident Notifications ("SINs"), with 536 SINs in the 2021 reporting year. Further detail on this is covered in chapter 6 of this statement (Exhibit FO/271 - INQ000541168).

4.23 The Inquiry has also asked whether the department sought to analyse whether virtual visits to children, as a replacement for in-person visits, increased the risk of harm to which children were exposed. *The Vulnerable Children and Young*

People Survey provided some insights regarding the impact of virtual visits on the risk of harm to children. DfE collected 39 waves of data between May 2020 and July 2022. Local authorities were asked an open question about the ‘*steps local authorities have been taking to safeguard children that they are not in contact with*’. The responses in relation to virtual visits indicated a mixed response from local authorities to the adoption of virtual visits and their effectiveness in safeguarding children. The responses highlighted virtual visits were not universally suitable for all age groups and circumstances (Exhibit FO/402 – INQ000624582).

- 4.24 To mitigate risks, local authorities employed a combination of strategies, balancing face-to-face visits with virtual meetings based on the risk level. High-risk cases were prioritised for in-person visits, while virtual visits proved beneficial for certain groups. “*In the later waves, many local authorities reported that visits would be face to face unless there are ongoing health concerns of staff or family.*”[*Summary of returns Waves 1 to 10, October 2020*] (Exhibit FO/403 – INQ000624581).

Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) and Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) (Coronavirus) (Amendment) Regulations 2021

4.25 This section of the statement addresses questions 98 and 99 in the Rule 9 request.

4.26 DfE laid an SI on 9 September 2021, which came into force on 1 October 2021, titled the Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) and Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) (Coronavirus) (Amendment) Regulations 2021 ("the 2021 SI"). The 2021 SI covered the frequency of the inspection of childcare settings by Childminder Agencies ("CMA") and of Ofsted inspection of children's homes (Exhibit FO/272 - INQ000541021).

4.27 The intention for the 2021 SI was twofold:

4.27.1 Firstly, to reduce the requirement for CMAs to visit a childminder's home twice in the first year of registration to just once. COVID-19 highlighted the need to streamline this process for the sector but it also had been a longstanding aim of the department to reduce this bureaucratic requirement. In a January 2021 letter to MfCF this was also proposed by the Organisation for Childminder Agencies on the basis that it was unnecessarily bureaucratic (Exhibits FO/273 - INQ000540993 and FO/274 - INQ000541020).

4.27.2 Secondly, to provide Ofsted with the flexibility to target their resources on CSC providers where risk assessments indicated inspection should be prioritised during 2021-22. This was required because of Ofsted's backlog of inspections which were due to have been carried out in 2020-21 (Exhibit FO/274 - INQ000541020).

4.28 Therefore, the 2021 SI enabled the following measures (Exhibits FO/275 - INQ000541141 and FO/274 - INQ000541020):

4.28.1 Reduced (from two to one) the minimum number of quality assurance visits that CMAs are required to undertake in the first year of their EY providers' registration.

4.28.2 Children's homes judged 'good' or 'outstanding' by Ofsted to have a minimum of one inspection per year. Even if a home had two inspections the previous year because of a 'requires improvement' or 'inadequate' judgement, Ofsted would have been required to deliver two minimum inspections the following year, regardless of improvements identified at the most recent inspection. This change was not linked to the impact of COVID-19; it was to enable Ofsted to target their resources at homes most in need of support on an ongoing basis.

4.28.3 Ofsted to comply with the minimum frequency of inspections 'so far as is reasonably practicable' for the limited remainder of the inspection year (1 October 2021 until 31 March 2022). Minimum inspection cycles (but not Ofsted's powers to inspect should they have needed to do so, even at short notice), were suspended to 30 September 2021 because of the impact of COVID-19.

4.28.4 Providers inspected on three-year cycles who were due an inspection in 2020-21 (and were not inspected in 2021-22 owing to COVID-19) to be inspected by 2022-23, and at least every three years thereafter; and

4.28.5 Providers that had been due an inspection in 2021-22 (and were not inspected in 2021-22 or 2022-23) to be inspected by 2023-24, and every three years thereafter.

4.29 Prior to laying the 2021 SI, DfE officials attended over 20 consultation meetings regarding changes to CMA visits requirements (Exhibit FO/276 - INQ000541007) with key sector stakeholders. Stakeholders included CMAs, childminders, the Professional Association for Childcare and Early Years ("PACEY"), the Early Years Alliance ("EYA"), the National Day Nurseries Association ("NDNA"), a number of local authorities, and the EY lead in the OCC. The purpose was to help DfE consider the potential impact of the proposed amendment.

4.30 Prior to laying the 2021 SI, from July 2021, DfE held a consultation which covered the changes to the frequency of Ofsted inspections of the children's homes portion of the proposed regulations. When the July consultation launched, DfE alerted key stakeholders including the Children's Commissioner, Ofsted, children's charities, the ADCS, the LGA, children's rights organisations, and organisations representing CSC providers such as the Independent Children's Homes Association ("ICHA") and the Fostering Network. In addition, DfE held two webinars to explain the

proposals in greater detail and respond to stakeholders' questions. 163 people attended the webinars, including representatives of children's homes, local authorities and children's rights organisations (Exhibits FO/277 - INQ000541135 and FO/278 - INQ000541022).

- 4.31 In the government's September 2021 response to the above July consultation, DfE detailed that 87% of respondents agreed with the proposed change to the minimum frequency of inspections for children's homes and 88% agreed that Ofsted should comply with the proposed amended minimum frequency of inspections (Exhibit FO/278 - INQ000541022).

5. Chapter 5 – Support for specific cohorts of children

5.1 The Rule 9 request specifically requested information about children in the care system and care leavers, young carers, children in contact with the criminal justice system and children in the immigration system. Whilst these categories of children were able to access cross-cutting support detailed in chapter 3 of this statement, there was also focused work seeking to minimise the impact of the pandemic on these children. This is set out below.

Care leavers

5.2 A care leaver is a person who has been looked after by the local authority but who is no longer looked after. Care leavers are some of the most vulnerable young people in society, having to live independently at a much younger age than their peers in the general population, without the support of birth parents (Exhibit FO/279 - INQ000541050). The reasons young people have been in care vary, but include abuse or neglect, family dysfunction or an absence of parenting. Local authorities have a statutory duty towards care leavers, as their 'corporate parent'. Care leavers rely heavily on frontline support services to help them make the difficult transition from local authority care to living independently. In light of this, DfE officials worked with local authorities to identify the key challenges facing this group and proposed a series of actions to address these. These were set out in a submission to MfCF on 2 April 2020 (Exhibit FO/280 - INQ000540836).

5.3 DfE consulted with local authorities to understand care leavers' accommodation needs during COVID-19. Local authorities reported that many young people were worried about leaving care or having to move placement at this point in time, and wished to continue receiving support, including ideally in their current accommodation. DfE therefore kept under review whether further measures were needed to ensure care leavers could stay in their placements longer or move safely, and with the support they need, into alternative accommodation. Furthermore, DfE's National Implementation Adviser consulted local authorities to find out how they were responding to the additional challenges they were facing as a result of the pandemic in supporting care leavers. The National Implementation Adviser has been in post since 2017 and works closely with local authorities to develop strong local offers of support to care leavers (Exhibits FO/280 - INQ000540836, FO/281 - INQ000540875 and FO/282 - INQ000541158).

5.4 To respond to local authority concerns raised during the consultation referred to in paragraph 5.3 about supporting care leavers, the *Coronavirus (Covid-19): guidance for local authorities and children's social care* published on 3 April 2020 included a focused section on care leavers (Exhibit FO/091 - INQ000519580). Within this, DfE stated that care leavers continued to be a vulnerable group and emphasised to local authorities the need to continue to meet their statutory duties. This included information on how to adjust their approach to personal advisor visits, and to consider carefully if care leavers should transition into independent living. DfE also encouraged local authorities to use some of the £1.6 billion funding (Exhibit FO/106 - INQ000541121) which had been announced on 19 March 2020 for local authorities to support the vulnerable, to provide payments to care leavers who were financially vulnerable for food, utilities and rent. This guidance document was an integral part of how DfE communicated with the sector on how to support care leavers.

5.5 As set out at paragraph 3.39, care leavers were also prioritised for laptops via the GHwT programme (Exhibit FO/078 - INQ000540928). This was done in order to help:

5.5.1 Social workers to provide virtual safeguarding and support to children and families for example, through video conferences;

5.5.2 Children, young people, families and care leavers to access the online services they need to protect their wellbeing;

5.5.3 Families and care leavers to avoid social isolation; and

5.5.4 Children and young people to access remote learning.

5.6 On 18 April 2020, the government announced a further £1.6 billion of additional funding for local authorities and SSE encouraged DCSs to use this funding to support care leavers (Exhibit FO/126 - INQ000541122). On 19 April 2020, SSE held the daily press briefing. Within this briefing, he asked DCSs to ensure no one had to leave care during the pandemic and for DCSs to give care leavers extra support if they were financially vulnerable (Exhibit FO/283 - INQ000541078). DfE officials and ministers were keen to support local authorities to enable care leavers to remain in their placements where this was possible and desirable (Exhibits FO/280 - INQ000540836 and FO/285 - INQ000540890). The 19 April 2020 briefing was followed by a letter (Exhibit FO/127 - INQ000540874) to DCSs on 21 April 2020, which included a section on care leavers, and promoted the same message.

5.7 Additional funding was also made available for care leavers through the package of support administered by DCMS, which is detailed at paragraph 3.49 (Exhibit FO/142 - INQ000540860 and FO/112 - INQ000540861). This support was aimed at three care leaver charities: Become; the Care Leavers Association; and the Drive Forward Foundation. Each charity received £50,000 to support local authorities to meet their legal obligations towards care leavers. The funding aimed to support concerns such as isolation, finances, and leaving care or moving placements. This is detailed further in Annex 3. Care leavers were also provided support via the additional £3 million announced to pilot an initiative which enabled VSHs to support looked-after children and care leavers in post-16 education settings from October 2021. This is detailed in paragraph 3.123.

5.8 The *Coronavirus (Covid-19): guidance for local authorities and children's social care* (Exhibit FO/286 – INQ000520166) was updated on 6 May 2020. Within this update, DfE made it clear that local authorities must continue to meet their statutory duties to care leavers and set the expectation that no one should have to leave care during the pandemic if it is not in their best interests. The update also highlighted how care leavers were eligible for access to devices to support minimising the risk of isolation.

5.9 Engaging with the CSC sector and ensuring there was an awareness of the resources available to local authorities was an important part of DfE's approach to supporting care leavers. This was done through directly emailing stakeholders to signpost them to the announcements, correspondence, documents and guidance, aimed at care leavers and children in care, that had been published. The earliest example of this is on 7 May 2020, which also included a summary of best practice on supporting care leavers following consultation with local authorities, completed by DfE's National Implementation Adviser on care leavers. The intention of sharing best practice was to encourage learning across the sector (Exhibit FO/285 - INQ000540890).

