

Thursday, 23 October 2025

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2 (10.00 am)  
3 **LADY HALLETT:** Good morning, Ms Dobbin.  
4 **MS DOBBIN:** My Lady, the evidence in Module 8 concludes  
5 today with evidence from each of the children's  
6 commissioners of Wales, Scotland and Northern Ireland.  
7 Their evidence is going to be heard together and  
8 I wonder if I could ask if each could be sworn.  
9 **LADY HALLETT:** Thank you.  
10 **MS ROCIO CIFUENTES MBE (affirmed)**  
11 **MR CHRIS QUINN (sworn)**  
12 **MS NICOLA KILLEAN OBE (affirmed)**  
13 **Questions from LEAD COUNSEL TO THE INQUIRY FOR MODULE 8**  
14 **MS DOBBIN:** Perhaps if I take each of you in turn and maybe  
15 ask the Children's Commissioner for Scotland first if  
16 you would give your full name to the Inquiry.  
17 **MS KILLEAN:** Thank you. My name is Nicola Killean.  
18 **Q.** If I can ask the Children's Commissioner for Northern  
19 Ireland to do the same, please?  
20 **MR QUINN:** Thank you. My name is Chris Quinn.  
21 **Q.** And may I turn to the Commissioner for Wales.  
22 **MS CIFUENTES:** My name is Rocio Cifuentes.  
23 **Q.** Each of you, I think it's right, has made a statement to  
24 the Module 8 of Inquiry, rather than taking each of you  
25 to your statement, could I simply ask you each in turn

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1 Nations Convention on the Rights of the Child, and my  
2 remit covers all of the devolved powers of the Senedd,  
3 that affect children's rights and welfare.  
4 The UNCRC is an international human rights treaty  
5 that applies to all children and young people up to the  
6 age of 18 and the Welsh Government has adopted the UNCRC  
7 as the basis of all of its policy making for children  
8 and young people, and in 2011 the Welsh Government  
9 introduced the Rights of Children and Young Persons  
10 (Wales) Measure, which placed, and places, a duty on  
11 Welsh ministers to have due regard to children's rights  
12 in all of their decision making and in exercising all of  
13 their functions.  
14 In 2021 the Welsh Government introduced an updated  
15 Children's Rights Scheme which specifies the tools that  
16 Welsh Government should use to ensure that it does give  
17 due regard to children's rights and that tool is the  
18 children's rights impact investments, or CRIAs, as they  
19 are known. The Children's Rights Scheme sets out that  
20 that is the tool that is expected to be used to support  
21 Welsh Government to formally consider the effects or  
22 unintended consequences of any of their decisions, new  
23 policies, legislation or advice, and also to enable them  
24 to consider specific mitigation measures. It also  
25 identifies the importance of proper engagement with

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1 to confirm that its contents are true to the best of  
2 your knowledge and belief, and perhaps if I start with  
3 you, Ms Killean?  
4 **MS KILLEAN:** Yes, I do.  
5 **Q.** Thank you.  
6 Mr Quinn?  
7 **MR QUINN:** Yes.  
8 **Q.** Ms Cifuentes?  
9 **MS CIFUENTES:** Yes.  
10 **Q.** I thought that it might be helpful on behalf of the  
11 Inquiry if I ask each of you to give a very brief  
12 overview as to how children's rights are given effect in  
13 each of your jurisdictions and really just for the end  
14 or so that we can draw out some of the differences,  
15 Ms Cifuentes, I was going to start with you first  
16 because I think it's right that in fact Wales has the  
17 most established background in terms of having  
18 domesticated the UN Convention on children's rights.  
19 Could you explain a bit about that and how it's given  
20 effect?  
21 **MS CIFUENTES:** Yes, so Wales was the first country to  
22 establish the role of Children's Commissioner, in 2001,  
23 with the principal aim of safeguarding and promoting the  
24 rights and welfare of children and in delivering my  
25 functions I must have regard to the UNCRC, the United

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1 children and young people to achieve that.  
2 So that is what the Welsh Government sets out as how  
3 it seeks to implement children's rights approach.  
4 **Q.** Forgive me, I didn't mean to interrupt you, I was simply  
5 going to ask the question but I think you've probably  
6 answered it, that those duties on Welsh Government apply  
7 to any of the -- any policy or law they're thinking of  
8 enacting, not just those acts or policies that are  
9 specific to children; is that correct?  
10 **MS CIFUENTES:** All of them that affect children and young  
11 people, yes.  
12 **Q.** Yes, grateful.  
13 Ms Killean, I think it's right that Scotland -- it's  
14 quite a recent innovation in Scots law that there have  
15 been steps to domesticate the convention, but I also  
16 think it's right that maybe Scotland has gone a bit  
17 further than Wales in trying to give effect to those  
18 rights; is that, broadly speaking, correct?  
19 **MS KILLEAN:** So if -- I'll just cover a little bit of that,  
20 kind of, change over the past couple of years?  
21 **Q.** Yes.  
22 **MS KILLEAN:** So I understand the Inquiry is familiar with  
23 the devolution settlement for Scotland in terms of what  
24 areas fall within the responsibility of the Scottish  
25 Government, and you'll also have in my witness statement

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1 details about the statutory role of my office, which is,  
2 at its core, is also about promoting and protecting  
3 children's rights and holding Scottish Government to  
4 account against the human rights framework.

5 So it was in July 2024 that the UNCRC  
6 (Incorporation) (Scotland) Act since then has been in  
7 force, and that's brought the UNCRC into domestic law in  
8 Scotland to the maximum extent possible.

9 So what that means is that children can go to court  
10 when their rights are breached, but, just as  
11 importantly, it changes culture and practice, hopefully  
12 to avoid the need for that action to have to happen.

13 The Act has also placed obligations on government to  
14 undertake children's rights impact assessments and  
15 prepare a children's rights scheme setting out how the  
16 government will ensure compliance with the UNCRC.

17 And at the time of the pandemic, Scottish Government  
18 didn't have those domestic law obligations, so, in my  
19 view, some of the concerns that my witness statement  
20 outlines might not have occurred, or might not have  
21 occurred to the same extent, had the UNCRC  
22 (Incorporation) (Scotland) Act been in force.

23 One of the things I think it is important to  
24 highlight though is that incorporation, while hugely  
25 important and significant in Scotland, is still a first

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1 **Q.** Maybe -- sorry, I think maybe we might come on to some  
2 of those issues.

3 **MS KILLEAN:** Yes, of course.

4 **Q.** But I think just for our purposes of introducing each of  
5 the structures, then, the key difference, perhaps,  
6 between Wales and Scotland is, in Wales, it's a duty to  
7 have regard -- due regard to convention rights, whereas  
8 in Scotland there is actually, as you've described it,  
9 an ability on the part of children to directly enforce  
10 the rights that are set out in the convention?

11 **MS KILLEAN:** Yes.

12 **Q.** I'm grateful.

13 Mr Quinn, can I ask you then please about the  
14 position in Northern Ireland, in terms of children's  
15 rights and how they're given effect.

16 **MR QUINN:** Yeah. Well, I will start just by making a very  
17 quick reference to the UNCRC and its incorporation, and  
18 to highlight to the Inquiry that incorporation of the  
19 convention is the key priority of my office during my  
20 term.

21 I also wanted to bring the Inquiry back to 1998 and  
22 the signing of the Belfast Good Friday Agreement,  
23 because, as you'll recall, that signalled a new  
24 beginning for Northern Ireland. It brought peace to our  
25 region and it made several promises, including a bill of

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1 step on this journey.

2 The 2024 Act does not yet extend as far as we would  
3 like to see it in Scotland. There are still significant  
4 pieces of legislation that are out of scope, and there  
5 are still occasions at the moment when new legislation  
6 that's being brought isn't always being drafted to  
7 ensure that it is in scope of that bill.

8 So we're still in a process of changing culture and  
9 practice to ensure that children are recognised as  
10 rights holders involved in decision making, and that all  
11 children's rights are respected, protected, and  
12 fulfilled. There is much to do, but having the legal  
13 foundations in place now, in a domestic law basis as  
14 well, has been absolutely critical.

15 With or without incorporations, as you all will  
16 understand, human rights are legal obligations on the  
17 state. And in terms of what happened during the  
18 pandemic, one of the challenges in Scotland was around  
19 about unclear lines of accountability and responsibility  
20 for decisions where Scottish Government had -- could  
21 delegate operational delivery responsibility, for  
22 example to local authorities or non-departmental public  
23 bodies, and I know that's an area of the Inquiry has  
24 looked at, for example with the changes to exams and  
25 qualifications that happen in Scotland.

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1 rights for Northern Ireland and a civic forum.

2 On the back of the Good Friday Agreement, my office  
3 was established in 2003. We also had our first Children  
4 and Young [Persons] Strategy, which was published in  
5 2006, and within that strategy there were quite  
6 forward-thinking mechanisms, that included a minister  
7 for youth, who would have had a committee that worked to  
8 them to prioritise the rights and best interests of  
9 children, and we also had a Children and Young [Persons]  
10 Unit, which was part of how the mechanisms of government  
11 worked.

12 Within that, there were mechanisms for promoting the  
13 voice of the child through a participation network and  
14 a Network for Youth which, if all had have been fully  
15 implemented and sustained, many of the issues within  
16 this Inquiry may not have been such -- had such  
17 a negative impact on children's lives.

18 And I do want to point to the legislation that set  
19 up my office and within that, there is an article,  
20 Article 24 of the Northern Ireland Commissioner for  
21 Children and Young People (NI) Order (2003) that  
22 requires me to review the effectiveness of my Office and  
23 to publish reports.

24 So there have been six reports that have been  
25 submitted to government that have made several

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1 recommendations that I think are really important to  
2 this Inquiry, and one of those recommendations is around  
3 the duty to consult. So I've heard -- I heard on the  
4 opening day and I've hearing throughout this Inquiry  
5 that the duty to consult commissioners has been a gap  
6 that has been highlighted by those giving evidence. So  
7 I think the Article 24 report is a really important part  
8 of the dynamic.

9 I am very conscious and quite concerned that  
10 children's rights, I feel, have been eroded,  
11 particularly over the last ten years. I'm sorry to say  
12 that we have had government up and running almost as  
13 often as it has been collapsed in Northern Ireland, and  
14 that has a devastating effect on children, particularly  
15 those most vulnerable. So I do think we need to do  
16 more.

17 **Q.** Sorry to cut in, Mr Quinn, but can I just ask you, in  
18 terms of the reports you have provided to the devolved  
19 government in Northern Ireland, have -- do you get  
20 responses to those reports? Did -- you know, do you get  
21 an answer when you raise concerns about lack of  
22 consultation?

23 **MR QUINN:** Unfortunately not. We're yet to receive  
24 a response or any action with regards to the  
25 recommendations that were put forward. The last -- the

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1 Northern Ireland, but is that true of the position in  
2 respect of children? Even if we put the convention to  
3 one side, are there other ways, I suppose I'm asking  
4 you, that children's rights are vindicated?

5 **MR QUINN:** I think the -- the regret that I have is that  
6 many of the mechanisms and vehicles that were set up as  
7 part of the Good Friday -- Belfast Good Friday Agreement  
8 we have rolled back on them. Even in terms of the  
9 positioning of my office, I am no longer positioned  
10 within -- centrally within the architecture of Northern  
11 Ireland Government, which is -- is not compliant with  
12 Paris Principles. You know, so it's really important  
13 that my office is independent, so I do believe that  
14 we -- we've stepped backwards, and I would urge our  
15 Executive to look at the good things that were set up in  
16 the -- you know, just after agreement was signed.

17 **Q.** Thank you.

18 What I was going to do then was to move on to ask  
19 you about the experiences of the office of the  
20 Children's Commissioner in each of your parts of the  
21 United Kingdom during the pandemic. And I should make  
22 clear, of course, that you weren't the commissioners at  
23 the time, but I think each of you can speak to the  
24 experiences of your office; is that correct?

25 **MR QUINN:** Yes.

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1 last report was submitted to the Department for  
2 Communities in 2023, I believe it was October 2023, but  
3 I am yet to receive a response to that report.

4 **Q.** So, Mr Quinn, just again for the purposes of comparing  
5 different parts of the United Kingdom, I think it's  
6 right, from everything you've said, that there are not  
7 the same structures obviously in Northern Ireland as  
8 exist in Wales or Northern Ireland -- or, sorry, that  
9 exist in Wales or Scotland --

10 **MS CIFUENTES:** Yes.

11 **Q.** -- in terms of the UN Convention --

12 **MR QUINN:** Yes.

13 **Q.** -- and the domestication of the convention in  
14 Northern Ireland; is that right?

15 **MR QUINN:** Yes, absolutely.

16 And when we look at that through the context of the  
17 legacy of the past and how children are still affected  
18 by both government instability and, as a society,  
19 emerging from conflict, I think the most important and  
20 impactful thing that our Executive can do is to fully --  
21 fully incorporate the UNCRC into domestic law in  
22 Northern Ireland.

23 **Q.** Can I just ask you on that, it might be thought, because  
24 of the history of troubles in Northern Ireland, that  
25 there might be quite well evolved human rights law in

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1 **Q.** Thank you. So if I can, and I know that you have each  
2 decided to lead on a specific issue but I wanted to ask  
3 you about what you perceived, first of all, to be any  
4 shortcomings in the approach that each of the devolved  
5 administrations may have taken to children's rights?

6 We can come to things that were done well, but just  
7 starting, perhaps, with any perceived shortcomings, and  
8 I think, Mr Quinn, you were going to lead on this in  
9 terms of this point you have touched upon which is that  
10 of consultation?

11 **MR QUINN:** Yeah, well, one of the most significant  
12 shortcomings during the pandemic was the failure to  
13 meaningfully engage with children and young people in  
14 decision-making processes, that directly affected their  
15 lives. So if you cast your mind back, almost every day  
16 we listened to decisions that were being made about  
17 children including school closures, including  
18 examinations, in Northern Ireland, including the  
19 transfer test and how children would transfer from  
20 primary to post-primary education. But the lack of  
21 engagement with children and young people not only  
22 undermined their right to be heard but it also resulted  
23 in policies that overlooked the experiences and needs of  
24 children and particularly those most vulnerable.

25 So at the time, young people and children were keen

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1 to be part of the decision-making process.

2 In Northern Ireland, there were several reports  
3 published by children themselves but they just weren't  
4 taken into consideration, they weren't listened to.  
5 Children and young people represent around about 25% of  
6 our population but I would argue that not only were  
7 their views ignored, but their rights were not fully  
8 considered in the decision-making processes that we saw.

9 I do believe that this is a dereliction of duty on  
10 the part of government, not to listen and not to take  
11 young people's views seriously.

12 In Northern Ireland we had, there were plans for  
13 a youth-specific press conference but that was on the  
14 back of young people appealing for youth-specific  
15 information and that press conference happen due to  
16 a political fallout. So that legacy of lack of voices  
17 lived on. I would argue that children were harmed  
18 during the pandemic and they continue to be harmed now.

19 So not only were their voices ignored during the  
20 pandemic but they're still ignored in this moment. And  
21 I think we need to do more to listen to, but also to act  
22 upon, the views of children and young people.

23 **Q.** Can I just ask you about the reasons for that, and  
24 I suppose I ask because there may be politicians,  
25 ministers, who, you know, are dealing with the heat of

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1 challenges and how she tried to navigate that.

2 So I think the, you know, our offices could have  
3 been used to greater effect in that respect. And also,  
4 I think the third thing is that there's no legislative  
5 background, there's no -- there's a legislative gap in  
6 Northern Ireland around promoting the voice of the  
7 child, and ensuring that that is properly resourced and  
8 it is meaningful.

9 So I think government could have listened. They  
10 should have listened better. And in fact, children and  
11 young people were, excuse the pun, screaming from the  
12 rooftops to be heard.

13 **Q.** Thank you.

14 Ms Killean, I was going to turn to you because  
15 I think you are going to lead on the issue of child  
16 rights impact assessments, which of course are a way of  
17 trying to bring the experiences of children to bear upon  
18 decision making and policy formulation, although I think  
19 from your evidence you would question whether that was  
20 done sufficiently effectively in Scotland.

21 **MS KILLEAN:** Yes, so I share my predecessor's view that  
22 children's rights as a whole were not sufficiently taken  
23 into account during decision making within the pandemic.  
24 And it was clear that the government considered the  
25 pandemic primarily as a public health emergency and not

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1 a crisis.

2 **MR QUINN:** Yeah.

3 **Q.** And I suppose a reasonable point is, there isn't time,  
4 how do you start convening children in order to be able  
5 to inform policy?

6 Do you have any -- do you have a, I suppose,  
7 a response to that, or have you thought about how, in  
8 these sorts of crises, you can capture the voice of  
9 children's experience in order to be able to inform  
10 policies or mitigations?

11 **MR QUINN:** Yeah, well, I think it would be remiss of me not  
12 to acknowledge the difficult situation that we were in  
13 and the hard work that our elected representatives did  
14 put in to try and navigate a very difficult set of  
15 circumstances. But I would argue that, particularly in  
16 Northern Ireland, there are mechanisms in place through  
17 our community and voluntary sector. So organisations  
18 were engaging with children and young people. There was  
19 adequate -- young people were having their say within  
20 communities and within youth and community  
21 organisations.

22 But those views weren't filtering up into  
23 government. I believe part of the dynamic there is the  
24 failure to engage with the commissioner's offices. My  
25 predecessor in her statements had outlined the

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1 a human rights emergency particularly in the early  
2 stages.

3 And that's why my predecessor and the team actually  
4 spent a significant part of their time in the early  
5 stages focusing on trying to promote that message and  
6 understanding of how this was a human rights emergency.  
7 And a key area that my office was particularly concerned  
8 about was the lack of children's rights impact  
9 assessments that were taking place and the quality, if  
10 there were some happening.

11 Children's rights impact assessments play an  
12 absolutely critical role in ensuring that decision  
13 makers can identify, prioritise, and address children's  
14 human rights, you know, when they are considering -- and  
15 I stress the point considering -- law policy and  
16 practice changes, and given the very significant  
17 decisions that were made during the pandemic and the  
18 absence of children from those spaces, when those  
19 decisions were being made, that was particularly crucial  
20 at that time.

21 The team also looked at where CRIAs were done on  
22 some decisions, especially at the beginning of the  
23 pandemic and those that were done, what were the key  
24 themes, in terms of flaws that were coming through from  
25 those and the most common issues that my office

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1 identified were that CRIAs were done too late in the  
2 process so they weren't fully informing the decisions  
3 that were made. They weren't acknowledging the range of  
4 children's rights that were engaged in the potential  
5 decision-making structure, they often failed to reflect  
6 any negative impacts.

7 We also found that more attention needed to be  
8 directed towards a child's best interest,  
9 non-discrimination, and participation, in order to  
10 ensure that a proper assessment of rights was conducted  
11 in decision making.

12 As you'll see from my witness statement, because my  
13 office was so concerned about this and the lack of CRIAs  
14 then my predecessor commissioned an independent CRIA  
15 from the Observatory Of Children's Human Rights in  
16 Scotland and it covered a wide range of children's  
17 rights issues, including education, mental health,  
18 poverty, and child protection. And it made  
19 recommendations about how decision making could be  
20 improved and, if it's helpful, I have some specific  
21 examples I could talk to on that.

22 **Q.** Yes, I was just going to ask, Ms Killean, really what --  
23 I mean, we've seen a copy of the -- we've seen the work  
24 that was done, that was commissioned. And do you think  
25 that the principal differences between that CRIA and the

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1 improved.

2 **Q.** So again, I think perhaps that's a point you've drawn  
3 out in your statement that, and perhaps all three of you  
4 may be in agreement about this, it's not necessarily  
5 that a CRIA would change the outcome of a decision, but  
6 it might help inform the considerations or the broader  
7 policy considerations?

8 **MS KILLEAN:** Yes, and I think when a CRIA is done very well,  
9 it has to be entered into with the view that it might  
10 change the outcome of the decision, but it may not, but  
11 it should highlight what are the other rights that would  
12 be, you know, breached or would be under more pressure,  
13 where are the harms that children might be, and really  
14 importantly, that the mitigations are put in place.

15 **Q.** Ms Cifuentes, if I turn to you next, because I think you  
16 wanted to lead on vulnerable children, then, in relation  
17 to this question of whether or not there were  
18 shortcomings or perceived shortcomings in the approach  
19 of the Welsh Government in your case.

20 **MS CIFUENTES:** Yes, so just to start -- just before that,  
21 I think just very briefly in terms of consultation with  
22 us in general, we were not consulted, as my predecessor  
23 has set out, at the start of the pandemic, and  
24 particularly around the decision making around school  
25 closures, which was a real shortcoming, and we also

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1 ones -- and contrasting it to some of the ones that had  
2 been done by the government in Scotland is the level of  
3 detail and the drawing upon research, for example, to  
4 properly understand how children's lives were being  
5 affected?

6 **MS KILLEAN:** Yes.

7 **Q.** Is that one of the -- or are there other ways in which  
8 you would say it was substantively different?

9 **MS KILLEAN:** So I think drawing on research and the depths  
10 of that was really important, but I think, as well, it  
11 was about that holistic overview and I think that's  
12 often what's missing: that if there was a CRIA being  
13 done, as I mentioned, it's often too late, but not  
14 looking holistically but actually -- that was  
15 a fundamental issue during the pandemic is that if there  
16 was, kind of, siloed working and siloed thinking, so if  
17 it was a decision about education then it wasn't  
18 necessarily considering all of the impacts that decision  
19 would have on children's rights to play, children's  
20 rights to their mental health and other issues.

21 So I think that when the office commissioned that,  
22 it was to take a really holistic look across all of  
23 children's rights that were being engaged but also  
24 really importantly to make recommendations to  
25 government, as well, about certain areas that could be

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1 raised several concerns around the lack of use of CRIAs  
2 to informed decision making.

3 But yes, we did significant work to speak,  
4 ourselves, with children and young people, and to  
5 understand from them, how they were being impacted. And  
6 we, from the evidence that we collected, we did a survey  
7 with over 20,000 children and young people responding.  
8 There were clear groups being disproportionately  
9 impacted.

10 So just to highlight a few of those. So there was  
11 a significant group that we were very concerned about,  
12 were children who -- for whom school would have usually  
13 offered a real key protective measure and a safety net.  
14 Schools can be a place where children who have difficult  
15 home backgrounds may be going to escape pressures or  
16 potential harms from the family context.

17 It's also a place that offers food, warmth, and lots  
18 of other types of support. So as well as offering the  
19 opportunity for children to be seen and for safeguarding  
20 concerns to be observed and escalated.

