IN THE MATTER OF:

MODULE 8 OF THE UK COVID 19 INQUIRY

CLOSING WRITTEN SUBMISSIONS ON BEHALF OF THE DEPARTMENT FOR EDUCATION

1. The Department for Education ("DfE") is interested in learning not only as one of its main policy areas, but as a method of continuously improving its own performance. During and since the COVID-19 pandemic the DfE has sought to identify all possible learning opportunities, both from those elements of the pandemic response that went well and from those that did not. It has already implemented a number of changes, and is actively engaged in an ongoing process of developing – and continually reviewing – plans for a future pandemic or similar emergency. It is clear that the pandemic had serious, significant and harmful impacts on many children and young people[1], and that it is of the utmost importance both that lessons are learned from the last pandemic in order to minimise the harms of the next, and that measures are taken now to address the post-pandemic needs of those who were children during that time.

2. Throughout the Inquiry, the DfE has sought to engage candidly and reflectively with criticisms made of matters within its areas of responsibility. It readily accepts that there are valid criticisms to be made, in particular that some decision-making in the early part of the pandemic would have benefited from a more structured approach and from greater input from stakeholders, including the Children's Commissioner and others advocating on behalf of children, as well as from those responsible for delivering services to children. In learning lessons from the pandemic it is however also important to identify things that worked well, in terms both of central decision making and of the extraordinary dedication and commitment, and good practice, demonstrated by those who work with children.

3. The DfE cannot hope in 30 pages to do justice to all of the evidence and every submission made touching on matters within its policy remit. It will attempt in these submissions to identify the main thematic issues that emerged and set out its position on them, before addressing in detail the specific decisions made in relation to the two most significant issues impacting on children for which it has policy responsibility: the delivery of education by schools[2] and other

[1] In order to avoid repetition, save where it is necessary to distinguish between them, the term "children" will be used throughout the remainder of these submissions to refer to both children and young people as defined by the Inquiry for the purposes of this module (at paragraph 22 of CTI's Note dated 7 August 2024), i.e. individuals aged between 0-18 during the specified period, and those aged 18-25 who were care leavers, had special educational needs and/or disabilities, attended further and/or higher education and/or training, or were in the custody of the state.

[2] In general, and save where it is necessary to distinguish between them, "schools" will be used to refer to education settings including early years, primary, secondary and FE

education settings, including during periods when they were closed[3] to most children; and the delivery of children's social care. These submissions will conclude by considering the evidence of continuing impact and the measures required to address the needs of children, now and in the future.

A: Thematic issues

(i) Planning and consultation

4. Notwithstanding the view to the contrary expressed by the then Prime Minister[4], the DfE does not and has not sought to suggest that sufficient planning had taken place before the decisions to restrict school attendance and to lock down society more generally were taken. The planning that had taken place assumed local, regional or individual school closures in response to workforce challenges[5], rather than addressing the need to ameliorate the impacts on children that would result from the kind of widespread restrictions that were in fact imposed. There should have been more planning both a long way in advance and in the period immediately preceding the decision taken on 18 March 2020[6].

5. Many of the issues about which concern has been expressed by witnesses are rooted in that lack of planning. For example:
   (i) Consideration of what children would need, rather than what the limitations on delivery would be, might have led to an increased focus on the importance of maintaining face-to-face social work where possible and how this might be facilitated, rather than on what it may not be possible to deliver and how to manage the legal and practical issues arising from that;
   (ii) Carrying out the policy work before the emergency presented itself would have enabled consultation on issues such as the definition of vulnerable children and how messaging could best be framed to maximise their attendance at school;
   (iii) Recognition that remote education was likely to be required on a widespread scale would have enabled the DfE to investigate, and facilitate the sharing of, best practice in those schools that were already well-equipped to provide it;
   (iv) Advance planning for the eventuality that exams may not be able to take place might have led to arrangements such as those now in place asking exam centres to gather and retain

[3] The terminology of "closure" of schools will be used here, as elsewhere, to refer to the periods when attendance at school was restricted to vulnerable children and the children of critical workers; schools of course always remained opened for those groups, and continued to deliver education to other children in their homes.
[4] Evidence of Boris Johson [14/3/7-23; 14/4/5-8; 14/5/16-17; 14/7/11-15; 14/15/25-14/16/3; 14/17/1 – 14/21/13]
[5] Evidence of Susan Acland-Hood [11/4/14]-[11/5/6]
[6] Evidence of Susan Acland-Hood [11/12/7-10]

evidence of students' performance to allow grades to be assessed from evidence of their own work, rather than moderated by an algorithm.

6. All of those are expressed in a conditional fashion, because it is impossible to know what decisions would have been made in or prior to 2020, without the benefit of the hindsight that can now be applied. Importantly, such planning and consultation would have been likely to result in greater understanding of, and confidence in, the steps taken by the DfE in response to the pandemic.

7. The DfE has taken a number of steps since 2020 to address the deficiencies that existed at that time. During the pandemic, the Permanent Secretary Stakeholder Group ("PSSG") was established so that core stakeholders, including the Children's Commissioner , were fully engaged initially in the work required to achieve the re-opening of schools in March 2021. The work of that group contributed to ensuring that schools were able to reopen in March 2021. It continued – and continues – to meet thereafter[7], and now includes representation from the children's charities sector.

8. Under the oversight of the Resilience Director, DfE's Rapid Response and Emergency Planning ("RREP") Division has been established, made up of a team with expertise in the area. Over the last 5 years, this Division has worked to strengthen the department's emergency planning, standing resilience structures and response capabilities, drawing on the lessons from COVID-19 and other recent incidents[8]. For example, standing remote education guidance is now in place, which learns the lessons from the pandemic – but can also be used for shorter-term school closures such as those caused by RAAC[9]. The Division also runs a reservist programme of trained officials who can be deployed quickly in the event of an incident and supports crisis leadership training[10].

9. As a department that holds society-wide downstream impacts of resilience risks, the DfE has also worked to ensure that children and young people are taken into account in contingency planning and emergency responses across government[11]. This has been tested through Exercise Pegasus[12], focusing on continuity of care, safeguarding and education (particularly for the most vulnerable children and young people). Following Exercise Pegasus, the DfE is now starting a process of testing its planning with the sector, through the PSSG and more widely. The

[7] Evidence of Susan Acland-Hood [11/111/23]-[11/113/15]
[8] INQ000587823_0053, para 7.6
[9] Evidence of Susan Acland-Hood [11/77/24]-[11/78/7]
[10] INQ000587823_0054, para 7.8
[11] Evidence of Susan Acland-Hood [11/50/19]-[11/51/9]
[12] Evidence of Susan Acland-Hood [11/51/10-13]

Inquiry can be confident that in any future pandemic or similar emergency, the DfE would be much better prepared.