5.10 To engage directly with care leavers, six factsheets were produced by DfE in May 2020 to provide further information about the support available to them through the pandemic. These provided guidance on six key themes:

5.10.1 Care leavers who were expecting and lone parents (Exhibit FO/287 - INQ000540891);

5.10.2 Guidance for self-employed, gig economy and zero hours workers (Exhibit FO/288 - INQ000540892);

5.10.3 Housing (Exhibit FO/289 - INQ000540893);

5.10.4 Guidance for care leavers on Universal Credit during COVID-19 (Exhibit FO/290 - INQ000540894);

5.10.5 Guidance for care leavers whose employer has stopped trading due to COVID-19 (Exhibit FO/291 - INQ000540895); and

5.10.6 Guidance on how to stay safe and have positive emotional health and well-being (Exhibit FO/292 - INQ000540896).

5.11 The factsheets were shared with stakeholders to supply to care leavers on 1 June 2020 and published on the care leaver covenant website on 29 June 2020. The care leaver covenant is a DfE-funded initiative that is delivered on DfE's behalf through a contract. This publication included two additional factsheets covering care leavers in HE and care leavers who were former unaccompanied asylum seeking children (Exhibits FO/285 - INQ000540890 and FO/287 - INQ000540891).

Young carers

5.12 Overall responsibility for government policy on unpaid carers sits with DHSC, including the role of adult social care in identifying young carers, assessing their needs, and mitigating the impact of caring for an adult family member. DfE is responsible for establishing national policies and a legislative framework under Section 17 of the Children Act 1989 (amended by the Children and Families Act 2014) to safeguard young carers (Exhibit FO/293 - INQ000541162). Local authorities have statutory duties to take reasonable steps to identify the extent to which there are young carers in their area who may need support from the local authority and requires them to undertake a young carer needs assessment where they identify such children (or when requested by a young carer or a parent). The assessment should consider whether the care the young person undertakes is excessive or inappropriate and whether it has an impact on their wellbeing, education or development.

5.13 Support for young carers is typically provided by local authorities and DfE does not get involved in the day-to-day activities that relate to this. During the pandemic, local authorities retained their duty to carry out assessments of young

carers. DfE publishes statistics on these assessments yearly. In 2020, the number of assessments that identified young carers was 18,670 out of a total of 665,660 CIN assessments (approximately 2.80%) (Exhibit FO/294 - INQ000541127). This figure is relatively consistent with previous years. To provide context for the consistency of these figures:

5.13.1 In 2017, 15,740 assessments identified young carers (out of 606,910 CIN assessments, approximately 2.59%) (Exhibit FO/295 - INQ000541154).

5.13.2 In 2018, 16,100 assessments identified young carers (out of 631,090 CIN assessments, approximately 2.55%) (Exhibit FO/296 - INQ000541155).

5.13.3 In 2019, 16,520 assessments identified young carers (out of 644,730 CIN assessments, approximately 2.56%) (Exhibits FO/294 - INQ000541127 and FO/297 - INQ000541161).

5.14 During the pandemic, young carers were affected by the same national restrictions as the rest of society. Young carers were specified within the exemplification of 'otherwise vulnerable' children and young people in the vulnerable children definition from 19 April 2020, enabling their eligibility for on-site attendance in education settings. This was published (Exhibit FO/128 - INQ000519887) in the *Supporting vulnerable children and young people during the coronavirus (COVID-19) outbreak* guidance on 19 April 2020. The 'otherwise vulnerable' category was intended to ensure that schools could enable those who they deemed vulnerable or potentially vulnerable could continue on-site learning. This flexibility in the vulnerable children definition could be applied to young carers, on a case-by-case basis, even before they were formally added to the list in April 2020.

5.15 The guidance *Supporting Vulnerable Children and Young People during the coronavirus (Covid-19) outbreak* outlined that 'otherwise vulnerable' children were expected to attend education settings unless health risks, such as shielding, applied. Schools, local authorities and social workers were required to communicate closely with parents to encourage attendance and address any concerns, working together to determine whether attendance was appropriate. This involved balancing risk, taking into consideration family circumstances and health vulnerabilities. If children identified as vulnerable did not attend, schools were responsible for following up, discussing reasons for absence and ensuring the child's needs were being met. The

guidance also outlined how to provide remote learning support for those unable to attend in person.

- 5.16 DfE's guidance issued to local authorities, *Coronavirus (COVID-19): guidance for children's social care services*, published on 3 April 2020 (Exhibit FO/091 - INQ000519580), did not specifically reference young carers. Instead, it outlined a set of guiding principles for local authorities to follow. They were encouraged to make child-centred, risk-based and family-focused decisions, prioritising children at greatest risk and working collaboratively with families and professionals. Local authorities were expected to ensure children in the highest-risk situations received the most attention, with decisions guided by professional judgment.
- 5.17 Additional support was made available to young carers through the See, Hear, Respond programme, which is outlined in para 3.70. See, Hear, Respond provided targeted support to vulnerable children during the COVID-19 pandemic. It identified six core priority groups, one of which was young carers. The initiative aimed to mitigate the disproportionate impacts of the pandemic on these groups. To meet these needs, See, Hear, Respond offered a range of tailored services delivered through three main strands: online digital support, youth interventions and support for reintegration into education (Exhibit FO/111 - INQ000541004).
- 5.18 Through See, Hear, Respond, young carers were able to access online therapeutic support to help cope with the stress that came with their caring responsibilities during lockdowns, as well alleviate feelings of increased isolation. The young carers had access to group work, which allowed them to engage with their peers, reducing feelings of loneliness by connecting them with other young carers in similar situations. In addition to these digital and group-based interventions, See, Hear, Respond provided face-to-face youth work, including practical support and activities. Activities offered to young carers aimed to provide sufficient respite from their caring responsibilities where possible, something that became harder for them during lockdown (Exhibit FO/111 - INQ000541004).
- 5.19 The Barnardo's final evaluation report of the See, Hear, Respond programme states that stakeholders reported one of the challenges faced by many young carers during the pandemic was the anxiety around returning to school, especially due to concerns about exposing their potentially vulnerable family members to the virus. See, Hear, Respond delivery partners worked closely with schools to create part-time reintegration plans for young carers, helping them return to education whilst

managing their caregiving responsibilities. See, Hear, Respond also acted as an advocate for these young people, negotiating with schools to ensure their needs were met and reducing the stress and uncertainty many felt about returning to the classroom (Exhibits FO/376 - INQ000541003 and FO/111 - INQ000541004).

5.20 See, Hear, Respond worked with a substantial number of young carers. Out of the 15,853 individual referrals supported by See, Hear, Respond, 1,142 were young carers, representing 8% of the total cohort. 507 of these young carers accessed online therapeutic support and 550 participated in group work, both accounting for 15% of children receiving those services. See, Hear, Respond also provided crisis support to 55 young carers and helped 196 with reintegration into education (Exhibit FO/111 - INQ000541004).

5.21 Evidence (Exhibit FO/111 - INQ000541004) from children and young people, parents and carers, delivery partners, key stakeholders and quantitative data from an E-survey of 161 children (a survey asking about the difference See, Hear, Respond made to them) and See, Hear, Respond case closure forms shows that in the short-term, See, Hear, Respond achieved its intended impact for those who accessed the service. The intended impact included ensuring children felt safe, reducing the risk of harm for children and young people, improving mental health and wellbeing for parents and carers, and improving children's services approach to safeguarding and associated outcomes. The Barnardo's evaluation report also stated that See, Hear, Respond successfully met or exceeded its targets for the number of packages of support delivered and children supported by each work strand. It did note, however, that the programme was less effective at generating self-referrals via social media or national information campaigns. Some stakeholders suggested the programme was too reliant on schools to refer children rather than supporting children who were not already in contact with education providers.

Children in touch with the criminal justice system and other forms of detention

Overview of DfE responsibilities

5.22 SSE has a duty, outlined in the Children and Young Persons Act 2008, to safeguard and promote the wellbeing of all children in England. This duty extends to children who are in custody or otherwise in contact with the criminal justice system. DfE is responsible for the Working Together to Safeguard Children framework (Exhibit FO/298 - INQ000541087). This provides statutory guidance on

multi-agency working to help, protect and promote the welfare of children. It outlines arrangements for Young Offender Institutions, Secure Training Centres and Youth Offending Teams in carrying out their duties to safeguard and promote the welfare of children as outlined in the Children Act 2004.

5.23 The Youth Custody Service ("YCS") is responsible for the placement of children in youth custodial institutions. The YCS forms part of His Majesty's Prison and Probation Service ("HMPPS") and is under the responsibility of the MoJ. The YCS is also primarily responsible for the provision of education in the institutions it oversees. Some children serve their sentences or are remanded in secure children's homes, which can also look after children who are in the care system and require a secure placement. DfE is responsible for the overall policy framework for secure children's homes with local authorities running most of them.

5.24 In-patient mental health care is the responsibility of DHSC and the NHS.

Communications with the Children's Commissioner regarding children in contact with the criminal justice system, specifically those living in custodial settings

5.25 In May 2020, the Children's Commissioner published a report into children in custody (Exhibit FO/299 - INQ000498625). The report highlighted a number of concerns including the lack of education children in custody were receiving. It recommended that in-person education was re-introduced. Following contact with MoJ to discuss the report (Exhibit FO/300 - INQ000540900), DfE was sent a copy of the letter sent by the Children's Commissioner to the Secretary of State for Justice (Exhibit FO/301 - INQ000239688). The letter raised concerns about children in Youth Offending Institutions and Secure Training Centres, however it was positive about the experience of children placed by the YCS into SCHs, for which DfE has policy responsibility. DfE met with officials from the OCC following the report.

5.26 DfE received a letter (Exhibit FO/302 - INQ000541093) addressed to MfCF from the Children's Commissioner on 26 February 2021 about children held in secure accommodation. It highlighted concerns that children in custody were not receiving a proper standard of education, were isolated in their cells and had limited in-person contact with family members. It noted that secure children's homes were an exception to this, because children in them were receiving face-to-face education on a broadly similar timetable as before the pandemic.

5.27 DfE and MoJ agreed that MoJ would reply to the letter as the majority of the contents fell within their remit. In addition, Indra Morris, Director General for Families and Vulnerable Children, had regular contact and meetings with the Children's Commissioner, and the specific issues raised in the letter were discussed at one of these meetings, held on 12 January 2021.