21 So to take away that safety net really left  
22 a particular -- was a particular impact on the most  
23 vulnerable children, and because there was no CRIA for  
24 the decision to close schools and there was -- we've  
25 also heard during this Inquiry that there was no

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1 effective plan for closing those schools, it meant that  
2 the potential impact on those most vulnerable children  
3 was not thought about in advance and mitigations were  
4 not put in place.

5 Schools were left to deal with this clear gap  
6 themselves. There was no overall direction from  
7 government on what they should do and how they should  
8 seek to continue to support those very vulnerable  
9 children.

10 We did, of course, hear about many schools having  
11 excellent practice but that was very inconsistent and  
12 left to the leadership of individual schools. And we  
13 also know that sometimes, when social workers or  
14 teachers were trying to reach those children, they  
15 weren't always able to talk directly to children or hear  
16 their voice.

17 So my written submission details -- gives more  
18 detail of at least three devastating child deaths which  
19 have been the subject of child practice reviews which we  
20 have, since the pandemic, learnt that the pandemic and  
21 Covid was a factor in social workers not being able to  
22 see or hear directly from those children. So I think  
23 that was a huge concern, and it's something that I  
24 really would urge there to be a change on for future  
25 learning.

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1 and with senior ministers. That interaction was quite  
2 good, and we were being listened to but were we being  
3 heard? And were children's experiences actually being  
4 heard and acted upon? And I submit that that did not  
5 happen as well as it could have.

6 **Q.** Yes, because I think maybe if I help draw some of these  
7 points together because I think that some -- you've  
8 divided these topics up but I think your witness  
9 statements suggest that these were, some of these were  
10 universal across each part of the United Kingdom.

11 I just wanted to pick up, though, on a point before  
12 I move to that, Ms Cifuentes, I think that your report,  
13 as well, on disabled children suggested that those  
14 children were more anxious about their basic needs being  
15 met as well. These were not concerns that were just  
16 linked to disability, it seemed that their experiences  
17 that they were providing to you were about a range of  
18 disadvantages.

19 **MS CIFUENTES:** Yes, yes. There were real anxieties about  
20 their safety, about their family's safety, about  
21 financial aspects, about their future trajectories,  
22 which, yes, anxiety was a real common theme and we  
23 undertook two national surveys: one in the summer during  
24 2020 and one in early 2021, and there was a clear  
25 decline in overall emotional wellbeing levels and an

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1 And there were also, apart from those very  
2 vulnerable children who may have been experiencing risk  
3 in their home setting, there were also lots of other  
4 groups disproportionately impacted, including from the  
5 evidence that my office collected, disabled children,  
6 ethnic minority children and those from poorer  
7 backgrounds.

8 And, you know, the evidence was really overwhelming.  
9 We heard that children with disabilities were much more  
10 likely than their peers to feel worried about being --  
11 catching coronavirus. They were also much more likely  
12 to feel sad and to feel unsafe.

13 We know that from that evidence that ethnic minority  
14 children were also much more likely to report feeling  
15 lonely and also unsafe, and poorer children in  
16 particular were also more likely to be worried, sad and  
17 stressed, and they were also hugely impacted by the  
18 digital divide.

19 So there was clear evidence that my office was  
20 bringing forward regularly about the disproportionate  
21 impact on vulnerable groups, which we were regularly  
22 sharing and we did, after the early stages when we got  
23 into the, you know, the pandemic, after the first few  
24 weeks, there were more -- there were relatively regular  
25 opportunities for my office to interact with government,

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1 increase in anxiety for all respondents, all children  
2 and young people, but that impacted on disabled children  
3 particularly.

4 **Q.** I'll come back and ask you each about the impacts and  
5 I know each of you is going to lead, again, on an  
6 impact, but just in the final minutes just on this  
7 topic, I think pulling these things together, I think  
8 it's right that certainly during the first period of  
9 lockdowns, that the experience in each of your  
10 jurisdictions was that very few children attended school  
11 if they were eligible to attend, so in other words,  
12 there was a very low level of attendance of vulnerable  
13 children in Scotland, Wales and Northern Ireland; is  
14 that correct for each of you?

15 **WITNESSES:** (All nod).

16 **Q.** I think it's right about concerns that the experiences  
17 during the pandemic of specific groups of children but  
18 if we take children with disabilities, I think again,  
19 it's right that concerns about their -- those children  
20 not having access to services, for example, was, again,  
21 common to each of Scotland, Wales and Northern Ireland.

22 **MS KILLEAN:** Yes.

23 **Q.** Ms Killean, was --

24 **MS KILLEAN:** I was just going to add two points that I hope  
25 are very related in terms of some of the learnings from

24

1 the CRIA that was undertaken in Scotland. What was also  
 2 highlighted was data gaps and particularly disaggregated  
 3 data, and that -- and the particular areas that were  
 4 highlighted were including families where there's  
 5 someone with a disability within there, as well as the  
 6 refugee and asylum-seeking children and Gypsy, Traveller  
 7 communities and we still don't believe that that has all  
 8 been rectified, even since then. And also, I thought  
 9 just related to the hub provision that was provided  
 10 within Scotland, as you've already mentioned, low  
 11 take-up, but also, there didn't appear to be a lead  
 12 responsibility for assessing the different quality and  
 13 opportunities, and I guess, I would just point to that  
 14 in terms of confusion around about accountability and  
 15 responsibility where the government was able to  
 16 delegate, you know, certain responsibilities to local  
 17 authorities.

18 **Q.** May I ask, you maybe, Mr Quinn, if I start with you, was  
 19 the concern as well about inconsistency of provision to  
 20 children? Was that an issue in Northern Ireland as  
 21 well?

22 **MR QUINN:** Yes, very much so. And I suppose what I would  
 23 add to this, that has already been stressed, is that  
 24 that disadvantage gap widened. You know, so for those  
 25 children who were most vulnerable, they were most

25

1 **MR QUINN:** Yes.

2 **Q.** But with some distinctions and I think, Mr Quinn, I was  
 3 going to in fact turn to you first because I think  
 4 you're going to lead on the issue of mental health and  
 5 then I'll turn to the other commissioners to ask about  
 6 their subjects.

7 **MR QUINN:** Yes, thank you. And I suppose what I was leading  
 8 to there was the devastating impact that mental health  
 9 had -- sorry, the devastating impact that the pandemic  
 10 has had on the mental health and wellbeing of thousands  
 11 of children in Northern Ireland and across the UK. And  
 12 the harm is undeniable and it has been well versed  
 13 within this Inquiry.

14 I'm very frustrated that there is no clear  
 15 government recovery plan, and we will come to that  
 16 later, I hope. But in terms of mental health and how it  
 17 has digressed in Northern Ireland since the pandemic, we  
 18 now know that a report published by the Mental Health  
 19 Champion and Kids [and young persons] Life and Times in  
 20 2023 showed us that mental health among 11-year-olds is  
 21 at its lowest point since 2010. So that's children who  
 22 are in primary 7.

23 We also know that among 16-year olds, nearly half of  
 24 the young people that we know of are experiencing  
 25 a probable mental illness. And there's disparity

27

1 negatively impacted but I think it's important for the  
 2 Inquiry to remember that the -- for those families, the  
 3 pandemic, the issue of Covid has not gone away, you  
 4 know, so there are still issues with regards to access  
 5 to services.

6 I'm thinking also of children who are critically  
 7 vulnerable, children who are disabled, children who have  
 8 special educational needs and disability, and the  
 9 long-term impact this is having.

10 So during the pandemic, and when my colleagues were  
 11 speaking there, I was thinking back to what children  
 12 told us. So they told us that they were lonely, they  
 13 were isolated, their anxiety was getting worse and  
 14 mental health was getting worse. And those trends have  
 15 continued.

16 So if we look at mental health as an example --

17 **Q.** I was going to just in fact come to that as the --

18 **MR QUINN:** I'm sorry.

19 **Q.** No, you're racing ahead of me. I was going to turn,  
 20 then, to ask each of you about what you regard to be the  
 21 principal impacts of the pandemic on children, and  
 22 I think, first of all, it's right that again, there is  
 23 consistency of evidence across each of your  
 24 jurisdictions as to what the main impacts have been; is  
 25 that broadly right?

26

1 amongst boys and girls. So girls would be  
 2 disproportionately affected with regards to probable  
 3 mental illness and -- when we think about the worry and  
 4 the fear that children experienced.

5 So we can see that worry and stress has intensified,  
 6 with only 6% of 16-year olds saying that they never feel  
 7 worried, compared to almost one in five 11-year-olds.

8 And why that's important -- I suppose bringing  
 9 a real life story to this is important. Two days ago,  
 10 a mother spoke on the radio in Northern Ireland about  
 11 her children who have special educational needs and who  
 12 haven't -- you know, they're not experiencing the  
 13 services and support that they might have. But the  
 14 anecdotal evidence that she gave on the radio that that  
 15 child -- one of her children was afraid to let  
 16 Santa Claus into the house during the pandemic. Because  
 17 by Santa coming to visit that house he could have spread  
 18 the pandemic and that child was afraid of someone in the  
 19 house dying or that child passing on the virus.

20 So, that is -- I mean, that's quite shocking, that  
 21 children are still experiencing that fear. And I think  
 22 we need to do -- we need to talk about how we wrap  
 23 support around children and young people to mitigate  
 24 against the harm that the pandemic had done and is  
 25 continuing to do on the most vulnerable.

28

1 Q. Can I just ask you, then, some questions about the  
2 causal factors. I think that if you look at each of  
3 your statements, there's very stark evidence about  
4 children's experience of loneliness --

5 **MR QUINN:** Yes.

6 Q. -- and the extent to which that seems to have really  
7 come through from the survey evidence you carried out.  
8 And, in fact, I did want to ask each of you, in terms of  
9 what you hear from children and what your understanding  
10 is, as to why there was this particular impact on mental  
11 health. I know that you probably think they're very  
12 obvious reasons, but really just from the perspective of  
13 children and to understand it from their perspective.

14 **MR QUINN:** Could I just jump in really quickly?

15 I suppose, from my perspective, there are many --  
16 there are many reasons. I referred earlier to how we --  
17 how we made all these decisions about children without  
18 adequate planning, and one of those decisions was to  
19 close schools and to educate children online. So  
20 children had no choice but to be educated and also to  
21 socialise online.

22 And there's a balancing act here. You know, we did  
23 see how the online world can be very positive for  
24 children but, you know, what we done was we accelerated  
25 everything. You know, Microsoft Teams, Zoom, they  
29

1 their freedom to meet their friends, to see their  
2 grandparents. We took away their freedom to play, to  
3 exercise, to go to school. And I think if any of us  
4 think about our own freedoms being taken away in the  
5 same way during our own formative years, we have to  
6 recognise that that is a life-altering, traumatic and,  
7 you know, just pivotal experience that is going to have  
8 lifelong effects. And I think it's that recognition  
9 that we unfortunately don't have now, but we still  
10 really need to ensure that we get as an outcome from  
11 this Inquiry -- is that we recognise the impact, we  
12 recognise the trauma, and commit to a really restorative  
13 approach to repair the damage that's been done.

14 Q. Ms Killean, I understand that when -- in relation to  
15 this subject, you also wanted to focus on seeing this  
16 through the lens of education as well --

17 **MS KILLEAN:** Yes.

18 Q. -- and the recovery of children; is that accurate?

19 **MS KILLEAN:** Yes, absolutely. And as we've already heard,  
20 I mean, the impact on children and young people and the  
21 reasons for that were just so significant, but when we  
22 look at that through school closures, changes to the  
23 exams and qualifications system -- in Scotland in  
24 particular, when the decision to bring children back to  
25 school was happening, children were being asked to

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1 weren't really in our vocabulary, now these things are  
2 part and parcel of our day to day, and they're part and  
3 parcel of children's education, but what we didn't do  
4 when we pushed young people online was put the adequate  
5 safeguards around them. And it's very, very difficult,  
6 in my opinion, to turn the tide.

7 So we know that people -- I think people spent  
8 excessive time on screens, and we know that this is  
9 particularly damaging for young people and children.  
10 And we are seeing now a clear link between excessive  
11 screen time and mental ill health and wellbeing. And  
12 I suppose when we look at all of that through the lens  
13 of child's rights, and we reflect upon what the  
14 UN [Convention] on the Rights of the Child have told us,  
15 is that we need to view the online world like we do the  
16 offline world, and the children should be fully  
17 protected in both of those spaces.

18 Q. Grateful.

19 Ms Cifuentes.

20 **MS CIFUENTES:** You know, you asked a really simple question  
21 as to why was their mental health getting worse and why  
22 was it impacted, and I think the answer is also equally  
23 simple but really important that we restate it and make  
24 it really obvious. We took away children's basic  
25 freedoms for the best part of two years. We took away  
30

1 return to an education system that pre-pandemic had  
2 already been identified that it had real significant  
3 concerns about the systemic support for children with  
4 disabilities, with additional support needs, and the  
5 ability for children already, pre-pandemic, to access  
6 the support for their mental health.

7 So we have some children now who are returning to  
8 education after having been exposed to some additional  
9 harms during the periods of lockdowns, and most children  
10 had missed out on absolutely critical and vital social  
11 and developmental opportunities, from babies right  
12 through to older teenagers.

13 In a paper to the Scottish Government Education  
14 Recovery Group in June 2020, my team had highlighted the  
15 importance of again taking a children's human rights  
16 approach to any recovery planning, and to emphasise the  
17 fact that school was much more about a, sort of, narrow  
18 view of learning, and the impact that positive  
19 engagement has around about play, rest, you know,  
20 protection and that -- that holistic view, and really  
21 urged government to take that approach.

22 But instead of looking holistically, in my view, the  
23 recovery planning that took place for education took too  
24 narrow a view on what the priorities were for the return  
25 to education. There was a real focus on a return to the

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1 previous normal, and there was little recognition about  
2 daily life and work environments outside school had  
3 fundamentally changed, and there appears to have been no  
4 wide-scale response to the predictable needs for an  
5 increased focus on those social developmental elements,  
6 socialisation, recovery, and access to an even wider  
7 range of supports and services for additional support  
8 for learning.

9 And I thought it was important to note that the  
10 Scottish Government's main Education Recovery Group  
11 appears to not have had members from social work,  
12 health, allied health professionals, youth work, the  
13 third sector, and very, very limited engagement with  
14 children and young people to understand from them what  
15 it is that they required to be prioritised to help them  
16 with a recovery within education.

17 **Q.** Ms Killean, can just -- sorry, I didn't want to speak  
18 over you, but just in terms of coming back to some of  
19 the impacts that Module 8 has heard about and, again,  
20 which I think you're reflecting on the evidence  
21 universal to each part of the United Kingdom, so if we  
22 look at attendance and the issue over -- I know that  
23 this has -- it's described slightly differently in each  
24 part of the UK, but the very serious concerns that now  
25 exist about persistent absenteeism in some children.

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1 exclusions more with children, and there's evidence on  
2 increasing use of part-time timetables which do not  
3 always have a child's wish but a parent or carer's wish  
4 for their children to be on part-time timetables. But  
5 these impacts should have been predictable. They were  
6 predictable, and that much more holistic approach to  
7 measures to put in place to actually support children to  
8 have additional services allocated, that scale of  
9 recovery isn't evident.

10 I have to say, of course, I absolutely acknowledge  
11 how hard teachers, support workers, and education  
12 leaders worked during that time and there is some  
13 innovative practice, but it hasn't been done nationally  
14 at scale or in a way that predicted this to ensure that  
15 those supports were there in, you know, in place ready  
16 for children coming back to school.

17 And I think my frustration, as well, is that those  
18 opportunities were missed, but they're continuing to be  
19 missed at the moment in Scotland, to reform systems, to  
20 change policy and practice that wasn't children's rights  
21 based, to learn the lessons, and to spread the good  
22 practice that is out there.

23 Scottish Government actually commissioned a number  
24 of major reports on education reform but it still hasn't  
25 fully implemented or committed to fully implement those,

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1 I think the second concern that's been expressed is  
2 about behaviour, behavioural issues in school, as well,  
3 and then the third, attainment and helping children to  
4 recover from what has broadly been described as learning  
5 loss.

6 So Ms Killean, I think just to make sure, perhaps  
7 that the Inquiry has understood your evidence, is it  
8 your point, then, that addressing all of those things in  
9 schools requires a sort of holistic focus --

10 **MS KILLEAN:** Yes.

11 **Q.** -- on the child --

12 **MS KILLEAN:** Very much so.

13 **Q.** -- rather than a sort of --

14 **MS KILLEAN:** Yes, and again, I guess, going back to the  
15 previous conversations, if a children's rights-based  
16 approach had been taken then hopefully that could have  
17 been identified and mitigated. But also, I am worried,  
18 particularly in terms of some of the conversations now  
19 round about behaviour, that children are actually  
20 increasingly being painted as a problem within an  
21 education system.

22 Over the past two years in Scotland there's been an  
23 increased national narrative on concerns about behaviour  
24 with children. There's been a bit of a resurgence in  
25 Scotland about -- asking about permission to use

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1 despite accepting most of the recommendations.

2 You know, one of the other things, if it's okay,  
3 that I was going to say is, is that my office published  
4 a report on education just this year, called "This is  
5 our lives, it matters a lot". So in 2025 I'm continuing  
6 to raise the same concerns that I could see that my  
7 predecessor raised in those, you know, when they wrote  
8 in 2020, and that many other organisations have been  
9 raising for years, you know, for example, the  
10 predictable increase in children who require additional  
11 support within education, but still insufficient  
12 national planning or resourcing to meet that need.

13 As we've heard already, the fact that children were  
14 clearly left out of decision making during the pandemic,  
15 however, that continues to be raised as a concern to me  
16 by children and young people when I'm out and about  
17 doing my work, and I don't believe it's been  
18 structurally rectified yet.

19 A really good example in Scotland was that there is  
20 an e-learning national school called e-Sgoil, and that  
21 is a major opportunity to have strategically invested in  
22 that, and whilst government has committed to exploring  
23 that, there still hasn't been that sort of strategic and  
24 coordinated approach to that, which is actually  
25 something I've highlighted as a best practice model and

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1 could have huge opportunity for children now who aren't  
2 actually attending school. Some children are accessing  
3 education through that model, and more children would  
4 like to but they don't have the resource yet to support  
5 that.

6 But there is also good that can come from that for  
7 other children now who can't access particular subjects,  
8 and it would make Scotland more resilient-proof if  
9 a future pandemic was going to happen. And I'm --  
10 **Q.** Sorry, I'm just going -- because I know, Ms Cifuentes,  
11 I think you also wanted to say, or to give evidence  
12 which I think is aligned and also goes to this question  
13 of recovery and whether or not, and I think it's a point  
14 for each of you, there is a sufficient national strategy  
15 in each part of your jurisdictions. But if I can ask  
16 you about that, please.

17 **MS CIFUENTES:** Yes, you know, at the tail-end of the  
18 pandemic we heard lots of promises to Build Back Better,  
19 in Wales, it was, you know, equivalents were being  
20 called Build Back Fairer, but those promises and that  
21 rhetoric has not and did not translate into clear plans  
22 or resources. There were some small exceptions and I,  
23 you know, just to give credit where it's due, Welsh  
24 Government did put 5 million towards a Summer of Fun  
25 programme in the summer of 2021, which was just to give

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1 but in terms of any of the other long-term consequences  
2 that you would particularly identify in Northern Ireland  
3 that children are, as Ms Cifuentes says, still living  
4 with.

5 **MR QUINN:** Yeah. I did reference online harm and perhaps  
6 I can come back to that because I did want to just  
7 follow on with regards to what my colleagues have said  
8 about education, and there are a few things within that  
9 that are really pertinent.

10 So I think just to firstly acknowledge that I'm  
11 really concerned about growing numbers of children  
12 missing their education, and children missing from  
13 education, and generally, children missing altogether in  
14 Northern Ireland.

15 We have big issues with data capture and data  
16 sharing. In 2015 there was a Children's Services  
17 Co-operation Act that progressed through the Assembly  
18 and I would argue in the 10 years that have passed, that  
19 Act has laid dormant --

20 **Q.** Sorry to cut in, maybe, so is that a piece of  
21 legislation that is already in existence that you think  
22 could be put to better use --

23 **MR QUINN:** Yes.

24 **Q.** -- in Northern Ireland maybe to help maybe with issues  
25 of data collection or to help with dealing with some of

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1 children opportunities to play and have fun during the  
2 summer, which my office played a part in, in encouraging  
3 that, and then there was a similar follow-up in the  
4 winter of 2021 called Winter of Wellbeing.

5 But these were tiny, you know, drops in the ocean  
6 compared to what is really needed, given the scale of  
7 what happened to children and young people. And since  
8 then, we -- we've stopped talking about the pandemic,  
9 we've stopped talking about recovery. Instead, we talk  
10 about going back to normal and as my Scottish colleague  
11 has said, we are increasingly depicting children as the  
12 problem rather than really seeing their behaviour and  
13 attendance as symptoms of the underlying root cause.

14 I think we really do need a much more robust and  
15 focused recovery plan which looks specifically at the  
16 needs of children and young people, and is properly  
17 resourced and we need to recognise the trauma, we need  
18 to resource the, you know, the -- what we need to do to  
19 rectify and repair. We need to learn the lessons first  
20 and hopefully this is what this Inquiry can help us to  
21 do. We can't just assume that we can go back to normal  
22 just like that. We need at least a decade of investment  
23 in children and young people to support them, because  
24 they are still living with the effects.

25 **Q.** Mr Quinn, can I come back, you started on mental health,  
38

1 the impacts from the pandemic?

2 **MR QUINN:** Yes, absolutely, and thank you for helping me  
3 clarify this point, because the crux of the -- or the  
4 backdrop or the foundations of that Act are on the  
5 wellbeing of children. So I think when we did emerge  
6 from lockdowns and pandemic, I think almost everyone  
7 said we need to focus our attention on the wellbeing of  
8 the child.

9 I think we've put the car into reverse and actually  
10 forgotten those things that we'd promised, but the  
11 Children's Services Co-operation Act could and should  
12 deliver better for children. It requires -- it  
13 advocates for, but does not mandate, the putting of  
14 resources. But there is a gap within it around data  
15 capture and data sharing.

16 And I guess this relates to some of the evidence  
17 that was presented in the Inquiry previously around how  
18 our offices received information from government in  
19 order to provide adequate advice.

20 So I, unfortunately, don't receive adequate  
21 up-to-date data so that we can analyse need correctly.

22 **Q.** Can I just, before, because that might be an important  
23 point just to clarify with each of you, do you have the  
24 power to compel the provision of information? I know  
25 whether the information exists is a different question,  
40

1 but do each of you have that power?