(ii) Consideration of children's rights and interests

10. The DfE is committed to safeguarding and promoting the rights of children. In a pandemic situation, this was both more important and more complex and nuanced than ever. There have been a number of suggestions that the rights of children were sacrificed to save adult lives. The reality is more complex.

11. It is unquestionably the case that some of the impacts of the measures that were considered to be necessary to manage and contain the pandemic were harder and more onerous for many children than they were for most adults. School is a critical part of most children's lives and was suddenly not available to most. Families were confined to their homes, which both inflamed tensions in many cases and resulted in far less capacity for safeguarding of children in unsafe households. The loss of the ability to socialise and play will have lasting impacts on development.

12. Recognition of the scale of the impact, however, does not equate to those decisions having been antithetical to children's interests. Put bluntly, it was not in the interests of children for the pandemic to be more severe, or for it to be prolonged. Measures necessary to protect, in the main, adult lives, were also necessary in order to preserve a functioning health service, society, services on which children depend, and of course their families and care givers. Impacts were acknowledged, but the decisions were deemed to be necessary nonetheless. That is not the same as not taking account of the rights of children.

13. The DfE is aware of the Inquiry's recommendation in its Module 2 report that the UK government should introduce legislation to place child's rights impact assessments ("CRIAs") on a statutory footing in England. The DfE already uses CRIAs and finds them to be a helpful tool in many circumstances[13]. It is not clear that a formal requirement to complete one in prescribed circumstances would necessarily improve decision making. For example, the attendance rates of vulnerable children in England compared to Wales and Scotland were better despite the more widespread use of CRIAs in the devolved administrations[14]. Care would need to be given to the framing of any such requirement to ensure that it was both comprehensive but also proportionate, to avoid mechanical recitation of obvious points and actually aid focus on the really serious impacts that might genuinely shift decision making on critical issues[15].

[13] Evidence of Susan Acland-Hood [11/43/2-23]
[14] INQ000587959_0062 at Table 8, INQ000587959_0163 at para 399; INQ000588179
[15] Evidence of Susan Acland-Hood [11/46/3 – 11/47/2]

14. The incorporation of the United Nations Convention on the Rights of the Child ("UNCRC") into domestic law, as suggested by some Core Participants, would of course also be a matter for primary legislation to be debated in Parliament. Such a debate took place recently in the House of Lords in the context of functions under the Children, Wellbeing and Schools Bill. Amendment 469 would have introduced a duty to prepare and publish a child rights impact assessment in relation to any legislative provision, policy decision, budgetary decision, or other decision of a strategic or operational nature that has or will have a direct or indirect impact on children's wellbeing, social care or education, which are undertaken by virtue of the provisions under the Bill. Amendment 470 would have introduced a duty on ministers to have due regard to the UNCRC in exercising functions relating to children. The amendments were supported by, amongst others, the Children's Commissioner Baroness Longfield[16], and opposed by the Conservative opposition (consistent with its position when in government). The DfE Minister of State (Baroness Smith) explained that the government did not support the amendments. In relation to mandatory CRIAs, the government emphasised that assessments should be effective and proportionate, and that while CRIAs were a valuable tool it would not be right to incorporate them in statute[17]. In relation to a statutory duty to have regard to the UNCRC, the government was committed to children's rights and implementation of the UNCRC through legislation[18]. In light of those comments, Amendment 469 was withdrawn. Amendment 470 was not moved[19].

(iii) The terminology of vulnerable children

15. The DfE has some sympathy with the point made, including in written opening submissions by the Disabled People's Organisations at paragraph 16, that labelling children as "vulnerable" downplays the external drivers of vulnerability, and has the potential to be stigmatising[20]. It was however the terminology in use at the time, and had been adopted by the then Children's Commissioner in the years prior to the pandemic[21]. The DfE would be open to using different terminology to capture the group(s) of children about whom there is most reason to be concerned, and whose rights and interests require particular focus (in ordinary as well as emergency situations).

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[16] HL Deb 18 September 2025, Vol 848, Col 2415-2416
[17] HL Deb 18 September 2025, Vol 848, Col 2430
[18] HL Deb 18 September 2025, Vol 848, Col 2431
[19] HL Deb 18 September 2025, Vol 848, Col 2433
[20] INQ000588009_0002 at para 1.2, INQ000588809_0028 at para 6.5 and evidence of Susan Acland-Hood [11/32/2-12]
[21] INQ000621276

16. As to the definition and identification of vulnerable children, the term was used to cover (at least) two things: (i) the group of children entitled to attend school, and (ii) the wider group who were the focus of the Vulnerable Children's Unit ("VCU").

17. As to (i), this sought to ensure that those who would most benefit from attendance at school were able to do so. It encompassed children with a social worker, children with an Education, Health and Care Plan ("EHCP"), and a deliberately broad category of those who their schools, who knew them best, considered should attend.

18. That did not purport to exhaust the group of vulnerable children for whom the pandemic was likely to create a heightened risk of harm, and for whom the VCU took on responsibility across government. Most obviously, children under one (and indeed under school age) would be unlikely to fall into any of those categories, but were the focus of work by the VCU[22].

19. The DfE broadly accepts the former Children's Commissioner's approach to identifying vulnerable children as set out in her reports on Childhood Vulnerability in England[23]. This is reflected in, for example the slide showing part of the Vulnerable Children dashboard[24] from April 2020. The reference there to the "narrow measure" relates to the ability to correlate with local authority ("LA") level data, and was discussed with the office of the Children's Commissioner[25]. It should also be borne in mind that not all children falling into one of the categories identified by the Children's Commissioner will in fact be facing particular challenges: for example, it includes all children in receipt of free school meals. It is an indicator of risk, but not necessarily of harm in any individual case[26].

