

---

CLOSING SUBMISSIONS FOR MODULE 8 (CHILDREN AND YOUNG PEOPLE)  
ON BEHALF OF “THE CHILDREN’S RIGHT ORGANISATIONS” (CROs):  
THE SAVE THE CHILDREN FUND, JUST FOR KIDS LAW, THE CHILDREN’S RIGHTS  
ALLIANCE FOR ENGLAND, THE CENTRE FOR YOUNG LIVES, AND  
CHILD POVERTY ACTION GROUP

---

1. *“The decisions to close schools and early years provisions to most children and to implement a lockdown were steps taken to protect the adult population. They brought ordinary childhood to a halt.”<sup>1</sup> Yet when Indra Morris asked a Cabinet meeting in the pandemic; “What about children?”, the response was that “we’re focusing on a health pandemic”.<sup>2</sup> The minutes from the Cabinet meetings demonstrate that the rights and interests of children were rarely mentioned when the most important Covid-19 decisions were taken. Children were primarily viewed as potential vectors for disease transmission, particularly in the context of decisions to close schools.*
2. The Inquiry found in Module 2 that children were not always prioritised, and that governments in the UK failed to consider the consequences of school closures for children’s physical and mental health.<sup>3</sup> The CROs submit that the consequences of a wide range of other decisions on children were also neglected or ill considered. These included those about health - where health visitors and paediatricians were redeployed; economic decisions - where extra financial support provided to families did not account for children; and in the scientific analysis - where there was no separate modelling to explore a different approach for children.
3. We are grateful to the Chair and the Inquiry team for dedicating a module to children, for allowing children and young people to participate in the module through the Voices’ Report,<sup>4</sup> for our organisations’ designation as core participants, and for expanding the terms of reference to include the experiences of young people and the unequal impact of the pandemic. The evidence clearly shows that children were disproportionately impacted and the most vulnerable children experienced the most severe impacts.
4. In any emergency tough calls will need to be made, but the evidence demonstrates that many of the impacts on children and young people of the decisions were not necessary or inevitable but rather were unintended consequences that were rarely

---

<sup>1</sup> Module 2 Report: Core decision-making and political governance, page 84 para 10.89

<sup>2</sup> [9/5/8-11]

<sup>3</sup> Module 2 Report: Core decision-making and political governance, pages 9-10

<sup>4</sup> Children & Young People’s Voices Project: Full report: INQ000587936

considered or thought through. It is for that reason we say that children were structurally invisible to key decision makers responding to Covid-19.

5. We recognise that compared with adults, relatively fewer children died of Covid, and fewer children suffered from the other effects such as Long Covid. We nevertheless wish to acknowledge those children who did, sadly, lose their lives, and those children who have suffered greatly due to Long Covid. The CROs consider that the report from this Module will be an important recognition of those children and families who suffered and continue to suffer those great losses.
6. The CROs accept that in order for the virus to be controlled, and in order to protect lives, the whole population had to make sacrifices, including children. Many children are proud of the sacrifices they made to help protect their families, their loved ones, and indeed the NHS and others unknown to them. But what they were entitled to was a government who fully considered the impact of those measures upon them and treated them fairly. They were entitled to appropriate support where possible, and for mitigations to be put in place to protect them as far as possible from harms caused both by the virus and by the measures themselves. That did not happen systematically. The evidence shows that the rights and needs of all children, especially children in prison, children in care and children in poverty, were all too often ignored, overlooked or simply forgotten. Children were failed by key decision makers and for that they deserve an apology.<sup>5</sup>
7. The Inquiry, and these submissions, necessarily focus on the events and decisions that occurred within the specified period. However, the pandemic did not occur in a vacuum: the lack of priority given to decision-making about children was a structural problem that pre-dated the pandemic and helps explain why the effects on particular groups of children were so severe. It is therefore of relevance that:
  - a. Nearly a third of children in the UK were growing up in relative poverty when the pandemic struck;
  - b. Children were and remain structurally disadvantaged. Particularly in England where there are very adult-oriented systems, institutions and attitudes towards issues that impact children, and children are often viewed in terms of how they will become productive adults.<sup>6</sup> Children are given a low priority in society;<sup>7</sup>

---

<sup>5</sup> Baroness Longfield [4/96/10-12]

<sup>6</sup> Statement of Daniel Paskins, Save the Children UK: INQ000651556\_0005 para 16

<sup>7</sup> Professor Turner [7/69/11-15]

- c. Support services for children had suffered from years of underfunding, leading to them being ill-prepared for an emergency: one example is the reduction in the number of health visitors by 30% from 2015 to the start of the pandemic.<sup>8</sup>
- d. Prior to the pandemic both health outcomes for children and investment in child health were “*going in the wrong direction*.”<sup>9</sup>

These submissions will deal first with some of the key factual findings that flow from the evidence, and second the recommendations that are required to better protect children and young people and avoid a repeat of the same mistakes.

## **Section 1: Factual Background**

8. We ask that the Inquiry make five key overarching findings:
  - a. First, children overall were more negatively impacted than was necessary to address the public health emergency: while emergencies by their very nature will usually result in some negative impacts to children, many of the decisions taken caused unnecessary harm to children, or harm that was disproportionate to the intended outcomes.
  - b. Second, children were disproportionately impacted compared to adults by governmental decisions, including Non-Pharmaceutical Interventions (“NPI”s).
  - c. Third, not only were the harms unnecessary or disproportionate, but in many cases the harms caused to children were not fully considered in decision making processes. These were often foreseeable harms, frequently predicted by many in the children’s sector including the CROs, but overlooked by those in power. This often meant that little or no mitigations were put in place.
  - d. Fourth, this lack of proper consideration was a structural and systemic issue that predated the pandemic. This included a lack of statutory child rights protections, and a lack of structure to support consultation with a broad range of civil society organisations and professionals and meaningful participation with children and young people. Whilst there has been some recent improvement on engagement with civil society through steps taken such as the civil society covenant – in the main, these structural problems persist.
  - e. Finally the impact on children was universal but not uniform. In addition to the four other overarching findings, we ask the Inquiry to explicitly recognise that the most vulnerable children were particularly disadvantaged by all of the above four issues in being the most overlooked, and suffering most, from the poor decision-making. There were a number of sometimes intersecting

---

<sup>8</sup> Alison Morton [7/134/18-20]

<sup>9</sup> Professor Turner [7/69/22-25]

factors that meant that certain groups of children were more vulnerable, this included children living in poverty and those from racialised backgrounds, and those who are care-experienced.

9. As the Module 2 report notes, children from a racialised background were more likely to have a parent or family member die or become seriously ill, more likely to be in poverty and more likely to be in care or in prison. Some of the most vulnerable children are those in the care of the state, whether in the care of a local authority, in the custodial estate or in psychiatric or other detention. They are the most exposed to state failures, including in times of emergency.
10. Approximately a third of the UK's children were living in relative poverty in 2020.<sup>10</sup> The additional burdens faced by those families were also poorly recognised and the pandemic exacerbated existing hardships. This resulted in children in poverty being disproportionately impacted.
11. We explore these five propositions below, focusing on the most vulnerable children. This is not intended to be an exposition of the lives of all 14 million children during this period, but examples of some areas where the State's failures hit the hardest. Cutting across all of these areas, was, for the majority of children, the closure of schools. Those closures ripped away a safe place for many, a place where friendships were made and sustained, a place where the worst effects of poverty can be mitigated, and where education and development was fostered. We have not concentrated on school closures in these submissions, despite the fundamental importance schools played in most children's lives, and despite the profound failures of government about which the Inquiry has heard significant evidence, because the submissions are necessarily limited in length and because a narrow focus on schools obscures the reality of how little children were considered more widely across Government during the pandemic. Instead, we have addressed four areas of key importance to the most vulnerable children: play, prisons, poverty and the protection that social care should have provided.