2 **MS CIFUENTES:** No, we don't in Wales.

3 **Q.** Not in Wales?

4 **MS KILLEAN:** -- (overspeaking) -- investigation.

5 **Q.** Sorry, I --

6 **MS KILLEAN:** We don't have a general power, it's just within

7 an investigation.

8 **Q.** And I take it, Mr Quinn, from what you've said you

9 don't --

10 **MR QUINN:** Yeah. So, similarly, we do have powers to

11 intervene and formally investigate, but in terms of

12 requests, compelling government to give us accurate,

13 up-to-date and timely data back is a -- is a gap,

14 I believe.

15 **Q.** Thank you.

16 So, just, again, pulling this all together, as it

17 were, I think is it the position, then, of each of you,

18 just -- and again, going back to the pandemic and these

19 longer-term consequences -- that there's an absence of

20 a national plan in each of the devolved administrations

21 that perhaps pulls together lots of these different

22 long-lasting or persistent consequences and seeks to

23 address the whole child, as opposed to perhaps different

24 sectors? Is that -- would that be an accurate way of

25 putting it?

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1 the pandemic and what you think could be done

2 differently, or what could be changed, so that

3 a response to any future pandemic might be more,

4 I suppose, sensitive to the potential consequences on

5 children.

6 So if I could perhaps ask each of you to lead on

7 a recommendation, and then I think, after that, we might

8 focus on some of the recommendations that you would have

9 specific to each of your jurisdictions, but I think of

10 you has a recommendation that you think is a UK-wide

11 one; is that right?

12 **MR QUINN:** Yes.

13 **Q.** Okay.

14 Ms Cifuentes, shall I start with you and ask you to

15 lead, please, on what you think is the first

16 recommendation.

17 **MS CIFUENTES:** So, we have heard strongly during this

18 Inquiry that the interests of children, as opposed to

19 adults, are not always and haven't been given the weight

20 that they deserve. And we, as commissioners, as the

21 statutory advocates for children in our respective

22 jurisdictions, haven't been adequately consulted through

23 the pandemic.

24 So the shared -- first shared recommendation that we

25 would like to make is that there should be a duty to

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1 **MR QUINN:** Yes.

2 **MS KILLEAN:** Yes.

3 **MR QUINN:** And I think broadly speaking, from my

4 perspective, we've talked about children's rights impact

5 assessments, and I believe that's another gap in

6 Northern Ireland, and I would certainly advocate for

7 mandatory child rights impact assessments. But looking

8 at the example of education and how that could be

9 improved, at the minute we're seeing a number of

10 regressive policy positions and changes in terms of

11 transform ed, in terms of curriculum review. So

12 I believe that's going in the wrong direction. But

13 I would hope that a proper recovery plan and an analysis

14 of the impact of how the decisions were made during the

15 pandemic would bode better for policymaking generally

16 and ensure that (a), if we do use education as an

17 example of a policy-changing environment in

18 Northern Ireland, the children's voice would be

19 paramount in how those changes are made, that the role

20 of the commissioner's office is paramount as well, and,

21 ultimately, that those changes are viewed through the

22 lens of a child's rights lens.

23 **Q.** I think that probably leads us very neatly into

24 recommendations, and, again, I think each of you is

25 going to deal with a specific recommendation linked to

42

1 introduce -- to meaningfully consult with us all and to

2 respond to us in any future pandemic or national

3 emergency situation, and in advance of any pandemic or

4 national emergency situation.

5 We believe that that would help to give children and

6 children's rights and children's interests a stronger

7 position.

8 We believe that that should not be done instead of

9 talking directly to children, because that is an

10 important separate recommendation and action that we

11 think needs to be taken.

12 But, yes, we think that a clear action that could

13 usefully come out of this Inquiry is that there could be

14 an introduction of a duty to meaningfully consult with

15 us and to make that a statutory duty on devolved

16 administrations.

17 **Q.** And would that -- do you have in mind that that would be

18 a general duty or perhaps a duty that's very specific to

19 national emergencies or --

20 **MS CIFUENTES:** So, we consider that to make it a general

21 duty may be actually too much work, potentially, in

22 terms of unfeasible in that -- if we were to be required

23 to -- or asked to respond to -- every single thing that

24 government is doing. So we would like this duty to be

25 specific to any potential pandemic or national

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1 emergency, to make it practical and effective.  
 2 **Q.** Yes. And presumably, that sort of duty, it would  
 3 probably also have to recognise that, in emergencies,  
 4 there may not be that -- necessarily the scope to  
 5 consult before, if emergency action has to be taken, but  
 6 potentially it could be a more flexible duty to ensure  
 7 there's consultation --

8 **MS CIFUENTES:** Yes, ideally.

9 **Q.** -- after the event --

10 **MS CIFUENTES:** Ideally it would be before. Ideally. But  
 11 not only to consult, but also to give due regard to our  
 12 views. It can't be a tick-box, tokenistic exercise. It  
 13 needs to be meaningful.

14 **Q.** I'm grateful.

15 Mr Quinn, if I can then ask you, I think you're  
 16 going to lead on a separate recommendation.

17 **MR QUINN:** Yes, and I suppose what I would start with is by  
 18 reminding ourselves that Module 8 has provided clarity  
 19 on what happened during the pandemic, but the critical  
 20 question remains: why did it happen?

21 And I refer back to the United Nations Convention on  
 22 the Rights of the Child, which advocates for children's  
 23 rights and best interests to be considered in the  
 24 decision-making process. That simply didn't happen, and  
 25 we've no adequate explanation as to why this omission

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1 we can embed not only a framework but a culture where  
 2 children are considered first, especially in times of  
 3 national emergency.

4 **Q.** And I think it follows from what you've said, Mr Quinn,  
 5 that what you're contending for, then, is approach along  
 6 the Scottish lines of giving children enforceable rights  
 7 as opposed to the duty to have due regard; is that  
 8 correct?

9 **MR QUINN:** Yes, that's correct, yes.

10 **Q.** And that's something upon which you're all agreed --

11 **WITNESSES:** (All nod).

12 **Q.** -- would be an advance on the position and in each part  
 13 of the UK?

14 **WITNESSES:** (All nod).

15 **Q.** Ms Killean, can I turn to you, then, and the  
 16 recommendation that you're leading on?

17 **MS KILLEAN:** Yes, and as we've heard consistently, children  
 18 and young people were left out of decision-making  
 19 structures and our shared recommendation is that  
 20 governments need to ensure that there are inclusive and  
 21 meaningful participatory structures for children and  
 22 young people, that these are put in place at a local,  
 23 regional and national level.

24 I would also like to stress the importance that  
 25 those structures ensure that children who are furthest

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1 occurred.

2 And I am of the mind that there has been -- as  
 3 a result, there has been a clear lack of accountability  
 4 and, indeed, perhaps negligence on the part of  
 5 government in fully considering the rights of the child.

6 So I would argue for full and direct incorporation  
 7 of the UNCRC in the domestic law, and I would also argue  
 8 that it would not only create legal duties and  
 9 strengthen accountability, as well as mandate for  
 10 consultation both with our office and others working  
 11 with children and young people, and children and young  
 12 people themselves, but it would result in a cultural  
 13 shift.

14 So, what we've seen, I believe, across the UK, and  
 15 particularly in Northern Ireland, is that children's  
 16 rights are not always considered.

17 My office and I, and I presume it's the same for my  
 18 colleagues, are dealing with very large numbers of  
 19 child's rights violations on a daily basis. The  
 20 complexity of those violations and the needs of the  
 21 child has got worse since the pandemic and I think we  
 22 need to change the culture of how we view children and  
 23 how we make decisions about them, with them and for  
 24 them. And I believe through the embedding and  
 25 incorporating the convention, we can turn the tide and

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1 away from enjoying their rights are -- that the way in  
 2 which meaningful participation happens, that those  
 3 children are a part of those structures, and that those  
 4 structures then are adequately resourced, and have  
 5 a form of quality assurance built around about them.

6 You've likely heard often that, in terms of  
 7 participation structures, children are often expected to  
 8 adopt adult-led or adult-type models, but if those are  
 9 quality assured, they're inclusive and they're  
 10 meaningful, then it should be a way forward to ensure  
 11 that these are child-friendly spaces where children and  
 12 young people of all different, you know, experiences can  
 13 be a part of.

14 And in doing this now, this would ensure that in the  
 15 future, if there was a future pandemic or national  
 16 emergency, those structures would already exist and be  
 17 more robust than what's in place at the moment and there  
 18 shouldn't be any reason why children's voices and their  
 19 priorities and concerns wouldn't be able to be a part of  
 20 the decision-making processes.

21 **Q.** Can I -- I mean, this is an issue that Module 8 has  
 22 touched upon now on a number of occasions, and a number  
 23 of witnesses have given evidence about the lack of  
 24 children's voices and perhaps the difference it makes,  
 25 when you ask children the question as to as opposed to

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1 having their voices mediated through what adults say.  
 2 Each of your offices, though, did undertake, for  
 3 example, survey work which laid out actually, I think as  
 4 we've perhaps touched upon, some very stark evidence  
 5 about the experiences that children were going through.

6 Can I just ask, why is that sort of approach, why  
 7 would that not be sufficient? Why do you think there is  
 8 a need to have some sort of more formal structure that  
 9 children contribute to?  
 10 **MS KILLEAN:** So if we look at all of the different decisions  
 11 that government make, you know, on an ongoing basis and  
 12 how quickly those have to happen in an emergency  
 13 situation, I think that it would -- you know, each of  
 14 the commissioner's offices, whilst we have a duty to  
 15 ensure that children and young people are involved in  
 16 our work and we focus on children and young people who  
 17 are more vulnerable, as well, we are tiny organisations,  
 18 and often, you know, we just don't have the resource to  
 19 ensure that for all of those areas, especially at pace,  
 20 that could be captured. And the work that my office  
 21 did, it very much relied on the third sector and civil  
 22 society to provide that information.

23 So I think, as we've already heard this morning,  
 24 there are great civil society organisations out there  
 25 who are doing this at community-based level, at

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1 further, that could be progressed by further rollout of  
 2 the children's measure 2011 that already exists, with  
 3 the due regard duty that exists on Welsh Government  
 4 Ministers, that -- we are asking for that to be extended  
 5 to local authorities and health boards, because if local  
 6 authorities had had that duty during the pandemic, some  
 7 of their decision making might have been different.

8 So I just wanted to also add that there are existing  
 9 mechanisms to support the participation of children and  
 10 young people in decision making, and -- but they are not  
 11 statutory. So making those statutory would be a real,  
 12 key way of ensuring that the voice of the child is  
 13 meaningfully able to be heard on an ongoing basis.

14 **Q.** And, Mr Quinn, if I can turn to you.

15 **MR QUINN:** Yeah, I guess with regards to the question about  
 16 the convention, we need to remember that the UNCRC is  
 17 a minimum set of standards. And from where I'm sitting,  
 18 those minimum standards aren't even getting met. There  
 19 are a plethora of -- thousands, as I said earlier,  
 20 thousands of children who are currently being failed.  
 21 So not only do I -- is the fact that the convention  
 22 isn't fully incorporated into law undermine our roles  
 23 and our offices but most importantly it undermines our  
 24 children.

25 And I don't understand why a society or a government

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1 a regional and sometimes at a national level, but they  
 2 are not always included in the structures when, you  
 3 know, very significant decisions are being made.

4 So I absolutely believe that, you know, government  
 5 has to take more of a role in ensuring that they have  
 6 the resource they need to ensure that it's ongoing, it's  
 7 not just an emergency situation; it's an ongoing part of  
 8 the culture of how children are included in policy  
 9 making and improving practice, and in law reform. And  
 10 that that structure and investment in that resource  
 11 would ensure that children were much more a part of the  
 12 decision-making process in the future.

13 **Q.** I'm just -- the Inquiry has been asked on behalf of the  
 14 Children's Rights Organisations to ask a question of  
 15 you, so I'm just going to ask that because I want to  
 16 make sure you've had time to answer it. And the  
 17 question is: to what extent is the role or impact of the  
 18 children's commissioners undermined by there being no  
 19 statutory duty on bodies to comply with the convention?

20 So I think that's probably, Ms Killean, I don't  
 21 think you are in that position so I think it might be  
 22 the Welsh and Northern Irish commissioners who can speak  
 23 to that.

24 **MS CIFUENTES:** Yes, we would very much like to see full  
 25 incorporation of the UNCRC into Welsh legislation, and

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1 wouldn't want to put children first, and I believe that  
 2 by recognising the CRC as the minimum set of standards,  
 3 at least the government are saying: look, we're taking  
 4 you seriously.

5 So I hope that answers your question.

6 **Q.** I think there's the fourth recommendation, Ms Killean,  
 7 I will come to you. But the fourth recommendation  
 8 I think we've already covered, was the idea of having  
 9 a national strategy.

10 But Ms Killean, was there something you wanted to  
 11 come up in on, on the rights organisations question?

12 **MS KILLEAN:** Yes, really linking back to incorporation, and  
 13 just -- when the Inquiry's considering recommendations,  
 14 I just wanted to highlight again, if I may, that  
 15 incorporation in Scotland, although it has -- it's very  
 16 significant, there is still legislation that is out of  
 17 scope and we're still seeing legislation at the moment,  
 18 new legislation, being drafted that is not in scope.

19 We that have asked and continue to ask Scottish  
 20 Government to undertake a legislation audit and create  
 21 an action plan for when that will be brought back into  
 22 scope, so it's certainly something that we believe would  
 23 strengthen further the additional powers that children  
 24 and young people and my office have been given within  
 25 Scotland.

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1 Q. Thank you. And I think each of you, then, has  
2 a specific recommendation that you would make to your  
3 jurisdiction.

4 And perhaps if I can pick up on the first one, which  
5 I think is a duty that relates to social workers,  
6 Ms Cifuentes, were you going to speak to that?

7 **MS CIFUENTES:** Yes. So, given what I spoke about earlier  
8 and the key role that social workers play in keeping  
9 children safe, we would like there to be consideration  
10 given to introducing a duty for social workers to  
11 proactively alert the police if they are refused entry  
12 for a child who is already on a child protection order,  
13 and to alert the police and to seek entry, through  
14 welfare visit, for example.

15 So a proactive duty rather than leaving it to  
16 discretion, as is currently the case.

17 Q. I'm grateful.

18 And I think, in relation to digital infrastructure,  
19 Ms Killean, was that a point that you were going to pick  
20 up?

21 **MS KILLEAN:** Yes, and I've touched on it already, actually,  
22 in some of my evidence.

23 Q. I was going to say I think you have, probably.

24 **MS KILLEAN:** Yes. In terms of a strategic and coordinated  
25 investment and expansion of what was good practice

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1 commissioners' evidence to a close. I don't think there  
2 are questions from Core Participants.

3 **LADY HALLETT:** No, there aren't.

4 Thank you very much indeed, Ms Dobbin.

5 Thank you very much -- can I call you commissioners,  
6 or children's commissioners -- sorry, if I'm lumping you  
7 together, I don't intend to -- what you've had to say is  
8 very helpful.

9 As I'm sure you'll appreciate, I've heard from  
10 a number of people about the difficulties in balancing  
11 various rights and that children's rights aren't -- it's  
12 not a binary question between children's rights and the  
13 rights of the rest of society and adults, and I think  
14 it's really difficult to draw that balance and what  
15 you've had to say today has been really helpful. So  
16 thank you very much indeed. You've obviously put  
17 a great deal of thought into your evidence, and I'm very  
18 grateful to you for the time you've taken in preparing  
19 for giving evidence and for the evidence you've given  
20 this morning. Thank you.

21 **MR QUINN:** You're welcome, thank you.

22 **MS KILLEAN:** Thank you.

23 **MS DOBBIN:** My Lady, I think that brings us to the short  
24 adjournment.

25 **LADY HALLETT:** Thank you very much, Ms Dobbin. I shall

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1 during the pandemic and the national e-learning service,  
2 I've, you know, already called for government to do  
3 this, and again would encourage this Inquiry to consider  
4 that in terms of the Scottish-specific recommendation,  
5 as I believe it would benefit children in the readiness  
6 for a future pandemic. It would benefit professionals  
7 as well, in terms of broader support, and it would  
8 benefit more children now, in Scotland.

9 Q. I'm grateful.

10 And, Mr Quinn, I think -- did you have  
11 a Northern Ireland-specific recommendation that you  
12 wanted to return to?

13 **MR QUINN:** Yes, well, I believe I have stressed the  
14 importance of the convention, but also the review, the  
15 Article 24 report into my office, and my recommendation  
16 would be that the recommendations within that report are  
17 implemented, and particularly important to this Inquiry  
18 are with regard to the Paris Principles and the  
19 independence of my office, as well as the duty on  
20 government to consult with the commissioner and their  
21 office.

22 **MS DOBBIN:** I'm grateful.

23 My Lady, I think that that -- those were all my  
24 questions, and I think that question of the  
25 nation-specific recommendations brings the

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1 return at 11.30.

2 (11.15 am)

3

(A short break)

4 (11.31 am)

5 **LADY HALLETT:** Ms Dobbin.

6 **MS DOBBIN:** My Lady, can you hear me?

7 **LADY HALLETT:** Yes.

8 **MS DOBBIN:** Grateful.

9 Before we turn to the closing submissions, with your  
10 permission, can I please conclude the oral evidence of  
11 Module 8, by inviting you to adduce into evidence  
12 a number of statements that are relevant to the evidence  
13 that you've heard this week. So that's evidence on  
14 health and scientific advice, decision making, youth  
15 justice, immigration and the impact of the pandemic on  
16 children and young people.

17 My Lady, these include statements from UK Government  
18 departments, former ministers, charities, and  
19 non-governmental organisations. Statements relating to  
20 higher and further education will also be published  
21 today, and I think it's also right to say that further  
22 documents may be published subsequent to this hearing,  
23 as well.

24 And, my Lady, a list of those documents is on the  
25 screen.

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1 **LADY HALLETT:** Okay.

2 **MS DOBBIN:** The Core Participants will shortly make their  
3 closing submissions, but on behalf of all of the  
4 Module 8 team, I wanted to thank the Core Participants  
5 and their legal teams for the very considered,  
6 pragmatic, and collaborative way in which they've  
7 approached these hearings.

8 I think I said at the start on behalf of the team  
9 that we already knew that there had been a huge amount  
10 of work undertaken on their behalf and my Lady, I think  
11 that was -- that has been clear through the hearing as  
12 well. And also, that for all of the people who appear  
13 in the room and who make submissions, there are very,  
14 very many more on the part of each of the Core  
15 Participants who have worked really, really hard, and  
16 it's only because of the work of everyone that these  
17 hearings have taken place and I hope, fingers crossed,  
18 gone smoothly and that they will continue to go smoothly  
19 this afternoon. But we're really, really grateful.

20 May I also say a few words of thanks to the whole of  
21 the counsel team on Module 8, the solicitors, the  
22 paralegals, the secretariat, the operations team, our  
23 staff who look after the witnesses so well and the  
24 security as well, just to say thank you for helping us  
25 to make sure that everything ran smoothly. And again,

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1 These submissions are, of course, merely the  
2 headline points the CROs would wish to make. All of the  
3 CROs have filed witness statements which we hope will  
4 assist your Ladyship, in addition to the oral evidence  
5 you've heard from our witnesses.

6 I'll not be addressing your Ladyship on education  
7 issues because although these are of the utmost  
8 importance, they've been covered in depth by the CTI and  
9 other Core Participants. The CROs would emphasise,  
10 however, that at the point where the government had a  
11 chance to compensate children for their stunted  
12 educations through a recovery package, those with the  
13 responsibility were unable to extract anything  
14 significant from the Treasury, further exemplifying the  
15 low priority given to children's rights.

16 Having looked at the headline issues in the three  
17 areas of play, poverty and prisons, I will then outline  
18 the key recommendations which the CROs invite you to  
19 make to ensure that children are not failed by the  
20 government again, both in non-crisis times and in the  
21 next civil emergency in the way that happened in 2020  
22 and 2021.

23 Your Ladyship has heard ample evidence in support of  
24 one of the CROs' key themes in our opening submissions,  
25 that the impact of the pandemic on children was not

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1 on behalf of everyone, we're incredibly grateful for the  
2 team effort.

3 **LADY HALLETT:** Thank you very much indeed, Ms Dobbin.  
4 Right, we shall now begin closing submissions.  
5 Mr Broach, you're up first.

6 **Closing statement on behalf of Children's Rights**

7 **Organisations by MR BROACH KC**

8 **MR BROACH:** My Lady, for the Children's Rights  
9 Organisations. The past four weeks have heard a litany  
10 of failure by decision makers during the Covid-19  
11 pandemic to prioritise or even recognise children's  
12 rights in their decision making.

13 As Professor Viner put it yesterday, from March 2020  
14 the UK Government dismantled the safety net around our  
15 children in many cases, we submit, without even  
16 realising the implications of the decisions being taken.  
17 These judgements are not merely available with the  
18 benefit of hindsight, the implications of many of these  
19 decisions ought to have been obvious at the time, if  
20 children had been viewed as rights holders rather than  
21 merely potential transmitters of the virus.

22 In the time available this morning, I will address  
23 your Ladyship on three areas which the CROs consider  
24 exemplify the problems caused by children's invisibility  
25 in pandemic decision making: play, poverty, and prisons.

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1 uniform and that certain groups suffered  
2 disproportionately. Babies and infants, children and  
3 young people from black and racialised communities,  
4 looked-after children, and children and young people  
5 with special educational needs and disabilities,  
6 children living in poverty, including those in  
7 households with no recourse to public funds, children in  
8 the criminal justice system and children detained in  
9 prison or psychiatric care.

10 Your Ladyship has also heard ample evidence that the  
11 context in which the pandemic occurred mattered hugely:  
12 the cuts to the social security system, and increases in  
13 child poverty in the years leading up to 2020, the  
14 depleted state of the children's workforce, and the cuts  
15 to children and youth services in the decade preceding  
16 the pandemic.

17 Turning to our first key theme of play.  
18 Your Ladyship has heard how, in England, there was  
19 effectively no consideration given to children's rights  
20 to play and the implications for children's wellbeing if  
21 these rights were to be negated when lockdown decisions  
22 were taken.

23 It was striking, in our submission, that in answer  
24 to our question, former Prime Minister Mr Johnson  
25 appeared unaware that children had been prevented from

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1 playing outdoors during lockdown, and agreed that this  
2 ought not to have happened.

3 Your Ladyship has seen the letter from then  
4 children's minister Ms Ford denying any responsibility  
5 for play as a policy area.