20. On any view, it is critically important to recognise that there are groups of children whose circumstances will make the impacts of an emergency such as a pandemic more likely to cause serious harm. The DfE recognised this from the outset, sought to ensure that those who would benefit the most were able to attend school, but did not lose sight of those who were not in that group but who nonetheless required greater focus to be paid to their needs. A key lesson for the DfE from the pandemic and from Exercise Pegasus has been the importance of maximising all possible opportunities to keep eyes on vulnerable children during a crisis, with all parts of government and external stakeholders working together and sharing data in a timely manner. The Children's Wellbeing and Schools Bill contains an information sharing duty and will make

[22] INQ000587996_0024 at paragraph 3.52
[23] INQ000621276
[24] INQ000540850_0008
[25] Evidence of Indra Morris [9/11/17-23]; [9/12/10-18]
[26] Evidence of Susan Acland-Hood [11/30/4-11/32/12]

provision for a Single Unique Identifier and for multi-agency child protection teams. These measures are designed to strengthen information sharing across agencies, ensuring that a coherent picture is held of a child's life and that prompt, decisive action can be taken to protect them.

(iv) The role of the DfE

21. There are two aspects of the role of the DfE that need to be explained. The first is its position and responsibilities within government, which go to the suggestion made by some core participants that there should be a separately appointed Minister for Children. The other is the way in which the systems for which the DfE has policy responsibility operate, and how functions are allocated within them; this is important in understanding why some of the criticisms of DfE are not fairly made.

22. The DfE's policy responsibilities include children's social care ("CSC"), education from early years through to higher education ("HE"), and safeguarding in relation to children. Those areas are of course crucially important to children, but the policy decisions they require also have implications across government, most notably (but far from limited to) the economy and the health service.

23. This was particularly true during the pandemic. For example, the closure of schools was a health-driven measure, which would also have potential wide-ranging impacts on the economy as it would impact the ability of parents to work. Many of the most important decisions therefore properly fell to be taken at Cabinet level.

24. Further, there are many policies and functions of government that impact on children, their education and wellbeing that are not part of the DfE – most obviously, children's healthcare was and is the responsibility of the Department of Health and Social Care ("DHSC"), benefits are the responsibility of the Department for Work and Pensions, the Home Office is responsible for asylum policies affecting children, the Ministry of Justice is responsible for children in contact with the criminal justice system, and the Department of Culture, Media and Sport is responsible for online safety. The DfE has to work very closely with the Ministry of Housing, Communities and Local Government ("MHCLG") since funding for CSC is allocated by that department as part of the local government finance settlement. MHCLG is also responsible for housing for children and their families.

25. It has been suggested by some core participants that there should be a dedicated Minister for Children with responsibility for all of the policy areas. The Secretary of State for Education is

already formally the Secretary of State for Children and is required by section 7 of the Children and Young Persons Act 2008 to promote the well-being of children in England. It is open to that office holder to engage across government to assert their role as Minister for Children, and the Permanent Secretary of the DfE, Ms Acland-Hood, has reflected on the extent to which advice about intervening on issues such as children's play ought to have been given during the pandemic.[27] For present purposes, the important point is that that mechanism exists.

26. The Inquiry may consider that ensuring a proper focus on children's rights and interests is less likely to be achieved through machinery of government changes, rather than by fostering a culture in which all parts of governments are engaged in working towards shared goals such as the protection of children. To take one example, the Children's Commissioner should not need to identify a particular person with responsibility for children's play[28]; the ministers and officials with responsibility for issues impacting on play (so for example DHSC in relation to the lockdown regulations, and MHCLG in relation to playgrounds) need to work together, and take on board the views of the Children's Commissioner where issues are identified.

27. Turning to the DfE's role in the education and CSC systems, DfE does not run either schools (or FE colleges) or social care services. Its role in the school system is to provide funding to local authorities ("LAs"), single academy trusts and multi-academy trusts ("MATs"), and the bodies that operate early years provision and FE colleges, to appoint arms-length regulators and inspectorates such as Ofqual and Ofsted, to present legislation to Parliament and to produce guidance. The DfE's role in respect of Higher Education Institutions ("HEIs") (including universities) is different again; HEIs are fully independent and autonomous, and the DfE is responsible for the student finance system, and for sponsoring their regulator.

28. Similarly, in relation to CSC, the DfE does not appoint or employ social workers, and is not directly involved in appointing foster cares, facilitating adoptions, applying for court orders or running children's homes. It works with the 317 LAs[29] in England to secure CSC and meet the specific duties set out in the Children Act 1989 and Children Act 2004. These duties include a general duty to safeguard and promote the welfare of all Children in Need ("CIN") in their area, the duty to provide accommodation to CIN where necessary, to make necessary enquiries where a child is suspected of (or is) suffering significant harm and this is complemented by the draconian power to apply to a court to place a child in the care of the LA.

[27] Evidence of Susan Acland-Hood [11/122/8-11/124/5]
[28] Evidence of Baroness Longfield [4/95/11-23]
[29] Outside of London and unitary authorities, LAs are split between county and district tier—CSC sits at the County tier.

29. The DfE monitors and maintains the legal framework that underpins CSC and funds LAs so they can perform their onerous and important duties. In addition, the DfE maintains Social Work England to monitor professional compliance and funds Ofsted to inspect children's homes. Further, the DfE commissions research, disseminates best practice and produces guidance. Whilst the DfE generally avoids mandating how LAs meet their duty, every LA is statutorily required to appoint a Director of Children's Services and a lead Cabinet member for CSC. Additionally, the DfE does mandate minimum requirements regarding meetings and inspections of children's homes and foster placements. The DfE retains residual powers to intervene where LAs are failing to meet their statutory duties.

30. This approach is deliberate and considered. The system is designed to help produce the best outcomes for children by facilitating a race to the top and maintaining genuine accountability. The price of accountability is genuine autonomy and variation; therefore schools (alongside LAs and MATs) appoint staff, set timetables, procure and innovate in pursuit of the best educational outcomes, while LAs are able to organise social care according to local need and to pursue innovation in practice so long as statutory requirements are met. The evidence before the Inquiry of excellent practice in a number of MATs, as well as the thoughtful and considered approach taken by local authorities such as KCC, is testament to the value of this approach.

31. It is not, in general, the purpose of legislation and guidance to impose complete uniformity of practice across the system. So long as legal requirements are met there is, designed into the system, the ability for practitioners to practice, to use their professional skills to judge what is right in a particular case, and to innovate. Over-prescription in guidance carries the risk of defeating those objects by eliminating discretion and judgment.