5.28 The letter and discussions raised the question of children in custody not being included in DfE's definition of vulnerable children who should be prioritised for face-to-face education. In the note from Indra Morris to the Children's Commissioner following the meeting (Exhibit FO/303 - INQ000540975), she explains why this would not help ensure children in custody would receive face-to-face education, and that these children already had a right to education enshrined in law:

"We have not explicitly included in the definition of vulnerable children and young people those that are currently in custody or secure provision. The definition of vulnerable children and young people (as well as of the children of critical workers) in this COVID context is for the purposes of guiding educational settings as to which children should access on site educational provision, including for the purpose of safeguarding and ensuring continued learning and development. The position is not comparable for secure provisions as a range of assessments and considerations will need to be made by those providing for children and young people in these provisions to guide how children and young people's right to an education will be met in the COVID context -including what form that takes from 1-1, small group and digital learning and what supervisory ratios are needed for particular children and young people. Children and young people within secure provision and custody continue to have a right to education (Article 28 of the UNCRC) and we know that MoJ and its agencies are working to ensure that right is met as well as those duties under section 11 of the Children Act 2004 and in Working Together. We are aware of ongoing concerns about the access to education of children and young people in secure provision and are already in contact with officials and ministers in MoJ to understand their progress with providers to ensure educational provision is in place and children and young people are enabled to access it."

5.29 DfE officials continued to work with MoJ officials to ensure MoJ was able to respond to the concerns raised in the May 2020 Children's Commissioner's report, and that MoJ could work with the YCS and their providers to ensure they were delivering the education that children in their custody had a right to receive.

5.30 DfE officials met with officials from MoJ and OCC to discuss children in contact with the criminal justice system, but limited advice was sent to DfE ministers on this topic because the principal responsibility, and hence the key decisions, were for MoJ ministers.

5.31 The question of children in custody being on the vulnerable children list was included on the agenda for a meeting between MfCF and Lucy Frazer, Under-Secretary of State at MoJ, in January 2021 (Exhibit FO/304 - INQ000541094). The briefing for the meeting addressed an agenda item that Lucy Frazer was likely to raise about the lack of specific inclusion of children in custody on the list of vulnerable children published by DfE. The briefing also noted that education provision in Young Offender Institutions and Secure Training Centres was the responsibility of the YCS and MoJ, who were best placed to understand the operational needs of providers in deciding what educational provision would be best for the young people in its institutions. DfE guidance was focused on who should and should not attend schools in the community and did not cover custodial settings.

Unaccompanied asylum seeking children

5.32 HO and DfE have joint and shared responsibilities in respect of supporting unaccompanied asylum seeking children. HO is responsible for asylum and immigration policies and operations, running facilities that receive small boat and other immigration arrivals, and for undertaking decisions on initial age assessments. However, given this cohort of young people are treated as looked after children (once they have been accommodated by the local authority for 24 hours under section 20(1) of the Children Act 1989) and therefore fall within the responsibilities of local authority DCSs, these functions interact closely with the DfE's responsibility for the national legal and policy framework for CSC, as well as SSE's general duty to promote the wellbeing of children in England under section 7 of the Children and Young Persons Act 2008. HO and DfE work together closely to ensure the smooth operation of the National Transfer Scheme ("NTS"), for example, which is the mechanism for equitable distribution of arriving unaccompanied asylum seeking children amongst local authorities within England and across the devolved administrations ("DAs"). The two departments collaborate on a wide range of issues relating to unaccompanied asylum seeking children to ensure local authorities are able to provide these children with the support they need.

Early stages and rise in arrivals

- 5.33 The most significant challenge to the system set up to support unaccompanied asylum seeking children in the pandemic was a dramatic increase in the number of these children arriving into ports. This was the area on which DfE focused most of its efforts relating to these children.
- 5.34 Prior to the start of lockdown periods, local authorities had begun to raise questions about the process for caring for unaccompanied asylum seeking children in light of the pandemic. On 13 March 2020, I wrote to all DCSs (jointly with Sophie Langdale) to provide initial guidance on how to meet their statutory duties to accommodate and care for unaccompanied asylum seeking children (Exhibit FO/305 - INQ000518735). The letter included advice on when children should isolate and how responsibilities were shared between HO and local authorities.
- 5.35 The initial periods of lockdown and travel restrictions had a significant effect on the number and arrival location of unaccompanied asylum seeking children.
- 5.36 With the cessation of most flights into the UK, the majority of unaccompanied asylum seeking children began arriving on boats, largely in Kent and, to a lesser extent, Portsmouth. 160 new unaccompanied asylum seeking children arrived in Kent from 1 January 2020 to 18 May 2020 (Exhibit FO/306 - INQ000541092). In 2019, 87 unaccompanied asylum seeking children arrived in Kent in the period from January to May. In addition, arrivals needed to isolate for a 14-day period following introduction of new regulations on 8 June 2020. This increase in arrivals brought the total number of unaccompanied asylum seeking children in Kent to around 480 in October 2020, with a total of 90 in Portsmouth at that time (Exhibit FO/307 - INQ000540946).

National Transfer Scheme

- 5.37 The NTS (Exhibit FO/308 - INQ000477405) is a protocol that enables the safe transfer of unaccompanied asylum seeking children from one local authority to another. It eases pressure on local authorities with high arrivals by allowing transfers to regions with fewer unaccompanied asylum seeking children and young people in care.
- 5.38 The scheme was developed jointly by HO and DfE, with responsibility for running the scheme resting with HO. When the NTS first began operating in 2016 it formed the basis of a voluntary agreement made between local authorities in England to ensure a fairer, more equitable distribution of unaccompanied children across local authorities. Legislation was amended in 2018 to extend the scheme to

include local authorities in Scotland, Wales, and Northern Ireland. From 2019 participation in the scheme slowed and it was no longer functioning effectively (Exhibit FO/308 - INQ000477405).

Summer 2020

5.39 In summer 2020, the number of unaccompanied asylum seeking children arriving in Kent continued to rise. It became clear that the number of places offered through the NTS by local authorities on a voluntary basis would be insufficient for the number of children arriving in Kent (Exhibit FO/309 - INQ000518587).

5.40 HO launched a consultation running from 28 August 2020 to 30 September 2020 to look at ways of improving the scheme, including introducing a national rota in which regions would take it in turns as the duty receiving authority (Exhibit FO/310 - INQ000540971).

5.41 In July 2020, MHCLG agreed to provide £6 million from a £500 million tranche of COVID-19 local government funding to provide targeted support to local authorities caring for unaccompanied asylum seeking children. The funding was intended to cover the additional costs arising from the pandemic, including the need to isolate new arrivals into the UK for a 14-day period. MHCLG and HMT agreed for the funding to be assigned to DfE to distribute to those local authorities in most need. DfE set out how it would do this in a submission from January 2021 (Exhibit FO/311 - INQ000540982) which recommended that all 56 bids totalling £5.61m should be approved.

5.42 The increase in new arrivals continued to put significant pressure on Kent County Council, eventually leading them to refuse to meet their statutory duty to provide care to unaccompanied asylum seeking children in August 2020. Following this decision, DfE officials worked closely with HO to provide support to Kent County Council to assess and transfer children to other local authorities. DfE officials provided weekly updates to ministers as the situation evolved. It was noted in the update to SSE on 11 September 2020 that support provided included the following:

5.42.1 HO transferred 228 children to other local authorities between 4 June and 11 September 2020 (Exhibit FO/312 - INQ000541099). 155 were transferred from Kent County Council's care and 73 children were transferred directly from the Kent Intake Unit. This reduced numbers of unaccompanied asylum seeking children cared for by Kent County Council from about 600 to

530, the impact of the transfers being reduced due to continuing new arrivals.

5.42.2 An additional 20 social workers were recruited, funded by central government, to Kent County Council, to support in clearing the backlog of over 100 age assessments.

5.43 A more detailed update note on unaccompanied asylum seeking children in Kent and Portsmouth (Exhibit FO/307 - INQ000540946) was sent to SSE on 15 October 2020. It outlined that:

“Ministers wrote to the Leaders of Portsmouth City Council and Kent County Council on 1 October asking them to reconsider decisions not to accept any further UASC [Unaccompanied Asylum Seeking Children] and to set out why they consider they are unable to. Subsequent responses confirm that neither council is willing to accept new UASC arrivals until such time as numbers in their care reduce considerably, and both continue to argue that the solution to current issues is a fully functioning National Transfer Scheme (NTS), including making participation mandatory if necessary. Significant efforts are being made to transfer UASC out of the care of Kent and Portsmouth, and new UASC on arrival, although concerns remain that it may be difficult to do this immediately in certain circumstances.”

5.44 Kent County Council wrote to DfE on 25 November 2020 (Exhibit FO/313 - INQ000518737) outlining their *“wish to resume our statutory duty and start receiving new arrivals once more as soon as possible.”*

5.45 On 21 January 2021, MfCF received a submission from DfE officials seeking her agreement to the allocation of £5.61 million to the 56 local authorities who applied to be paid as grants from DfE and reimbursed by MHCLG. The majority of the funding was used to cover additional accommodation and staffing costs related to caring for unaccompanied asylum seeking children. The submission was agreed on 26 January 2021 (Exhibits FO/314 - INQ000540979 and FO/311 - INQ000540982). Kent County Council was the local authority awarded the highest figure, receiving £794,333 of the funding.

Summer 2021

- 5.46 On 24 March 2021, SSE received an update on the work to launch a new NTS (Exhibits FO/315 - INQ000540997 and FO/316 - INQ000540998). The update outlined the proposed voluntary rota system and offered options for a mandated backstop to ensure that the scheme could be enforced during emergency situations.
- 5.47 In the summer of 2021, arrivals of unaccompanied asylum seeking children again began to increase. Kent County Council announced (Exhibit FO/317 - INQ000541103) that they would stop taking any further children from Monday 14 June 2021. The department worked with HO and local authorities to ensure that children could be moved as quickly as possible to new placements through the NTS.
- 5.48 When the new NTS launched on 26 July 2021, around 80 children were awaiting a permanent placement with a local authority across the country (Exhibits FO/318 - INQ000541038 and FO/319 - INQ000541104). A decision was then made by HO to temporarily accommodate newly arrived unaccompanied asylum seeking children in hotels whilst permanent local authority placements were found.
- 5.49 This decision meant that unaccompanied asylum seeking children were not considered to be 'looked after' whilst in the hotels, and it was argued by some organisations that HO was, in practice, operating unregistered children's homes. The decision to systematically accommodate these children in hotels, not just as an emergency measure, was later ruled illegal in July 2023.
- 5.50 DfE ministers and the Permanent Secretary were kept up-to-date through weekly or fortnightly notes outlining the number of children who were being accommodated in hotels and how long they had been staying there. The final note from the specified period, on 17 June 2022, noted that 104 children were accommodated in hotels, of which 39 were under 16-years old. Of these 104 children, 75 had arrived that week, with the longest stay being for two children who had stayed six weeks (Exhibit FO/320 - INQ000541053). As of 8 February 2023, the average length of unaccompanied asylum-seeking children's stays in hotels was 20.11 days. The shortest stay was less than a day and the longest was 128 days (Exhibit FO/321 - INQ000541065).
- 5.51 Kent County Council established, with HO funding, a capacity-limited temporary Reception and Safe Care Service from 10 September 2021 and rescinded from that point their decision to stop accepting new arriving unaccompanied asylum seeking children.