### Play

12. Play is an essential activity for children, it is fundamental to their wellbeing, resilience, development and it is how they exercise. It is also how they learn, as children learn most effectively through play. Outdoor play is of particular value. This is recognised by play experts, by child development experts,<sup>11</sup> it has been recognised by this Inquiry in the Module 2 report (at paragraph 10.91) and is recognised and

---

<sup>10</sup> Statement of Kate Anstey: INQ000650990\_0014

<sup>11</sup> Statement of Professor Davies: INQ000587957; Statement of Professor Taylor-Robinson: INQ000280060

- enshrined in the United Nations Convention on the Rights of the Child (“UNCRC”) at Article 31. There is no evidence to suggest, however, that it was recognised in any meaningful way by the UK Government at any point during the specified period.
13. Play differs from socialisation; children can play alone, assuming appropriate supervision. The UK Government could have acknowledged and promoted the many benefits of playing outdoors – even if that had to happen within households at certain points in time. Instead, this was discouraged and prohibited.
  14. However, socialisation and play with other children is *also* important, and children’s need to socialise differs from adults: it is beneficial for healthy development to interact and play with a wide range of adults and, especially peers or other children.
  15. Whilst all children suffered from the restrictions, those without private gardens suffered more from the lack of access to outdoor space, those living in overcrowded or otherwise difficult conditions were likely to feel an even greater need to leave the house. Additionally, the Inquiry heard evidence from Playing Out that in their experience *“it was families who were already more [...] unequally impacted [...] maybe those who were living in flats with no gardens [...] who were particularly fearful of the consequences of breaking the rules and things like even being fined.”*<sup>12</sup> This was therefore a much greater issue for those living in poverty.
  16. Children’s play and opportunities to socialise were restricted or curtailed across the specified period, and during much of this time children were also coping with school closures:
    - a. Outdoor playgrounds were closed until 4 July 2020 across the UK. Playgrounds were then subject to stringent re-opening conditions,<sup>13</sup> meaning many did not reopen or reopened only to close again. This led to 74% of councils in England and 73% in Wales restricting children’s access to outdoor play spaces.<sup>14</sup>
    - b. The limitations on leaving the house during the three national lockdowns and the various local lockdowns allowed for exercise, but government never clarified that children were allowed outdoors to play by themselves, and that play included activities such as climbing a tree or building a snowman. Nor was it clarified that adults could supervise play. This led to many children staying indoors or being sent home by the police for kicking a ball around a park.<sup>15</sup> This was despite numerous experts asking the government to clarify

---

<sup>12</sup> Alice Ferguson [2/94/20-24]

<sup>13</sup> Guidance to from the Ministry of Housing, Communities and Local Government: INQ000626091

<sup>14</sup> Research report from the Local Government Association dated February 2025 INQ0000546957\_0163

<sup>15</sup> Alice Ferguson [2/93/13-2/94/1]

- the regulations.<sup>16</sup> Children living in areas of the country where there were local lockdowns spent even longer periods of time unable to leave the house.
- c. The rules on interhousehold mixing disproportionately impacted children. At their most stringent, these rules meant that only one person could meet one other person from a different household. This allowed adults to meet their friends, but not children who were too young to leave the house independently. Social “bubbles” were created that allowed single adults and/or single parents to form self-contained groups and later childcare bubbles were introduced. No equivalent “only child” bubbles were ever introduced. An only child had no entitlement to see other children, whilst single adults were allowed to form a “bubble” to see friends. This disproportionality was set out in more depth in the CROs closing submissions for Module 2.
  - d. Whilst pubs and other *indoor* activities primarily benefiting adults reopened on 4 July 2020, many children’s *outdoor* activities remained prohibited,<sup>17</sup> including outdoor sports and play streets.<sup>18</sup> Indoor activities for children were restricted for even longer, for example soft play areas did not reopen until 15 August 2020,<sup>19</sup> and only if they followed new guidelines that many found impossible.<sup>20</sup>
17. Whilst everyone was subject to various restrictions, exemptions were made for certain groups – some witnesses have described this as the government having a “budget of risk”. The UK Government chose to spend that budget largely on the economy and on allowing limited socialisation for adults without giving adequate thought to children’s needs for play and socialisation. The Inquiry heard former PM Boris Johnson accept that, in hindsight, more of that budget should have gone to children<sup>21</sup>.
18. The position varied across the devolved administrations. Scotland amended the rules on social distancing and interhousehold mixing for children. For example, in Scotland children under 12 were exempted from social distancing requirements from 3 July 2020<sup>22</sup> and then from all rules on interhousehold mixing on 25 September 2020.<sup>23</sup>

---

<sup>16</sup> Alice Ferguson [2/94/12-2/95/2]

<sup>17</sup> Health Protection (Coronavirus)(Restrictions)(England)(No2)Regulations 2020

<sup>18</sup> Alice Ferguson [2/109/20-24]

<sup>19</sup> Statement of Elizabeth Ketch: INQ000652113\_0042

<sup>20</sup> Letter to Professor Dame Jenny Harries: INQ000611050; Statement of Elizabeth Ketch INQ000652113\_0042

<sup>21</sup> [14/89/18-14/90/3]

<sup>22</sup> Article from Play Scotland: INQ000650728

<sup>23</sup> Health Protection (Coronavirus)(Restrictions and Requirements)(Scotland) Amendment Regulations 2020: INQ000183153

Both Scotland and Wales have a play strategy and Scotland “very clearly sent a message that it was important and good for children to play out.”<sup>24</sup>

19. Scotland and Wales both introduced certain exemptions for children’s sport. For example, in Wales in December 2020, there were limits on the numbers playing organised sport which did not apply if the organised activity was specifically for the wellbeing or development of children.<sup>25</sup> Similarly in Scotland from 31 August 2020 children were exempt from some of the restrictions on sport.<sup>26</sup> No similar exemptions were made in England or Northern Ireland.

#### Protection and Prospering: Social Care

20. Leading up to the pandemic, services for the most vulnerable children were already under significant strain due to a decade of austerity, with 1.9 million children living in “high risk households”, 400,000 children in need, 80,000 children looked after, and 350,000 children with an Education Health and Care Plan.<sup>27</sup> Between 2010-2020, there was a 4% increase in children in need, 125% increase of child protection referrals, 32% increase of child protection plans, 24% increase of looked after children, and 5% increase in general referrals to children’s services. All while the UK Government cut local authority funding.<sup>28</sup>
21. The disinvestment in many services that matter to children, including early intervention, health visiting and social care, coupled with increased need, meant that services had been under more pressure leading up to the pandemic. The dismantling of early intervention approaches had led to an increase in complexity of referrals to services<sup>29</sup> and “more expensive, more stressful and more intrusive” interventions<sup>30</sup>.
22. The pandemic heightened risk to children due to increased pressures at home and lack of external support, from schools and other services. Despite this, in the specified period there was a drop in referrals to children’s social care<sup>31</sup> due to school closures, and the redeployment of health visitors and the move to online appointments for social workers, GPs and other services. This was major safeguarding problem and reduced the early identification of developmental or other health issues.<sup>32</sup> There was a shift from schools and the NHS making referrals to the police. However, the referrals became more complex and serious, and indicated an

<sup>24</sup> Alice Ferguson [2/96/7-8]

<sup>25</sup> Guidance from Welsh Government dated 10.12.2020: INQ000081595\_0043-0044

<sup>26</sup> Briefing from Scottish Government from March 2021: INQ000569854\_0003

<sup>27</sup> INQ000267997

<sup>28</sup> INQ000571003

<sup>29</sup> INQ000587957

<sup>30</sup> Professor Davies [2/130/21-25]

<sup>31</sup> INQ000553793

<sup>32</sup> Professor Davies [2/142/24-2/143/1]

- increase in criminal exploitation. With fewer referrals, there were fewer proceedings, fewer child protection plans, and fewer children in care. In addition, there was nowhere to signpost families and children as the agencies that authorities relied on had closed.<sup>33</sup>
23. The increased risk to children was predictable and predicted.<sup>34</sup> It was repeatedly drawn to government's attention by various organisations, including the CROs. Yet there appears to have been no plan by the UK Government to manage the increased risk, along with the decrease in visibility of the most vulnerable children. Instead the statutory duties to protect children were weakened.<sup>35</sup>
  24. To compound these issues, the government scrambled to obtain data on the impact of the restrictions on children in contact with children's services. The DfE survey of local authorities in England<sup>36</sup> had varying response rate by authorities and changed questions over time, preventing accurate analysis. The data captured was blunt and lacked quality. For instance, authorities were asked only whether a child had had contact with a social worker in the last four weeks, which could include only a text message. The data showed 30% decline in children entering the care system, 15% decline in referrals and with fluctuating contact with children.<sup>37</sup>
  25. There was no qualitative data on children "in care", care leavers, contact with advocates, or the ability to make complaints. There was no data on the use by local authorities of "unregulated" (illegal) accommodation.<sup>38</sup> The DfE could not be satisfied that children were being protected whether living within their families or in care, nor what the quality of care was like. In the meantime, Serious Incident Notifications increased<sup>39</sup> and there was a 25% increase in calls to the NSPCC from March 2020 which persisted during lockdowns.<sup>40</sup> There was no data obtained from local authorities around children at risk referrals from prisons or secure training centres, where children were locked in their cells unoccupied in excess of 23 hours per day.
  26. It was therefore more concerning that in this context, OFSTED ceased all inspections from March until September 2020, resuming full inspections in April 2021.<sup>41</sup>
  27. On top of these difficulties, there was significant redeployment of staff from already stretched children's services. Professor Davies highlighted the redeployment of