32. The DfE has reflected carefully on the content and approach of the guidance that it issued during the pandemic. As set out in more detail below, it accepts that it could have been stronger on some points, such as the importance of face-to-face social work and the benefits to vulnerable children of attending school; and that a more directive approach was required during a pandemic than in ordinary times. Those lessons, and the importance of testing guidance across the sector where possible, have been taken on board. It is not however DfE's role to ensure uniformity of practice across the sector; the structure of the system as set out above properly centres professional judgment, and it may be in many cases that variation is not a problem, but an example of finding an effective way to do what is required in local circumstances[30].

[30] Evidence of Indra Morris [9/37/18-21]

B: Schools and the consequences of restricting attendance

(i) The decisions to restrict attendance

33. As Professor Sir Chris Whitty explained in evidence, there are essentially two reasons why schools might be closed in a pandemic: either to protect children, because the disease is particularly dangerous to them; or based on modelling that shows it will have an effect on the pandemic as a whole[31]. Whilst there was some uncertainty in March 2020 about the extent to which children were likely to be made seriously ill by COVID-19, the reason for closing schools was not primarily to protect children (or staff) from infection, but to reduce transmission of the virus and therefore contribute to containing the pandemic. References in what follows to keeping schools open "safely" should be understood as references to the ability to keep transmission below a level that would lead to the NHS becoming overwhelmed.

34. As Professor Whitty also explained, at the point at which the decision to restrict attendance to all children other than those identified as vulnerable and the children of critical workers was taken and announced on 18 March 2020, if R had remained above one and a further doubling had taken place from the peak of the first wave "the impact on the NHS would have been really severe"[32].

35. As has already been acknowledged, there was little in the way of concrete planning for the steps that would be necessary following the decision to close schools in March 2020. It is fair to say that as late as 9 March 2020 in a COBR Covid-M meeting, reference was made in discussion to the need to consider "the possibility of virtual distance learning if school closures were actioned", to which the Chief Medical Officer responded that "School closures were not as effective as other presented measures and would come later if necessary"[33]. It was not until 14 March 2020 that the DfE was asked to provide a note on school closures[34], resulting in the paper of 15 March 2020[35].

36. Once it became clear that schools would be closed, DfE's first priority was to ensure that vulnerable children (see section A(iii) above) would be able to attend. That policy is considered

[31] Evidence of Professor Chris Whitty [13/33/5-10]
[32] Evidence of Professor Chris Whitty [13/32/4-11]
[33] INQ000056219_0007
[34] INQ000540794
[35] INQ000540794

in more detail at B(ii) below. Steps also needed to be taken in relation to remote education (see B(iv) below) and the inability to run the summer exam season (see B(v) below), as well as free school meals (which it is understood the Inquiry does not intend to consider in detail[36]).

37. The phased reopening of schools in June and July 2020 has been described as retail and hospitality reopening ahead of all schools. Whilst it did not reflect the principle later adopted that schools should be "last to close and first to open"[37], it is right to note that first, nearly all schools were open to some pupils and, second, reopening in all areas of society at this stage was subject to rules including on social distancing, and should therefore also be described as partial. There were obvious difficulties in ensuring social distancing in schools and, as Sir Gavin Williamson made clear[38], reopening to all children would only have been possible at that time if social distancing rules were relaxed within schools.

38. It is important to be clear that, after June 2020, there were no restrictions on attendance at early years settings. The use of "schools" in the remainder of this section refers to schools and FE settings only.

39. The DfE does not understand there to be any suggestion that schools should have been opened during the summer holidays in 2020, and notes that such a proposal was not considered to be realistic in Wales[39]. In England it was considered that the best prospect for full reopening in September would be if schools were given the summer break to prepare, and to put measures in place that would mitigate the difficulties of maintaining strict social distancing. Advice to the Secretary of State for Education on 30 June 2020 noted that as the number of cases had reduced and the R rate was below 1, Government considered all children should return to school in the autumn term and that guidance was due to be published to support schools to plan for this while managing ongoing risks[40]. Following appropriate protective measures would enable settings to create an inherently safer system, where the risk of transmission was reduced if not eliminated. Guidance to schools on preparing for full reopening was published on 2 July 2020[41]. This set out the 'system of controls': a set of actions schools must take, including maintaining class or year group sized 'bubbles'. Over the summer, guidance was also published making clear that secondary schools could require face coverings to be worn by students and staff in communal areas where it was difficult to maintain social distancing[42].

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[36] Paragraph 16 of ruling following the second preliminary hearing on 11 June 2025
[37] See Susan Acland-Hood's evidence at [11/12/19-24]
[38] Evidence of Sir Gavin Williamson [10/85/11] – [10/89/10]
[39] Evidence of Mark Drakeford [15/159/21] – [15/162/5]
[40] INQ000075458
[41] INQ000542954
[42] INQ000075764

40. The return to school in autumn 2020 was generally successful, with attendance over 70% in the first week[43], increasing to 92.2% (primary) and 86.7% (secondary) by early October[44]. It then declined slightly, linked to prevalence of the virus[45]. Children were overwhelmingly happy to return to school[46]. The DfE published the Contain Framework[47], which contained guidance on how schools should respond to localised outbreaks, with an emphasis on keeping schools open to as many pupils as possible. Under that framework, school attendance was largely protected over the autumn term even in areas where infection rates were high.

41. By the end of the autumn term in 2020, two separate issues began to overlap. The first was testing in education settings, which had been piloted for the purposes of reducing the time lost when a pupil or teacher had to isolate due to contact with an infected person, but may not be infected themselves[48]. The other, driven in large part by the emergence of the new Alpha (then known as Kent) variant of the virus, was the use of mass regular testing to enable schools to safely remain open[49].

42. The evidence is clear that the overwhelming aim within government at the time was to keep schools open if at all possible. The DfE worked to ensure that plans were in place to comply with a series of increasingly onerous testing requirements in an effort to ensure that schools could reopen in January 2021. Whilst this required an enormous amount of work over the Christmas period, in the department and across the sector, there were plans in place that would have enabled the required testing to take place in January. In the event, however, the view that was reached was that there was no amount of testing that would have enabled schools to safely reopen at that time.