5.52 On 21 October 2021, SSE received advice outlining the next steps following HO's decision to trigger mandatory participation in the NTS (Exhibit FO/319 - INQ000541104). The advice set out a communications plan including a letter informing local authorities of the intention to temporarily mandate transfers, which was then sent out by HO on 23 November 2021 (Exhibit FO/323 - INQ000541043).

Placements

5.53 The experience of unaccompanied asylum-seeking children in lockdown would have varied depending on their individual circumstances and the type of care placement they were in.

5.54 In March 2021, there were 4,150 unaccompanied asylum-seeking children in England. 92% were male, and 13% under 16-years old. 48% were looked after in foster placements, 51% in independent and semi-independent living arrangements or supported accommodation and 1% in secure homes and children's homes (Exhibit FO/324 - INQ000541118).

Education

5.55 Once accommodated, local authorities have a duty under the Children Act 1989 to promote the education achievement of unaccompanied asylum seeking children, as they are looked after children.

5.56 The Children and Families Act 2014 amended the Children Act 1989 to require local authorities in England to appoint at least one person for the purpose of discharging the local authority's duty to promote the educational achievement of its looked-after children, wherever they live or are educated. That person is usually known as the Virtual School Head ("VSH"). VSHs should ensure the educational attainment and progress of children looked after by the local authority are monitored and evaluated as if those children attended a single school. Additionally, all looked after children have an appointed social worker, including unaccompanied asylum seeking children (Exhibit FO/325 - INQ000540765).

5.57 The educational experience of unaccompanied asylum seeking children would again have depended on their individual circumstances. Some would have attended education settings and some would have undertaken remote learning in agreement with their social worker.

Child victims of trafficking

5.58 HO leads on support for child victims of modern slavery/ trafficking, including running the National Referral Mechanism (“NRM”) and the Independent Child Trafficking Guardians (“ICTG”) service. However, given DfE’s work on CSC, safeguarding and child protection, the department works closely with a range of OGDs, local authorities and other agencies to support these children.

5.59 Responsibility for the policy and delivery of the NRM is held by HO. Therefore, DfE was not in charge of any response to any issues or challenges that may have occurred with the system during the pandemic.

DfE’s understanding of the impact of the pandemic on child victims of trafficking

Letter from All Parliamentary Group for Human Trafficking and Modern Slavery

5.60 On 19 March 2020, the Rt Hon Karen Bradley MP and Baroness Butler-Sloss, Chairs of the All Party Parliamentary Group for Human Trafficking and Modern Slavery, wrote to SSE to bring to his attention the potential effects of restricted school attendance of child victims of trafficking (Exhibit FO/326 - INQ000540799). The letter stated particular concern about *“how children who have been victims of modern slavery and human trafficking will be given the support that they need at this very difficult time.”*

5.61 MfCF replied on 10 May 2020 acknowledging the importance of the concern and highlighting the expansion of the ICTG service (Exhibit FO/327 - INQ000540877). The service is funded by HO and continues to be delivered by Barnardo’s. In 2020, the service was available to one third of local authorities, but this has now been expanded. The service is designed to help victims cope with the practical and emotional traumas of being trafficked. SSE also replied on 21 May 2020 highlighting the ICTG service and outlining the responsibilities and work of local authorities in this area (Exhibit FO/328 - INQ000541133).

Provision of training

5.62 One of the priority recommendations of the Every Child Protected Against Trafficking report, *Child trafficking in the UK 2020: A snapshot* (Exhibit FO/329 - INQ000498644) was to *“Provide comprehensive rights-based training on child trafficking to all frontline professionals working with children, including mandatory training on this issue for all social workers and all those involved in decision making for trafficked children.”*

5.63 In early January 2021, HO began the process of creating an online training module focused on child victims of slavery. DfE and OGDs contributed to the development of this child victim e-learning module targeted mainly at the first responders who would interact with potential child victims. It was launched in July 2021 and a link to the training was made available on the National Police Chiefs' Council Modern Slavery website (Exhibit FO/330 - INQ000541156).

Families with no recourse to public funds

5.64 For some who have permission to enter or stay in the UK, their permission may include a No Recourse to Public Funds ("NRPF") condition. Those who do not have permission to be in the UK will also have NRPF. The NRPF condition means individuals cannot claim most benefits, tax credits or housing assistance that are paid by the state.

5.65 DfE does not hold direct responsibility for many policies that affect families with NRPF but children in these families may interact with services that DfE holds overall responsibility for.

5.66 All children in NRPF families are entitled to receive an education, regardless of their parents' immigration status.

5.67 DfE has national responsibility for providing the overall legislative framework and statutory guidance for child protection and safeguarding, most notably, providing the *Working Together to Safeguard Children* guidance. However, local authorities are responsible in law for the delivery of support and services to vulnerable children in their area. As DfE holds this responsibility along with its responsibilities on CSC, it often works with OGDs on a range of issues affecting children where responsibilities overlap.

5.68 Children in NRPF families were not specifically listed in the definition of vulnerable children who should attend education settings, but many would have been included either as having been assessed as being in need under Section 17 of the Children Act 1989 or being identified as otherwise vulnerable.

Extending provision of free school meals and free childcare placements for 2 year-olds to No Recourse to Public Funds families.

5.69 During the specified period there were two significant DfE policies related to NRPF families. These were the provision of free school meals ("FSM") to NRPF

families and the temporary entitlement to a free childcare place for 2-year olds from NRPF families.

5.70 On 30 March 2020, SSE received advice (Exhibits FO/331 - INQ000540830 and FO/332 - INQ000540831) from DfE officials. The advice followed potential legal proceedings from lawyers representing families with NRPF. The submission considered the exceptional circumstances of the pandemic, and that this could require changes to the current eligibility criteria. The report set out the following advice to SSE:

- a. *“Agree, subject to HMT agreement, to offer a temporary emergency free entitlement place for 2YOs in families receiving support under section 171 of the Children Act 1989, solely for the duration of Covid-19. This offer will be based on the emergency response proposal to be sent separately (in due course) for how ‘vulnerable children’ are supported by DfE and government during Covid-19;*
- b. *Agree, subject to HMT agreement, to temporarily provide FSM vouchers for children of families receiving support under s17 of the Children Act 1989, subject to a maximum household earnings threshold of £7400pa, solely for the duration of Covid-19;*
- c. *Agree, subject to HMT approval, to provide FSM or FSM vouchers for the following relevant groups below (referred to as “Relevant Groups”), for the duration of Covid-19 (and to bring forward DfE plans to extend eligibility to these groups permanently in the longer-term):*
 - i. *children of Zambrano carers (derivative right to reside in the UK under European law as the primary carer of a British child or dependent adult);*
 - ii. *children of families with a right to remain with no recourse to public funds (NRPF) granted on family or private life grounds under Article 8 of the European Convention on Human Rights (ECHR);*
 1. *the above two groups subject to a maximum household earnings of £7,400 pa;*

iii. for families refused asylum in the UK and receiving support from the Home Office under section 4 of the Immigration and Asylum Act 1999.”

5.71 In the same submission, DfE officials also stated that in January 2020, SSE agreed to DfE advice to permanently extend FSM eligibility to those with NRPF subject to a maximum earnings threshold of £7,400 per annum. However, as of 30 March 2020, an exact implementation date had yet to be agreed due to the need to change primary legislation.

5.72 On 6 April 2020, SSE agreed to the recommendations to extend FSM and free childcare for 2-year olds to NRPF families, noting that families who would normally be required to leave the country were unable to do so during this period and greater justification could therefore be given for using public funds to support them (Exhibit FO/331 - INQ000540830).

5.73 On 20 April 2020, DfE issued guidance that outlined the extension of FSM to those with NRPF (Exhibit FO/333 - INQ000541054).

5.74 The temporary introduction on 20 April 2020 was eventually made permanent on 24 March 2022, with the Parliamentary Under-Secretary of State for Children and Families, Will Quince, announcing in a statement to Parliament (Exhibit FO/334 - INQ000541055) that:

“In 2020, we temporarily extended free school meal eligibility to include some children of groups who have NPRF. I am pleased to confirm that, following a cross-government review, we will permanently extend eligibility for free school meals to children from all families with NRPF, subject to the income thresholds as follows:

- £22,700 per annum for families outside London with one child.*
- £31,200 per annum for families within London with one child.*
- £26,300 per annum for families outside London with two or more children.*
- £34,800 per annum for families within London with two or more children.”*

5.75 SSE received advice on 19 May 2021 that recommended the permanent extension of eligibility to all NRPF families. The advice outlined the significant risk of legal challenge in not making the change permanent, as well as the principle of not basing the eligibility of benefits aimed at children on the immigration status of their

parents. SSE agreed to the implementation of the advice on 8 June 2021 (Exhibits FO/335 - INQ000541125 and FO/336 - INQ000541008). Eligibility for free childcare for 2-year-olds was also permanently extended to NRPF families.

6. Chapter 6 – DfE work on serious incidents

6.1 DfE and the Child Safeguarding Review Panel, an independent committee of experts from various sectors, closely monitor all deaths and serious incidents involving children, where abuse or neglect are suspected. The panel issues practice guidance to the sector as a result of any learning. They can also carry out national reviews and make recommendations to government on child safeguarding issues of national importance, as was the case following the tragic deaths of Arthur Labinjo-Hughes and Star Hobson.

6.2 *Child Protection in England (2022)* (Exhibit FO/337 - INQ000541052), the national panel review into the murders of Arthur Labinjo-Hughes and Star Hobson, examined the circumstances leading up to Arthur's and Star's deaths, exploring broader national issues in child protection. It identified areas for improvement for both national government and local safeguarding partners on the broader child protection system.

6.3 The report concluded that, in Arthur's case, necessary adaptations to social care practices during the pandemic had some impact on the effectiveness of the response to concerns about his well-being. However, ultimately other factors, such as poor multi-agency working, had a more significant impact on his death. In relation to Star, the report noted that *"interviews with practitioners have not indicated that adaptations for COVID-safe practice had a significant impact on the assessment and decision making in relation to Star"* and were not considered to be a key factor in her death.