---

<sup>33</sup> INQ000530406

<sup>34</sup> Professor Davies [2/143/7-23]

<sup>35</sup> Statement of Caroline Willow: INQ000588071\_0036-0037

<sup>36</sup> INQ000542873

<sup>37</sup> INQ000624582, INQ000624581, INQ000643382, INQ000598394, INQ000541109, INQ000513526, INQ000541111, INQ000513529, INQ000498670, INQ000541150

<sup>38</sup> INQ000623381

<sup>39</sup> INQ000546826

<sup>40</sup> INQ000620569

<sup>41</sup> INQ000571003

health visitors as one of the two decisions that had the biggest impact on young children under the age of 5.<sup>42</sup> The Inquiry heard about therapists being redeployed for vaccinations, health visitors and paediatricians being redeployed, sometimes being asked to do things they had not been trained to do<sup>43</sup> or to purely administrative functions.<sup>44</sup> Re-deployment had a serious impact on an already fragile and reduced workforce. Whilst Professor Turner from the Royal College of Paediatrics and Child Health (RCPCH) accepted that some redeployment was inevitable in the early weeks, services were slow to return to normal, and he told the Inquiry that after the first "stormy 3 months" there was little reflection to consider "*what have we learnt?*", "*what harm are we doing to children*" and what redress should be made.<sup>45</sup>

28. Unsurprisingly there were plethora of harms caused to children by these measures. Some limited examples put in evidence for the Module include:
  - a. Nuala Toman of the Disabled People's Organisations told the Inquiry that the reduction in entitlement for disabled children led to serious regression for some individuals and to the further invisibility of such children.<sup>46</sup>
  - b. The number of non-accidental injuries and other harms to children increased by 27% in the first lockdown.<sup>47</sup>
  - c. Domestic violence referrals rose by 50% during the first few weeks.<sup>48</sup>
  - d. Dr Homden from Coram explained the difficulties they experienced due to the guidance not always being clear.<sup>49</sup>
29. It is plain that there may be emergency situations where, for example, due to sudden staff shortages, the same level of care is simply not possible. However, the DfE was far too quick to abandon important safeguards for vulnerable children, without proper consultation not just with the Children's Commissioner but also with the sector as a whole, as found by the Court of Appeal.<sup>50</sup> The guidance on adult social care had far stricter rules about when services could depart from statutory duties, another example, according to Baroness Longfield, of children being given less priority.<sup>51</sup>
30. The CROs ask the Inquiry to:

---

<sup>42</sup> Professor Davies [2/142/1]

<sup>43</sup> Professor Turner [7/89/19-23]

<sup>44</sup> Alison Morton [7/158/24-7/159/08]

<sup>45</sup> [7/91/1-7]

<sup>46</sup> [3/29/6-3/30/11]

<sup>47</sup> Baroness Longfield [4/44/4-5]

<sup>48</sup> Baroness Longfield [4/44/2]

<sup>49</sup> Dr Carol Homden [2/26/13-16]

<sup>50</sup> *R (Article 39) v Secretary of State for Education* [2020] EWCA Civ 1577: INQ000231395

<sup>51</sup> [4/57/2-21]

- a. Find that the approach of the DfE in respect of children's social care during the pandemic was wrong and failed to sufficiently prioritise the needs of vulnerable children.
- b. Find that the approach of the DfE to data collection is insufficiently robust, which hindered the department during the pandemic from gaining a full understanding of relevant issues especially for children in care.
- c. Find that the approach of DHSC in respect of making decisions on redeployment was wrong and failed to sufficiently prioritise the needs of children.
- d. Find that there was insufficient oversight from OFSTED as to how local authorities were operating during the pandemic.
- e. Recommend better processes for future emergencies that will allow government departments both to make the difficult decisions with the rights of children at the centre, and to work together on issues that impact children but cut across departments. These can be achieved by incorporation of the UNCRC and would be assisted by an overarching department for children as discussed further below.

### Prisons

*Children in custody were not considered in the decision to lockdown prisons*

- 31. As is well known, children in the criminal justice system are some of the most vulnerable in society. In addition to the general and distinct needs of children – such as access to play, social interaction, family contact, and education – children in custody have additional needs that reflect their heightened vulnerabilities. The Inquiry heard evidence from Mr Taylor, HM Chief Inspector of Prisons that around a third of children in prison are care-experienced, there are high levels of learning difficulties in this population, and many children have a history of poverty and disrupted education and home life.<sup>52</sup>
- 32. Children in the criminal justice system are far more likely to be from a racialised background than those in the general population, this disparity is particularly acute for those in custody and those held on remand awaiting trial. Black and other racialised children made up just under half of the child population in prison (28% Black) for the year ending March 2019.<sup>53</sup> Children from Black and other racialised groups are disproportionately impacted throughout the system – they are more likely

---

<sup>52</sup> [2/61/21-2/62/1-6]

<sup>53</sup> Youth Justice Statistics in England and Wales 2018/19: INQ000587998\_0021-0022

- to be stopped and searched, experience police use of force, more likely to be convicted of a criminal offence, and far more likely to be denied bail or receive a custodial sentence.”<sup>54</sup>
33. Further, the treatment of children in custody was already a concern going into the pandemic, particularly “*the lack of time that they spent out of their cells, the poor quality of education that was on offer for them, and the levels of violence to which they and also staff members were often subjected, the limitations on things like visits, fresh air, and the opportunities for genuinely rehabilitative activity.*”<sup>55</sup>
  34. The MoJ’s contingency plan of 19 March 2020 recognised that “*though children may be less vulnerable to serious disease from the virus, any isolation measures will pose additional safeguarding risks and may have a greater psychological impact on those isolated.*” The position of the MoJ at that time, based on PHE advice, was that prisons and youth custody would run as normal a regime for as long as possible.<sup>56</sup>
  35. However, against this advice, on 23 March 2020, following the announcement by the PM of a national lockdown, the MoJ’s position appears to have changed overnight and the entire prison estate, including the youth estate, went into lockdown. The decision to lockdown the youth estate was not made from necessity or for reasons of safety for children and young people, but to mirror the instructions for the general population.<sup>57</sup> Ms Frazer in her witness statement at paragraph 298 states that “[*the] decision to lock down the estate on 24 March 2020 was intrinsically linked to the national decision which had been made by the Prime Minister.*]”<sup>58</sup>
  36. There were no Child Rights Impact Assessments carried out to consider the necessity, proportionality or impact of such severe restrictions on children, nor plans to mitigate against the foreseeable consequences. Instead, blanket restrictions were applied across the adult and youth custody estates. Mr Taylor described that “[*the] ordinance came down that prisons would lock down and they would lock down in a certain way and that children were simply swept up in that, rather than thinking more particularly about the needs of children.*]”<sup>59</sup>
  37. This resulted in children spending up to 23.5 hours confined in their cells, with no access to any meaningful education, no family visits, no social interactions and no meaningful rehabilitation.<sup>60</sup> These were conditions which amounted to solitary confinement and gave rise to breaches of children’s Article 3 ECHR rights, as they

---

<sup>54</sup> Statement of Louise King: INQ000587998\_0018

<sup>55</sup> Charlie Taylor [2/62/17-24]

<sup>56</sup> HMPPS Contingency Plan, 19.03.2020: INQ000575464\_0002

<sup>57</sup> Email to Ministry of Justice dated 24.03.2020: INQ000591071\_0003

<sup>58</sup> Statement of Lucy Frazer INQ000588042\_0074

<sup>59</sup> Charlie Taylor [2/79/2-7]

<sup>60</sup> Charlie Taylor [2/65/6-17]