43. The DfE is deeply conscious, and extremely grateful, that the implementation of the testing regime in schools, which during the period October 2020-March 2022 involved the distribution of 500 million LFD tests (over 25% of the total in England during that period)[50], with 47,000 tests administered by 6 January 2021[51], was only possible due to a huge effort on the part of school staff in particular. The approach to testing in any future pandemic will of course depend upon

[43] INQ000651498_0075, para 4.159
[44] INQ000651498_0076, para 4.164
[45] See, e.g., INQ000651498_0077 at 4.166; INQ000651498_0078 at 4.170
[46] Children and Young People's Voices report INQ000587936_0099-0100; see also evidence of Baroness Longfield [4/90/14-20]
[47] IN0000542965_0009
[48] See, generally, evidence of Susan Acland-Hood at [11/56/5 – 11/58/11]
[49] Described by Susan Acland-Hood at [11/63/1-6] and [11/63/18-22]
[50] INQ000587978_0010 at para 1.19
[51] Evidence of Susan Acland-Hood [11/67/10-23]

the nature of the disease, the type of testing required, whether or not it can be administered in a home setting, and the availability of tests[52]. The implementation of the testing programme in 2021 is however a testament to the ability and desire of all concerned to go above and beyond in the interests of children.

44. It might be said that the sequence of events leading up to the decision on 4 January 2021 demonstrates that in practice, if the principle that schools should be last to close and first to open is adopted, the circumstances in which a decision to close is ultimately taken will inevitably feel rushed and chaotic as it will be at the "cusp point"[53] where other measures have failed to avert the risk of continued exponential spread. That is not to say that it is not the right principle to apply. The evidence, of Professor Whitty in particular, is that schools could not have been safely kept open in January 2021[54].

(ii) Attendance of vulnerable children

45. At the start of the first period of school closures, the attendance of vulnerable children who were eligible to attend school was very low. It improved considerably over the course of that period, albeit from a very low base, with just under 19% attending by June 2020. During the second period of closures attendance was much better, reaching almost 40%[55].

46. The DfE would of course have wished those figures to be higher and took steps during both periods to encourage attendance[56]. There are a number of points to note:
    (i) The increase in June 2020, coinciding with the phased return of other children, and the better figures for the January – March 2021 period, suggest that a major driver of low attendance rates amongst vulnerable children was fear of the virus. Attendance increased when other restrictions were lifted, and in the second period when there was less of a sense of fear of the unknown (and higher attendance of the children of critical workers);
    (ii) Attendance was not compulsory during this period. It was recognised that there would in some cases be good reasons for children who were eligible to attend not taking up that place;
    (iii) Whilst it is not suggested that they are good enough, the figures in England were much higher than those in Scotland and Wales[57].

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[52] The DfE has addressed these issues in more detail in its closing submissions for Module 7 of the Inquiry
[53] Evidence of Susan Acland-Hood at [11/13/1-4]
[54] [13/126/1-8]
[55] INQ000587959_0062
[56] Evidence of Indra Morris [9/48/8-11]
[57] INQ000588179_0001

47. There has been some suggestion that the low attendance rates were driven by some kind of stigmatising effect of being labelled "vulnerable". It is far from clear that this is supported by the evidence. Firstly, the levels of attendance were broadly similar as between children in need and those with EHCPs; it is less obvious what stigma would attach in the latter category. Secondly, the improvement in attendance can be seen to track changing perceptions of the virus. This was reflected in contemporaneous surveys published on gov.uk, referred to by Ms Acland-Hood in her oral evidence[58].

48. The DfE accepts that, with more time to plan and consult, it may have been possible to improve the messaging in a way that encouraged parents and carers of vulnerable children to send them to school. It was however always going to be a very difficult balance to strike in messaging, when the overarching public health message was to stay at home. It is also impossible to predict the counter-factual situation, where that messaging was diluted to encourage school attendance, and how that might have affected the course of the pandemic and the ability to bring children back to school.

(iii) Provision for children with EHCPs

49. As was explored in questioning of the DfE's witnesses, the reasoning underlying the eligibility of children with EHCPs to attend school shifted over time. At the start of the pandemic it was largely related to safety, recognising that some children's needs meant that they could not safely be cared for at home. This changed, relatively early, to a focus on the benefits to children of being in school, and where their needs would best be met[59].

50. During the first period of school closures, a series of directions were made by the Secretary of State for Education under the Coronavirus Act 2020, modifying the absolute obligation under section 42 of the Children and Families Act 2014 for local authorities to secure the special educational provision contained in an EHCP for the young person to a duty to use reasonable endeavours to achieve this[60]. The reason for this was that, in many cases, provision in an EHCP is closely tied to being in school: it may refer to class size, for example, or to small group therapy[61]. In circumstances where, for the reasons set out above, many children were expected to be at home, to leave the obligation unchanged would have meant both that local authorities

[58] [11/15/16-25]
[59] Evidence of Susan Acland-Hood [11/18/18] – [11/20/16]
[60] INQ000519468.
[61] Reasons why the provision may be more difficult to secure or arrange were stated on the face of the directions, eg INQ000519468_002.

were in breach of the law if children did not receive the provision in their EHCP, and that there was no enforceable fall back obligation where it was not possible to make the provision.

51. This was categorically not a removal of the duty, or a measure that meant LAs could simply abdicate responsibility for the provision in the EHCP. It meant that they were required to use reasonable endeavours. That is a well-recognised legal term, imposing an objective standard of reasonableness. As was stated in the accompanying guidance[62], the LA in deciding what provision must be secured or arranged in discharge of its modified section 42 duty needed to consider specific local circumstances, the needs and specific circumstances of the child, and the views of the child and their parents as to what might be appropriate. LAs were required to keep a record of the provision they decided must be secured or arranged, and to keep it under review.

52. Three such directions were made, lasting for one month each, with effect from 1 May, 1 June and 1 July 2020. No direction was made after 31 July 2020. During the second period of school closures, as Ms Acland-Hood explained, there was a stronger expectation that children with an EHCP would attend school, and that provision would be available for them if they did, which would enable local authorities to comply with the absolute duty under section 42. No further direction was therefore considered necessary[63].

(iv) Remote education

53. The discussion of remote education has, understandably, focussed on the delivery of lessons online. It is a striking feature of the debate, and of this pandemic, that it would have looked entirely different had it occurred only a few years earlier, when the widespread use of technology in this way was simply not in contemplation. Whilst the DfE had encouraged the use of technology in schools prior to the pandemic, its use for online teaching was in its infancy[64].