6.4 The Child Safeguarding Review Panel also produce an annual report, summarising the key learning from cases to aid practitioners and policy makers. In its 2020 annual report (Exhibit FO/338 - INQ000103841), the Panel noted that the pandemic had intensified pre-existing risks and introduced new challenges. The analysis highlighted important learning for safeguarding partners and relevant agencies to apply in any subsequent period of lockdown or school closure.

6.5 The report also highlighted 4 key factors that increased risks for vulnerable children during the COVID-19 pandemic:

- *"Parental and family stress*
- *Exacerbated vulnerabilities for children and young people*

- *Impact of school closures: Identification of, contact with, and support for vulnerable children and young people*
- *Impact of adaptations for COVID-safe practice”*

6.6 The report explained how school closures further exacerbated the situation by removing routine and safeguarding structures, especially impacting vulnerable children and parents of disabled children. Furthermore, while COVID-safe adaptations in child protection services were necessary, the panel noted that these changes also introduced new risks.

6.7 In a similar vein, the Panel's 2021 *National review of non-accidental injury in infants under the age of 1* (Exhibit FO/339 - INQ000541024) also noted the potential risks of COVID-19 on service delivery, impacting the safeguarding of new parents and babies.

6.8 During the COVID-19 pandemic, there was an increase in SINs, with 536 notifications of serious safeguarding incidents between April 2020 to March 2021. This was an increase of 19% from 449 between April 2019 to March 2020 (Exhibit FO/340 - INQ000541124). A subsequent decrease to 442 notifications was seen between April 2021 to March 2022.

6.9 The table below shows the number of SINs each year between 2015 and 2024 (Exhibit FO/271 - INQ000541168):

Figure 1: Number of serious incident notifications, 2015 to 2024, England

	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
Number of serious incident notifications	385	379	433	384	498	449	536	442	456	405

6.10 Any serious incident is significant. When comparing the total number of SINs to the number of referrals to CSC for example (621,900 in 2024), the number of SINs is relatively small. As a consequence, the fluctuation each year is hard to statistically interpret with sufficient accuracy, and volatility is expected (there was a higher peak of instances when the statutory duty to notify came into force in 2019). DfE cannot therefore say with certainty that the cause of the elevated number of SINs in the 2021 reporting year was due to the pandemic, but it is possible that the reduction in

“eyes on” by the relevant authorities and practitioners may have had an effect on the prevention of serious harm.

6.11 The Child Safeguarding Review Panel noted in their 2020 annual report that, *“Evidence from our analysis of Serious Incident Notifications and rapid reviews is that the COVID-19 outbreak continues to present a situational risk for vulnerable children and families, with the potential to exacerbate pre-existing safeguarding risks and bring about new ones.”* (Exhibit FO/338 - INQ000103841).

6.12 DfE’s Children’s Serious Incident Response Team did a weekly report on SINs during the pandemic (Exhibit FO/341 - INQ000541157). This fed into the daily sitrep meetings which the deputy director responsible for SINs attended. The report included:

6.12.1 An outline of each SIN and whether it was related to COVID-19;

6.12.2 The number of SINs and by which local authority (weekly and daily);

6.12.3 The type of incident;

6.12.4 Characteristics including age, gender, where the child resided, legal status and if they were known to an agency; and

6.12.5 Children at Immediate Risk of Harm cases received and referred and whether they were COVID-19 related (weekly and daily).

6.13 Close monitoring of all cases allowed DfE to identify themes, trends and risks, including where COVID-19 was a factor. Concerns were shared with the DfE regional team who worked with local authorities, with policy teams, and escalated to ministerial level where necessary. This ensured concerns and emerging risks were acted on quickly and monitored continually.

6.14 Ministers were regularly informed about serious incidents through routine SIN reports. They often inquired about actions taken on certain cases, including those involving COVID-19. The SIN team would then coordinate with Regional Improvement Support Leads to gather additional information from local authorities to address the ministers’ questions (Exhibits FO/408- INQ000624586).

6.15 Early analysis highlighted few incidents were reported during the week commencing 23 March 2020; in response revised guidance was issued to local

authorities and statutory safeguarding partners, emphasising the importance of notifying the DfE within five working days of any child deaths or serious harm where abuse or neglect was suspected. To give an example, on 16 April 2020 ministers were updated on serious incidents, of those reported, two incidents were identified as related to COVID-19. The update also flagged the potential stress caused by social distancing in families, possibly contributing to some additional cases (Exhibits FO/405 - INQ000624557, FO/406 – INQ000624562 and FO/407 - INQ000624563).

6.16 DfE has taken the learnings from child deaths in the pandemic, in particular the recommendations made in the national panel report into the deaths of Arthur and Star, and used them to shape reform of CSC. More information on these reforms is set out below.

6.17 Responding to the recommendations made in the national panel report into the deaths of Arthur and Star, multi-agency child protection teams are currently being established in ten pathfinder areas, to ensure that children are better protected from the types of issues that occurred in the cases of Arthur and Star. A requirement to establish these teams is included in the Children's Wellbeing and Schools Bill which was introduced to Parliament on 17 December 2024.

6.18 Both local authorities where the children died were of concern pre-pandemic. Children's Services Commissioners were appointed in both Bradford (September 2021) and Solihull (November 2022) following inadequate Ofsted judgements. The Commissioner in Bradford undertook a review of its CSC and found the Council did not have the capacity and capability to improve itself and recommended an alternative delivery model and alternative governance arrangements should be put in place. The Bradford Children and Families Trust was launched in April 2023. The Commissioner in Solihull reviewed the leadership of the three statutory safeguarding partners and found children's services in Solihull required fundamental improvement at all levels, but advised against an alternative delivery model. The Commissioner recommended that intensive peer support with a regional 'good' or 'outstanding' local authority be brokered and that this regional partnership be overseen by a Commissioner and for the partnership to last for 3 years. In May 2023, Birmingham Children's Trust were identified as the regional partner for Solihull. Arthur and Star's tragic deaths both fed into the relevant reviews. The pathfinder areas are part of the Families First for Children Pathfinder programme, which is testing the reform

approach in some local authorities. The programme was announced in February 2023 as part of the *Stable Homes, Built on Love strategy*.

6.19 Other measures to keep children safe include the introduction of a new Child Protection Lead Practitioner role to ensure that local authorities have experienced professionals focused on safeguarding vulnerable children. Additionally, a National Framework has been established to improve care standards across local authorities, promoting more robust, consistent and higher quality services (Exhibit FO/342 - INQ000541072).

7. Chapter 7 - Reflections on identified challenges

7.1 The Inquiry has asked about the challenges identified in relation to CSC and child protection at the outset of the pandemic, and whether, with hindsight, DfE made the correct assessment of these.

7.2 As set out in paragraph 2.2, DfE anticipated three primary challenges to CSC in March 2020, as a result of the pandemic and national lockdown: visibility of vulnerable children, availability of workforce in the CSC system, and availability of placements for children needing care. This resulted in the decision to keep schools and other education settings open to vulnerable children all the way through the pandemic, and in a series of further interventions delivered through: legislation; guidance to the sector; additional funding streams; and access to Covid-specific support such as PPE and testing.

7.3 Of the perceived challenges in March 2020, visibility of vulnerable children proved to be the most pressing issue throughout the pandemic. DfE officials and ministers worked to prioritise the protection of children despite the altered societal routines and reduced opportunities for professionals and communities to see how children were faring if they were largely at home for long periods of time during lockdowns. DfE could not directly support individual children but instead took a range of actions at a national level to mitigate the impact of the pandemic on them and to support the frontline workforce. These mitigations have been set out in detail throughout this statement and include:

7.3.1 Ensuring that all education settings would remain open to vulnerable children and young people from March 2020, recognising that these settings play an important role in the safeguarding and wellbeing of children (as set out in paragraph 3.22).

7.3.2 Monitoring data on school attendance (March 2020 to July 2022) and CSC referrals (May 2020 to July 2022) so that DfE could monitor the level of risk and seek to support activity to mitigate it (as set out in paragraph 3.32 and 3.62).

7.3.3 Working to secure funding from different additional allocations provided by OGDs, or repurposing DfE funds to ensure existing work in the CSC

system could continue and new programmes could be set up to support children directly in response to the pandemic (as set out at Annex 3).

7.3.4 Creating the GHwT programme, where children with a social worker, care leavers and disadvantaged children more generally were prioritised for access to laptops and connectivity (as set out at paragraph 3.39).

7.3.5 In a difficult supply environment, seeking to ensure PPE was available as early as April 2020 to the CSC system, with a view to ensuring that children and staff were protected from COVID-19 and normal support from children's services could continue as far as the pandemic allowed (as set out at paragraph 3.47).

7.3.6 Working with DHSC to ensure eligibility for testing for unaccompanied asylum seeking children, children in foster care, children in children's homes and CSC staff (as set out in paragraphs 3.57 and 3.68).

7.4 DfE also took action to manage concerns around workforce capacity and placement capacity. This was delivered via legislative changes and through a series of other interventions. Specifically:

7.4.1 The introduction of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 (as set out at paragraph 4.6);

7.4.2 The power in the Coronavirus Act 2020 for the temporary registration of social workers to support workforce and placement capacity (as set out at paragraph 3.10);

7.4.3 Allowing care leavers to remain in placements and not to have to leave care during unprecedented times. This was supported through SSE communications to local authorities, indicating the vulnerability of care leavers and the desirability of avoiding them changing placement during lockdown; and encouraging local authorities to use additional funding for care leavers (as set out at paragraph 5.4);

7.4.4 Including children in care in the vulnerable children and young people definition, which enabled them to continue to attend education settings in person. This was important for their wellbeing, learning, and safeguarding, and to give respite to foster carers and help prevent placement breakdown (as set out at paragraph 3.22);

7.4.5 Including children's homes and the CSC workforce in the priority groups for access to PPE and testing, to ensure homes remained open and children could continue to be seen by social workers (as set out at paragraph 3.47 and 3.86); and

7.4.6 Providing funding to charities that support foster and kinship carers, along with care leavers, to minimise the risk of breakdown in these placements and ensure there was sufficient capacity in these charities' services (as set out at paragraph 3.58).

7.5 Ultimately the concerns about workforce capacity and placement capacity proved to be less severe than first anticipated. Monitoring showed:

7.5.1 The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 were not widely used by local authorities and when the regulations were extended, the scope of them was tightened to reflect the limited need for legislative amendments.

7.5.2 In the final reporting, only 24 of the 304 of the temporarily registered social workers who made themselves available to work were required and appointed into roles (Exhibit FO/343 - INQ000541129).

7.5.3 Concerns about an acute, national placement capacity shortfall did not materialise. Referrals to CSC were around 9% lower and the number of children looked after around 3% higher between May 2020 and July 2022 (Exhibit FO/144 - INQ000541150).