6 The Department for Education Permanent Secretary,  
7 Ms Acland-Hood, told your Ladyship that the  
8 then secretary of state, Sir Gavin Williamson, held  
9 a cross-cutting responsibility for children's issues in  
10 the cabinet. However, Sir Gavin himself in his evidence  
11 made only one mention of himself as the secretary  
12 of state, ultimately, for children, and he was clear  
13 that, on many of the major policy decisions, he  
14 considered himself excluded from the decision making in  
15 any event.

16 Ms Acland-Hood reflected, to her credit, that she  
17 could have done more to encourage Sir Gavin to promote  
18 children's rights to play to his cabinet colleagues, but  
19 the CROs submit that the fact that the permanent  
20 secretary would need to encourage the secretary of state  
21 in this regard is the most damning evidence of how  
22 little priority children's rights were given as a matter  
23 of course by key decision makers.

24 As a result, your Ladyship heard from Playing Out  
25 how children were harassed simply for leaving their

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1 place at a time where lower-income families in  
2 particular faced higher costs at home and reduced  
3 incomes.

4 Nor was there any effective advocacy for additional  
5 financial support that recognised the increased costs  
6 and challenges faced by families with children during  
7 the pandemic beyond the replacement of free school  
8 meals.

9 Thirdly, in relation to child prisons, where  
10 children are most vulnerable to rights abuses,  
11 your Ladyship heard that for a 6-month period in 2020  
12 there was effectively no oversight of secure training  
13 centres. Ofsted stopped their inspections and the  
14 minister, Ms Frazer KC, did not consider it necessary or  
15 appropriate to require any external check on what she  
16 was being told about the conditions for detained  
17 children.

18 It should not have come as any surprise that once  
19 inspections recommenced, the picture in the STCs was  
20 revealed to be one where children's rights to education  
21 were being wholly undermined and children were being  
22 detained in conditions amounting to solitary  
23 confinement. Both Rainsbrook and Oakhill STCs were  
24 found to require improvement in their most recent  
25 inspections before the pandemic, so it was wholly

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1 homes to play and exercise outdoors, with disadvantaged  
2 children inevitably suffering worse. Playgrounds were  
3 closed because they were seen as places where people  
4 would gather and potentially transmit the virus, rather  
5 than essential resources for children's wellbeing.

6 Whilst Scotland, with a more established focus on  
7 children's rights, took practical measures to exempt  
8 children from some of the most draconian lockdown  
9 measures, England took a far harsher approach.

10 Turning to poverty, our second key theme, the  
11 picture is very similar. With no effective voice for  
12 children in the cabinet, financial measures such as the  
13 Universal Credit uplift did not account for family size  
14 and were, therefore, any partially effective for  
15 children.

16 When it became clear that a replacement for the free  
17 school meals scheme would be needed, there was no one to  
18 persuade the Department for Work and Pensions that cash  
19 payments to bank accounts would be the best approach so  
20 families could meet the needs of their children, instead  
21 opting for a voucher scheme that left many children  
22 hungry.

23 Poverty-producing policies, such as the two-child  
24 limit and the benefit cap, which decouple need from the  
25 level of support a family receives, also remained in

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1 predictable that there would be failures to respect  
2 children's rights in these closed institutions once the  
3 external scrutiny stopped.

4 Ms Frazer KC gave evidence that she wanted education  
5 for children in prison to continue, but when it became  
6 clear that this was not happening, the minister and her  
7 department took no or no effective steps to address  
8 this.

9 The Ministry of Justice entirely failed to give  
10 effect to the Public Health England advice in March 2020  
11 that children were at lower risk from the virus but at  
12 high risk from isolation measures. In summary, children  
13 in prison were simply treated as small adults.

14 These problems demonstrate the negative impacts of  
15 pandemic decision making on all children in relation to  
16 play, disadvantaged children in relation to poverty, and  
17 children in the most vulnerable circumstances, those in  
18 prison.

19 The Inquiry has heard many other instances where the  
20 impact of decisions on children was overlooked or  
21 ignored, from the redeployment of health visitors to  
22 administrative tasks, to the emphasis on virtual visits  
23 to looked-after children.

24 What the CROs would wish to emphasise is that all  
25 these problems have the same root cause: the structural

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1 invisibility and deprioritisation of children and their  
2 rights in decision making at the highest level.  
3 We heard from Professor Whitty how there was  
4 a budget of allowances, and Mr Johnson agreed that these  
5 could have been deployed for children, such as by  
6 opening schools and other services by preference to  
7 pubs.

8 The reason this didn't happen is because key  
9 decision makers were not required to treat children as  
10 a priority.

11 The solution to these problems is, therefore, to be  
12 found in embedding a focus on children's rights in the  
13 machinery of government, so the government is ambitious  
14 for children at all times, but particularly in times of  
15 emergency.

16 And the CROs invite your Ladyship to make five key  
17 recommendations in these regard, and note the wide  
18 consensus that measures of these kind are needed, that  
19 we have heard throughout this module.

20 First, the United Nations Convention on the Rights  
21 of the Child must be incorporated into domestic law  
22 across the UK, directly and in full, as has now happened  
23 in Scotland.

24 While a step in the right direction, the due regard  
25 duty in Wales is insufficient. Children need to have

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1 right to adequate standing of living but also their  
2 right to health, education and play.

3 And fifth, the Secretary of State for Children  
4 should have lead responsibility for a children's plan  
5 for national emergencies, that includes a structured  
6 approach to key predictable decisions, such as  
7 determining under what circumstances schools and other  
8 essential services would close, alternatives to closure,  
9 plans for providing education and other services if the  
10 schools do close, including mitigations so that  
11 disadvantaged children are not hit hardest.

12 Specific plans for early years provision and health  
13 visitors and measures to safeguard children made  
14 particularly vulnerable by their circumstances,  
15 including children in prison and detained by reason of  
16 their mental health.

17 Children and their organisations will, of course,  
18 need to be -- participate in the creation of such  
19 a plan, including young children, whose views and  
20 experiences are too often ignored.

21 The CROs further ask the Inquiry to recommend that  
22 the UK Government acknowledge the sacrifices made by  
23 children and apologise to children for the mistakes the  
24 government made in failing to promote and protect their  
25 rights.

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1 the substance of their rights respected, not merely  
2 consideration given to them. Incorporation will need to  
3 include both substantive rights such as the right to  
4 play, and also the vital procedural safeguards such as  
5 the right to participation in Article 12.

6 Second, there must be a named cabinet minister for  
7 children with cross-governmental oversight of children's  
8 issues in the round, not just their educations, and  
9 responsibility for developing and delivering an overall  
10 strategy for children.

11 The Secretary of State for Education should become,  
12 in our submission, the Secretary of State for Children,  
13 or perhaps Children, Schools and Families, as was  
14 previously the case.

15 Third, as part of UNCRC incorporation, there must be  
16 a general duty for children's rights impact assessments  
17 to be conducted when public functions are being  
18 exercised which impact on children, including a duty to  
19 ensure children are consulted and participate in their  
20 development.

21 Fourth, binding child poverty reduction targets must  
22 be included in the upcoming child poverty strategy with  
23 regular public reporting obligations. This  
24 accountability is essential for the progressive  
25 realisation of children's rights in relation to their

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1 To conclude, my Lady, the CROs wish, again, to  
2 recognise and acknowledge the devastating impact the  
3 pandemic has had on children and young people and their  
4 families, including those who lost their lives, those  
5 who lost people they loved, those now suffering from  
6 Long Covid, and all of those whose childhoods were  
7 harmed in a way which has either not yet been realised  
8 or remedied.

9 We are grateful to the Inquiry for the opportunity  
10 to participate in this crucial module and for the open  
11 and collaborative approach taken by the Inquiry's legal  
12 team throughout.

13 We will file more detailed written submissions which  
14 we hope will assist your Ladyship in reaching  
15 conclusions which will ensure that in the next civil  
16 emergency children's rights will be better protected,  
17 recognising that children may only be 25% of the  
18 population but they are a hundred per cent of our  
19 future.

20 I'm grateful, my Lady.

21 **LADY HALLETT:** Thank you very much indeed, Mr Broach.

22 Mr Twomey, I am so sorry I've been mispronouncing  
23 your surname -- throughout the module. I really do  
24 apologise.

25

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1 **Closing statement on behalf of Article 39 by MR TWOMEY KC**

2 **MR TWOMEY:** Not at all, my Lady. I'm very grateful.

3 My Lady, notwithstanding Ms Willow's passionate and  
4 effective advocacy for children's rights from the  
5 witness box, Mr Studdert of Irwin Mitchell continues to  
6 instruct me to make these closing submissions together  
7 with my learned friend Ms McCabe.

8 When Sir Gavin Williamson answered our question  
9 about the systems and processes in place to implement  
10 his general statutory duty to promote the wellbeing of  
11 children, his answer was big on the personalities  
12 involved, but short on specifics. Indeed, the only  
13 specific, notwithstanding advance notice of the  
14 question, was the provision of children's rights impact  
15 assessments, yet it's striking that within the hundreds  
16 of thousands of pages generated by this module to the  
17 Inquiry, there's only evidence of two such assessments  
18 undertaken by the DfE during the pandemic, the one  
19 undertaken in respect of the 2020 Amendment Regulations  
20 found by the Court of Appeal to be flawed, and the one  
21 for the successor to those regulations.

22 The twice iterated cross-government commitment to  
23 give due consideration to the UN Convention on the  
24 Rights of the Child in matters of legislation or policy  
25 concerning children didn't even feature in his answer.

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1 such substantial and wide-ranging changes to the  
2 statutory scheme for children in care, firstly, how  
3 could it be that in modern British society, such  
4 significant changes could be so dreadfully  
5 mischaracterised?

6 Second, how could government not see that if all  
7 children were to become more vulnerable across society  
8 as a result of the pandemic, safeguarding for the most  
9 vulnerable children, those in the care of the state,  
10 should have been increased, not reduced. And third, how  
11 could it be that the government failed to see what the  
12 Court of Appeal found, namely that given the impact of  
13 the proposed amendments on the very vulnerable children  
14 in the care system, it was conspicuously unfair not to  
15 include those bodies representing their rights and  
16 interests within the informal consultation the secretary  
17 of state chose to undertake?

18 And it defends its position, of course, up to the  
19 Court of Appeal.

20 And there remains no good explanation for these  
21 failures save for the DfE to assert, in effect, that,  
22 "Well, notwithstanding our admitted failure to meet the  
23 statutory obligation to monitor the impact of the  
24 regulations, we made a few phone calls, and we think it  
25 was all okay."

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1 By the time of the pandemic that commitment had  
2 existed for a decade though, of course, it didn't have  
3 any force of law behind it, unlikely in Wales and now  
4 Scotland.

5 How is it that, against the backdrop of the  
6 pandemic, when children's rights, interests and  
7 wellbeing were so profoundly engaged, decisions taken by  
8 government from playgrounds to prisons, from schooling  
9 to safeguarding, were made with no more than two child  
10 rights impact assessments? Is it any wonder, therefore,  
11 that one is left with the clearest impression that  
12 during the pandemic children were overlooked?

13 We will, in our written submissions, provide my Lady  
14 with the details of the evidence which demonstrates this  
15 is far more than merely an impression.

16 The Inquiry's decision to grant Core Participant  
17 status to Article 39 was, I'm sure, largely influenced  
18 by its successful challenge to those regulations. The  
19 regulations and the challenge provide a compelling case  
20 which we will develop in writing for the three  
21 recommendations primarily sought by Article 39: one,  
22 incorporation of the UNCRC; two, a statutory obligation  
23 to consult with the Children's Commissioner; and three,  
24 a cabinet minister with responsibility for children.

25 But briefly, as the secondary legislation which made  
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1 During these hearings, we have been told by those  
2 who made such profound judgement calls that they were  
3 personally committed to children. They wanted to do  
4 right by them. But generalised care and concern for  
5 children, warm sentiments, however strongly felt,  
6 however genuine, are simply not enough as their  
7 decisions and scrutiny of them reveal. Indeed, if  
8 systems and processes are found to have been wanting, as  
9 we submit they were in the pandemic, such sentiments are  
10 irrelevant and are of little significance for a future  
11 pandemic or civil emergency.

12 It's a truism that children are at the heart of  
13 decision making in families up and down the land. As  
14 a general rule, parents grandparents and others organise  
15 their working and non-working lives around their  
16 children's wellbeing and happiness.

17 Conversely, on a macro level, children too often  
18 fall out of sight. The evidence heard by this module  
19 has largely concerned school closures rather than social  
20 care, no doubt as this mirrors the attitude towards  
21 children in government at the time.

22 We will provide an analysis of the evidence to  
23 provide the point that, across its decision making,  
24 children, especially those in care, fell out of sight,  
25 and to explain how Article 39's three main

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1 recommendations would ensure that this would not happen  
2 again in a future pandemic.

3 But, for now, one example suffices: former  
4 Children's Commissioner for England,  
5 Baroness Anne Longfield, gave the clearest evidence that  
6 there were no formal systems and structures set up for  
7 consultation between her office and government  
8 departments, both before and during the pandemic,  
9 despite her office having then existed for 15 years.

10 The significance of these omissions is profound when  
11 one reflects on her powers, which include advising the  
12 secretary of state on the rights, views, and interests  
13 of children. Something had clearly gone awry across  
14 government for these building blocks of routine  
15 consultation not to have been in place by the spring  
16 of 2020.

17 Incorporation of the UNCRC and a statutory  
18 obligation to consult with the Children's Commissioner  
19 in matters of policy and legislation affecting children  
20 would address these lacunae and would protect the rights  
21 of children in the event of a future pandemic.

22 Mr Johnson explained, in what we suggest was a less  
23 than convincing response to my Lady's last question of  
24 him, as to the need for a cabinet minister for children,  
25 that parents should be responsible for children. And

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1 In order to prevent children being overlooked again  
2 in the event of another pandemic or a national  
3 emergency, it's also essential that a minister with  
4 cabinet status should be created, not least as so many  
5 issues relating to children cut across departments.  
6 A cabinet minister for children would be required to  
7 work across government departments to enable the welfare  
8 of children to remain a high and consistent priority.

9 Anne Longfield's evidence was that whenever she made  
10 representations in respect of policy areas outside  
11 the DfE, such as in relation to prisons or immigration,  
12 it was those other departments which responded, even if  
13 she was raising serious matters of child protection,  
14 which is the DfE's stated responsibility. And this also  
15 Article 39's experience.

16 One of the more surprising if not startling pieces  
17 of evidence came from the former Children's Minister,  
18 Mrs Ford, who volunteered as one of her reflections that  
19 there was arguably no need for a minister for children.  
20 That demonstrated a wholesale failure to grasp the  
21 following obvious points: children have distinct needs,  
22 and a very precious time of human development. They're  
23 not simply smaller versions of adults. Children depend  
24 upon adults and adult society for their development.  
25 What we do and what we don't do really matters.

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1 not only does that view immediately exclude those  
2 children living in institutions or without a parent  
3 capable of making responsible decisions, it ignores the  
4 more important point that children, like adults, require  
5 effective government structures, require decision making  
6 and action.

7 In times of emergency, the Johnson preference for  
8 parents knowing best breaks down, because all children  
9 in a pandemic are vulnerable, and vulnerable to poor  
10 government decision making.

11 Routinely, one has heard in evidence from those who  
12 made the decisions the familiar refrain, "Well,  
13 decisions had to be taken urgently against a background  
14 of great uncertainty."

15 And we say it's precisely because a pandemic or  
16 a national emergency engenders panic in government and  
17 requires swift decision making that the structures and  
18 the guide rails need to be in place to ensure that  
19 children are not an afterthought or forgotten  
20 altogether, that their rights are not overlooked, and  
21 that government is required to listen to those who  
22 advocate for children.

23 Incorporation of the UNCRC and the statutory  
24 obligation to consult with children's commissioners will  
25 provide those guide rails.

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1 At a general level, children are vulnerable to a far  
2 greater array of harms than adults, and the injury  
3 inflicted on them, psychological, emotional and  
4 physical, can be life threatening, life limiting and  
5 lifelong, in way that harms inflicted on adults are not.

6 This Inquiry cannot protect children in a future  
7 pandemic from the appointment of well intentioned but  
8 ineffective 'here today, gone tomorrow' ministers, as  
9 Robin Day famously put it, those who might be charged  
10 with significant decisions profoundly affecting them.  
11 But it can protect them from their erroneous decision  
12 making. It can recommend the guide rails which are  
13 necessary to protect children's rights in the event of  
14 another pandemic or civil emergency.

15 The three guide rails we ask the Inquiry to consider  
16 would put children deep into the machinery of government  
17 in calmer times, as Mark Drakeford said, making it  
18 difficult, if not impossible, for their rights and their  
19 wellbeing to be an afterthought in future times of  
20 natural crises.

21 My Lady, thank you for this opportunity to address  
22 you and before I finish, may I finally thank Ms Dobbin  
23 King's Counsel and her team for tirelessly helping us  
24 throughout the hearing. Her openness to approaches,  
25 especially whilst carrying such heavy responsibilities,

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1 has been nothing short of remarkable and reflects so  
 2 well on her and her skillful and industrious team.  
 3 **LADY HALLETT:** Very grateful indeed, Mr Twomey, thank you  
 4 very much.  
 5 Ms King.  
 6 **Closing statement on behalf of Coram Group by MS KING KC**  
 7 **MS KING:** My Lady, I continue to represent the Coram Group  
 8 together with Ms Logan Green and instructed by Jenner &  
 9 Block.  
 10 The context in which these submissions are made is  
 11 as Dr Homden CBE from Coram Group stated that: pandemic  
 12 or no, it is a key moral duty of society to prepare for  
 13 the next generation of citizens, and of course, unless  
 14 we do so, we will reap the consequences.  
 15 Covid-19 posed a major challenge to us as a society,  
 16 many key and essential workers, and many of those in  
 17 government, rose to that challenge and we pay tribute to  
 18 them. But there were real harms which were engendered  
 19 by the inadequacies of the government response. Coram  
 20 is confident that this Inquiry will not shy away from  
 21 identifying them so that they may be mitigated or  
 22 avoided in the future.  
 23 The Inquiry knows that Coram considers that the  
 24 pandemic compounded existing inequalities for children  
 25 in our society. Whilst some perceptible progress was

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1 the key government departments.  
 2 Some of the shortcomings arose out of a failure to  
 3 anticipate what was inevitable. This was exacerbated by  
 4 an absence of consultation with, as opposed to  
 5 a tendency to inform, key individuals and organisations  
 6 as the pandemic came into sight and developed.  
 7 It included a failure to engage with the Coram Group  
 8 as data became available and the experiences of children  
 9 and young people started to be understood.  
 10 Dr Homden gave cogent evidence about the willingness  
 11 of Coram to play its part in the response to the  
 12 pandemic, and the fact that there was an absence of  
 13 consultation, not only with Coram, but with other  
 14 important organisations in the third sector and beyond,  
 15 including with stakeholders such as the Children's  
 16 Commissioner.  
 17 This seems to be a reflection of the failure to give  
 18 any or any sufficient priority to children's needs  
 19 during the pandemic. It was as if children's wellbeing  
 20 was being treated as an afterthought when policy was  
 21 considered and legislation enacted in response to the  
 22 emergency crisis.  
 23 This was coupled with a lack of attention as to how  
 24 children might be treated differently from adults and  
 25 could be made subject to different rules. This --

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1 gradually being made to close the educational attainment  
 2 gap prior to the pandemic, there was rising child  
 3 poverty, and resources were stretched after a period of  
 4 austerity. In addition, there was a high incidence of  
 5 children and young people who were disabled, living with  
 6 mental health conditions, experiencing economic and  
 7 housing insecurity and living in households where  
 8 domestic and other forms of abuse were prevalent.  
 9 That was the low baseline from which too many  
 10 children started when the pandemic struck.  
 11 In a number of ways, the pandemic served to amplify  
 12 the disenfranchisement and privation suffered by many  
 13 children. The evidence supports the view that lack of  
 14 planning meant that those harms could not be mitigated  
 15 in a timely way or at all. It is also evident that the  
 16 recovery has been very slow and that there is more to be  
 17 done.  
 18 As the evidence shows there was a lack of  
 19 preparedness for the pandemic and such planning as there  
 20 was, was one-dimensional, failing to consider  
 21 alternative but realistic scenarios. There was a lack  
 22 of foresight at the very start of the pandemic as to the  
 23 direction of travel and the contingency planning that  
 24 was necessary. This was driven by so-called optimism  
 25 bias in the face of stark scientific data being fed to

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1 adult-focused approach had a deleterious impact on  
 2 children including their ability to learn and engage  
 3 through peer-to-peer play.  
 4 Coram acknowledges and is grateful for the efforts  
 5 which many school teachers and educational professionals  
 6 made to educate and monitor children and young people  
 7 during the pandemic.  
 8 The circumstances were unprecedented and required an  
 9 urgent response, but the absence of planning for  
 10 country-wide school closures and the abrupt change of  
 11 plan in mid-March 2020 has been rightly interrogated at  
 12 length by the Inquiry. SAGE evidence from as early as  
 13 4 February 2020, well before mid-March, was that school  
 14 closures were a realistic and distinct possibility, yet  
 15 it appears that all of the focus within the Department  
 16 for Education was on keeping schools open.  
 17 That was informed by a steer from central government  
 18 but even after having heard the evidence from  
 19 Sir Gavin Williamson and Mr Boris Johnson, it is  
 20 difficult to understand why so little thought was being  
 21 given and planning undertaken as the prospect of  
 22 shutting schools for most children loomed increasingly  
 23 large.  
 24 The Inquiry has received evidence from many about  
 25 the myriad ways in which schools are important to the

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1 wellbeing of children. Attending school is about much,  
2 much more than learning. Teachers and pastoral staff  
3 are often on the front line of safeguarding and  
4 identifying behavioural problems and additional needs in  
5 children. The pandemic prevented the sort of eyes-on  
6 approach that might enable a teacher to pick up on  
7 emerging difficulties and safeguarding concerns. When  
8 looked at in conjunction with the relaxation of the  
9 regulations governing the delivery of social work,  
10 non-attendance at school heightened the risks of a child  
11 suffering harm becoming invisible.

12 As to the delivery of education during the pandemic,  
13 the Inquiry has heard from those responsible for  
14 decision making in respect of schools and evidence, some  
15 critical, from the professionals required to deal  
16 directly with the impact of the virtual closure of  
17 schools.

18 The Inquiry has seen the figures for school  
19 attendance for students who were entitled to go to  
20 school. The Inquiry has heard from those who were  
21 involved in the provision of education and research as  
22 to the difficulties with categorisation of what  
23 constituted a vulnerable student and the deficiencies in  
24 respect of public messaging and guidance about the  
25 exercise of teachers' discretion which meant that those

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1 shone on how asylum-seeking children fared in the  
2 pandemic.