- are inhuman and degrading. These conditions persisted long after restrictions were eased for the general population,<sup>61</sup> this is further evidence that this was not an unavoidable consequence, but a reflection of deeper systemic failings, where the most vulnerable children are effectively hidden and there remains a serious lack of accountability or meaningful action to improve their conditions.
38. Ms Frazer in her statement at paragraph 299 reflected that: “*The most significant way to lessen the restrictive framework on prisons would have been if the national government had acknowledged the differential impact on children across the country. This would have expressly mandated a less restrictive regime in the youth estate.*”

*Solitary confinement and lack of independent oversight*

39. In March 2020, despite unprecedeted restrictions on the rights of children in custody, including being placed under solitary confinement, inspections of Secure Training Centres (“STCs”) were suspended. For Young Offenders’ Institutions (“YOIs”), some oversight continued in the form of short scrutiny visits, but there was a complete lack of oversight over the treatment, conditions and rights of children in STCs until September 2020.
40. There has been no explanation as to why oversight of STCs stopped entirely. This was in a context where there were only two STCs at the time. Shockingly both of these had been found to be either inadequate or requiring improvement to be good in all previous inspections, something that should have caused serious concern to those in power when these facilities were ordered into lockdown.<sup>62</sup>
41. When Ofsted resumed monitoring visits to Rainsbrook STC in October and December 2020, they found that children were still being locked in their cells for 23.5 hours a day and invoked the urgent notification process.<sup>63</sup> This was in stark contrast to the information that was being provided to the MoJ and to the Children’s Commissioner England in July 2020 which purported that children at Rainsbrook STC had the most time out of cells of 6.5 hours per day.<sup>64</sup> This highlights the importance of ensuring independent oversight is continued in a safe way during emergencies.
42. When asked by the Chair why the Inspectorate’s concerns regarding Rainsbrook STC had been ignored, Mr Taylor responded: “*It was astonishing. It was almost as if no one was really checking. ... And it was just really astonishing that monitors,*

---

<sup>61</sup> Charlie Taylor [2/78/6-19] and Statement of Charlie Taylor: INQ000649961\_0048, para 205

<sup>62</sup> Letters from Inspectorate to Justice Secretary: INQ000586960\_0003 and INQ000586962\_0002

<sup>63</sup> Letter from Inspectorate to Justice Secretary: INQ000586960

<sup>64</sup> Statement of Lucy Frazer: INQ000588042\_0066 & Letter to Children’s Commissioner: INQ000575211\_0003

*leaders, the Youth Custody Service, none of these people had picked it up.*<sup>65</sup> A second urgent notification was issued on 18 June 2021,<sup>66</sup> before children were eventually moved out of Rainsbrook STC in June 2021 and the site ultimately closed in December 2021.<sup>67</sup>

43. It is important to note that these conditions did not develop outside of the control of the MoJ. They were expressly sanctioned in The Secure Training Centre (Coronavirus) (Amendment) Rules 2020 (SI 2020/664) which came into force on 2 July 2020 and which introduced significant restrictions on children in custody, including the suspension of family visits, a dilution of education and welfare obligations and solitary confinement, at a time when such freedoms were being restored to the general public. There were no attempts made by the MoJ to revoke this instrument when concerns were raised by the Inspectorate about conditions at Rainsbrook STC.
44. As explained by Ms Frazer the government's focus was to protect itself from legal challenge: "*We needed to make sure that what we were doing was legal and therefore we needed to pass a statutory instrument to ensure that what was practically happening on the ground was provided for by legislative base, otherwise we could have been challenged, which wouldn't have been very helpful.*"<sup>68</sup> The CROs suggest that the priority was not to regularise these unacceptable restrictions, but to bring them to an end.
45. Further, the Explanatory Memorandum to this Instrument notes that an Impact Assessment was not prepared because "*this SI relates to the temporary modification of a small number of existing provisions in The Secure Training Centre Rules 1998 (S.I. 1998/472) arising through the coronavirus pandemic.*"<sup>69</sup> This is not an accurate reflection of the implications of the amendments.
46. Ms Frazer's evidence on why things did not improve at Rainsbrook STC was also very concerning: "*the HMPPS people who were meant to be monitoring it were a little bit too close to the management at Rainsbrook.*"<sup>70</sup> It is highly concerning that children's rights could be so heavily dependent on the relationship between some people within a department to an institution, in the context where multiple Urgent Notifications have been raised by the Inspectorate. It is not clear what action, if any,

---

<sup>65</sup> [2/68/9-18]

<sup>66</sup> Letter from Inspectorate to Justice Secretary: INQ000586961

<sup>67</sup> Statement of Charlie Taylor: INQ000649961\_0050, para 215

<sup>68</sup> [12/152/4-12/153/6]

<sup>69</sup> Memorandum to Secure Training Centre (Coronavirus) (Amendments) Rules 2020 INQ000620800\_0004

<sup>70</sup> [12/159/4-8]

the MoJ took to ensure accountability and who maintained oversight to ensure conditions improved for children in these institutions.

*Children in prison had little or no access to education*

47. On 27 March 2020, recognising the importance of education for children in custody, Helga Swidenbank from the Youth Custody Service wrote to the education providers to encourage the provision of education services to children in YOIs and STCs.<sup>71</sup> The MoJ also requested the DfE guidance explicitly state that children in secure provision must have face to face education (date unknown).<sup>72</sup> However, the DfE maintained this was not within their remit and delivery of the education to children in custody was for the Youth Justice Board. It is striking that the DfE would effectively wash its hands of responsibility for educating incarcerated children.
48. It is not clear thereafter which department, if any, maintained oversight of the provision of education for children in the youth estate: a clear example of the lack of coordination between departments, leading to children in custody falling through the cracks.
49. What resulted was that children – other than those at YOI Parc – had no meaningful access to education: face to face education was stopped, and children had some education packs being “shoved” under their door with “*pretty negligible*” meaningful learning or progress.<sup>73</sup> This approach was “at odds” with what was happening in the adult estate, where adults were allowed out of their cells to attend.<sup>74</sup>
50. Mr Taylor explains in his statement [256]: “*we understand that governors at Cookham Wood and Wetherby had wanted to introduce some face-to-face education, however these efforts were undermined by HMPPS's decisions nationally to treat children in the same way as prisoners held in the adult estate, which meant that governors were prevented from introducing this. The children's estate was not comprehensively considered on its own and was only a footnote to the national framework.*”
51. Ms Frazer’s evidence was that the MoJ wanted education to continue but this was stopped by the relevant trade unions and education providers. While the Inspectorate found some evidence of this, Mr Taylor highlighted that it was the directive from HMPPS that led to this. He explained that “*the needs of children were an afterthought*” and “*a guillotine was put on education*”.<sup>75</sup>

---

<sup>71</sup> Letter to Novus & Prospects: INQ000591099

<sup>72</sup> Minutes of meeting between Vicky Ford & Lucy Frazer: INQ000541094

<sup>73</sup> Charlie Taylor [2/74/6-15]

<sup>74</sup> Email Chain: INQ000576130\_0001

<sup>75</sup> Charlie Taylor [2/72/6-17]

52. Further, there is no evidence of any concrete steps by the MoJ to ensure face to face education continued. In circumstances where YOI Parc was able to continue face to face education, it is not clear why the MoJ had no power and/or took no action to ensure the same for other prisons. Further, it is not clear why alternatives such as remote education were not considered.
53. The approach of the MoJ was aptly summarised by Mr Taylor when asked by CTI what responses they were getting from decision makers: *"lots of talk about ambition...but very little in terms of action in terms of actual change."*<sup>76</sup>
54. Finally, the Inquiry should highlight that the MOJ failed to release any children from custody early despite provision to do so, and initially extended custody time limits for children<sup>77</sup>. The CROs have heard no meaningful justifications and these policies need to be considered in the context of children being held in solitary confinement for months without any meaningful education or socialising. The policies compounded each other, deepening isolation and distress. The decision-making process did not treat children as a group with distinct developmental and legal rights.