7.6 Once national restrictions had been put in place, other challenges became apparent. Certain cohorts of children became an increasing concern for DfE, specifically: 'hidden children', vulnerable teenagers, and vulnerable infants. The statement sets out the detail of the mitigations taken to reduce the risks around these children, notably:

7.6.1 Working with HO in May 2020 to allow local birth registration centres to undertake partial registrations over the phone and supporting the centres' reopening within COVID-19 guidelines of the time (as set out at paragraph 3.61).

- 7.6.2 Establishing See, Hear, Respond in June 2020 which was aimed at supporting those children who did not meet the threshold for statutory support but were nevertheless vulnerable (as set out at paragraph 3.74).
- 7.6.3 Facilitating the MfCF and the Minister for Crime, Safeguarding and Vulnerability to jointly write to Police and Crime Commissioners and Directors of Violence Reduction Units in June 2020 to encourage on-going collaboration across organisations to help identify vulnerable children and young people and support their school attendance (as set out at paragraph 3.78).
- 7.6.4 Facilitating PHE's Chief Nurse to write to local health trusts in October 2020 to advocate for health visitors not being redeployed to other NHS priorities, including COVID-19, during the winter due to their essential role in safeguarding (as set out at paragraph 3.95).

Lessons Learned

7.7 With hindsight, there was more that could have been done, more quickly, by DfE and OGDs to support particular cohorts of children, including young carers and those children accommodated in secure settings. For example:

- 7.7.1 Secure children's homes: The decision taken in March 2020 to treat secure children's homes as secure settings like any other (set out at paragraph 3.23) was effective in ensuring access to PPE at an early stage in the pandemic but also meant that isolation requirements existed for longer in these homes than in other CSC settings and it was difficult to ensure priority for a bespoke testing strategy (Exhibit FO/344 - INQ000540992). A different decision on this could have reduced control measures sooner and allowed for a more tailored support to a small sector which looks after a very vulnerable cohort of children (Exhibits FO/345 - INQ000540986, FO/346 - INQ000540987, FO/347 - INQ000540984 and FO/154 - INQ000540990).
- 7.7.2 Hidden children: Whilst interventions such as See, Hear, Respond (see paragraphs 5.17 – 5.21) were effective in identifying and supporting some hidden children, including young carers, the scale of these

interventions was not sufficient in relation to the scale of the challenges created by pandemic.

7.7.3 Attendance: Ensuring vulnerable children could attend education settings was the right approach to protect the safeguarding needs of those children but concerns about the health risks of attendance meant that insufficient numbers of children attended, especially at the start of the pandemic.

7.8 When reflecting on DfE's approach to supporting vulnerable children and young people, there are lessons that can be learned to ensure that, should another pandemic occur, mobilisation of support to the CSC system and the vulnerable children and young people that need support could be improved. These reflections are set out below:

Departmental and government structuring

7.9 Indra Morris was named as the SRO for vulnerable children and young people by CO. This role sat separately from DfE's overall SRO for Covid-19. This created a structure whereby Ms Morris was initially reporting to CO as opposed to being plugged into DfE central COVID-19 governance. Whilst this was changed later in 2020, to ensure the entirety of DfE's COVID-19 response was brigaded under a clear command structure, it would have been better to have had a clearer internal departmental structure from the outset.

7.10 SSE and DfE have a role in promoting the wellbeing of children in England and DfE sought to give effect to this through engagement with OGDs. Whilst this was beneficial and the cross-government structures established by DfE delivered initiatives such as those described above to support under-1s and teenagers, DfE was not able to take action in some policy areas which were "owned" by other government departments. Examples of this include the time and effort involved in securing priority access to PPE and testing for the CSC workforce. With hindsight, a clearer priority across government to mobilise in support of vulnerable children and young people would have made this process smoother, quicker, and more impactful.

Legislation

7.11 Whilst it was reasonable for DfE to introduce the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 in response to immediate concerns about the potential impact of the pandemic and the existing pressures on the system,

the pace at which they were made and communicated risked compromising processes which are important safeguards against unintended consequences (such as the formal consultation process). The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 were not widely used and DfE acted to reduce the breadth of these regulations over time. In light of this, with hindsight, the department could have revoked the regulations at an earlier date and could have taken a more decisive decision to require face-to-face contact sooner than September 2021.

Workforce

7.12 The initial focus of central government was on health and adult social care, given the very clear risks and issues of significant illness and mortality. As a result of this, the workforce supporting children in the care system was not initially prioritised for the same protections that the adult workforce received i.e. PPE, testing and vaccines. This workforce should have been accorded the same status as other critical frontline workforces (police, fire service, others interacting directly with the public) without the significant efforts from DfE to secure this. All those with a key safeguarding role should have continued to support children and families. For example, diverting health visitors into COVID-19-related roles introduced a safeguarding risk for infants and, in hindsight, this was undesirable. This is an important lesson that government should apply to its response to any future pandemic or similar event. The effort that the department put into enabling former social workers to return to practice was not hugely valuable given workforce capacity held up well and very few additional workers resulted from the initiative. In hindsight, this effort could have been redirected; though it is possible that in a pandemic which took a different course, workforce illness and absence might have made this somewhat more valuable.

Ongoing work

7.13 The COVID-19 pandemic period presented unique challenges to everyone involved, including the children and families themselves, as well as everyone involved in working with children, including, for example, CSC staff and those working in the centre of government. This was an unprecedented situation, requiring difficult decisions to be taken, often at great speed. The department is acutely aware of the significant impact that decisions taken in those conditions had on children, young people, families and the frontline workforce.

7.14 As set out in paragraph 2.1, the CSC system was already under pressure, and reform was a stated priority before the pandemic. The pandemic amplified pre-existing challenges faced by vulnerable children and young people and put additional strain on the different public services with important roles in the safeguarding of children. As set out earlier in this statement, the Child Safeguarding Review Panel noted a number of particular factors in their 2020 annual report which increased risks for vulnerable children during the pandemic. Specifically: parental and family stress; exacerbated vulnerabilities for children and young people; impact of school closures; and impact of adaptations for COVID-safe practice.

7.15 In November 2019, the Conservative party had included in their Manifesto a pledge to “*review the care system to make sure that all care placements and settings are providing children and young people with the support they need*”. As a result of this commitment, and further impacted by the pandemic, DfE announced an independent review of children’s social care in January 2021, with work beginning in March 2021. The final report from the review was published on 23 May 2022 (Exhibit FO/348 - INQ000541057). A response to the care review, *Stable Homes, Built on Love*, (Exhibit FO/349 - INQ000541058) was published by the previous government on 2 February 2023, and a range of actions to improve CSC has been undertaken to support this strategy, including launching a new programme to boost family help in pathfinder areas, investing in foster care recruitment and retention, and publishing the first kinship strategy on 15 December 2023.

7.16 After the general election in July 2024, the Labour government published *Keeping children safe, helping families thrive* (Exhibit FO/350 - INQ000541128), a Command Paper laid in Parliament by Bridget Phillipson, Secretary of State for Education, on 18 November 2024, which sets out a strategic transformation of CSC. The Children’s Wellbeing and Schools Bill was introduced to Parliament on 17 December 2024 to give effect to many of the proposals in the Command Paper. This includes provision of evidence-based family help to keep children safely with their families, a requirement for a family group decision making process before a child is taken into care, greater support for kinship families, strengthening multi-agency safeguarding (recognising the important role education plays in safeguarding arrangements), greater accountability through increased Ofsted powers, and tackling profiteering in the residential care sector including through a financial oversight scheme. The Bill also includes the introduction of a single unique identifier for children. The importance of data, both to facilitate safeguarding of individual children

by local practitioners, and to enable system-level understanding and action on prevalence, was cemented during the pandemic. The data the department collected on school attendance, while imperfect, was a valuable insight that government has retained albeit in altered form.

7.17 DfE has ensured engagement with children, families and users throughout the development of reforms to CSC, including in early 2023 when those with lived experience of CSC were engaged as part of the consultation on *Stable Homes, Built on Love*, and more recently as part of engagement on the Children's Wellbeing and Schools Bill. This emphasis on engagement with users stems in part from the COVID-19 period where this sort of engagement was harder (for practical and time reasons); and the department recognises that this was a weakness in its response.

7.18 DfE appointed the National Children's Bureau to establish a Children and Young People's Advisory Board made up of 25 care-experienced young people from across England in January 2024. The Board share their views directly with policy teams and have also had opportunities to engage ministers and senior officials.

7.19 DfE's intention for the work to improve CSC is to deliver better, earlier support to children and families who need it, and to keep more families safely together. Once the reforms are delivered nationally, CSC should be a much more effective system, able to withstand future shocks in the form of a pandemic or similar. There are some aspects of the government's response to supporting vulnerable children and young people during the COVID-19 period that could have been better, and lessons have been learned from that time. But the best support that the government can provide for vulnerable children and young people nationally comes from: a well-funded, well-directed CSC system; improvements to how multi-agency safeguarding works and how information on vulnerability is shared; and a stable and skilled workforce. All of the government's reforms, set out above, have sought to deliver that outcome. The Children's Wellbeing and Schools Bill is taking forward important reforms in this area.

7.20 Significant progress has been made, but from a very difficult starting point, so more reform and investment is needed to complete the transformation and deliver good support and outcomes for all those that need it.

ANNEX 1: Role of DfE in children's social care

Children and young people can be vulnerable for many reasons and, often, multiple reasons. To manage the support around these individuals there are carefully constructed arrangements in place, with law and guidance set by national government, and local government and a range of agencies and individuals locally providing support.

Many institutions play an important role in the safeguarding and support towards vulnerable children and young people, including:

- a. Upper tier and unitary local authorities (in England);
- b. Local policing bodies (e.g., Police and Crime Commissioners);
- c. Chief officers of police;
- d. Local probation boards;
- e. Youth offending teams;
- f. National Health Service ("NHS") bodies, including integrated care boards ("ICBs"), NHS trusts, and NHS foundation trusts;
- g. Registered childcare providers (including nurseries and childminders);
- h. Local authority-maintained schools and academies (mainstream, special alternative provision and pupil referral units);
- i. Non-maintained special schools;
- j. Independent special schools;
- k. General Further Education ("FE") colleges;
- l. Special post-16 institutions;
- m. Other post-16 providers.

To understand how the Department for Education ("DfE" or "the department") approaches support for vulnerable children and young people it is important to understand how the Children's Social Care ("CSC") system is structured, including roles and responsibilities.