3 It is regrettable that, ultimately,  
4 Sir Matthew Rycroft was not asked about this issue. The  
5 Inquiry is asked to review the written evidence in  
6 respect of the treatment of asylum-seeking children in  
7 the pandemic.

8 As Coram indicated, the impact on such children was  
9 different and distinct from their peers. Children with  
10 compounding vulnerabilities were placed in unregulated  
11 placements by the Home Office, and often unable to  
12 access any support or services.

13 This left many at risk of exploitation and  
14 criminality, and facing the challenges of navigating the  
15 asylum application process with limited or no support.

16 It is very troubling that a significant number of  
17 asylum-seeking children went missing during the  
18 pandemic, and their whereabouts remain unknown even to  
19 this day.

20 As to data sharing, a consistent theme in the  
21 Inquiry has been about the lack of centralised  
22 government data collection to inform decision making and  
23 the lack of provision of data to enable stakeholders to  
24 make informed decisions themselves, offer cogent advice,  
25 and even simply to understand the imperatives driving

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1 who needed to be in schools so often were not.

2 The Inquiry has also heard about the digital divide  
3 and the delays in providing devices to children.

4 Children have a right to an education. Regrettably,  
5 the contract between parents and schools appears to have  
6 been broken and the expectation that children will  
7 attend has been eroded.

8 Much of the early response to the pandemic appears  
9 to have been predicated on the fear that there would be  
10 rates of absence in the workforce in far higher numbers  
11 than in fact occurred. However, as alluded to already,  
12 the changes to the social work regulations failed to put  
13 the emphasis on making home visits unless it was safe to  
14 do so rather than the other way round. This was  
15 a misstep, and meant that the sort of 360 assessment  
16 which a home visit might allow did not happen.

17 Lack of guidance from government about how to  
18 progress adoptive placements meant that Coram had to  
19 produce its own guidance in an attempt to mitigate  
20 delays for children for whom making progress was time  
21 critical.

22 And as for asylum-seeking children, Coram was  
23 grateful to the Inquiry for indicating that it would  
24 allow, as part of its broader consideration of the  
25 impact of the pandemic on children, a spotlight to be

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1 policy and guidance.

2 So, looking forward, Coram would say this: impact  
3 assessments do not require there to be a cabinet  
4 minister for children. The upholding of children's  
5 rights and a focus on their needs does not require the  
6 recognition of the UNCRC. However, the fact that  
7 England has neither meant that there was no one in  
8 cabinet with the specific role of ensuring that  
9 children's interests were given any sufficient priority.

10 The tensions between the Prime Minister and the  
11 Department for Education over of the issue of the  
12 closure of schools brings into sharp relief the  
13 importance of having a minister with a portfolio  
14 overseeing all aspects of policy which touches on  
15 children and young people, to avoid siloed thinking and  
16 ensure children and young people are at the centre of  
17 planning and decision making.

18 Equally, without children's rights formally being  
19 recognised, it was easier to dispense with or forget  
20 about consulting with those who have children's rights  
21 and interests at the top of their priority list, and  
22 easier to ignore, forget, or fail, to have regard to  
23 children as a subgroup of society.

24 There needs to be a comprehensive set of plans in  
25 anticipation of the next pandemic. Those undertaking

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1 the planning must consider a range of emergency plans  
2 addressing a number of different scenarios. The plans  
3 will need to be robust but flexible. Coram stands ready  
4 to assist.

5 The lack of communication with third sector partners  
6 cannot happen again. The government has a phalanx of  
7 potential interlocutors upon whom to call to assist now  
8 and in the future, of whom the Coram Group is one.

9 However, offering advice without knowledge is often  
10 unhelpful and generally unwise. Information sharing is  
11 vital to the smooth running of any response to a future  
12 pandemic. Coram hopes it will play a part in the  
13 planning process and will be able to contribute to the  
14 provision of data and be prioritised to receive it both  
15 in planning for, and in the event of, a future public  
16 health emergency.

17 My Lady, all that remains is for me to thank  
18 your Ladyship for allowing Coram the opportunity to  
19 contribute to the Inquiry, and to thank the team behind,  
20 and Counsel to the Inquiry, for all of the work that has  
21 been put into presenting such a comprehensive set of  
22 evidence to the Inquiry.

23 I'm grateful.

24 **LADY HALLETT:** Thank you very much indeed, Ms King.

25 Mr Friedman.

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1 that conclusion.

2 SAGE and the CMOs were careful at the time to  
3 emphasise that reduced pupil attendance would make, at  
4 most, a limited contribution to controlling the R rate,  
5 and the distinct necessity of the measure was never  
6 disentangled from other measures. To this day, the bulk  
7 of the evidence is that the relative role of children in  
8 transmission is likely to have been smaller than adults,  
9 and considerably smaller yet for younger children.

10 The starting position is important because of what  
11 the Covid generation of younger disabled people can be  
12 told about the proportionality of the measures that  
13 affected them.

14 Despite knowing that there was continuing  
15 uncertainty about transition rates concerning children,  
16 this category of the population was withdrawn from their  
17 education, their friendships, their support networks,  
18 and their health and therapeutic care. It was  
19 foreseeable that this would cause harm to child  
20 development, loss of learning, damage to life chances,  
21 and broader jeopardy to health and wellbeing, and yet  
22 these consequential harms were not appreciated or  
23 mitigated as much as they could be.

24 Even if initial closure is accepted as  
25 a precautionary policy, too little consideration was

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1 **Closing statement on behalf of Disabled People's**

2 **Organisations by MR FRIEDMAN KC**

3 **MR FRIEDMAN:** My Lady, we act for three national Disabled  
4 People's Organisations, or DPO. They are Disability  
5 Rights UK, Disability Wales, and Disability Action  
6 Northern Ireland. And we too, at the outset, thank you  
7 and the team for the evidence that you've been able to  
8 gather together in this module.

9 As the Inquiry reaches its late stages, it confronts  
10 a difficult truth with few consolations. What happened  
11 during Covid-19 to children and young people, especially  
12 disabled children and young people, was unjust,  
13 disproportionate, largely inevitable under the current  
14 systems we have, and yet there is no plan for reform or  
15 reparation.

16 The claim of injustice can be formulated in this  
17 way: generational harms were caused by closing schools  
18 to disabled children and young people, and limiting  
19 their associated access to therapies and other  
20 specialist provision.

21 In addition, a large cohort of children have been  
22 disabled by the steps taken by government to control the  
23 virus. Consolation for this might have been found in  
24 evidence that school closures made a significant impact  
25 on transmission rates, but the evidence does not support

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1 given to alternatives that other countries soon  
2 instituted, such as redesign of school premises,  
3 half-day rotas, regional closures based on R rates, or  
4 laying on travel services and staggered school runs,  
5 cordoned from other travellers with limits to parents  
6 intermingling.

7 From a childcare perspective, there will forever  
8 remain an incongruity that children were stopped from  
9 going to school to lower the R rate while care sector  
10 workers were forced to move incessantly between  
11 different settings and other jobs because there was no  
12 economical planning model to prevent that happening.

13 Simultaneously, essential health and therapeutic  
14 services such as to visit newborn babies, and to provide  
15 life-changing speech and language, occupational and  
16 physiotherapies, were cut for children and young people  
17 because of redeployment of staff into adult nursing and  
18 medicine, and sometimes into administrative and cleaning  
19 roles.

20 As for school attendance, the DPO case about the  
21 stigmatising, excluding and distorting flaws of the  
22 vulnerable child exception have been accepted by several  
23 witnesses.

24 Of those flaws, first, the messaging became  
25 extraordinarily jumbled. What was a parent or child to

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1 make of being told, "Stay home and stay safe, although  
2 the most vulnerable of you can come to school, but only  
3 if you are unsafe at home, and not before it is decided  
4 that you could be safe at school"?

5 Second, more dynamic modelling and data assessment  
6 could have established that opening schools up to  
7 a broader cohort could be done safely. There could have  
8 been a genuine system of hybrid schooling if not from  
9 day 1, then soon, with an aim to optimise attendance  
10 based on the virus transmission rate tolerably  
11 prioritising children and young people in need of  
12 support, including students with SEN support, especially  
13 given the known pre-existing difficulties which young  
14 people and parents faced in obtaining education and  
15 healthcare plans.

16 What we now know is that none of this was ever  
17 modelled.

18 Third, various definitions of vulnerability were  
19 narrowly focused on immediate health risks, safety and  
20 safeguarding, but largely overlooked other foreseeable  
21 serious harms arising from the loss of special  
22 educational provision and health interventions resulting  
23 in sometimes irreversible regression. This revealed  
24 a lack of understanding by decision makers of the  
25 various things that happen for disabled children in

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1 the otherwise vulnerable category for going to school,  
2 was never going to work consistently across the country  
3 in an unplanned for, and difficult to understand,  
4 pandemic. It assumed that vulnerable children would be  
5 found despite insufficient data infrastructure. There  
6 needed to be a much more dynamic interplay of advice and  
7 understanding between central, regional and local actors  
8 as well as with parents and children themselves.

9 Sixth, as with adult social care easements,  
10 governments suffered from an optimism bias that local  
11 responses could still meet needs despite enacting  
12 statutory easements to use reasonable endeavours to  
13 comply with mandatory education and healthcare plans and  
14 child social care obligations.

15 These services should not have been afforded these  
16 wide-ranging discretions on a blanket basis across the  
17 country, especially without systematic reporting and  
18 monitoring of how the easements operated.

19 Which brings us back to the sensitive  
20 proportionality calculus, not as a matter of law, but in  
21 terms of what we candidly tell this generation of  
22 children and young people and especially disabled  
23 people: the decision making on school closures  
24 precipitated what Professor Newlove-Delgado described as  
25 a systemic shock to the wider determinants of child

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1 school, whether in mainstream school or special school,  
2 in terms of caring for people's health and development  
3 as well as providing education.

4 Students rely on the physical presence of classroom  
5 assistants or regular speech and language therapies or  
6 physiotherapies, or methods and routines for managing  
7 eating disorders which could either not be replicated  
8 remotely or in other lockdown settings, and which caused  
9 fundamental pressures on family households if required  
10 to act as substitute providers.

11 Fourth, school closure was itself likely to generate  
12 vulnerability especially for those with pre-existing SEN  
13 requirements through loss of routine, respite services,  
14 and isolation leading to increasing stress and distress  
15 within family households. There is strong evidence that  
16 the pandemic response contributed to new mental health  
17 conditions.

18 Referrals to CAMHS services reached record heights,  
19 and there were extraordinary increases, for instance,  
20 the 90% rise in admission of children and young people  
21 to hospital for eating disorders, even at a time when  
22 the threshold for non-Covid hospital admission had to be  
23 raised.

24 Fifth, leaving a range of decisions to school  
25 discretion in terms of risk assessment, and what became

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1 health with impacts on family functioning and income,  
2 access to healthcare and education. This extracted  
3 a terrible price in terms of aggravating pre-existing  
4 impairments and, crucially, generating new ones.

5 With greater prioritisation and better design,  
6 higher numbers of children in need of support could have  
7 been integrated into on-site schooling sooner and an  
8 effective policy to make that happen would have had  
9 critical benefits in diminishing foreseeable harms.

10 But my Lady, there is an important qualification: as  
11 with adult social care, there remained dispiriting  
12 indicators that our present systems of government are  
13 ill designed and ill disposed to do things differently.  
14 The challenge faced by those who argue for smarter and  
15 more targeted NPIs, and in this context, more  
16 proportionate restrictions on access to schooling,  
17 healthcare and other specialist support, is that the  
18 potential for more sophisticated and flexible services  
19 has become increasingly more difficult, not least  
20 because various special education needs, health and  
21 social care systems were in a state of profound  
22 instability and underfunding before the pandemic and  
23 have only suffered more ever since.

24 If we do not have sufficiently resourced and  
25 accountable systems that can generate adequate

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1 relationships and communication between different levels  
2 of government, institutions, experts, family and  
3 children and young people themselves, then we are  
4 destined to repeat the largely inflexible responses that  
5 occurred in this pandemic because we are not  
6 sufficiently led, organised or integrated to achieve  
7 anything better.

8 The extent to which the inevitability of these  
9 generational harms did not properly figure in the  
10 proportionality calculus, also shows why prioritisation  
11 of children's rights cannot be guaranteed without far  
12 greater constitutional focus on them.

13 The situation for disabled children and young people  
14 is even less secure. The human rights treaties in this  
15 context are not just values, but toolkits for  
16 policymaking, and insufficient focus on these rights,  
17 especially in UK Government decision making, was  
18 a barrier to devising fair, proportionate and effective  
19 policies affecting disabled children and young people.

20 The difficult conclusion comes to this: no adult  
21 society can sit easily with a reality that, when faced  
22 with a dilemma between damaging children, especially  
23 disabled children, and protecting ourselves, on some  
24 considerable level we opted to protect ourselves.

25 If the outcomes were largely inevitable under  
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1 Slater & Gordon.

2 I start by thanking the Chair, Counsel to the  
3 Inquiry, solicitors to the Inquiry, and all of the  
4 excellent building staff for their dedication and  
5 collaborative way that this module has proceeded.

6 In my opening, I identified three principles:  
7 schools must be safe; and where they're not safe enough,  
8 children must be given appropriate support to continue  
9 their education at home; and, finally, that we cannot  
10 offer safety and support unless we recognise the impact  
11 Covid-19 has had and continues to have on clinically  
12 vulnerable children and families. They need status as  
13 a distinct group.

14 So: safety, support, and status.

15 After four weeks of hearings, there is ample  
16 evidence for the Inquiry to make strong findings in all  
17 three respects. I'll start with safety.

18 Making schools safe is the only way to solve or at  
19 least reduce the dilemma of whether to send children to  
20 school during a pandemic. This not just the dilemma for  
21 authorities; there is good evidence that many schools  
22 can be made safer for clinically vulnerable children and  
23 those in clinically vulnerable families. In fact for  
24 all children.

25 It's very important not to fall into a false  
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1 current systems, surely the continuing justice lies in  
2 the fact that there is no plan for reform or reparation.

3 Repair begins with the acknowledgement of these  
4 difficult truths. Reform comes from a realignment of  
5 values shared between government and society around what  
6 is important, and the creation of organisation, policy  
7 and practices now to ensure that those values can be  
8 delivered upon in an increasingly uncertain and unstable  
9 future.

10 The testimonies that this Inquiry has gathered from  
11 children and young people do give some grounds for  
12 optimism. They tell us there is a generation of people,  
13 disabled and non-disabled, who will more readily  
14 appreciate the reality of social vulnerability as they  
15 come to succeed us.

16 Thank you, my Lady.

17 **LADY HALLETT:** Thank you very much indeed, Mr Friedman. I'm  
18 very grateful.

19 Mr Wagner.

20 **Closing statement on behalf of Clinically Vulnerable  
21 Families by MR WAGNER KC**

22 **MR WAGNER:** Thank you, and good afternoon.

23 I act for Clinically Vulnerable Families together  
24 with Hayley Douglas, Lameesa Iqbal, and we are  
25 instructed by Kim Harrison and Shane Smith of  
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1 dichotomy.

2 Susan Acland-Hood, the former Department for  
3 Education Permanent Secretary, said:

4 "... taking decisions about school closures in  
5 a pandemic, there are some things where the impact is so  
6 great that it genuinely should be weighed up against the  
7 risk of mass fatality."

8 But it's possible to focus on the bigger picture and  
9 still be flexible and compassionate enough to ensure  
10 that clinically vulnerable families are not left behind.  
11 And improving school safety is one of the only ways to  
12 reduce the sharpness of that dilemma in future, because  
13 if a school is safer, then sending children to the  
14 school will do less damage to the R rates.

15 How can we make schools safer? There's plenty of  
16 evidence now before the Inquiry.

17 Professor Catherine Noakes said:

18 "... the evidence base is all pointing in the same  
19 direction: that better ventilated environments provide  
20 a healthier environment for children and adults. They  
21 help you mitigate against disease, they help you  
22 mitigate against other respiratory conditions.

23 "If those environments are designed well and they're  
24 thermally comfortable, they create better-quality  
25 learning environments."  
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1 Sir Chris Whitty said:  
2 "... it's an uncontroversial statement from an  
3 epidemiological point of view ... that improving  
4 ventilation in schools would be a good thing. It would  
5 [not just be] for future pandemics ... of a respiratory  
6 sort like this one, but also for ... year-on-year flu  
7 and other respiratory infections, which cause a lot of  
8 trouble in schools, lead individuals not having their  
9 schooling ..."

10 The second point is that ventilation works not just  
11 for clinically vulnerable children but for everyone.

12 Professor Noakes said:

13 "... improving ventilation is not just about  
14 reducing Covid transmission; it's also about improving  
15 those environments for other respiratory infections,  
16 improving them for children who might have asthma,  
17 improving them in terms of the cognitive performance of  
18 children in schools, and the learning environment."

19 Sir Hamid Patel suggested linking CO2 data with  
20 learning outcomes:

21 "Because if CO2 -- if ventilation, good ventilation  
22 is important for health, if we can establish that good  
23 ventilation is important for learning, for  
24 concentration, then that means that schools that don't  
25 have good ventilation, poorer ventilation, their kids

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1 There is sufficient evidence and consensus now for  
2 the Inquiry to recommend that clean air is prioritised  
3 in schools and that work is done to change the culture  
4 of schools to ensure this happens.

5 Clean air is just as important as healthy school  
6 lunches and safe playground equipment. Clean air needs  
7 an evangelist like Jamie Oliver was for school lunches.

8 Chair, we ask you to be that evangelist. This could  
9 be the most important thing the Inquiry recommends for  
10 public health.

11 My second point on support. Sir Hamid Patel said  
12 that families often faced a moral and emotional dilemma:  
13 do you protect your loved ones? Do you comply with  
14 attendance rules? And it also places schools in  
15 a policy vacuum, expected to enforce attendance while  
16 managing real trauma.

17 Mark Drakeford said yesterday that:

18 "... if you talked to children at the time, they did  
19 not have a view that somehow their rights were being  
20 subjugated to the rights of other people, they talked to  
21 you all the time about their fear for their  
22 grandparents, a fear for their father who worked away,  
23 their fear for their sister who had an underlying health  
24 condition."

25 This was and, for some, remains, a genuine dilemma.

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1 are disadvantaged even before they step into an exam  
2 hall."

3 Despite all this evidence, there is a reluctance to  
4 recognise that clean air and ventilation in schools is  
5 important. And there's a strange disconnect between the  
6 high level of proof which some people require to show  
7 that measures like these work, compared to the low level  
8 of proof which was used to justify the enormously  
9 disruptive school attendance restrictions between 2020  
10 and 2021.

11 Dr Shona Arora of the UKHSA was asked which  
12 protective measures in schools actually worked, and she  
13 said:

14 "We probably don't know with huge certainty."

15 And I don't quite make the same point that  
16 Mr Friedman made about that being a justification for  
17 fewer restrictions, but I do say there is a strange  
18 disconnect in terms of what we expect from our data.

19 There's often talk of waiting for the gold standard  
20 of evidence, that is randomised control trials, to show  
21 that ventilation and air cleaners work, but that's never  
22 going to come, and that attitude was apparent in  
23 Module 3 too: it's simply the wrong approach. There  
24 will never be that evidence in dynamic environments with  
25 many confounding factors.

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1 There's been too much talk about fear and anxiety,  
2 as if worrying that Covid might kill you or your  
3 vulnerable relative is some kind of pathology, a mental  
4 health problem rather than an unaddressed risk to  
5 physical health.

6 And this is why flexibility towards clinically  
7 vulnerable families is so important.

8 How can it work in practice? Lara Wong, CVF's  
9 director, said this:

10 "... flexibility could mean a number of different  
11 things. It might mean ... learning remotely ... It  
12 might mean hybrid learning. And by hybrid learning,  
13 I mean in class, to an extent, but maybe in an outdoor  
14 classroom. They have things like forest schools for  
15 younger children."

16 There are many creative solutions.

17 Sir Hamid Patel gave an important insight into what  
18 happened in the schools that he ran. He said:

19 "Some parents didn't feel reassured, so we took  
20 a risk assessment, we offered them online lessons, and  
21 we carried on doing home visits, because those were  
22 intergenerational households and ... many parents ...  
23 were clinically vulnerable."

24 This local flexibility was in contrast to the overly  
25 punitive policy which many clinically vulnerable

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1 families reported was in place in England. Families who  
 2 had entirely legitimate concerns were encouraged to  
 3 off-roll their children or fined, or prosecuted.  
 4 Gilleen McCluskey, the Inquiry's education expert,  
 5 said:  
 6 "It felt as though England, in this particular  
 7 point, was emphasising a strict and punitive approach,  
 8 whereas the other three [nations] weren't. They were  
 9 talking about the need for understanding, support,  
 10 flexibility."  
 11 Boris Johnson emphasised the importance of momentum  
 12 when children were returning to schools in  
 13 September 2020, but the reality was that in the rush to  
 14 get all children back to schools, clinically vulnerable  
 15 families' legitimate concerns were minimised and this  
 16 was the wrong approach.  
 17 My final point is about status. To properly  
 18 understand how clinically vulnerable people were and  
 19 continue to be affected in the education system, they  
 20 must have status as a district group so that they're  
 21 included in decision making, data collection, public  
 22 reporting and funded research. Recognition should  
 23 include making clinical vulnerability a protected  
 24 characteristic in the Equality Act.  
 25 There's a yawning gap in the data and it needs to be

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1 **LADY HALLETT:** Thank you very much indeed, Mr Wagner.  
 2 Ms Hannett.  
 3 **Closing statement on behalf of Long Covid Kids and Long**  
 4 **Covid Kids Scotland by MS HANNETT KC**  
 5 **MS HANNETT:** My Lady, I appear on behalf of Long Covid Kids  
 6 and Long Covid Kids Scotland, assisted by Ms Iengar and  
 7 instructed by Jane Ryan of Batt Murphy Solicitors.  
 8 Our clients embarked on Module 8 wanting answers to  
 9 why their children are unwell, why so little was done to  
 10 help them, and why, even now, the most basic steps have  
 11 not been taken. The answers to those questions, to the  
 12 extent they have been provided to the Inquiry, are  
 13 shameful.  
 14 Even after the evidence of paediatric Long Covid was  
 15 brought to their attention, no one in government took  
 16 the necessary steps to protect children from developing  
 17 Long Covid. To the contrary, the existence of  
 18 paediatric Long Covid was ignored or minimised. Even  
 19 now, five years since the onset of the pandemic, wholly  
 20 inadequate steps have been taken to assist children who  
 21 developed Long Covid.  
 22 Those failures constitute an ongoing breach of the  
 23 government's duty to place the best interests of  
 24 children at the heart of their decision making and to  
 25 respect the human rights of those children and their

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1 filled.  
 2 Professor Catherine Davies, the Inquiry's early  
 3 years expert, said:  
 4 "... we haven't really mentioned the clinically  
 5 extremely vulnerable children, whether themselves or  
 6 members of their family. Those children will have  
 7 experienced much longer isolation, higher anxiety,  
 8 a lack of specific guidance.  
 9 "... I would really welcome and encourage more data  
 10 tracking, more advocacy for those groups of what is  
 11 quite a specific set of circumstances during the  
 12 pandemic."  
 13 We ask that this is a recommendation in this module  
 14 but we will also be making submissions in the Module 10  
 15 preliminary hearing about how the Inquiry can itself  
 16 start to plug some of the gaps.  
 17 In conclusion, there are no easy answers to the  
 18 issues identified in this module. It can seem sometimes  
 19 that there are less answers and more dilemmas. A number  
 20 of witnesses said that in the end they were left  
 21 choosing between one bad decision that was just a bit  
 22 less bad than another bad decision. But if you focus on  
 23 safety, support and status, that would go a long way to  
 24 protecting clinically vulnerable families now and in the  
 25 future. Thank you.