54. There are three essential components to the delivery of remote education as it is now understood: the availability of both devices and internet connectivity; the capacity of schools to deliver; and the impact of the home environment on children's capacity to engage with remote learning.

[62] Not published by the Inquiry, but quoted by the Children's Commissioner at INQ000231371_0001; all guidance issued by the DfE during the specified period has been provided to the Inquiry
[63] Evidence of Susan Acland-Hood [11/26/5-11]
[64] INQ000587978_0048, para 4.5

55. On the first of those, from a standing start the DfE procured almost 2 million devices in a period of less than two years[65]. In an environment where there were high levels of competition for devices, and where devices supplied to children needed to be formatted to be compatible with the software used by their schools, and to be safe, this was a significant achievement.

56. It did not of course mean that every child who needed one was able to access a device immediately. The only way to ensure that would be, as Sir Hamid Patel put it[66], to provide every child with a device at state expense at all times. It is open to schools to use their funding in this way, and the Inquiry has evidence from academy trusts who have done so. But there are valid reasons for schools not to do so: it involves making a choice not to use the funding in other ways, and the extent to which technology is used in the classroom is, ultimately, a pedagogical judgment that may be answered differently in different schools.

57. In the event of a future pandemic rendering it necessary to make similar provision of devices, the DfE would be in a stronger position to stand up provision more quickly: it has developed its market understanding, and its understanding of specification requirements across the sector, so that procurement processes could be accelerated and orders placed more efficiently. It is also very conscious that a greater volume of orders placed earlier in the pandemic would have resulted in better availability of devices at least in the second period of school closures. Resisting the optimism bias that led to that not being done in 2020 is a key part of resilience planning.

58. There will however always be some lag, particularly in a context where there is competition for devices. Ultimately there will remain a role for non-online delivery, particularly for younger children and for subjects such as PE, and this is reflected in current guidance[67].

59. As to content/capacity, whilst this was variable at the start[68], it is now far more embedded and there is clear guidance in place, as well as resources such as the Oak National Academy, established early in the pandemic with support from DfE[69] and now run as an arms-length body of the department[70]. Whilst there are always improvements to be made, the sector would be far better placed to stand up remote education in a future pandemic, as indeed it was by January 2021 as compared with March 2020. The data from parental surveys and other sources

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[65] INQ000587978_0080 and 0081, para 5.47
[66] [5/144/1-5]
[67] INQ000575797
[68] Evidence of Susan Acland-Hood [11/9/6-11]
[69] INQ000587978_0053-0054 at paras 4.23-4.25
[70] INQ000587978_0064, para 4.60

demonstrate that there was sustained improvement with regard to quality and hours of learning between the first and second period of school closures[71].

60. The final piece of the jigsaw is the learning environment. Even in the best case scenario, learning remotely is not a substitute for being in school. It must be recognised that many children, even if not in overcrowded housing, will struggle to find a calm, quiet space to learn and will have varying levels of capacity to engage in this way when not in a classroom environment. Depending on the degree to which some in person attendance can be accommodated in any future pandemic, it is likely to be appropriate for children who will find remote learning particularly difficult for any such reason to be identified by their schools and offered a place for attendance where possible.

(v) Exams

61. Exams are the most reliable way of assessing children's progress and academic attainment levels. There will always be children who exceed and who underperform their predicted grades for a wide variety of reasons, including but not limited to how hard they work in the run up to their exams, and unpredictable life events that may impact upon performance. Prior to 2020, there was no systematic monitoring of the accuracy of predicted grades, and no requirement for exam centres to gather and retain evidence of students' performance to allow grades to be assessed from evidence of their own work[72]. There was, accordingly, widespread agreement that moderation of centre-assessed grades would be necessary, and support for the algorithmic solution developed by Ofqual following consultation.

62. It is right that Sir Jon Coles raised concerns about the algorithm[73]. It is not right to say that these were simply dismissed out of a reflexive defensive mindset, as he suggested in his evidence[74]. The reasons why his analysis was not accepted then – and is not accepted now – by Ofqual and DfE are set out in the witness statement of Jenny Oldroyd at paragraph 4.27[75]. Essentially, Sir Jon had assumed that in the absence of any incentive to do so, exam centres would not inflate grades and would be consistent in their approach. However, Ofqual's analysis of centre assessment grade ("CAG") returns was that they were significantly higher than expected for 2020 and that there was no evidence of consistency of approach by exam centres. The evidence of Sir Ian Bauckham CBE, the current Ofqual Chief Regulator, is that Ofqual's findings

[71] INQ000651498_0053 at para 4.68.3, INQ000651498_0054 at para 4.73 to 4.74, INQ000651498_0104 at para 5.71, INQ000651498_0115 at para 5.111 and INQ000651498_0117 at para 5.123.
[72] Such resilience arrangements are now in place: INQ000651499_0074 at paragraph 7.26
[73] As explained in detail in his evidence at [5/67/14] – [5/84/3]
[74] [5/89/12]-[5/90/1]
[75] INQ000651499_0026-0027

at 20 July 2020 were that CAG inflation was 13% at A-level and 10% at GCSE and implausibly concentrated at specific grade boundaries[76]. Ofqual also noted concerning patterns where certain centre types showed higher inflation than others, with some centres submitting obviously unrealistic CAGs. Sir Jon's proposal would therefore have led to another form of unfairness between students from the centres that had submitted the highest grade profiles and those from centres that had been more realistic.

63. It is also not correct to categorise the conflict as being between fairness and the avoidance of grade inflation. There is not a single conception of fairness, and grade inflation impacts upon fairness between cohorts, which can have significant effects for individuals[77]. Ultimately, the best way to ensure fairness is to have plans in place, of the sort that now exist, with schools and colleges now required to keep materials that would allow evidencing of teacher assessed grades if exams had to be cancelled in future (see paragraph 61 above and footnote 69).

(vi) Facilitating school attendance

64. A number of non-pharmaceutical interventions ("NPIs") were employed in schools and other settings to seek to minimise the risk of transmission and thus maximise the ability of schools to stay open safely. Social distancing and testing are covered above. Face coverings were recommended during certain periods[78]. There are obvious tensions between the straightforward medical advice that face coverings would reduce the risk of transmission, the difficulties of ensuring proper use by children, and the impacts on education and interaction, particularly for the youngest children, the deaf and those with communication difficulties. The DfE sought at all times to strike the balance between those factors, and between the conflicting views both strongly opposed to and in favour of the use of face coverings in the classroom.