### Poverty

#### *Child Poverty was at an all-time high going into the pandemic*

55. It is well established that poverty significantly impacts on children's experiences and outcomes and that children living in poverty were likely to have poorer physical and mental health and lower attainment.<sup>78</sup> The Inquiry heard evidence from Kate Anstey of CPAG that child poverty was at a record high on the eve of the pandemic, with 4.3 million children already living in poverty, and the rates of child poverty being higher in Black and minority ethnic groups (46% compared to 31% in the general population). During the decade prior to the pandemic, child poverty reduction targets had been removed and family incomes had been heavily eroded by cuts and freezes to the social security system. Families with young children were disproportionately impacted by the benefit cap, and the two-child limit restricted support for families with three or more children. Migrant families who had no recourse to public funds were at a greater risk of destitution. These policies had decoupled social security from levels of need, meaning many families entered the pandemic without enough money to meet their children's needs, and with little to no savings to fall back on.<sup>79</sup>

---

<sup>76</sup> [2/80/15-17]

<sup>77</sup> Equality Impact Assessment on extension of custody time limits: INQ000544652; Letter from Lucy Frazer to Howard League INQ000613128; PAP Letter sent to Justice Secretary: INQ000176297

<sup>78</sup> Expert Report on The Impact of Covid-19 on Education: INQ000587959\_0012

<sup>79</sup> Kate Anstey [3/71/9-3/73/6]

*Children living in poverty were disproportionately impacted*

56. These pre-existing structural inequalities meant that children living in poverty were disproportionately impacted.
- a. Their families were more vulnerable to income loss, due to, for example lost jobs and furlough being at 80% of previous salaries, and faced increased costs as a result of school closures and lockdowns, including higher bills, food and increased expenditure on resources for study and play.<sup>80</sup>
  - b. Families struggled to replicate and provide at home many of the services usually provided by schools: including food, learning materials, extracurricular activities, support for mental health and access to other services.<sup>81</sup>
  - c. Around one in three children in poverty did not qualify for free school meals prior to the pandemic, because the threshold was inadequate. These children were particularly vulnerable during school closures with families struggling to cover food costs while children were at home. For those that were eligible, the voucher system implemented by the government had significant issues, including with access to the vouchers, lack of choice of supermarkets, and lack of flexibility (needing to spend the voucher in one go). As a result, families could not get access to food or enough food. Only around half of families who were eligible were accessing provision in April 2020.<sup>82</sup> Many local authorities in Wales and Scotland implemented a cash-first approach (direct bank transfer), in line with clear evidence this is the preferred option which preserves dignity, choice, control and flexibility for families.<sup>83</sup> But this was not implemented in England despite repeat calls from organisations such as CPAG.<sup>84</sup>
  - d. The pandemic brought the digital divide into sharp focus. As well as lack of access to digital devices and internet connectivity, children lacked the skills to use them.<sup>85</sup> Children also lacked physical resources needed to study, such as books, stationary, crafts and printers.<sup>86</sup>
  - e. Poor housing conditions were highly significant factors affecting both children's ability to learn and their mental wellbeing. In 2020, an estimated 1.6 million children in the UK lived in overcrowded homes. Overcrowding

---

<sup>80</sup> Kate Anstey [3/78/8-3/79/22]

<sup>81</sup> Kate Anstey [3/81/1-19]

<sup>82</sup> Kate Anstey [3/84/15-3/85/8]; Kate Anstey [3/86/4-7]

<sup>83</sup> Kate Anstey [3/85/9-3/86/7]

<sup>84</sup> Letter from CPAG to Gavin Williamson: INQ000608333

<sup>85</sup> Professor McCluskey [6/134/17-6/135/10]

<sup>86</sup> Kate Anstey [3/82/1-6]

- significantly impacted the ability to find study space, affecting noise levels, access to resources, and distraction levels.<sup>87</sup>
- f. The Expert Report on Education concluded that “*the attainment gap between children experiencing poverty and their peers has widened across the UK since pre-pandemic, pointing to an increase in inequality overall.*”<sup>88</sup>
  - g. As a result of the above factors, children were reporting significant anxiety about the amount of work they were missing out on during the period of home learning and were concerned about not being able to catch up on this work.<sup>89</sup> Anxiety and absenteeism are serious and ongoing impacts from the pandemic.<sup>90</sup>

*Difficulties faced by children in poverty were not sufficiently understood or mitigated.*

- 57. The government pulled a number of economic levers during the pandemic in order to mitigate the economic shock on the population. While the effectiveness of those levers will be explored in Module 9, our submission is that they were not child-centred, and, like many of the decisions that were made during the pandemic, had a disproportionate negative impact on children. We highlight below examples of policy decisions that overlooked the needs of children and young people, which are relevant to this module.
- 58. During the pandemic, the government sought to mitigate drops in income by introducing a £20 weekly uplift to Universal Credit and Working Tax Credits. This measure had a positive short-term impact, reducing child poverty from 4.3 million to 3.9 million and the CROs acknowledge that the situation for children and families would have been much worse without the uplift. However, it had its limitations and was an example of adult-centred policy decisions. The uplift applied universally to households in receipt of Universal Credit or Working Tax Credits and so a single adult received the same additional support as a family of five, in respect of whom the uplift amounted to only £4 per person. For those families already living on a low income prior to the pandemic, the uplift did not do enough to restore incomes and the increase was not sufficient to meet increased costs faced by families during the pandemic. In addition, policies like the benefit cap and two-child limit remained in place, despite the increased financial pressures faced by families as a result of the pandemic, which meant children in low-income families were prevented from

---

<sup>87</sup> Expert Report on The Impact of Covid-19 on Education: INQ000587959\_0109

<sup>88</sup> Expert Report on The Impact of Covid-19 on Education: INQ000587959\_0013

<sup>89</sup> Kate Anstey [3/86/17-3/87/22]

<sup>90</sup> Expert Report on Education: INQ000587959\_0014

accessing the support they needed. This approach inadvertently penalised children, particularly those in households with three or more children and lone parent families. This was further compounded by the closure of schools and the flawed voucher system for free school meals.

59. CPAG and other organisations called for a £10 per week per child increase to child benefit and for expanding free school meals eligibility. This approach would have directly addressed the needs of children by providing support based on the number of children in a household and helped ensure more children could access enough food. However, the government did not implement these much-needed measures.

*Children have not recovered.*

60. Finally, while the government belatedly recognised some of the significant impacts of school closures and the resulting decline in educational attainment, their recovery funding response was narrow and insufficient. The focus was primarily on the National Tutoring Programme and a limited amount of per-pupil funding. This failed to address the broader needs of children or to ensure that children could access not just academic support, but also wider educational support, extracurricular activities and mental health support. A more comprehensive approach, like that proposed by Sir Kevan Collins, would have ensured a more effective recovery for children, especially those disproportionately impacted.<sup>91</sup>
61. The Sutton Trust noted that “While managing the pandemic at pace was a huge operational challenge for government, the most egregious error was in the aftermath, and the manifest insufficiency of the recovery and catch-up programme that has baked in inequalities still seen 5 years later.”<sup>92</sup>

## **Section 2: Recommendations**

62. We invite the Inquiry to consider the witness statements of each of the CROs, each of which set out detailed lessons learnt that we endorse. Further we invite the Inquiry team to consider the CROs’ closing submissions for Module 2 and our opening submissions. We also endorse the recommendations made by Article 39 in their opening submissions, as well as in their evidence.
63. The next pandemic or other civil emergency will be different to the Covid-19 pandemic. The Inquiry needs to grapple with the underlying core problems that led to the litany of failure itemised above, in order to ensure that next time, children are

---

<sup>91</sup> Kate Anstey [3/97/2-3/99/7]

<sup>92</sup> Statement of Carl Cullinane, Sutton Trust: INQ000587969\_0021

sufficiently prioritised and structures are in place to assess the impacts of decisions on them and to balance their needs and rights against other considerations.

64. We welcome the Inquiry's recommendation in Module 2 that the UK Government introduce statutory Child Right's Impact Assessments, and invite the Inquiry to make the following four further recommendations which are necessary to build on that approach and ensure that rights are meaningful and enforceable:
  - a. Incorporate the UNCRC fully and directly into domestic law across the UK;
  - b. Establish a government department led by a Cabinet Minister with cross-cutting responsibility for children, which includes developing a national strategy for children's rights;
  - c. Introduce binding Child Poverty Reduction Targets;
  - d. Create a detailed Children's Strategy and Emergency Plan, in partnership with children and young people and their organisations working with and for them.

Children's Rights Impact Assessments (CRIAs): Module Two Recommendation

65. The CROs welcome the recommendation made by the Inquiry in Module 2 regarding the need for CRIAs. We ask the Inquiry to clarify in the Module 8 report that such assessments should be made for all UK-wide decision-making. The recommendation refers to England and Northern Ireland only, presumably in recognition of the fact that Scotland and Wales already conduct CRIA and therefore may miss UK-wide decisions on non-devolved matters.
66. Children must be enabled to participate meaningfully in the CRIA process, including being consulted, having their views taken into account and being informed about how those views influenced the final decision. The needs and rights of babies and very young children should also be included, through evidence and insight from parents, carers and professionals who know them best. The CRIA should assess the impact on children with regard to the rights of those children under the UNCRC. Whilst it is correct that such an assessment can be carried out without full incorporation of the UNCRC, the CROs believe that an assessment alone is insufficient, and that this recommendation needs to be made alongside a recommendation for full incorporation of the UNCRC as set out below.