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1 families.  
 2 My Lady, we intend to provide written closing  
 3 submissions that identify the findings of fact and the  
 4 recommendations we invite the Inquiry to make. For now,  
 5 we focus on the following four points: first, the  
 6 ongoing impact of Long Covid on our clients and their  
 7 families. This is not controversial. Indeed, the  
 8 Inquiry has heard numerous accounts that have consistent  
 9 and depressingly familiar themes.  
 10 Our clients' children did not bounce back after  
 11 their Covid infection or re-infection. Rather, Covid  
 12 infection led to PIMS or developed into Long Covid,  
 13 leading to serious physical ill health and disability.  
 14 Long Covid has damaged children's educational attendance  
 15 and attainment, in some case irreparably.  
 16 Children with Long Covid are often unable to enjoy  
 17 the ordinary activities of childhood. Their parents  
 18 have become their full-time carers.  
 19 I turn second to outline some of the failures  
 20 I referred to at the outset of these submissions. At no  
 21 point during the relevant period or since has any  
 22 governmental body warned parents, children or schools  
 23 about the existence of, and risks of, Long Covid.  
 24 This silence from the then Prime Minister, from the  
 25 Office of the Chief Medical Officers, from Public Health

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1 England, and from the Department for Education  
2 constitutes a public health failure, most notably, but  
3 not just, in summer 2021, when ministers received advice  
4 on several occasions that cases of Long Covid in  
5 children would rise rapidly when restrictions were  
6 lifted but accepted this as a strategic risk.

7 A number of the Module 8 witnesses were asked why no  
8 public health device has been given. All gave  
9 thoroughly unsatisfactory answers.

10 I start with the then Prime Minister, Boris Johnson,  
11 who failed to refer to paediatric Long Covid in press  
12 conferences or public statements in the relevant period,  
13 or indeed in his witness statement for Module 8.

14 In his evidence to the inquiry, he accepted that if  
15 the government had advice about the particular risks of  
16 Long Covid in children -- I interpose to note that by  
17 summer 2021 he most certainly did -- then the government  
18 should have warned parents.

19 Mr Johnson offered no explanation for the  
20 government's failure to do so. Rather, in evidence that  
21 had echoes of the pervasive dismissal of Long Covid in  
22 children, Mr Johnson made the bizarre suggestion that  
23 the four references to Long Covid in children in the  
24 high prevalence paper of the 7 July 2021, were  
25 typographical errors meant to refer to adults.

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1 the space of months, affected the educational attendance  
2 and attainment of thousands of children.

3 The former Secretary of State for Education,  
4 Sir Gavin Williamson, appeared to suggest that no advice  
5 was provided at the time as it was not possible to give  
6 accurate information. He did not explain why it would  
7 not have been accurate to share with schools and parents  
8 the detailed advice provided to him by DfE officials on  
9 11 May 2021.

10 Professor Viner, the Chief Scientific Adviser to  
11 DfE, confirmed to Ms Dobbin that he agreed with the  
12 conclusions of the Long Covid expert report that sets  
13 out both the prevalence and impact of Long Covid. He  
14 accepted in his oral evidence that he had not provided  
15 advice to DfE on Long Covid. Acknowledgement of this  
16 omission was, in my submission, reluctantly given, was  
17 unexplained and is, on any view, irrational.

18 My clients now know that at the same time as  
19 deciding not to issue guidance to schools, the DfE was  
20 referring to material promulgated by Long Covid Kids for  
21 parents and schools as misinformation. This allegation  
22 is unexplained, as well as being unfair and untrue. It  
23 should never have been left to patient advocates to fill  
24 the information gap, and when Long Covid Kids did so,  
25 desperate at the lack of information available, they now

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1 The Chief Medical Officer, Professor Whitty, when  
2 asked about the consensus statement issued in  
3 August 2020, said that if the CMOs had known at the time  
4 what they did nine months later, they would have  
5 included information about Long Covid, as that would  
6 have been an important and accurate point to add.

7 When asked subsequently why no statement was put out  
8 nine months later in the summer of 2021,  
9 Professor Whitty said that there was no need, as  
10 Long Covid had been discussed in the media, discussed in  
11 other fora, and that most parents would know it exists.

12 This is, we say, an obviously unsatisfactory  
13 response. Parents should not have to piece together  
14 information about a serious and novel paediatric disease  
15 from various places. They deserve accurate public  
16 health advice from a reliable government source.

17 Similarly, at no point has the Department for  
18 Education promulgated guidance for schools on  
19 Long Covid, despite initially deciding to do so in the  
20 summer of 2021. A change in position that has not been  
21 fully explained.

22 Ms Acland-Hood stated that the DfE do not ordinarily  
23 provide guidance to schools on health conditions, but we  
24 say the ordinary approach is wholly inadequate in the  
25 face of a novel paediatric condition that suddenly, in

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1 know they were being maligned by the very organisation  
2 which had failed in its duty to provide guidance to  
3 schools.

4 In her evidence, Ms McFarland stated that "We had  
5 tried so hard to raise awareness and get people to  
6 listen and when I read that, it made me realise that we  
7 never stood a chance of getting the truth out because  
8 they didn't want it to be out. The misinformation was  
9 hiding the facts from families."

10 The government's approach is reflected in the  
11 evidence of Professor Turner, Professor of the Royal  
12 College of Paediatrics and Child Health, he did not once  
13 refer to Long Covid in his oral evidence, and indeed, in  
14 our submission, his evidence was unnuanced and cavalier,  
15 dismissive of the physical harm to children caused by  
16 the virus, describing it as having bounced off children.  
17 We say RCPCH failed, along with the OCMO and PHE to  
18 offer any acknowledgement let alone leadership on  
19 paediatric Long Covid.

20 The college appears to have taken no steps  
21 whatsoever to ensure children are correctly diagnosed  
22 with Long Covid or that they receive appropriate  
23 healthcare.

24 This collective failure to warn about the potential  
25 physical harm to children had real world consequences.

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1 It is simply wrong to say, as Professor Whitty did, that  
2 a warning would have made no difference to the way  
3 people behaved. Quite apart from being entitled to  
4 accurate public health information, parents would have  
5 been able to make an informed risk assessment including,  
6 for example, about vaccination.

7 The silence contributed to the ongoing lack of  
8 knowledge amongst healthcare providers and  
9 a consequential failure to diagnose Long Covid and to  
10 provide support. Schools continued to put in place  
11 reasonable adjustments such as flexible and hybrid  
12 learning, steps which the Inquiry's expert,  
13 Professor McCluskey, has described as fair, reasonable,  
14 and necessary.

15 Third, my Lady, why was there such total inaction?  
16 No satisfactory answer has been given to the Inquiry.  
17 Doing the best that we can, it appears that overwhelming  
18 weight was placed on reassuring parents that schools  
19 were safe for children to the exclusion of identifying  
20 the real risk of physical harm.

21 The likely rise in cases of Long Covid amongst  
22 children and young people following the removal of Covid  
23 restrictions was accepted as a strategic risk by, for  
24 example, cabinet office in the Scottish Government, but  
25 this was not an inevitable or a necessary trade-off.

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1 for reducing the transmission of Covid as well as other  
2 respiratory viruses, the government fails to prioritise  
3 clean air for schools.

4 There is no ongoing data collection on Long Covid in  
5 children, either in terms of national prevalence or  
6 school absences due to Long Covid.

7 Long Covid's impact on educational attendance and  
8 attainment is therefore neither understood nor being  
9 responded to. Healthcare for children and young people  
10 with Long Covid remains hopelessly inadequate. There  
11 were no dedicated Long Covid services for children and  
12 young people in Scotland, Wales or Northern Ireland  
13 during the relevant period. Many specialist services in  
14 England have been closed and several more are closing.

15 Children and their families are still forced to seek  
16 expensive private healthcare. As a result, the burden  
17 remains on the families of profoundly ill children to  
18 seek the necessary change.

19 In conclusion, my Lady, we express our sincere  
20 thanks to the Inquiry legal team for their considerable  
21 assistance in this module, and to the Inquiry staff more  
22 broadly for the very smooth conduct of the hearings. My  
23 clients look forward to assisting the Inquiry further in  
24 due course by the provision of their written closing  
25 submissions.

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1 There could, and should, have been an approach to  
2 reopening schools that maximise their safety through the  
3 effective use of NPIs, proper ventilation, and public  
4 health messaging.

5 Instead, decision makers in all four governments  
6 knowingly left children and their families uninformed  
7 and unprotected from the real risk of developing  
8 Long Covid, and indeed, for those children who already  
9 had Long Covid, of reinfection.

10 My clients emphasise that Long Covid remains  
11 a roulette. Any child infected by SARS-CoV-2 can  
12 develop it.

13 Fourth and finally, in the face of all of those  
14 failures, where are we now? The current and shameful  
15 position is that measures in place either to minimise  
16 the risk of children developing Long Covid in the first  
17 place or to help those children who have Long Covid, are  
18 non-existent or obviously inadequate.

19 There is still no public health messaging on the  
20 risk of Long Covid for children and young people from  
21 any of the governments of the four nations. There  
22 remains no specific guidance to schools on how to  
23 support children with Long Covid to access education  
24 safely. Despite Professor Noakes' evidence that  
25 ventilation and air cleaners are effective in schools

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1 **LADY HALLETT:** Very grateful, Ms Hannett, thank you very  
2 much indeed.

3 Now, Ms Anyadike-Danes, do you want to take us up to  
4 the lunch break?

5 **Closing statement on behalf of Northern Ireland Commissioner  
6 for Children and Young People by MS ANYADIKE-DANES KC**

7 **MS ANYADIKE-DANES:** Yes, thank you very much indeed,  
8 my Lady.

9 And actually, where my learned friend left off is  
10 where I would like to start, with my thanks to you and  
11 your team, not just for having a module that is solely  
12 dedicated to the very diverse ways in which children  
13 were affected and is hard to have listened, sometimes,  
14 to just the extent and depth of that, but also to have  
15 assisted us in helping you to provide the information to  
16 you. So thank you very much.

17 My Lady, our oral submissions are structured around  
18 children and young people in relation to two matters:  
19 firstly, and in their own words, a description of what  
20 they went through and the continuing impact on them, and  
21 secondly, what they still did not know but wanted to  
22 find out.

23 We are going to provide written closing submissions  
24 and they will include proposals for recommendations but  
25 what I want to do now is actually to return to the views

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1 of the children and young people, and they've had an  
2 opportunity to consider the evidence over this past  
3 rather intense four weeks. So if I start off with what  
4 they wanted to know.

5 Children and young people feel as though they've  
6 been waiting for over five years for answers. Their  
7 queries were summarised into six areas, and whilst they  
8 can more readily see what went wrong, they are left with  
9 no real understanding about why.

10 And if I take those six areas in turn.

11 Why were they not made an integral part of any  
12 pre-pandemic plan?

13 Well, it's hard to see how that could have happened  
14 in relation, for example, to school closures, when there  
15 was no real pre-pandemic plan developed by the  
16 department or, for that matter, anybody else. The  
17 Permanent Secretary for Education was himself not aware  
18 of any contingency planning and guidance and in those  
19 circumstances it's hard to see how he could have  
20 involved the children.

21 Secondly, why were those who had particular  
22 knowledge of their circumstances not properly consulted  
23 or involved in planning?

24 Well, as I've said the reality is that there just  
25 was no proper planning, and if we take the school

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1 there have been no -- there have been no proper  
2 explanation for such an egregious failing. To have  
3 recognised that you are intentionally doing something  
4 that is likely to cause harm, recognise that it is  
5 causing harm, and yet not having done the work to put  
6 into a mitigation or a reduction of those harms is  
7 simply inexplicable. And has not been explained.

8 Five, what coordinated work is being done now by the  
9 government to identify the full impact on them and what  
10 is now in place to help them?

11 There is no overall coordinated activity being done  
12 to identify and tackle the range of adverse impacts on  
13 children and young people. Nor does such work appear to  
14 have been implemented. It's not even clear that there  
15 is the data to know exactly who has been affected and  
16 how. And without that, it's difficult to see how there  
17 can be any effective recovery plans to help them.

18 Sixth, and finally, what's being done now to improve  
19 planning, and how will children be involved?

20 The Department of Education claims to be working  
21 with all of its arms-length bodies to set up a strategic  
22 steering group on emergency planning so that it is  
23 better placed to respond to such emergencies.

24 Which sounds good.

25 However, despite all of the experience of the

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1 closures, actually, as an example, the department was  
2 entirely focused on keeping schools open, until they  
3 weren't open, and whilst it engaged with stakeholders  
4 before the second round and considered itself to be in  
5 pretty good shape, that confidence may have been  
6 misplaced, as inexplicably, neither the Commissioner for  
7 Children nor children's rights organisations were  
8 actually involved in that.

9 Third, why was no real consideration given to how  
10 some of the most dramatic of measures, such as lockdowns  
11 and school closures, would impact them? The fact is  
12 that they weren't really thinking about the impact of  
13 those measures on children and young people at all.

14 To the extent that children and young people were  
15 considered, it was far more in terms of the calculation  
16 of their likely contribution to reducing the R number,  
17 and not really about avoiding or minimising harms to  
18 them.

19 Fourth, why did the plans fail to include adequate  
20 mitigating measures? It was recognised that government  
21 policies and measures were knowingly causing huge harm  
22 to children and young people, and that they were paying  
23 a huge price to protect the rest of society.

24 Now, that should have led to such measures being  
25 developed. That is, mitigations. But it didn't. And

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1 pandemic, to date, none of that has involved the  
2 commissioner or children and young people.

3 So perhaps the reason for such deficiencies is best  
4 understood by the Department of Education's own attitude  
5 to lessons learnt. What they said was: there have been  
6 no formal lessons learned exercise commissioned, as the  
7 initial decision to close schools and a lot of the other  
8 decisions around societal impacts were driven by the  
9 Executive, Chief Medical Officer, Department of Health,  
10 and the Department of Education had to react to those,  
11 rather than implement what it considered to be its own  
12 decisions.

13 Now, my Lady, we say that's just a long way round of  
14 saying that: Any lessons learnt were for others to  
15 learn; they weren't our decisions so others need to  
16 learn those lessons.

17 The Inquiry was told that if the statement were to  
18 be written again, the language would be more nuanced.  
19 There's no suggestion that that nuancing would change  
20 the essential point.

21 So if I turn now to the important bit of all of  
22 this, which is the children and young people's views.

23 Their views, actually, can overall be summed up  
24 perhaps by the words of Professor Turner, when he said:

25 "I think that the message I would be keen to get

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1 across is that there was -- before the pandemic, during  
2 the pandemic and after the pandemic, there has not been  
3 equity. Children are not treated equally in our  
4 society. It is a defining characteristic against which  
5 we should not prejudice, but children do not get the  
6 best in this country. They're 25% of the population and  
7 they get 11% of the NHS spend. They rarely ever seem to  
8 feature in decision making."

9 But let's use the children's own words. So Elodie,  
10 who was 10 years old at the start of the pandemic, and  
11 who, my Lady, you heard when I had my opening  
12 submissions:

13 [As read] "The Inquiry has provided unequivocal  
14 responses to the first four questions. We have been  
15 answered in the most hurtful manner possible. We, as  
16 children, realise that we were simply not considered  
17 individually or even as a group in decision making. No  
18 proper consultation was carried out in relation to the  
19 entirely foreseeable impact of the closure of schools.  
20 It is shocking that the Children's Commissioner did not  
21 even get a seat at the table to advocate for or to  
22 protect me and the countless others who were adversely  
23 affected.

24 "There is not one child who hasn't been affected,  
25 and the mid-to long-term impacts of Covid are

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1 unprepared. Officials were not psychologically or  
2 physically prepared, and reacting seems to have been --  
3 become the way the pandemic was then handled going  
4 forward. Sadly, it doesn't seem like there have been  
5 any lessons learned, for now or the future. And  
6 according to Derek Baker's written statement, there have  
7 been no formal lessons learned, exercises commissioned.

8 "There seems to have been a lot of focus in the  
9 Inquiry on education attainment. Less said about the  
10 wellbeing of students. There should have been and still  
11 needs to be a focus on the mental health of young  
12 people. We have been poorly informed of the risks of  
13 Covid infection and how airborne infections spread.  
14 Everyone, especially schools, should be given  
15 appropriate advice. The government should also be  
16 prepared for all types of pandemics and provide  
17 leadership.

18 "This module hasn't adequately considered how  
19 failing to make schools, healthcare, and public spaces  
20 safer has impacted children. My sister Molly was 8 at  
21 the start of the pandemic and is now 13 and still  
22 extremely vulnerable. Outside of my family, who's  
23 protecting her?"

24 Nicky, not her real name, 13 years old at the start  
25 of the pandemic:

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1 a generational guessing game. Mental issues such as  
2 anxiety and depression affecting young adults and  
3 children have risen and school attendance has fallen.  
4 The entirely reactive approach taken has led to  
5 a diminution in the fundamental respect for education  
6 and schooling in Northern Ireland. These are outcomes  
7 that will spill over into our adulthood and futures.

8 "Hope only can be found through genuine responses to  
9 our final two questions. It's my wish that steps are  
10 taken to immediately and robustly assess the current  
11 impacts of Covid on all young people, and for the  
12 government to respond swiftly and decisively to attempt  
13 to mitigate against the damage that they have done. Our  
14 voices need to be represented at a national level with  
15 a dedicated Children's Commissioner.

16 "I do believe in the power of rights and laws to  
17 protect us. The UNCRC must now immediately be enshrined  
18 in our domestic law to protect us in the future. That  
19 would not be a fairytale ending, as the spectre of Covid  
20 remains a reality, but it would give hope to us, as  
21 young people of Northern Ireland, in that we have been  
22 seen, if not also heard."

23 Ciaran(?), 13 years at the start of the pandemic:

24 [As read] "I have been left with more questions than  
25 answers. The evidence provided showed an Executive

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1 [As read] "An issue I don't feel was particularly  
2 addressed that should have been was children and young  
3 people's voices not being heard, and not being  
4 particularly considered in decision making. One  
5 effective step I believe should be taken to help ensure  
6 children's best interests are at the heart of future  
7 decision making is the incorporation of the UNCRC into  
8 domestic law in England and Northern Ireland, as has  
9 already been done in Scotland."

10 So, my Lady, to conclude, the evidence is replete  
11 with the right questions having been recognised, albeit  
12 often refrained, but when one looks for the answer, the  
13 evidence often seems to lose focus and dribbles away,  
14 lost in qualifications, irrelevant explanations, and  
15 bureaucratic speech that says much but conveys little.  
16 Often at the end of it all, you're not particularly any  
17 the wiser, there's some flat denials, some don't knows,  
18 not the right person, I'll have to get back to you. And  
19 all of that is extremely hard for children and young  
20 people to take, who believed, with the focus of the  
21 module being on them, and given that we are now  
22 five years away from the pandemic, that they would  
23 finally get proper answers, and perhaps even apologies.  
24 And yet they are left without that, and a feeling that  
25 no one has taken responsibility or is likely to be held

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1 accountable for the harm inflicted on them, which in  
2 many cases was intentional harm, at least knowing that  
3 it would cause harm. More importantly, without the  
4 comfort of knowing that there should have been -- that,  
5 should there be another pandemic, their experience or  
6 those of their loved ones would be markedly any better.

7 Again, they look to the report on this module to  
8 provide the information they lack. And in terms of  
9 going forward, they look to the Inquiry to make  
10 recommendations to provide some measure of reassurance  
11 for the future.

12 Thank you very much, my Lady.

13 **LADY HALLETT:** Thank you, Ms Anyadike-Danes.

14 I shall return now and break for lunch and return  
15 at 1.55.

16 **(12.54 pm)**

**(The Short Adjournment)**

18 **(1.55 pm)**

19 **LADY HALLETT:** Ms Dobbin.

20 **MS DOBBIN:** My Lady, can I just check that you can see and  
21 hear us.

22 **LADY HALLETT:** I can, thank you.

23 Mr Gardner, I think you're going next.

24 **Closing Statement on behalf of Children's Commissioner for**  
25 **Wales by MR GARDNER**  
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1 on children.

2 My Lady, the Inquiry has hearing evidence from the  
3 commissioner today on the Welsh legislation which  
4 should, if properly applied, bring children's rights to  
5 the centre of decision making in Wales.

6 The commissioner would, in particular, highlight  
7 that in accordance with Article 3 of the UNCRC, the best  
8 interests of children must be a primary consideration in  
9 decision making, and in accordance with Article 12  
10 children and young people have the right to be asked and  
11 heard on their views about decisions which affect them.

12 Applying the Rights of Children and Young Persons  
13 (Wales) Measure 2011, the Welsh ministers must have due  
14 regard to these rights and all UNCRC principles in the  
15 decisions that they make.

16 In order to ensure that the rights and voices of  
17 children are considered, the commissioner recommends to  
18 the Inquiry the effective and timely use of children's  
19 rights impact investments, or CRIAs, as standalone  
20 assessments, not simply part of integrated impact  
21 assessments.

22 In Wales, CRIAs are required by any decisions taken  
23 by the Welsh Government as a result of the children's  
24 right scheme 2021 and its predecessor, the 2014 scheme.