65. The latter view was particularly strongly held by those advocating on behalf of clinically vulnerable children and children with clinically vulnerable family members. The DfE is sympathetic to the dilemmas faced by those children and families. It is also firmly of the view that, unless there is clinical advice to the contrary, children should be in school[79].

66. For the avoidance of doubt, the DfE is clear that "off-rolling", in the sense of offering parents who have concerns about school attendance the option of prosecution or home-schooling at the outset, is not an acceptable practice. Where families have genuine medical concerns, schools

[76] INQ000588145_0138
[77] Evidence of Susan Acland-Hood [11/90/21-24]
[78] INQ000587978_0011-0030
[79] INQ000651498_0066-0067 at para.4.127; INQ000497854_0023- 0024; evidence of Susan Acland-Hood [11/118/7-22]

should work with them rather than resort to prosecution[80]. Ultimately, however, the presence of a clinically vulnerable family member cannot be permitted to keep a child out of education.

67. The DfE recognises of course that families may be more comfortable with children attending school if classrooms provide the healthiest environment possible. The DfE has taken steps, guided at all stages by the available evidence, to support schools firstly in monitoring CO2 levels as a proxy for air quality, and then in providing air cleaning units where issues were identified. It looks forward to receiving the outcome of the class-ACT trial[81] and will consider what further steps should be taken in the light of that study's findings, including in relation to its buildings guidance.

C: Children's social care

68. The pandemic posed a number of challenges for CSC. Children who were not at school and locked down with their families were less visible to services and those who were already vulnerable to abuse or neglect became more so. Further, the already stretched CSC workforce was as susceptible to the virus as the rest of the population, and a large number of foster carers were older than the median population and were particularly susceptible to the virus[82].

69. The DfE's response was threefold, in accordance with its role in the CSC system as explained at section A(iv) above: it produced guidance; made changes to certain statutory requirements; and sought and reallocated resources as well as championing best practice.

(i) 3 April 2020 Guidance

70. The Guidance produced during the pandemic was updated numerous times in response to the evolving situation and the extent of the government's knowledge. The first iteration issued on 3 April 2020[83] stated that "*We know that local authorities and local safeguarding partners will want to continue to meet their statutory duties as far as they can, but there will be times in the current circumstances when this is not possible.*"

71. The Guidance reflects the concern that LAs' resources would be stretched thin by an exponentially growing death rate and that they would be confronted with impossible decisions where requirements to comply with certain statutory timescales and obligations may, in the exceptional circumstances created by the pandemic, conflict with social workers' professional

[80] Evidence of Susan Acland-Hood [1/117/19]-[11/118/6]
[81] INQ000587992_171-173; Evidence of Susan Acland-Hood [11/105/21] - [11/110/25]
[82] See on this the judgment of Lieven J in *R (Article 39) v Secretary of State for Education* [2020] EWHC 2184 (Admin)
[83] INQ000519580

judgment as to how to allocate scarce resources in the best interests of children. The DfE recognises however that it appears to suggest that statutory duties were optional. They were not, and at that stage remained fully in force.

72. This is a prime example of an error that could have been avoided if there had been more and earlier planning, focussed on how to address impacts on children and involving those who advocate on their behalf. The DfE accepts that the initial Guidance was inappropriate in suggesting that statutory duties may not be complied with, without any change to those statutory requirements having in fact been implemented.

73. The Inquiry has quite properly shown interest in whether the guidance dealt with the issue of home visits adequately. Remote visits are inferior to physical ones for nearly all children, as explained by a number of witnesses[84]. They do not let social workers fully appreciate the wider environment and prevent the opportunity to pick up on subtle clues regarding the support available for a young person at home.

74. On this point, the Guidance of 3 April 2020 stated that "We recognise that there are circumstances where it will be necessary for social workers and other staff to visit children in person." Whilst this was not intended to create a presumption against face-to-face visits, the DfE accepts that it was capable of being read in that way, and that it would have been better to emphasise the importance of face-to-face visits continuing wherever possible. Again, greater input from stakeholders would have been likely to lead to better judgment. The Inquiry will recall the evidence of Professor Sam Baron on behalf of the British Association of Social Workers ("BASW"), who made the point in evidence that it would have been useful to have guidance on how to practise face to face social work safely, recognising that it needed to continue in the same way as many medical appointments needed to be in person[85]. That would not be wholly within the remit of the DfE, but is something that certainly ought to be considered in any future pandemic.

(ii) The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 ("the Regulations")

75. As the then Children's Commissioner pointed out in her letter of 6 April 2020[86], the 3 April 2020 guidance suggested that some statutory duties towards vulnerable children may not be met, but

[84] See, for example, the evidence of Sarah Hammond of KCC at [8/58/20]-[8/59/14]
[85] [9/101/15]-[9/102/5]
[86] INQ000239691_0001

no legislation had been passed to detail exactly which regulations would be relaxed. The Regulations were intended to fill precisely that gap.

76. In summary, the Regulations:[87]

- Relaxed the timescales under which representatives of the responsible local authority must visit a child in care and clarified that such visits could take place by telephone or other electronic means.
- Relaxed timescales around the formalising of placement plans for looked after children and the deadlines for reviews of placements.
- Amended the standards that must be met by everyone providing residential care for looked after children – for example, requiring standards concerning delivery of care relating to health and development to be met "as far as is reasonably practicable".
- Allowed local authorities to take more time to carry out reviews into complaints about the services they provide to children and young people.
- Revoked the minimum Ofsted inspection intervals. Ofsted continued to have powers to inspect with powers under the Care Standards Act 2000.
- Extended the period within which a local authority must publish a written statement of action following an Ofsted inspection of its children's services.
- Provided additional flexibility for local authorities and regional adoption agencies in the adoption process – for example, allowing the Disclosure and Barring Service and medical checks on prospective adopters to be completed at a later stage of the process.
- Removed the requirement for adoption panels (which make recommendations to adoption agencies on whether potential adopters are suitable).
- Extended the permitted length of a single short break placement (where the local authority arranges for a child to stay with a foster carer but the parents remain responsible for their overall care) from 17 to 75 days.
- Made fostering panels optional rather than required. Fostering panels are set up to assess applications for potential foster carers and the ongoing suitability of existing foster carers, and to then make recommendations to the fostering service provider.
- Permitted the temporary deprivation of liberty where powers under the Coronavirus Act 2020 in relation to isolation are being exercised in respect of a young person who is infectious or suspected of being infectious with coronavirus (COVID-19) to prevent the virus from spreading.