Recommendation 1: The UK Government should fully and directly incorporate the United Nations Convention on the Rights of the Child into domestic law across the UK

*Children have distinct and different needs to adults, which may have particular significance in a pandemic or other civil emergency.*

67. Children are in a developmental stage where the impact of their environment and quality of relationships have a profound effect, meaning periods of trauma or isolation can have long-lasting consequences. This is especially true for younger children and babies: the first 1001 days is the most critical period of human development.<sup>93</sup> Children under 5 are the most vulnerable; they are dependent on the care of adults, but also services such as early education and health visiting. Their brains are going through a rapid period of growth.<sup>94</sup> This was all rightly recognised in the Module 2 report at paragraphs 10.90-10.92. The Inquiry heard further evidence on this in Module 8, for example about the importance of ~~early~~ early education for child development and its particular value for those growing up in poverty or with additional needs.<sup>95</sup>
68. Older children and teenagers also have distinct needs;<sup>96</sup> childhood is full of key transitions<sup>97</sup> such as starting school, or leaving school, or moving from primary to secondary school, where disruptions will be more keenly felt.
69. Children experience time differently: three months for a child is not the same as three months for an adult<sup>98</sup> and “*six months may not seem a very long time. If you are six months old, it is your entire life*”.<sup>99</sup> Children’s needs differ from adults; in particular play (both alone and with other children) is important to their development.<sup>100</sup>
70. There are certain legal rights and needs peculiar to children. One example is the need to have their birth registered, something that was suspended during the pandemic despite being “*critical to safeguarding*”.<sup>101</sup> This created a risk that children were not known about at a time when a risk to those under 1 was particularly high. The suspension of registrations was due to a “*lack of preparedness and thinking about this through the lens of what children are going to need during a pandemic*.”<sup>102</sup>
71. As with any group, the failure to treat children differently may be indirectly discriminatory. This was exemplified in the rules which allowed one person to meet

---

<sup>93</sup> Alison Morton [7/134/18-20]

<sup>94</sup> Professor Davies [2/122/9-20]

<sup>95</sup> Professor Davies [2/138/2-24]

<sup>96</sup> Statement of Professor Taylor-Robinson: INQ000280060

<sup>97</sup> Alison Morton [7/134/18-20]

<sup>98</sup> Statement of Professor Taylor-Robinson: INQ000280060

<sup>99</sup> Dr Carol Homden: [2/15/4]

<sup>100</sup> Statement of Alice Ferguson: INQ000588036\_0003

<sup>101</sup> Indra Morris [9/62/13-21]

<sup>102</sup> Indra Morris [9/63/14-21]

- one other person from another household and therefore allowed anyone old enough to leave home independently to meet a friend but excluded those too young to do so.
72. Despite being an inherently vulnerable group, children's particular needs are not set out clearly and comprehensively in any domestic legislation.

*The impact on children is often forgotten and over-looked.*

73. Despite the clear and well-established distinct needs and rights of children, the impact of policies upon them are not automatically recognised in decision-making. Professor Turner gave evidence that despite many of those in government being aware of children, that awareness did not translate into a consideration of what harm we were doing to them.<sup>103</sup> *"They're 25% of the population and get 11% of the NHS Spend. They rarely ever seem to feature in decision-making. I think that senior decision makers acknowledge children, but – but they don't seem to get it."*<sup>104</sup> Children do not routinely form part of decision-making bodies, and many adults are prone to unwittingly assuming that they have considered matters on behalf of all age groups, or that all age groups have the same needs. Such issues are exacerbated in an emergency situation due to the speed and volume of new decisions.
74. Examples of the impact of children being forgotten or over-looked during the pandemic are manifold, some examples include:
- A lack of understanding that young children were disadvantaged by the social distancing rules persists. Professor Whitty told the Inquiry that it was misleading to suggest that children were more restricted than adults,<sup>105</sup> despite the fact that children were allowed fewer opportunities to see peers as compared to adults, as detailed above and in previous submissions
  - Charlie Taylor's evidence, along with the evidence on prisons as set out above, demonstrated that the custodial estate was considered as a whole, with no thought given to the fact that children in custody had different needs and rights.
  - Children were expected to isolate for 14 days when entering health care settings, including inpatient psychiatric wards. When asked about this, Professor Whitty had no answer as to why there could not be different treatment for children.<sup>106</sup> There was no recognition of the extreme suffering caused to incredibly vulnerable children put in solitary confinement; indeed

---

<sup>103</sup> [7/70/8-12]

<sup>104</sup> [7/100/22-7/101/1]

<sup>105</sup> [10/55/1-4]

<sup>106</sup> [10/71/8-10/73/4]

the MOJ's summary of HMIP monitoring visits in April 2020, described the report into YOI Wetherby (where children were in solitary confinement) as "overwhelmingly positive"<sup>107</sup>. The Inquiry has heard few, if any, examples of when it was considered justified to make an exception for children.

- d. When benefits were increased to mitigate the financial impacts of the pandemic, the increase was the same for a single adult with no dependents as it was for a single parent or a family of six.
- e. When custody time limits were extended, no thought was taken to treating children in custody differently until Just for Kids Law issued judicial review proceedings.<sup>108</sup> This is in circumstances where children faced severe restrictions including solitary confinement.
- f. Even within health care the RCPCH noted that the "*impact on babies, children and young people, and their families was often lagging a long way behind in both policy and operational delivery.*"<sup>109</sup> Further Professor Turner stated that: "*on the whole the public bodies and NHS organisations with which the College engaged did not sufficiently ensure children and young people were central to their decision-making.*"<sup>110</sup>

#### *Children's voices were not heard*

- 75. The Inquiry has heard little evidence of children participating effectively or at all in decision making during the specified period. The Inquiry's Voices Report found that children felt unheard and ignored,<sup>111</sup> and not only in decisions making, but also in government messaging that was not tailored towards children, and, was at times, even antagonistic towards children.
- 76. There were many calls for a press conference for children, from (among others) the Children's Commissioner and RCPCH,<sup>112</sup> but this never happened, despite the equivalent happening in Scotland. The Module 2 report recognised that this was a "*missed opportunity*" and has recommended a plan for accessible communication (recommendation 14). This is welcome, but communicating with children should also involve decision-makers listening to their views and requires a structural change to ensure participation with children is part of the day to day business of a department.

---

<sup>107</sup> Report from HM Inspectorate of Prisons: INQ000591140; Minutes of MoJ Meeting on 22.04.20: INQ000623241

<sup>108</sup> Statement of Louise King: INQ000587998\_0058

<sup>109</sup> Statement of Professor Steve Turner, INQ000651508\_0022

<sup>110</sup> Statement of Professor Steve Turner, INQ000651508\_0003

<sup>111</sup> Children & Young People's Voices Project: Full report: INQ000587936

<sup>112</sup> Letter from RCPCH to Prime Minister: INQ000620589

77. The RCPCH also urged Mr Hancock to meet with children and young people, but he did not take up the offer.<sup>113</sup> There needs to be a broader culture, and specific mechanisms for the engagement and participation of children and young people.
78. It is unrealistic to expect meaningful engagement with children on an ad-hoc basis. The Inquiry has heard that there was no real opposition to holding a press conference with and for children, with many and varied people calling for it,<sup>114</sup> but it never happened, and no proper explanation has been put forward as to why not. This is an example that demonstrates that engagement with children within a department without a pre-existing culture or apparatus set up to do so can be time-consuming and complicated, and therefore less likely to happen in a crisis situation.
79. Further it would be unrealistic for children and young people to engage meaningfully in a CRIA process unless these processes operate within a system that promotes and supports engagement of children in decision-making generally. Where possible for the purposes of a CRIA, those undertaking it would review existing research with children to inform policy thinking and then supplement this with direct engagement with children and young people so that their views can be sought on the particular policy being proposed. Until there is a broader culture of participation, alongside the relevant mechanisms and training the particular officials tasked with carrying out CRIsAs are unlikely to be able to effectively carry this out. In order for a CRIA to meaningfully engage children and young people, it is necessary to consult those with lived experience of the relevant areas, and therefore this necessitates regular structured and supported engagement with a wide and diverse group of children and young people, as well as a diverse range of children's organisations or other professionals.
80. The need to facilitate the participation of children and young people goes beyond the need to carry out CRIsAs. A CRIA is a tool that allows government to assess a policy or a decision that is already being considered, or has been made, in order to ensure that the full impacts on children have been fully taken into account. It does not give children a full voice within departments to express their views about which issues need addressing. Therefore, a broader mechanism of participation within departments to allow children a voice within decision-making about them is required.