25 My Lady, when decision makers in Wales took the  
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1 **MR GARDNER:** Good afternoon, my Lady.

2 I appear on behalf of the Children's Commissioner  
3 for Wales and the commissioner thanks the Inquiry again  
4 for allocating her Core Participant status in this  
5 important module.

6 My Lady, the pandemic had an immediate and, on the  
7 whole, detrimental impact on all children and young  
8 people in Wales and across the UK. The disadvantage gap  
9 caused by race, poverty, and disability in children  
10 became more pronounced.

11 Vulnerable children who were at risk in their home  
12 lost the protective environment of the school. Children  
13 lost access to basic freedoms, basic human rights, and  
14 activities, and we are seeing a longer-term adverse  
15 impact on children's confidence, school attendance, and  
16 mental health since the pandemic.

17 This all appeared obvious before this module began,  
18 but this Inquiry has heard evidence that shows this  
19 unequivocally true.

20 It must also be recognised that the pandemic greatly  
21 exacerbated an already unacceptable state of affairs.  
22 An inadequate and inconsistent children's rights  
23 framework across the UK combined with long-term  
24 underfunding of children's services leading up towards  
25 the pandemic greatly contributed to the adverse impacts  
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1 rights of children into account they made better  
2 decisions during the pandemic.

3 There are many examples of positive liaison between  
4 the commissioner's office and the Welsh Government, and  
5 there is a culture of consultation in Wales reflected in  
6 the operation of the Shadow Social Partnership Council.  
7 This not, however, the full story.

8 The commissioner cautions the Inquiry to be wary of  
9 a conclusion that the grass was always greener in Wales.  
10 On occasion, and in particular at the outset of the  
11 pandemic, the arrangements to protect children and to  
12 facilitate children's rights in Wales were not  
13 sufficiently well prepared or able to stand up to the  
14 stresses that came with the pandemic.

15 As the commissioner said in her evidence, was  
16 sufficient due regard placed on children's best  
17 interests? And we say it was not.

18 The breakdown in the legal framework and failures in  
19 observance of children's rights is strongly illustrated  
20 in the first school closures in March 2020. When the  
21 decision to close schools in Wales was taken on  
22 18 March 2020, little to no planning had taken place to  
23 prepare local authorities, schools, parents, social  
24 workers, or children.

25 There is evidence from Sharon Powell, of  
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1 Powys Council, that some local authorities got  
2 three hours notice of those decisions to close schools,  
3 and they had no contingency plan in place for the  
4 pandemic.

5 The Welsh Government, to its credit, accepts that,  
6 despite knowledge of the potential for school closures  
7 from February 2020, it did not plan well enough or early  
8 enough.

9 The lack of insight and planning meant that when it  
10 became apparent that schools may have to close, decision  
11 making was rushed, and as a result no ministerial or  
12 legal advice was taken. The decision communicated to  
13 the public, which was on its face a clear decision to  
14 close schools, was taken when the Welsh ministers had no  
15 power to do so. No regard was had for UNCRC, the  
16 commissioner was not consulted, no CRIA was undertaken.  
17 And as a result, some children were left vulnerable.

18 As the Education Minister noted in her statement,  
19 consultation in CRIAs may not have changed the decision  
20 to close schools, but that misses the point. They would  
21 have informed on how to close schools and invited  
22 consideration of how to keep specific groups of children  
23 safe. They may have spurred on the very action that the  
24 minister states in her statement she would, with  
25 hindsight, have taken, such as data collection on

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1 "Young people have played their part ... Society  
2 owes them a debt ..."

3 The Inquiry may ask: how do we protect? How do we  
4 repay the debt? The answer, the commissioner submits,  
5 is that we must truly learn the lessons of this  
6 pandemic, including the impacts that could be mitigated  
7 by better institutional machinery, to use Mr Drakeford's  
8 phrase from yesterday.

9 A lesson from this Inquiry is that we must better  
10 prepare for the potential future school closures as part  
11 of civil contingency planning measures. This must take  
12 a children's rights based approach and have multi-agency  
13 input and intergovernmental engagement.

14 It is also important that we recognise social  
15 workers as part of the critical infrastructure which  
16 keeps children safe and makes social workers part of the  
17 emergency planning systems.

18 My Lady, to repay the debt, as the commissioner has  
19 said in evidence today, there must also be  
20 a properly-resourced recovery plan for children.

21 My Lady, the commissioner respectfully agrees with  
22 the host of witnesses advocating for a stronger  
23 statutory child's rights approach to decision making.  
24 A child's rights approach does form part of the legal  
25 landscape in Wales and when this framework is used well,

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1 vulnerable children and the need for support, food, and  
2 remote learning facilities.

3 This was a point quite properly accepted by  
4 Mr Drakeford yesterday in his oral evidence, when he  
5 said, when asked if a CRIA should be undertaken:

6 "There would undoubtedly have been direct  
7 benefits ... had we had been able to do so ..."

8 The failure of process was to the detriment of the  
9 children of Wales.

10 The commissioner hears what the Welsh Government  
11 says about the pace of change and the need for  
12 expeditious decisions, meaning that these processes were  
13 not followed. There are two points in reply.

14 Firstly, earlier planning would have avoided the  
15 need for such expeditious decision making.

16 Secondly, existing legal duties, designed to improve  
17 policymaking, must be respected and followed rather than  
18 being abandoned as being too difficult to achieve.

19 The system must stand up to stress or it is an  
20 ineffective system.

21 But, my Lady, what as to the next steps? As  
22 Kate Anstey of Child Poverty Action Group said in her  
23 oral evidence, to protect inside a pandemic, we must  
24 protect outside a pandemic.

25 And as Sir Jon Coles said in his oral evidence:

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1 it leads to better decisions.

2 The commissioner also recognises, and recommends to  
3 the Inquiry the approach in Scotland which has gone  
4 further than Wales in directly incorporating the UNCRC  
5 into Scottish law.

6 My Lady, the commissioner also respectfully agrees  
7 with the host of witnesses advocating for greater  
8 requirements to consult the commissioners and improve  
9 systems and mechanisms which go beyond lip service to  
10 engage with the voices of children.

11 The commissioner has highlighted the negative impact  
12 of her not being consulted for school closures. This  
13 could be contrasted with scenarios where there was  
14 consultation and where better decisions for children  
15 were made, for example when the much criticised regime  
16 of proposing SEN easements was brought in in England but  
17 not in Wales, which was part due to the consultation  
18 with the commissioner.

19 And when the commissioner invited a rights-based  
20 analysis for the proposed firebreak lockdown which led  
21 to a cabinet briefing note setting out the  
22 considerations and mitigation measures, and which in  
23 turn led to better decisions, balancing harms, and  
24 meaning that primary schools would stay open.

25 The commissioner therefore would recommend that in

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1 order to strengthen these frameworks, a statutory duty  
2 to consult and have due regard to the view of the  
3 commissioner as well as to hear directly from children  
4 and young persons in important decisions relating to  
5 them.

6 The commissioner would also recommend  
7 a cabinet-level children's minister in all UK  
8 governments to ensure that children have an advocate for  
9 their rights at the heart of government.

10 My Lady, the commissioner also agrees with the large  
11 number of witnesses, including Mr Drakeford, who spoke  
12 to the need and for the efficacy of CRIAs. CRIAs, when  
13 done well, do work. There are a number of examples of  
14 good CRIAs which had a positive impact for children.

15 One example can be found in the CRIA on alert levels  
16 and restrictions dated 21 December 2020. There, the  
17 rights-based approach informed by the CRIA, arguably led  
18 the Welsh Government to a different decision on social  
19 distancing, informed by children and which allowed them  
20 greater freedoms.

21 I would pause at this point, my Lady, to note that  
22 in his evidence yesterday Mr Drakeford suggested that  
23 CRIAs are business as usual. The experience of the  
24 commissioner is that even today, that is not the case,  
25 and in her written evidence, has provided recent

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1 **LADY HALLETT:** Thank you for your assistance, Mr Gardner.  
2 Very grateful.

3 Mr Jacobs.

4 **Closing statement on behalf of Trades Union Congress by**  
5 **MR JACOBS**

6 **MR JACOBS:** My Lady, in our opening submissions on behalf of  
7 the Trades Union Congress we suggested that the analysis  
8 within this module had to be set alongside the  
9 perspectives of earlier modules.

10 We suggested that identifying the weight of  
11 interests in play is important but that the real  
12 challenge which the Inquiry must illuminate is how best  
13 to chart a course through. And we suggested that the  
14 single greatest determinant of the impact of the next  
15 pandemic upon children and young people will be the  
16 effectiveness of the overall pandemic response across  
17 society.

18 My Lady, that all went to a central point: that to  
19 be meaningful, the findings and recommendations of this  
20 module must be properly set in the epidemiological  
21 realities of a pandemic.

22 What we say that means is as follows: first, there  
23 should be caution in minimising the potential role of  
24 restricting attendance at schools. Sir Gavin Williamson  
25 is a lone voice who suggests that the January 2021

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1 examples of decisions which lacked consultation and  
2 lacked a CRIA, long past the pandemic. The  
3 implementation gap does persist and these continuing  
4 failures must, it is submitted, be addressed by stronger  
5 and clearer statutory duties on the status of the UNCRC,  
6 the need for meaningful consultation, and engagement  
7 with children and young people, and a statutory  
8 requirement to consult and give due regard to the  
9 commissioner's views in any future pandemic and national  
10 emergency.

11 My Lady, to conclude, there's much to be admired in  
12 Wales and its legal policy and framework which is  
13 intended to protect children's rights, as well as in the  
14 openness of the Welsh Government to consultation and  
15 discussion. This said, had the legal and policy duties  
16 been fully and properly followed in Wales, the worst  
17 impact of the pandemic on children and young people  
18 would very likely have been mitigated. Had those  
19 protections been stronger such as by direct  
20 incorporation, the impact across Wales may have been  
21 mitigated even further.

22 My Lady, the commissioner thanks the Inquiry once  
23 again for the Inquiry's time and indeed thanks to the  
24 Inquiry team for its assistance throughout these past  
25 four weeks. I'm very grateful.

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1 closures were unnecessary, that safety measures in  
2 schools were sufficient, that the NHS would not have  
3 been overwhelmed.

4 The Secretary of State for Education at the time,  
5 making that argument, without articulating any realistic  
6 rationale, is unconscionable, because it wrongly tells  
7 children that their sacrifices in early 2021 serve no  
8 purpose.

9 Similarly, qualifying the significance of  
10 school-related transmission whether by considering the  
11 effectiveness of school closures as an isolated measure,  
12 which they are not, or by an artificial distinction  
13 between direct and indirect effects of closures upon  
14 transmission misses the real issue. The issue is  
15 whether restricting attendance is necessary in order to  
16 get the R rates below 1. To take Professor Whitty's  
17 phrase: are you content for the pandemic to carry on  
18 doubling?

19 Professor Viner gave some evidence on this issue.  
20 He made various observations about uncertainties of  
21 evidence and of transmission in schools being assumed  
22 when evidence was limited. We confess to finding it  
23 difficult to follow the thread of where his observations  
24 led. He accepted entirely that schools were places of  
25 transmission, that closures suppressed transmission and

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1 that the closures, both in March 2020 and January 2021,  
2 were necessary. When out in the wash, his evidence just  
3 concurs with the SAGE advice of the time.

4 Second, on the timing of school closures the  
5 position should be to avoid them if at all possible but  
6 to avoid recommendations that state or imply that that  
7 important imperative means closing schools at the last  
8 possible moment.

9 In a future pandemic, the very opposite may be  
10 necessary, whether to protect children and staff or to  
11 aim for avoiding harsher restrictions in the long run.

12 Third, set against the harsh epidemiological  
13 realities, the importance of ventilation and air quality  
14 reveals itself. My Lady, we wholeheartedly endorse the  
15 submissions made before the adjournment on behalf of the  
16 Clinically Vulnerable Families.

17 The apparent cause for caution on the issue is the  
18 evidential uncertainty as to quantifying the precise  
19 impact on transmission in the school setting but that is  
20 to hold ventilation to a curiously and uniquely high  
21 standard amongst NPIs.

22 As Dr Arora and Professor Noakes made clear, there  
23 is clear evidence from other settings that ventilation  
24 is an effective tool, and no reason to believe that air  
25 cleaning would be any different in terms of its effect

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1 physical safety of children and young people.

2 Safety of schools should be a determinative factor  
3 in the length of closures. Imagine, in that context,  
4 what would appear to be the absurdity of not having  
5 learned the lessons on ventilation.

6 Fourth, the importance of contingency planning. The  
7 'no plan B' approach was utterly wrong. Mr Johnson  
8 suggested that it only related to school closures. That  
9 too is wrong. The 6 August 2020 paper drafted by  
10 Department for Education officials was entirely  
11 sensible. It looked at an array of measures, including  
12 rotated attendance -- which, in the event, was never  
13 properly considered -- localised restrictions, and the  
14 role of test and trace.

15 It considered a framework for decision making that  
16 was to be shared with the sector and would be known to  
17 children and young people. It was rejected, it appears,  
18 by Sir Gavin and Mr Johnson. It was an appalling way to  
19 treat those in education and a recipe for chaos that  
20 followed.

21 We are also conscious, my Lady, that one vein of  
22 inquiry has been the input of education unions. The  
23 position of the NEU has been a focus, but the Inquiry's  
24 questioning of Mr Courtney did not engage with the  
25 national policy position of the NEU, instead focusing on

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1 on pathogens in schools.

2 Professor Noakes is confident that the Class-ACT  
3 Study in Bradford demonstrates that air cleaning units  
4 in classrooms can create substantial reductions in  
5 illness-related absence.

6 And consider some of the powerful reasons in favour.  
7 It will bring benefits outside of a pandemic: it will  
8 reduce missed days of school and improve concentration  
9 levels for children.

10 It is also particularly important, given the  
11 difficulty of some other NPIs in schools. As we have  
12 heard, schools are some of the most densely populated  
13 indoor spaces in society. Education involves being in  
14 classrooms, in high classroom numbers, for long periods  
15 of time. Social distancing can be a challenge in that  
16 setting. The staff and pupil population who deserve  
17 a safe environment, and who deserve an education, will  
18 include those who are clinically vulnerable.

19 Yet standards of ventilation in many schools are  
20 uniquely poor. Worse still, schools in disadvantaged  
21 areas typically have the poorest infrastructure.

22 And consider, my Lady, a next pandemic in which  
23 children are at comparatively higher risk and school  
24 closures are less a matter of suppressing community  
25 transmission and more a matter of concern for the

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1 an exchange of correspondence between local NEU  
2 representatives and Sir Jon Coles.

3 As we showed Sir Gavin Williamson, in August 2020  
4 the NEU supported reopening. It provided reassurance to  
5 its members that increased transmission following early  
6 reopening was modest, and it sought contingency  
7 planning. That was entirely reasonable.

8 We would also observe, my Lady, that the letter  
9 written by those local NEU representatives, contrary to  
10 Sir Jon Coles's characterisation of it, primarily  
11 focused on the question of school attendance and  
12 community transmission.

13 Read today, the views expressed are cogent, even  
14 more so given the letter was reason in May 2020.

15 Undeniably there is a pithy clarity to the  
16 observations made by Sir Jon Coles about school  
17 attendance and all moving on to a new normal. But might  
18 we suggest that his observations underplay some of the  
19 difficult realities and uncertainties of the time.

20 It is right that, at times, unions were voices of  
21 caution. That was for entirely appropriate reasons.  
22 The curious feature of this module approach is that such  
23 caution may jar in the context of this module. We  
24 suggest that in Module 2 it simply would have chimed  
25 with the concerns raised as to how we came to suffer

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1 such terrible loss of life.

2 There is obvious complexity to these issues, as  
3 my Lady observed this morning, and we are confident the  
4 Inquiry will not fall into a facile characterisation of  
5 any view pointing towards the epidemiological benefits  
6 of closures as being necessarily reached in ignorance of  
7 the interests of children.

8 It may well be, in the course of a fraught pandemic,  
9 that views expressed at certain points withstand the  
10 calm light of time less well than others, but to  
11 extrapolate from that some principled problem or  
12 conflict is wrong. As Mr Drakeford observed, he never  
13 believed that the education unions ever came thorough  
14 his door not alerted to the needs of the children that  
15 they were working so hard to serve. And my Lady, he was  
16 right.

17 We are grateful for the undoubtedly huge efforts of  
18 you and your Inquiry team, and for the opportunity to  
19 contribute towards this module.

20 Thank you.

21 **LADY HALLETT:** Thank you very much indeed, Mr Jacobs, as  
22 helpful as ever.

23 Ms Bicarregui (inaudible) I'm so sorry.

24 **Closing statement on behalf of the Welsh Government by**

25 **MS BICARREGUI**

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1 contrary, as you would heard from Mr Drakeford's  
2 evidence yesterday -- but the evidence as a whole  
3 suggests that the legal framework in Wales and the  
4 regular consultation with organisations whose duty it is  
5 to support children, including the Children's  
6 Commissioner for Wales, did result in decision making  
7 which considered the rights of children and young people  
8 during the pandemic.

9 In some cases, this led to different decisions being  
10 taken in Wales compared to the rest of the UK, and, in  
11 other cases, similar decisions being taken but, in the  
12 Welsh case, the government having considered the  
13 implications for children and young people carefully,  
14 substantively, and thought about mitigations.

15 As Mark Drakeford vividly described in evidence,  
16 when asked whether children's rights were considered, he  
17 said:

18 "... it's part of our culture to be thinking about  
19 these things. We don't rely simply on there being  
20 a document produced. It's part of the way we do our  
21 business ... the absence of a written document should  
22 not be taken as meaning that those involved in the  
23 decisions had no regard for the obligations we are  
24 under."

25 It was put to Mr Drakeford that some Core

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1 **MS BICARREGUI:** Not at all, my Lady, thank you.

2 I will be brief. The Welsh Government will be  
3 submitting a written closing statement which will engage  
4 in detail with the evidence and the recommendations  
5 which have emerged during the hearings and which are  
6 contained in the significant body of evidence that your  
7 team has gathered.

8 Four weeks ago, at the start of this module,  
9 I referred to the unique legal framework for children's  
10 rights in Wales at the time of the pandemic, the Welsh  
11 Government having formally adopted the UNCRC as the  
12 basis for the policymaking relating to children and  
13 young people as early as 2004, and from 2012, of course,  
14 introducing the Rights of Children and Young Persons  
15 (Wales) Measure 2011, placing a duty on Welsh ministers  
16 to have due regard to children's rights in all their  
17 actions and decisions.

18 And I accepted at that point, my Lady, that you and  
19 your team would be considering whether the legal  
20 framework had in fact made any difference to how  
21 children and young people's rights were considered and  
22 protected during the pandemic.

23 My Lady, the Welsh Government submits that the  
24 evidence taken as a whole -- and, my Lady, we're  
25 certainly not suggesting perfection here -- quite on the

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1 Participants considered that the due regard duties of  
2 Welsh ministers were not fully and properly followed by  
3 the Welsh Government throughout the pandemic and in  
4 response, my Lady will recall that he said that he could  
5 point to very direct practical examples from early on,  
6 I think he described April 2020, and throughout the  
7 pandemic, where the perspective of the UNCRC children's  
8 rights measure made a genuine difference to the  
9 decisions the government was making.

10 My Lady, some examples were given yesterday, but in  
11 our written submissions, we will set out a comprehensive  
12 list that we say -- where we say this made a difference  
13 throughout the pandemic.

14 My Lady, just to touch on full incorporation of the  
15 UNCRC as advocated by some Core Participants, there is  
16 a level of complexity to this which we'll touch on in  
17 our written submissions. The full incorporation cannot  
18 be achieved by the Welsh Government alone, because, of  
19 course, as you know, it can only legislate in respect of  
20 its own devolved powers, and there are other  
21 complexities where they don't have the same devolved  
22 powers as the Scottish Government, for example.

23 So full incorporation across all articles and across  
24 all sectors would, in our submission, require  
25 constitutional reform or, probably better, UK-wide

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1 legislation on this matter.  
 2 My Lady, the Welsh Government joins with the  
 3 Children's Commissioner for Wales in commending to the  
 4 Inquiry the social partnership model which during the  
 5 pandemic included the Shadow Social Partnership Council.  
 6 This was an invaluable means of listening to other  
 7 voices and perspectives, including representatives for  
 8 children and young people, before decisions were taken.

9 The Welsh Government considers that good decision  
 10 making needs challenge, needs different perspectives and  
 11 critical friends, some of whom are in this room,  
 12 particularly when those decisions need to be made  
 13 quickly. And in that spirit, our written closing  
 14 submissions will engage in detail with the specific  
 15 concerns of the Children's Commissioner for Wales, and  
 16 the recommendations she suggests, as well as those of  
 17 other Core Participants.

18 My Lady, the Welsh Government asks the Inquiry to  
 19 consider the recommendation of Heather Payne who is  
 20 Senior Medical Officer in the Welsh Government. She  
 21 recommends the establishment of an overarching  
 22 multi-agency children's advisory group to advise on the  
 23 potential impacts of any restrictions in response to  
 24 a health emergency on children and young people,  
 25 including the impact on maternity care, and that group,

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1 not tackled. They didn't end in May 2022. All  
 2 governments need to continue to focus on all those  
 3 children and young people, so from those born in 2020  
 4 through to those who were touching adulthood in 2020,  
 5 who continue to be impacted by the pandemic. And  
 6 thirdly, the pandemic-aggravated inequalities in  
 7 society, health inequalities, educational inequalities,  
 8 socioeconomic inequalities, and addressing systemic  
 9 inequalities is the most useful preparation for a future  
 10 pandemic.

11 My Lady, these four weeks have provided the Welsh  
 12 Government with a great deal to consider. We thank you  
 13 and your team, and we thank all of those who provided  
 14 evidence, some of those obviously at personal cost.

15 My Lady the Welsh Government has asked me not to  
 16 thank the children and young people of Wales and all of  
 17 the dedicated professionals who work with them again, as  
 18 I did at the beginning of these hearings. Instead,  
 19 my Lady, I'm asked to promise them that the evidence  
 20 from this module will be used by the Welsh Government to  
 21 make tangible changes. Diolch.

22 **LADY HALLETT:** Thank you very much indeed, I'm very  
 23 grateful.

24 Ms Drysdale.

25 **Closing statement on behalf of the Scottish Government by MS**

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1 my Lady, would include third sector organisations to  
 2 ensure that the voices of children and young people are  
 3 heard.

4 My Lady, I think this has some of the features of  
 5 the machinery of government to focus on children's  
 6 rights during an emergency which Mr Drakeford touched on  
 7 yesterday.