Legislative Framework

The Secretary of State for Education ("SSE") has a general statutory duty under section 7 of the Children and Young Persons Act 2008 (Exhibit FO/351 - INQ000541170) to promote the wellbeing of children in England. This includes undertaking activities in connection with parenting to support the discharge of this duty (including parental care provided by any person to a child not just that provided by a parent or other person who has parental responsibility for the child). The aspects of wellbeing that SSE should have regard to under this duty are physical and mental health and emotional well-being; protection from harm and

neglect; education, training and recreation; their contribution to society; social and economic well-being.

The child protection system in England is underpinned by the Children Act 1989 (Exhibit FO/352 - INQ000541171). The Act provides the legal basis for the concept of parental responsibility; ensures that the child's welfare is the main consideration when a court is considering a question about a child's upbringing; and establishes the principle that children are best looked after by their family unless intervention is essential. The Children Act 1989 also places a general duty on local authorities to promote and safeguard the welfare of CIN in their area by providing a range of services appropriate to those children's needs. It additionally sets out what a local authority must do when it has reasonable cause to suspect that a child in its area is suffering, or is likely to suffer, significant harm. Section 31 of the Act sets out the circumstances under which a court may make an order placing a child in local authority care (a care order). The Act also sets out the functions of local authorities in relation to looked after children, including a duty under section 22(3) to safeguard and promote their welfare.

The *Children Act 2004* (Exhibit FO/353 - INQ000541172) places a duty on a number of agencies including local authorities, the police and health services to ensure they consider the need to safeguard and promote the welfare of children when carrying out their functions.

The *Children and Social Work Act 2017* (Exhibit FO/354 - INQ000541173) amended the *Children Act 2004* to establish new local arrangements for safeguarding and promoting the welfare of children. This strengthened already important relationships by placing new duties on the police, ICBs and the local authority, as statutory safeguarding partners. Safeguarding partners are under a duty to make arrangements to work together, and with other partners locally including education providers and childcare settings, to safeguard and promote the welfare of all children in their area. This legislation, along with other statutory and non-statutory measures, provides a framework to help SSE meet her statutory duty to promote the wellbeing of children.

Local authorities in England have a range of duties and powers relating to safeguarding the welfare of children and promoting their well-being. They include:

- a. A general duty to safeguard and promote the welfare of CIN in their area by providing appropriate services (*Children Act 1989*, section 17).
- b. A duty to provide accommodation to CIN who require it for prescribed reasons (*Children Act 1989*, section 20).

- c. A duty to make the necessary enquiries to decide whether it needs to act to safeguard a child's welfare where it suspects that a child is suffering, or is at risk of suffering, significant harm (*Children Act 1989*, section 47).
- d. A power in certain circumstances to apply to the court for an order placing a child in the care of the local authority (*Children Act 1989*, section 31).
- e. A duty to make arrangements to promote co-operation with key partners and local agencies, with a view to improving the wellbeing of children in its area (*Children Act 2004*, section 10).

Roles and responsibilities

DfE is responsible for the legal and policy frameworks within which CSC operates as well as intervention and improvement, when judged necessary, in its delivery. The main child safeguarding guidance is contained in DfE's statutory guidance, *Working Together to Safeguard Children* (Exhibit FO/298 - INQ000541087). The guidance sets out how individuals and organisations should work together to safeguard and promote the welfare of children and young people in accordance with the relevant legislation. Local authorities (and other prescribed persons and bodies) are required to have regard to the guidance. Where a local authority is judged to be 'requiring improvement', DfE has a role in supporting them to improve their performance, including through supporting partnerships with better performing local authorities. Where a local authority is judged by Ofsted to be 'inadequate' for children's services, DfE has a role in urgent action to remedy this, including close working over a period of time until performance is improved.

Several policies across government intersect with CSC and roles and responsibilities vary depending on the nature of the policy. Therefore, some other government departments may own policies which impact on children in the social care system and which DfE will be consulted on, with SSE, as mentioned above, having a statutory duty to promote the wellbeing of children. For example:

- the Ministry of Housing, Communities and Local Government ("MHCLG") (formerly the Department for Levelling Up, Housing and Communities), is responsible for a number of housing duties for young people over the age of 18, such as social housing priority, which may interlink with local authority duties to accommodate young people, in particular care leavers, under the *Children Act 1989*.
- the Home Office ("HO") has a duty to safeguard and promote the welfare of children in discharging functions relating to immigration, asylum, nationality and customs, as defined in section 55 of the *Borders, Citizenship and Immigration Act 2009* (Exhibit FO/355 - INQ000541174). These duties are discharged by UK Visas and

Immigration, Immigration Enforcement and the Border Force, as part of HO and on behalf of the Secretary of State. DfE jointly leads, with HO, on policy in relation to unaccompanied asylum seeking children (Exhibits FO/356 - INQ000477404 and FO/298 - INQ000541087).

- the Department of Health and Social Care (“DHSC”), supports local authorities to safeguard children in their local area, as a result of section 11 of the *Children Act 2004* which creates an additional statutory duty for NHS bodies to ensure that they discharge their functions having regard to the need to safeguard and promote the welfare of children (Exhibit FO/357 - INQ000541151).

The CSC system itself is in place to ensure the protection and welfare of the most vulnerable children. DfE is responsible for the CSC system, including systems for CIN, child protection, and children in care. The sector is governed by a set of detailed primary and secondary legislation with day-to-day responsibility overseen by Directors of Children’s Services (“DCSs”) in local authorities.

DCSs in local authorities have a statutory role in relation to services for children and young people, including those related to education. They must ensure that the needs of the most disadvantaged and vulnerable children are met, including those with special educational needs and disabilities (“SEND”) and those in the CSC system (who may also have SEND) (Exhibit FO/358 - INQ000540762). Local authorities, working with partner organisations and agencies, have specific duties to safeguard and promote the welfare of all children in their area.

Safeguarding and promoting the welfare of children, covered within CSC, is defined as (Exhibit FO/298 - INQ000541087):

- a. Providing help and support to meet the needs of children as soon as problems emerge;
- b. Protecting children from maltreatment, whether that is within or outside the home, including online;
- c. Preventing impairment of children’s mental and physical health or development;
- d. Ensuring that children grow up in circumstances consistent with the provision of safe and effective care;
- e. Promoting the upbringing of children with their birth parents, or otherwise their family network through a kinship care arrangement, whenever possible and where this is in the best interests of the children; and
- f. Taking action to enable all children to have the best outcomes in line with the outcomes set out in the Children’s Social Care National Framework.

Effective safeguarding means practitioners should understand and be sensitive to factors, including economic and social circumstances and ethnicity, which can impact children and families' lives.

Child protection is part of safeguarding and promoting the welfare of children and is defined in the statutory guidance, *Working Together to Safeguard Children*, as activity that is undertaken to protect specific children who are suspected to be suffering, or likely to suffer, significant harm. This includes harm that occurs inside or outside the home, including online.

No single practitioner can have the full picture of a child's needs and circumstances, which is why multi-agency working is critical to provide the appropriate level of oversight. If children and families are to receive the right help at the right time, everyone who comes into contact with them has a role to play in identifying concerns, sharing information and taking prompt action. Schools and colleges are particularly important, as they are in a position to identify concerns early, provide help for children, promote children's welfare and prevent concerns from escalating (Exhibit FO/359 - INQ000541090). This is set out in the statutory guidance *Keeping children safe in education*. DCSs are expected to work with schools to ensure effective safeguarding policies and practices are in place (Exhibit FO/358 - INQ000540762).

ANNEX 2: Substantive updates to Coronavirus (COVID-19): guidance for children’s social care services

Date	Update
6 May 2020	<p>The guidance was updated to reflect the temporary changes introduced by the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 (Exhibit FO/286 - INQ000520166). The guidance explained that the changes applied to regulations on residential care, local authorities, private fostering, care planning, fostering and adoption. These amendments were intended to be used only when absolutely necessary, with oversight from senior management, ensuring that safeguarding and welfare duties were still prioritised. The amendments were temporary and would remain in place only as long as needed, with their impact explained throughout the guidance.</p> <p>These amendments included further action towards tackling the concerns around children’s social care (“CSC”) placements, as the Department for Education (“DfE” or “the department”) amended the Fostering Services (England) Regulations 2011 to minimise delays to recruiting new foster carers. The requirement to refer applications for potential foster carers to a fostering panel was made optional, – as was also the case for ongoing suitability assessments of existing foster carers and for any cases where a foster carer was not deemed suitable. Furthermore, where a fostering panel could not be convened, approval of new foster carers could take place without a panel (although, the department anticipated this would be in rare rather than regular circumstances). Fostering services could already convene remote panels. However, fostering service providers were also enabled to continue with their assessment of a prospective foster carer’s suitability without having to wait for health information or criminal record (Disclosure and Barring Service (“DBS”)) checks to be completed first. DfE wanted to ensure that assessments and approvals were thorough and complied with regulations but did not want these to be delayed due to COVID-19 restrictions (Exhibit FO/286 - INQ000520166).</p>
01 July 2020	<p>The guidance (Exhibit FO/360 - INQ000520195) was updated to clarify that all primary and most secondary legislation remains unchanged and where temporary and time-limited amendments have been made to secondary legislation, that these should only be relied upon as set out in the guidance. The guidance reiterated that the duties to the most vulnerable children that are set out in primary legislation, such as in section 22(3) of the <i>Children Act 1989</i>, section 1 of the <i>Adoption and Children Act 2002</i> and section 11 of the <i>Children Act 2004</i>, remained in place and local authorities and other bodies must continue to comply with these duties.</p>

15 July 2020	This update (Exhibit FO/361 - INQ000520196) added that, due to a reduction in COVID-19 cases, most of the temporary amendments in CSC would expire on 25 September 2020. Local authorities were advised to transition back to the pre-pandemic regulations as soon as possible as most of the temporary changes were no longer deemed necessary.
28 August 2020	The guidance was updated (Exhibit FO/362 - INQ000520197) to include provisional guidance on the Adoption and Children (Coronavirus) (Amendment) (No. 2) Regulations 2020, which would come into effect on 25 September 2020. These regulations provided further temporary amendments to help CSC services manage the ongoing challenges posed by the COVID-19 pandemic. The guidance also addressed how to apply these amendments while observing social distancing and shielding measures, ensuring that children's services could continue to operate safely. Additionally, it outlined how these changes would support the reopening of schools, colleges and nurseries in the autumn term.
25 September 2020	The update (Exhibit FO/363 - INQ000520193) reflected the expiry of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 and the introduction of the Amendment (No. 2) Regulations 2020. This update provided local authorities with guidance on how to manage the expiration of the earlier temporary regulations and adapt to the newly extended provisions. The guidance explained the "rule of 6," outlining how this public health measure would affect social care, particularly in fostering and residential care settings. Local authorities were encouraged to begin transitioning back to pre-pandemic regulatory standards where possible, whilst still utilising the new temporary provisions where necessary to adapt to ongoing challenges.
09 March 2021	This update (Exhibit FO/364 - INQ000519594) aligned with the extension of the Adoption and Children (Coronavirus) (Amendment) Regulations 2020. The guidance explained that the amendments would be extended until 30 September 2021.
04 October 2021	The guidance was then updated (Exhibit FO/365 - INQ000541175) to reflect that from 1 October 2021, the amendments in the Adoption and Children (Coronavirus) (Amendment) Regulations 2020 were no longer available, stating that virtual visits and flexible assessment timings were no longer permissible. The guidance informed providers that from 1 October 2021, the Childcare (Childminder Agencies) (Registration, Inspection and Supply and Disclosure of Information) and Her Majesty's Chief Inspector of Education, Children's Services and Skills (Fees and Frequency of Inspections) (Children's Homes etc.) (Coronavirus) (Amendment) Regulations 2021 came into force. These regulations reintroduced Ofsted's minimum inspection frequencies, but required inspections be conducted only " <i>so far as reasonably practicable</i> " between October 2021 and March 2022.