*A consistently applied framework of rights for children is needed*

---

<sup>113</sup> Statement of Steve Turner: INQ000651508\_0003

<sup>114</sup> Including the Royal College of Paediatrics: INQ000620589; the Children's Commissioner: INQ000239702

81. The events examined by this Inquiry demonstrated the need for children to be enabled and supported to play, to participate in decisions made about them, to have their birth registered, to access education, to have an adequate standard of living, and not to be separated from their parents or caregivers. The issues listed above correspond to rights set out in the UNCRC in Articles 31, 12, 7, 28,<sup>27</sup> and 9, respectively. Had they been fully incorporated into UK law it is less likely they would have been overlooked.
82. Children's rights need to be directly incorporated fully in domestic legislation so they are legally enforceable. This will ensure proper consideration by policy makers taking key decisions or setting policies.
83. Attempting to incorporate children's rights into UK law by any other means other than direct incorporation of the UNCRC risks reinventing the wheel. This approach has been taken with one of the most important overarching Articles to the UNCRC: Article 3, which provides for a duty to treat the best interests of the child as a primary consideration in decision making. There has, in effect, been partial incorporation of this right into English and some UK law through section 11 Children Act 2004 (local authority functions), section 175 Education Act 2002 (education functions) and section 55 Borders, Citizenship and Immigration Act 2009 (immigration functions). These sections provide that certain state bodies to safeguard and promote the welfare of children. But this approach is piecemeal, the sections do not apply to all state bodies, and most decisions taken by Secretaries of State are not within their scope.<sup>115</sup> This leads to inconsistent approaches even to this single article of the UNCRC. As the pandemic demonstrated, without the incorporation of the other articles, the partial incorporation of the best interests obligations in Article 3 UNCRC is wholly insufficient to protect children's rights and interests.

*Direct and full incorporation of the UNCRC into UK law is required.*

84. The United Nations has proclaimed repeatedly that children are entitled to special care and assistance. The need to extend particular care to the child was stated in the Geneva Declaration of the Rights of the Child of 1924, and in the Declaration of the Rights of the Child adopted by the UN General Assembly on 20 November 1959 and is recognised in the Universal Declaration of Human Rights.
85. The UNCRC explicitly recognises the need for such special care and assistance and provides a framework of child-specific rights to assist children to receive such care. It is the most widely ratified international human rights treaty in the world; it has been

---

<sup>115</sup> The Secretary of State for Education has an equivalent obligation imposed by section 7 of the Children and Young Persons Act 2008

- adopted by every UN country save for the USA. It was drafted over many years, taking into account many previous international instruments concerning children – such as the 1924 Geneva Declaration and the United Nations Standard Minimum Rules for the Administration of Juveniles Justice (the Beijing Rules). It represents a near-universal consensus about the fundamental rights to which children are entitled.
86. Incorporation of the UNCRC into domestic law in the UK has been a longstanding recommendation of the UN Committee on the Rights of the Child.<sup>116</sup> It is supported by a wide range of organisations, as well as by the Children's Commissioners from whom the Inquiry heard.<sup>117</sup> The Treaty itself under Article 4 provides that: “*State Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention.*”
87. The events of the pandemic demonstrate that the UNCRC and the rights it recognises were not respected throughout the Covid pandemic across the UK. Scotland has recently incorporated the UNCRC and has now published a draft of a new Children's Rights Scheme.<sup>118</sup> Both Scotland<sup>119</sup> and Wales<sup>120</sup> have national play strategies, which the CROs would endorse. A play strategy is likely to flow from the incorporation of the right to play as part of the broader incorporation of the Convention. The pandemic demonstrated the advantages of a consistent UK-wide approach, and the difficulties with different priorities across the devolved administrations. One example was the Welsh guidance on playgrounds and play, which did emphasise the importance of play, but understandably the guidance needed to be very similar to the English guidance. The Inquiry heard evidence from Alice Ferguson from Playing Out on this issue.<sup>121</sup> The Inquiry heard from the Welsh Children's Commissioner that the Welsh Government was unable to challenge the local authority on playgrounds because the UNCRC has not been fully incorporated and there was no formal duty on local authorities even to pay due regard to the UNCRC.<sup>122</sup>
88. A CRIA conducted with regard to these rights, whilst a positive step forward, does not ensure that decision makers take decisions which are consistent with the substance of these rights. Full incorporation, on a model similar to that achieved by the Human Rights Act 1998 in relation to ECHR rights, would ensure decision-making occurred with reference to these rights, including the need to ensure the participation of

---

<sup>116</sup> It has been a recommendation in the Concluding Observations since 2002

<sup>117</sup> Children's Commissioners: [16/47/4-11]

<sup>118</sup> [Children's Rights Scheme: draft - gov.scot](#)

<sup>119</sup> [Scotland's Play Strategy - Play Scotland](#)

<sup>120</sup> [Current play policy in Wales - Play Wales](#)

<sup>121</sup> [2/103/5-106/19]

<sup>122</sup> Statement of Rocco Cifuentes': INQ000587975\_0070

children. The Inquiry is aware that the Scottish government have recently incorporated the UNCRC, albeit in a limited capacity as it can only apply to devolved decision-making and legislation. UK wide incorporation of the UNCRC would provide accountability and enforceability of these rights and would lead to a much-needed cultural shift, similar to that seen with the introduction of wider human rights and equality legislation. This position was supported on the final day of evidence by each of the Children's Commissioners who have direct experience of working with government to support children's rights.

**Recommendation 2: Children's Cabinet Minister (and cross-governmental strategy)**

89. The CROs urge the Inquiry to recommend that there must be a Cabinet Minister who leads a department with cross-cutting responsibility for all children across different areas of life. This would need to be accompanied by development of a children's rights strategy to be driven forward by the Minister.
90. Such a strategy and a dedicated Department for Children would ensure that children's rights and needs are considered holistically rather than just focussing on schools or education. It would ensure there is a department where concerns about the rights of children can be raised and support a joined-up approach across departments.
91. The Cabinet-level Minister for children should have cross-government responsibility for driving and reporting on progress against child poverty metrics, given the overwhelming importance of child poverty to the lives of children. Further the Minister should have oversight of the incorporated UNCRC and statutory CRIAs.
92. The Inquiry has noted the importance of having a Minister in decision-making groups with responsibility for representing the interests of vulnerable groups (recommendation 10 in Module 2: Civil Emergency decision-making structures). It is important that the person in that group has sufficient support from a dedicated department for all children, something that was not achieved by the DfE as set out below.

*The Department for Education did not have a remit for all issues concerning children*

93. The Inquiry heard from Alice Ferguson from Playing Out, who gave evidence about the numerous attempts to engage with government, and how they "got passed around from department to department. There was no one department or senior government person who felt it was their responsibility and their remit to look into

*this.*<sup>123</sup> The letter written by then-Minister Vicky Ford<sup>124</sup> explicitly disavows any responsibility for play and suggests questions of that nature be passed to the Department of Health.

94. Whilst there were laudable attempts by Ms Morris in the DfE to form a cross-departmental group to consider vulnerable children, that group (the Vulnerable Children Unit) was focused primarily on those vulnerable children who were allowed to attend school. It did not have a wider remit such as to consider the treatment of children in prisons, or how measures such as 'easement' regulations impacted on children more generally. It was therefore not a substitute for a wider and clearer remit to be given to a government department to consider children. Further, as Ms Morris indicated, the group was reliant on good-will, rather than having an official remit.
95. Ms Acland-Hood told the Inquiry that she regretted not having personally thought more about some of the issues faced by children around their ability to play outdoors or with others. However, the DfE had no play strategy, unlike in Scotland and Wales, and no workstream looking at these issues. There needs to be a structured approach to important issues for children, set within a department with the appropriate remit. It is not appropriate for the question of whether children's rights receive sufficient attention to depend on the focus of a single senior civil servant.