8 My Lady, although we've heard conflicting views over  
 9 the last four weeks, and there have been criticisms,  
 10 there have been concessions, there is a degree of  
 11 complexity in respect of balancing children and young  
 12 people's rights and needs to the extent that they do  
 13 conflict with public health imperatives at different  
 14 points of the pandemic, it does appear that a consensus  
 15 is emerging, perhaps I would be on safer ground,  
 16 my Lady, to say a weight of evidence is emerging, in  
 17 three respects: planning for the next pandemic needs to  
 18 include robust plans for remote learning if it becomes  
 19 necessary, with careful thought given sufficiently in  
 20 advance to the needs of disabled children and young  
 21 people, children and young people with special  
 22 educational needs, and vulnerable children, and all  
 23 governments should be doing this now.

24 The effects of the pandemic are enduring for  
 25 children and young people, and will persist if they're

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#### **DRYSDALE KC**

2 **MS DRYSDALE:** Good afternoon, my Lady. I appear on behalf  
 3 of the Scottish Government with Iain Halliday, and  
 4 Amelia Mah.

5 The Scottish Government agrees with Professor Davies  
 6 that children need to be considered in social policy and  
 7 they should be thought about differently. In light of  
 8 that, the Scottish Government welcomes the Inquiry's  
 9 investigation of the impact of the pandemic on children  
 10 and young people, in Module 8, as part of its commitment  
 11 to promoting and embedding children's rights.

12 The Scottish Government wishes to assist the Chair  
 13 in considering where support could be put in place to  
 14 mitigate the impacts of the next pandemic and to protect  
 15 children and young people in the future.

16 In this closing statement, I will address four  
 17 themes: school closures, foreseeability, recovery, and  
 18 children's rights.

19 Turning to the first theme, school closures. The  
 20 Scottish Government has ultimate responsibility for the  
 21 education and safety of children in Scotland, but  
 22 operational delivery is dependent on the actions of  
 23 local authorities, in accordance with statute. As  
 24 highlighted by First Minister John Swinney in his  
 25 evidence, the Scottish Government had no legal power to

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1 close schools and this was done by agreement on  
2 18 March 2020. Partnership was essential. Time was  
3 invested by the Scottish Government in creating  
4 a collaborative environment with local authorities in  
5 early 2020 to ensure that if it became necessary to  
6 close schools, there would be a broad consensus that  
7 this was appropriate.

8 The Inquiry has heard evidence from COSLA that a lot  
9 of information was communicated to local authorities by  
10 the Scottish Government. They were not kept at arm's  
11 length. One of the key strengths of the Scottish  
12 Government was partnership working, and there was  
13 a collective effort within the government itself. As  
14 Mr Swinney was both the Cabinet Secretary for Education  
15 and deputy First Minister, he was well placed to ensure  
16 a coordinated approach across government departments  
17 which put the interests of children and young people at  
18 the heart of decision making.

19 The Scottish Government accepts that, on reflection,  
20 it ought to have focused more on planning for school  
21 closures in early 2020, rather than primarily focusing  
22 on the sustainability of the education sector. It also  
23 acknowledges that in March 2020, the decision to close  
24 schools to the majority of children and young people had  
25 a significant impact on them. The decisions taken

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1 In 2021, following consultation with young people to  
2 hear their views, the 2021 exam diet was cancelled. It  
3 was announced that an ACM would be used, taking into  
4 account the Priestley recommendations. The SQA is  
5 currently being replaced by Qualifications Scotland as  
6 part of work on an education reform to take account of  
7 challenges following the pandemic, and to consolidate  
8 a change in practice and culture.

9 Moving to the second theme, my Lady, foreseeability.  
10 The Scottish Government recognises that school closures  
11 had an impact on all children. It was taking decisions  
12 on a prospective basis and it's potentially problematic  
13 to judge that retrospectively. The Scottish Government  
14 accepts that the educational impact and potential damage  
15 to the wellbeing of children from school closures were  
16 foreseeable but closures of scale and length which  
17 occurred were unforeseeable and unprecedented, as was  
18 the cancellation of exams.

19 The Scottish Government accepts that there should  
20 have been more preparation, planning and guidance for  
21 school closures in early 2020. Before making the  
22 decision to close schools, the Scottish Government did  
23 not know that the UK Government would later introduce  
24 the furlough scheme, which was not announced until  
25 afterwards, and it was concerned about closing schools

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1 reflected the pace of developments with the virus and  
2 the circumstances and understanding at the time.

3 In the second period of school closures in 2021, the  
4 Scottish Government took a different approach. It had  
5 learned lessons from the first lockdown. It took  
6 a phased approach informed by scientific advice. By  
7 January 2021, significant progress had been made in  
8 developing remote learning infrastructure.

9 Given the evidence that transmission and infection  
10 were lowest amongst the youngest children, early  
11 learning and childcare settings, and those in primary 1  
12 to primary 3 returned to school first alongside  
13 vulnerable children and selected senior phase learners  
14 working towards their exams.

15 The Scottish Government also learned from the  
16 experience of exam cancellation in 2020. At the time it  
17 respected the independence of judgement of the Scottish  
18 Qualifications Authority which certificated exams as an  
19 external body. It had commissioned the SQA to undertake  
20 an alternative certification model. It recognised that  
21 approaches were taken which caused uncertainty and  
22 anxiety for learners, and accepted the findings of the  
23 Priestley review.

24 An apology was offered direct to pupils and it  
25 rectified the situation.

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1 when parents had to go to work. Education was not  
2 operating in a compartment of its own but in the wider  
3 sector of public policy.

4 The initial school closures in March 2020 were  
5 carried out as an emergency measure on the advice  
6 of SAGE. There were few harm-free decisions open to  
7 decision makers, who were operating in an unknown  
8 environment, without full scientific knowledge of the  
9 risks from the virus.

10 Most decision makers were deeply committed public  
11 servants doing their best, but facing what Mrs Ford  
12 referred to as "lose-lose situations".

13 Once the initial decision had been taken to close  
14 schools, the Scottish Government took action to assess  
15 the wider impact of pandemic restrictions. It carried  
16 out a retrospective impact assessment on the closure and  
17 reopening of schools in July 2020, an approach  
18 Professor Turner recommended.

19 The Children's Rights and Wellbeing Impact  
20 Assessment recognised both the general negative impact  
21 on the learning and wellbeing of children and young  
22 people of closure, and the differential impacts on  
23 vulnerable and at-risk groups.

24 Moving to the third theme: recovery. The Scottish  
25 Government was acutely aware of the range and depth of

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1 impacts of the closure of schools. The need for  
2 a recovery strategy to mitigate and redress the negative  
3 impact on learning development was clear. But the  
4 Scottish Government did not adopt a narrow approach  
5 focused exclusively on learning; it recognised that  
6 a whole-systems approach was necessary.

7 When reopening schools, the Scottish Government  
8 advised schools not to mandate attendance, acknowledging  
9 that parents and learners may be concerned about the  
10 return to school.

11 On 17 December 2020, the Scottish Government  
12 published the 2021 national education improvement plan,  
13 which set out the priorities for Scottish education. In  
14 January 2021, the Scottish Government and  
15 Education Scotland jointly published an equity audit on  
16 the impact on children and young people from  
17 disadvantaged backgrounds.

18 A number of financial and practical measures were  
19 put in place to support education recovery.

20 Significant efforts are being made in order to  
21 assist children and young people to recover from the  
22 impacts of the pandemic. It is recognised that there is  
23 further work to be done, and the Scottish Government  
24 remains committed to addressing the impact of the  
25 pandemic.

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1 from the Chair in order to mitigate the impact of any  
2 future pandemic on children and young people, to the  
3 extent that it is possible to do so.

4 It accepts the importance of engagement with all  
5 groups across society in preparation for the next  
6 pandemic, and tackling health inequalities, including  
7 child poverty.

8 It also recognises that more could have been done to  
9 listen to the voices of children and young people during  
10 the pandemic, including those groups who are seldom  
11 heard.

12 Following incorporation of the UNCRC, the  
13 Scottish Government is committed to ensuring that the  
14 voices of children and young people are central to  
15 decision making. It agrees with Dr Delgado that  
16 listening to the voices of children and young people and  
17 families and organisations representing them is key.

18 Thank you, my Lady.

19 **LADY HALLETT:** Thank you very much indeed, Ms Drysdale.

20 Ms Ward.

21 **Closing statement of behalf of the Department for Education**  
22 **by MS WARD KC**

23 **MS WARD:** My Lady.

24 The Department for Education has listened, both to  
25 its representatives in this room, and the many others

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1 Turning to the final theme, children's rights. The  
2 Scottish Government agrees with Dr Delgado that we  
3 should involve children and young people in the design  
4 of research on mitigation measures or interventions.

5 The Scottish Government has reflected on the impact  
6 of the pandemic on children and, since then, has  
7 strengthened their rights by directly incorporating the  
8 UNCRC into domestic law, within the limits of devolved  
9 competence.

10 This was done to deliver a proactive culture of  
11 everyday accountability for children's rights across  
12 public services in Scotland. The Scottish Government  
13 has had a national play strategy since 2013, which  
14 recognises that play supports children's rights and  
15 wellbeing. It also has a national approach and  
16 framework for children in the form of 'Getting it right  
17 for every child', GIRFEC. This is Scotland's  
18 longstanding national commitment to provide all children  
19 and their families with the right support at the right  
20 time. The rights-based holistic approach lies at the  
21 heart of all policies impacting children.

22 My Lady, in conclusion, the Scottish Government has  
23 listened to all the evidence in the Module 8 hearings  
24 and recognises that there are lessons to be learned. It  
25 welcomes the recruits of the Inquiry and recommendations

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1 who are following online and receiving daily updates.  
2 It has listened with interest, with care and with  
3 concern to all of the evidence that has been presented  
4 to you in this module.

5 I don't need, in these closing submissions, to  
6 rehearse that evidence. The pandemic's impacts on  
7 children are at the forefront not just of the  
8 department's approach to the Inquiry and its preparation  
9 for any future pandemic or similar emergency, but  
10 fundamentally to the work the department is doing every  
11 day to ensure that services for children and young  
12 people address the needs they have now, whether those  
13 can be linked directly to the pandemic or not.

14 We recognise, of course, that there are strongly  
15 held and in many cases very valid concerns about  
16 decisions that were taken in response to the pandemic,  
17 including in areas within the department's remit.

18 I do need to say at the start that whilst many of  
19 the decisions that were taken were, in some cases,  
20 incredibly difficult judgements, with, as has been said  
21 on many occasions, no good options available, it is, as  
22 you observed this morning, not quite right to view them  
23 as somehow setting up a binary competition between  
24 children's interests and those of the rest of society.

25 Children were, in general, less likely to suffer

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1 serious illness as a result of Covid-19, but even if  
2 they were at low risk from the virus, it was not in  
3 their interests, any more than it was in the interests  
4 for adults, for the pandemic to be prolonged or for  
5 infection and death rates to be higher than they were.

6 When measures necessary to contain the pandemic had  
7 adverse impacts on children, their interests still did  
8 not point in only one direction, ie against the  
9 imposition of those measures.

10 The department has been clear in its written and  
11 oral evidence, and in our opening submissions, that it  
12 accepts that there was not sufficient planning for the  
13 impact of a lockdown on children, in particular for  
14 large-scale restriction on attendance at schools, both  
15 in terms of how education could be delivered in that  
16 eventuality and in terms of the wider role that school  
17 fulfils in children's lives, including as a place of  
18 safety, of respite, and of course the main place where  
19 they are seen by adults outside the home.

20 In terms of lessons learned, the Inquiry can be  
21 absolutely confident that this one has been taken to  
22 heart. You have evidence from Ms Acland-Hood, who is,  
23 I should say, the current Permanent Secretary of the  
24 Department for Education, that the department has both  
25 significantly strengthened its own capabilities,

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1 responsibilities lie within the system and why is  
2 crucial to an analysis of how things could be done  
3 better.

4 The autonomy and accountability of local authorities  
5 and schools in delivering social care and education is  
6 a feature of the system, not a bug. The system is  
7 designed to put as much decision making as possible in  
8 the hands of those closest to the children it serves.

9 The role of the department is not to dictate the  
10 detail of day-to-day practice to teachers or social  
11 workers but to set and to operate a framework that  
12 enables good practice and self-improvement. Its levers  
13 for doing this are primarily through legislation and  
14 guidance.

15 So dealing firstly with guidance, there's always  
16 a tension as to the extent to which it can or should  
17 seek to deal with every eventuality as opposed to the  
18 extent to which it allows professional judgement by  
19 those who know children best.

20 The fact that it does not lead to complete  
21 uniformity of practice is not of itself problematic. As  
22 Ms Morris put it, it may demonstrate somebody finding  
23 just as effective a way to do what needs to be done  
24 locally.

25 The department does of course recognise that

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1 including through developing playbooks for responses to  
2 risks such as infectious diseases, and that it has  
3 ensured that it is now firmly embedded in conversations  
4 across government on resilience, so that the interests  
5 of children and young people are now fully represented  
6 at the table.

7 The department is not complacent. It continues to  
8 look at where it can further strengthen its emergency  
9 planning function and following its participation in  
10 Exercise Pegasus this month, it is now in a position to  
11 be starting a process of engaging with the sector,  
12 including representatives of children's voices, to take  
13 this planning forward in partnership with them.

14 If -- and of course we all fervently hope this is  
15 not the case -- the closure of schools were to become  
16 necessary in the future, the risks and available  
17 mitigations will have been thought through and planned  
18 for so far as that is possible.

19 Of course, the Inquiry will also need to wrestle  
20 with some very difficult issues concerning the measures  
21 that were in fact taken during the specified period and  
22 the lessons that can be learned from those.

23 Before turning to the specifics, it's worth just  
24 saying a little about the context, about how the systems  
25 concerned work, because a clear understanding of where

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1 a higher degree of central command and control may be  
2 necessary during a pandemic and it accepts that some of  
3 its guidance could have been better and clearer. It has  
4 certainly been clear from some of the evidence you have  
5 heard that it was not always understood in the way that  
6 it was intended.

7 There is, however, a need to guard against a reading  
8 that suggests that because social workers were not  
9 expressly directed to do something, or the guidance  
10 could have been read as saying they were not required to  
11 do it, that the profession would then have reacted by  
12 acting in any way other than what they judged to be in  
13 the best interests of the children they work with.

14 You heard evidence, for example, from the Director  
15 of Children's Services at Kent County Council about how  
16 all children were RAG rated, how many received more  
17 visits than they would have done in normal times.

18 You also have a considerable body of evidence in the  
19 Local Government Association survey about changes to  
20 social work practice, and we'll address that in more  
21 detail in our written closing, but in general it  
22 supports the other evidence you have heard about the  
23 profession acting responsibly and, for example,  
24 reductions in visits and increased time between visits  
25 being more limited than has perhaps been suggested.

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1 The department also accepts that particularly in the  
2 early part of the pandemic, more could have been done to  
3 ensure that the voices of those outside government, who  
4 speak on behalf of children, were fed into decision  
5 making. That was not a function of not being interested  
6 in those voices, but about the inevitable speed at which  
7 decisions were being taken, coupled with the lack of  
8 planning and therefore the loss of opportunity to  
9 involve those organisations more in slower time, and as  
10 I've said, that is being done now.

11 That lack of input was perhaps felt most keenly in  
12 relation to the statutory changes that were made  
13 affecting both how they were understood in the sector  
14 and the way in which they were viewed as a threat to  
15 children's rights, which was never the intention.

16 The department does not accept that the rights of  
17 children and young people were routinely overlooked or  
18 undermined. They were certainly front and centre in  
19 decisions that were taken within the Department for  
20 Education.

21 There is obviously scope for different views about  
22 how best to meet and serve children's needs, but they  
23 were not ignored.

24 We'll of course address the detail of the  
25 legislative changes in our closing written submissions,

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1 The discretion given to schools to identify other  
2 children who would particularly benefit from being in  
3 school was deliberately broad and was designed to ensure  
4 that decisions were made by those who know children best  
5 and were best placed to judge, rather than attempt to  
6 prescribe an exhaustive list that would, by definition,  
7 not have included all those who needed it most.

8 But that attendance policy did not exhaust the  
9 Department's understanding of children who were or may  
10 be vulnerable, and did not define the scope of the work  
11 of the Vulnerable Children's Unit, which took a much  
12 broader approach to the term, that was broadly in line  
13 with that of the Children's Commissioner.

14 So, finally, in terms of issues, a number of  
15 Core Participants have suggested to you, or are going to  
16 suggest to you, that measures such as incorporating the  
17 United Nations Convention on the Rights of the Child,  
18 requiring children's rights impact assessments across  
19 government, or the appointment of a children's minister,  
20 would have made a material difference in the course of  
21 the pandemic.

22 Now, it is not really for the department to take  
23 a position on potential primary legislative change. In  
24 the spirit of constructive engagement, it is worth  
25 flagging that amendments that sought incorporation of

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1 but in assessing the impact of those changes, we would  
2 urge the Inquiry to look at the evidence of what  
3 happened on the ground, and to consider what further  
4 steps could have better ensured the safe delivery of  
5 essential services, including, but very much not limited  
6 to, those that were the subject of legislative  
7 intervention.

8 For example, the British Association of Social  
9 Workers made a very valid point about the need to  
10 consider how social work could be safely practised in  
11 the same way as was done for medicine. That is  
12 something that warrants further consideration and  
13 planning for a future pandemic.

14 Just two further issues, if I may. The department  
15 fully appreciates the challenges in identifying the  
16 vulnerable children, and it acknowledges the concerns  
17 regarding the use of that term, and we'll address that  
18 further in writing.

19 In practice during the pandemic, the term was used  
20 to mean at least two different things. The guidance on  
21 school attendance focused on two groups of children  
22 about whom it was known either that there was very  
23 likely to be a risk to them from being out of school, or  
24 that they had significant education, health or care  
25 needs.

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1 the UNCRC in various ways, at least insofar as functions  
2 under the Children's Wellbeing and Schools Bill are  
3 concerned was debated in the House of Lords, and  
4 ultimately the amendments were withdrawn, as recently as  
5 18 September, and those making written submissions may  
6 wish to have a look at that debate.

7 On the machinery of government, so children's  
8 minister, impact assessment points -- which are both  
9 ways, of course, of seeking to ensure a focus on  
10 children in cross-government decision making -- the  
11 Inquiry will no doubt have in mind the evidence of  
12 Ms Morris about what would actually have made  
13 a difference in her role as the senior responsible  
14 officer for vulnerable children, and that was a named  
15 person with responsibility in each department.

16 Sir Gavin Williamson, who described himself in  
17 evidence as being the secretary of state for children,  
18 said in answer to questions from the Children's Rights  
19 Organisations that:

20 "We certainly pushed but we were one voice amongst  
21 many ... So you would have different secretaries of  
22 state ... pursuing different agendas."

23 The evidence that simply giving someone the title  
24 "Minister for Children" would of itself solve any issues  
25 is hard to discern. What is undoubtedly needed is

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1 awareness across government of the need not only to  
2 consider children but to involve in decision making  
3 those who are able to identify and advocate for their  
4 interests.

5 Then, finally, on impact assessments, you have heard  
6 from Ms Acland-Hood that the department does use  
7 children's rights impact assessments and finds them  
8 a helpful tool in many circumstances, but also that what  
9 is most important is ensuring that those things that are  
10 really capable of making a difference in the presenting  
11 circumstances are brought to the attention of decision  
12 makers. So prescribing a requirement for children's  
13 rights impact assessment in every situation may or may  
14 not be the most effective way of ensuring that, as she  
15 put it, in the moment of making those very difficult  
16 decisions, there is a remorseless focus on the really  
17 big, serious impacts that might genuinely shift decision  
18 making.

19 Ultimately, the best time to plan to consider  
20 potential impacts and to build the relationships  
21 necessary to ensure the best possible outcomes for  
22 children in a future pandemic or civil emergency is now.  
23 And the department is committed to doing that.

24 It remains only to reiterate the department's thanks  
25 to the teaching and social care workforce for their

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1 And that completes the oral hearings for Module 8,  
2 the devastating impact of the Covid-19 pandemic on  
3 children and young people.

4 The evidence was at times distressing, but together,  
5 we have investigated thoroughly the complex issues  
6 raised, and all the evidence, written and oral, will  
7 help me, with the assistance of my team, to formulate my  
8 findings and recommendations.

9 As with all the modules, work will now begin in  
10 earnest on writing the report.

11 The next report for the Inquiry to be published is  
12 for Modules 2, 2A, 2B and 2C, key decision making across  
13 the United Kingdom, and that is coming out on  
14 20 November 2025.

15 Other reports will then follow for subsequent  
16 modules and they will be published at intervals  
17 throughout 2026. Any remaining reports will be  
18 published in the first half of 2027. I repeat my  
19 promise that we shall publish all reports as soon as we  
20 reasonably can.

21 Finally, I should like to echo Ms Dobbin's thanks  
22 and indeed the thanks of many of the advocates for the  
23 Core Participants, thanks to all those who have  
24 contributed to these oral hearings and that have helped  
25 to bring them to a successful conclusion, with

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1 extraordinary efforts during the pandemic., to the other  
2 Core Participants for the constructive way they've  
3 approached this Inquiry, to the Inquiry itself and the  
4 team led by Ms Dobbin for conducting this important  
5 investigation. And it's appropriate that some of the  
6 last words spoken in this module are to thank and to  
7 acknowledge children and young people themselves, whose  
8 experiences, rights and needs must always be the subject  
9 of our fullest attention.

10 Thank you, my Lady.

11 **LADY HALLETT:** Thank you very much for your help, Ms Ward.  
12 I'm very grateful.

13 Ms Dobbin, I think that completes the business for  
14 these hearings ...

15 Sorry, did I catch you by surprise?

16 **MS DOBBIN:** You did.

17 Yes, my Lady, I think it does.

18 **Closing remarks by THE CHAIR**

19 **LADY HALLETT:** Thank you very much indeed.

20 Ms Ward has just mentioned constructive engagement,  
21 and, I have to say, I've been extremely impressed by the  
22 extent of constructive engagement in this module. So  
23 thank you to all those who have made oral submissions  
24 and/or supplied written submissions. I will consider  
25 them all with great care.

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1 particular thanks to the Core Participants and their  
2 legal teams, and the largely invisible teams who support  
3 them and me and my team, and keep us all on track. We  
4 couldn't have done it without you, and may I end with  
5 a hope that those advocates I've had to cut short on  
6 occasion will forgive my interventions.

7 Thank you all very much indeed, that completes the  
8 hearings for Module 8.

9 **(2.47 pm)**

10 **(The hearing for Module 8 concluded)**

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