10 December 2021	The guidance (Exhibit FO/366 - INQ000520191) was updated to reflect the introduction of " <i>Plan B</i> " for England. This meant that all individuals who were identified as a close contact of a suspected or confirmed case of the Omicron variant of COVID-19, irrespective of vaccination status and age, would be contacted directly and required to self-isolate immediately and were asked to book a Polymerase Chain Reaction ("PCR") test.
15 December 2021	The guidance was updated (Exhibit FO/367 - INQ000520190) to reflect that adults who were fully vaccinated and all children and young people aged between 5 and 18.5 years who were identified as "close contacts" of someone with COVID-19 were strongly advised to take a lateral flow test every day for 7 days and continue to attend their work or education setting as normal, unless they had a positive test result.
20 January 2022	The guidance (Exhibit FO/368 - INQ000520198) was updated to reflect the removal of " <i>Plan B</i> " for England. This update entailed the removal of the changes which had been made on 10 December 2021.
22 February 2022	The update to the guidance (Exhibit FO/369 - INQ000520189) set out changes to testing and isolation. For instance, close contacts in settings were identified by National Health Service ("NHS") Test and Trace and settings were no longer expected to undertake contact tracing.
01 April 2022	The guidance was withdrawn (Exhibit FO/251 - INQ000519602).

ANNEX 3: Funding support for vulnerable children and young people

Local authorities receive their funding for children’s services as part of the local government finance settlement, administered by the Ministry of Housing, Communities and Local Government (“MHCLG”) (formerly the Department for Levelling Up, Housing and Communities). During the pandemic, DfE worked closely with MHCLG to ensure that local government had the resources it needed to manage their response, including in delivery of children’s services. The following funding and support were part of ensuring local government had these resources in place. In addition, 2 additional sets of funding were announced to support local authorities, £2.9 billion in March 2020 and £1.6 billion in April 2020, which were not ringfenced, but DfE encouraged it to be used to support the vulnerable and care leavers (please see paragraphs 5.4 and 5.6 respectively on DfE’s involvement with this funding).

During the pandemic, DfE recognised that access to services was essential for vulnerable children and young people to ensure they were supported effectively. In some instances, this meant that DfE provided or facilitated financial support to these services to mitigate the impact of COVID-19. DfE applied for funding for specific aspects of the children’s social care (“CSC”) system when additional resources became available within government. The funding outlined below includes the repurposing of DfE funding and the Department for Culture, Media and Sport (“DCMS”) funding for charities announced in April 2020 (a £750 million package overall).

Funding	Amount	Purpose
<i>From DCMS funding for charities (announced April 2020)</i>		
Emergency Voluntary Adoption Agency Funding	£410,000 per agency for 3 agencies (May 2020) £250,000 per agency for 19 agencies (July 2020)	Voluntary Adoption Agencies (“VAAs”) offer a personalised service to adopters, working in partnership with local authorities and Regional Adoption Agencies (“RAAs”) to find families for children in care (Exhibit FO/370 - INQ000541077). Many VAAs lost a significant portion of their income during the pandemic due to a reduction in placement activity, their primary source of income. From the support package announced by DCMS, in July 2020 a one-off payment to cover August to October 2020, capped at £250,000 per agency, was awarded to 19 agencies. This followed £410,000 awarded to three of these agencies in May 2020, who received less

	£3 million for 16 agencies (July 2021)	funding as a result in July 2020. A further £3 million was awarded in June 2021 for 16 VAAs to cover a further four months, following His Majesty's Treasury ("HMT") announcing another £16 million was available to bid from, secured in December 2020 by DfE (Exhibits FO/045 - INQ000541062, FO/371 - INQ000541064, FO/046 - INQ000540876, FO/048 - INQ000541060 and FO/049 - INQ000541061).
Barnardo's See, Hear, Respond programme	£7.3 million (DfE provided)	<p>In June 2020, See, Hear, Respond, commissioned by DfE and coordinated by Barnardo's, was launched. This aimed to support children who were at heightened risk of neglect, abuse or exploitation due to challenges posed by lockdown measures. See, Hear, Respond specifically targeted 'hidden' children, who were not registered with any social services but were affected by reduced social contact and limited access to regular school environments, where they would normally be safeguarded.</p> <p>Barnardo's established a network of 87 national and community-based charities and organisations. Running initially to October 2020, the programme eventually ran until March 2021, reaching over 100,000 children and families, with 98% of families reporting helpful support, and needs being met in 84% of cases (Exhibit FO/111 - INQ000541004).</p>
Care leavers charities	£50,000 per charity for 3 charities (May 2020)	On 1 May 2020, Become, the Care Leavers Association and the Drive Forward Foundation were awarded £150,000 (£50,000 per charity). These charities worked with care leavers who could support local authorities in meeting their legal obligations as corporate parents. The funding targeted the four key vulnerabilities of care leavers, determined by stakeholders, of financial, isolation/loneliness, Personal Adviser support and leaving care/moving placement, and set out how funding should be spent (Exhibits FO/112 – INQ000540861 and FO/142 - INQ000540860).

<p>Fostering and kinship care charities</p>	<p>£148,660 Grandparent plus ("GP+") (May 2020)</p> <p>£125,000 FosterTalk (June 2020)</p> <p>£80,000 FRG Family and Friends Adviceline (June 2020)</p>	<p>In May 2020, DfE provided £148,660 to GP+ to increase their capacity to expand services and reach more vulnerable kinship care families during the COVID-19 pandemic (Exhibit FO/139 - INQ000540871). The funding was used to: increase specialist kinship care advice service capacity for six months; extend existing kinship care support programme for six months; and expand the existing telephone peer-to-peer support service, increasing provision of practical and emotional support to carers across England.</p> <p>In June 2020, DfE provided £125,000 in additional funding for FosterTalk (who were delivering the Fosterline service) to deliver specialist one-to-one support to foster families at particular risk of placement breakdown due to the COVID-19 pandemic (Exhibits FO/141 - INQ000540767 and FO/372 - INQ000541106). The funding aimed to reduce the risk of breakdown in fostering placements, from additional strain caused by the pandemic, and increase capacity in the system.</p> <p>In June 2020, as part of the GP+ funding bid (Exhibit FO/139 - INQ000540871), DfE provided a further £80,000 to FRG Family and Friends Adviceline (in addition to the £350,000 in separate funding already issued that year by the department prior to COVID-19). The Adviceline was an information and advice service for families, kinship carers, and special guardians of children at risk or involved in the care system in England. The funding enabled the FRG to: provide additional specialist legal advice via telephone or discussion boards; provide follow up support to vulnerable parents or kinship carers who needed additional support; provide a bespoke advice and support service to up to 50 care-experienced young people; and develop online resources, top tips and guides that responded to needs identified by parents, kinship carers and practitioners.</p>
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<i>Repurposed DfE funding</i>		
Adoption Support Fund ("ASF") (April 2020)	Up to £8 million was set aside for the COVID-19 Scheme from the core ASF. The scheme approved applications from RAAs and local authorities totalling just over £6.5 million.	Some funds from the ASF (Exhibit FO/137 - INQ000541074) were repurposed to create the Adoption Support Fund COVID-19 Scheme. The COVID-19 Scheme provided emergency funding to RAAs and local authorities to support children who had left care either through adoption or with a Special Guardianship Order ("SGO"), and their families, to meet needs arising from the pandemic. The COVID-19 Scheme operated between April and June 2020 with services having to be delivered by the end of December 2020. An independent review, published in October 2021, showed that the COVID-19 scheme had a positive impact and effectively supported families that were either in or approaching a crisis. Although the support was aimed at parents and carers, building this family resilience ensured children received the necessary care and support through the pandemic (Exhibit FO/138 - INQ000541037).
CSC COVID-19 Regional Recovery and Building Back Better Fund (2021)	£24 million	A CSC recovery fund was created in 2021 by tilting existing programmes of funding, provided by the local government finance settlement, aimed at improving local services into one collective fund. This enabled a coherent approach to allocating £24 million funding to local authorities, regions and other partners. The funding aimed to stabilise the system, address new challenges of COVID-19, add scale and spread practice models that work, as well as fulfilling the wider departmental aim of improving underperforming local authority children's services. The key benefit of the programme was to reduce the potential for more Looked after Children ("LAC") and CIN to receive poor quality social care services, leading to poorer outcomes. Local authorities bid for funding, which was then provided across the different regions, with amounts to each region varying depending on need (Exhibits FO/239 - INQ000541123 and FO/373 - INQ000541041).
Funding to support	Entitlement funding already existed in the	It was vital that early years ("EY") providers remained open during the pandemic so vulnerable children continued to attend educational provision and mitigate against the risk that the situation,

<p>vulnerable nursery age children</p>	<p>system so was repurposed where needed. In terms of Free Early Education Entitlement places, it was estimated there would be sufficient capacity and funding.</p>	<p>generated by COVID-19, could drive increased abuse and neglect of children. Early education entitlements are a government funded offer, providing eligible parents with 15 to 30 hours a week of early education and care, which are distributed by local authorities. To prevent closure of settings and ensure providers were able to resume business once out of lockdown, DfE committed to continuing to pay local authorities (who were expected to pass it onto providers) for Free Early Education Entitlement places for 2, 3, and 4-year-olds even if settings were closed or children were not able to attend. Additionally, DfE supported local authorities to move Free Early Education Entitlement funding around providers, directing this to providers choosing to stay open (Exhibits FO/374 - INQ000540839, FO/375 - INQ000540786, FO/085 - INQ000540843 and FO/087 - INQ000540845).</p>
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STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true. I understand that proceedings may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Personal Data

Signature:

Dated: 29 July 2025