*No key decision-maker had responsibility to consider children*

96. The Inquiry is aware that the decision to close schools for a second time in January 2021 was made without consultation with the DfE or the then-Secretary of State, Gavin Williamson. In evidence in Module 2, Michael Gove, one of the key decision-makers about schools, was asked who was responsible for considering children, and he responded that they all were.<sup>125</sup> Something that is everyone's responsibility is no-one's responsibility. There was no Minister whose department could fully analyse and consider the impacts of key decisions on children.
97. The Inquiry has also heard evidence about numerous issues which essentially fell between departments, with no one department or Cabinet Minister taking responsibility to ensure that the matter was resolved. One example was the education of children in prisons as set out above, other issues included those surrounding play.

---

<sup>123</sup> [2/115/10-13]

<sup>124</sup> Letter from Vicky Ford to Pat McFadden MP, 16.03.2021: INQ000650017

<sup>125</sup> Michael Gove (Module 2) [27/197/16-23]

98. The Children's Commissioner for England: Baroness Longfield was often “informed” rather consulted about decisions affecting children in England,<sup>126</sup> and additionally felt that the decisions were not being made by the people speaking to her.<sup>127</sup> The CROs support other recommendations for there to be a statutory duty to consult the Children's Commissioner, but this does not go far enough if those doing the consulting are not making the key decisions. It is therefore of paramount importance that there is a department and Minister who can promote and protect children's rights. Such a person or department would then be able to meaningfully engage with and consult the Children's Commissioner.
99. A Cabinet level Minister is needed to ensure that the correct questions are asked, and a joined-up approach to children is taken across all relevant departments. As she told the Inquiry, Dr Homden's view is: “... *if we're to do better next time, then greater forward planning, greater use of structural bodies to anticipate that planning, and greater mobilisation, a much clearer pathway to the impact assessment of those scenarios, which would be enshrined by the incorporation of the UNCRC and a Cabinet Minister to hold government to account for the children in our society whose democratic voices are otherwise not heard.*”<sup>128</sup>
100. A Cabinet-level Minister who heads a department can then lead a proper national strategy for children, as advocated by Professor Davies, to allow a multi-agency approach for children, drawing across welfare, education and health, as well as other services, which would help to prevent the most vulnerable falling through the gaps.<sup>129</sup>

#### Recommendation 3: Child Poverty Reduction Targets

101. The evidence in this module emphasises the profound and disproportionate impact of the pandemic on children living in poverty.

*There were historic levels of child poverty even before the pandemic.*

102. After the removal of child poverty targets, previously enshrined in law, and a decade of cuts to the social security system, child poverty was at a record high on the eve of the pandemic. Families in poverty had nothing to fall back on and were already facing significant challenges in meeting their children's basic needs. It was therefore entirely foreseeable that any worsening of families' financial circumstances – combined with prolonged school closures – would lead to a widening attainment gap and deepen existing inequalities.

<sup>126</sup> Baroness Longfield [4/7/20]

<sup>127</sup> Baroness Longfield [4/9/14-16]

<sup>128</sup> Dr Carol Homden [2/59/6-13]

<sup>129</sup> Professor Davies [2/197/22-2/198/7]

*The pandemic had a vastly disproportionate impact on children in poverty*

103. While all children were affected by the pandemic, the “*impacts of the pandemic [on education] have not fallen equally on all and evidence suggests that there have been devastating impacts on many who were already marginalised in education.*”<sup>130</sup>

*Many causes of child poverty were exacerbated by both the pandemic and the government response.*

104. Without a safety net in place to protect children in lower income households they bore the brunt of the effects. School closures also disrupted education and access to support services, including free school meals. The government failed to adequately plan for these disruptions or ensure schools had the resources needed to support children during closures. Many families faced a sudden loss of income with nothing to fall back on because cuts to the social security system left them financially vulnerable. Further, the government did not take sufficient steps to mitigate the impact of the pandemic on children in poverty, particularly families with three or more children and lone parent families, who were most severely impacted. As has been outlined in these submissions, the £20 universal credit uplift did not account for family size or children, poverty producing policies including the two-child limit and benefit cap remained in place and the free school meals replacement scheme left children without access to food. The universal credit uplift was also removed in the Autumn of 2021 and subsequently child poverty has continued to rise. But this was not inevitable. Had the government addressed these issues and prioritised children’s rights and needs, far fewer children would have been left to deal with the severe consequences of the pandemic when their families lacked the necessary financial resources.
105. Further, recovery funding has been inadequate to allow children to catch up on lost education and to support their overall health, wellbeing and development. Professor McCluskey told the Inquiry that whilst recovery for children living in more affluent and advantaged circumstances was relatively strong, “*That is not the case for children living with disadvantage. What seems to be happening is that the gap in some places is widening, not overall, but as a general picture it is still widening. And we have not gone back to pre-pandemic levels, and pre-pandemic levels were not good.*”<sup>131</sup>

*To protect children in a future crisis, we need clear child poverty reduction targets*

---

<sup>130</sup> Expert Report on The Impact of Covid-19 on Education: INQ000587959\_0015

<sup>131</sup> [6/186/1-14]

106. It is shameful that even a single child faced worse pandemic consequences due to lack of family resources. Considering the scale of child poverty in the UK, it is clear that a structural response to reducing child poverty, as well as mechanisms during a pandemic for assessing and responding to the needs of children, are vital to allow children the best possible chance of weathering the storm. As the inquiry heard from Kate Anstey of CPAG, “*to protect children in a pandemic you have to protect them outside the pandemic*”.<sup>132</sup> Families with children must receive more financial support through the social security system to meet their needs. Binding targets are also essential to focus the minds of policy-makers across government on the most effective ways to address the root causes of child poverty and reduce it over time. They are also necessary to hold government to account.

Recommendation 4: Create a Detailed Children’s Strategy and Emergency Plan

107. As part of the UK-wide whole system civil emergency strategy as recommended by the Module 1 report, there should be a detailed Children’s Plan for the national emergencies that includes a structured approach to determining under what circumstances schools would close, alternatives to closing schools and plans for providing education if schools do close, as well as plans for other children’s services such as early years’ provisions and health visitors.
108. The CROs support the Inquiry’s recommendation 8 in the Module 2 report which recommends that there be a framework for considering those at risk in an emergency, with governments being invited to publish in their responses to the report how such a framework would be embedded into emergency decision-making.
109. A detailed children’s strategy and emergency plan could form part of such a framework. It is evident that children are one of the groups who are most likely to be negatively impacted by any steps taken to respond to a future pandemic and may be one of the groups most at risk of becoming infected by and dying from a disease in the future: they are therefore one of the groups envisaged by the Inquiry to be caught by this recommendation, and given the different considerations for children, they will need to be considered fully in any framework.
110. The Inquiry has already recommended in recommendation 8 that equality impact assessments should form part of the framework, the same should be said for CRIAs.
111. Children need to be consulted with and participate in the creation of such a plan or framework. There would also need to be proper engagement with civil society in the creation and reassessment of such a plan (as recommended by the Module 1

---

<sup>132</sup> [3/94/20-3/95/8]

- Report), this would be assisted by the other Module 1 recommendations that the reports from civil emergency exercises (recommendation 7) and reports as to pandemic preparedness (recommendation 8) should be regularly published, as this would allow scrutiny and input from others in the sector.
112. This plan would be assisted by the incorporation of the UNCRC, as that would help set the framework of rights, as detailed above that are important to ensure children thrive, that would need to be carefully considered in any emergency planning. It would be imperative that the plan forms part of a wider children's strategy, because planning for an emergency does not take place in a vacuum.
113. This plan would ensure that the circumstances in which schools have to close would be tightly delineated, with measures to ensure the continued education of children and a plan for safeguarding. It would ensure that schools did not remain closed whilst pubs, hairdressers and theme parks re-opened, and that there was a plan for the most vulnerable children who have a greater need to attend school.

### **Conclusion**

114. *"Young people have played their part in suppressing the virus, but they are paying a high price in lost education at a crucial time in their lives. Society owes them a debt and it is time to start repaying it"<sup>133</sup>.*
115. The CROs urge the Inquiry to make the recommendations identified above so that society can be properly repaid the debt owed to children following Covid 19, and to acknowledge that children were failed and demand an apology on their behalf.

**28 November 2025**

Stephen Broach KC  
39 Essex Street Chambers  
Jennifer Twite  
Fatima Jichi  
Garden Court Chambers

---

<sup>133</sup> Evidence of Sir Jon Coles [5/116/19-25]