[87] INQ000587996_0046-0048, para 4.6

77. The DfE fully accepts that it was wrong to characterise these changes as minor or administrative. They related to important safeguards in the system. However, with resources extremely strained, those important safeguards being enshrined in legislation had the potential to divert professionals away from even more critical, but non-statutory, actions that needed to be taken to protect children; effectively, to require a decision between acting in what they judged to be in the best interests of children, and fulfilling their statutory duties. As Lieven J found, and as was not challenged in the Court of Appeal, the intention behind them was to protect children[88].

78. The making of the Regulations was subject to a CRIA[89]. It is plain from the evidence before the Inquiry that there are strongly held views that they were not in the best interests of children. Better planning and consultation may have reassured many in the sector, including the Children's Commissioner, that the DfE was seeking to act in the best interests of children. Whatever the view the Inquiry forms of the Regulations themselves, it is important to distinguish between the flexibilities that were introduced by the Regulations, and the limited evidence of their use (see section C(v) below), and other changes to social work practice that resulted from the pandemic and had nothing to do with the Regulations. Contrary to the impression given in some of the evidence[90], there is no evidence that the Regulations themselves directly contributed to any harm to children.

79. As the Children's Commissioner had said should be the case, the Regulations were temporary in nature and would expire if not renewed, in the same way as legislative changes covered by the Coronavirus Act. They placed an ongoing duty on the Secretary of State for Education to keep them under review. The vast majority were permitted to expire on 25 September 2020; a much smaller number were extended following consultation, a Children's Rights Assessment and an Equalities Impact Assessment, by The Adoption and Children (Coronavirus) (Amendment) (No.2) Regulations 2020. In summary, the following relaxations were extended: virtual visits for looked after children were permitted but required agreement of senior staff, medical checks for adoptees could be deferred to a later stage, virtual visits of residential family centres where that was not possible due to the virus, and a further suspension of scheduled Ofsted inspections – assurance and risk assessment inspections remained in place. Following further consultation, these were extended on 8 March 2021 to 30 September 2021 by The Adoption and Children (Coronavirus) (Amendment) Regulations 2021. All amendments to the statutory scheme lapsed at that point.

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[88] [2020] EWHC 2184 (Admin) at paragraph 87
[89] INQ000540857
[90] For example, that of the former Children's Commissioner at [4/36/13-16]

80. The Regulations were also, as the Children's Commissioner rightly said they should be (but contrary to the impression given in oral evidence[91] that this was not the case), accompanied by guidance making clear that they should only be used when necessary, i.e. when it was not possible to comply with the original statutory requirements (see section C(iii) below).

81. The DfE did not argue during the judicial review proceedings that the view of the Children's Commissioner was not important, or that she would not ordinarily have been consulted. Its position, and the difference between the judgment of Lieven J and that of the Court of Appeal[92], was that in the extraordinary circumstances that prevailed in March and April 2020, the failure to consult the Children's Commissioner was not so egregious as to render the (extremely truncated) consultation that did take place unlawful. It of course accepts the judgment of the Court of Appeal, and has made clear that it would consult the Children's Commissioner in future – and indeed, beyond that, that children's rights organisations will be involved with others from the sector in testing its future resilience plans.

(iii) 6 May 2020 and later guidance

82. The Guidance was updated on 6 May 2020[93], following the Regulations coming into force. The updated guidance stated that the flexibility provided by the Regulations "should only be used when absolutely necessary, with senior management oversight, and must be consistent with the overarching safeguarding and welfare duties that remain in place." It required that the overarching approach to using the flexibilities be approved at chief officer level within LAs, and that the use of any of the flexibilities be properly recorded along with the reasons for doing so. LAs needed to be prepared to explain why their use was necessary, including to Ofsted, and Ofsted would review the relevant records if any complaints or concerns were received.

83. The Guidance continued to be updated throughout the pandemic before being withdrawn on 1 April 2022.[94]

(iv) Operational response and resourcing

84. The operational response from the DfE centred around the establishment of a Vulnerable Children's Unit ("VCU") within the DfE on 17 March 2020[95]. This involved the creation of daily situation reports from across government departments,[96] and was complemented by the establishment of Regional Education and Children's Teams ("REACT") led by Regional School

[91] at [4/57/6-14]
[92] [2020] EWCA Civ 1577
[93] INQ000520166
[94] INQ000587996_0097-0099 at Annex 2.
[95] INQ000587996_0012-0013 at paragraph 3.21.
[96] For example, INQ000546826 (dated 26 November 2020)

Commissioners to bring together CSC and education providers[97]. There were also regular meetings with the Office of the Children's Commissioner, President of the Association of Directors of Children's Services and the Local Government Association[98].

85. The government announced £2.9bn of non-ringfenced funding for LAs on 19 March 2020 and a further non-ringfenced £1.6bn on 18 April 2020. The DfE encouraged some of this to be allocated for CSC with a particular focus on ensuring no care leavers were expected to leave their accommodation during the pandemic[99].

86. Ms Morris was appointed Senior Reporting Officer for vulnerable children by the Cabinet Office and led on the cross-government work to ensure that all departments were aware of the needs of vulnerable children and were able to provide resources where necessary[100]. The VCU developed the vulnerable children dashboard which summarised the cumulative national picture on attendance, including vulnerable children, LAs' most recent Ofsted inspection and whether they were subject to an improvement plan. All LAs were RAG rated on the basis of data from LAs themselves, Ofsted and schools.

87. The DfE increased its engagement with the third sector through the pandemic[101]. It successfully sourced funding for charities to support the DfE's functions including support for care leavers[102]. In June 2020, the DfE launched and funded the See, Hear, Respond programme, which was coordinated by Barnardo's[103].

88. Cumulatively, the DfE adapted its ways of working to ensure that it had a much clearer grasp of data, impact and risks of the pandemic. It also funded numerous programmes to assist during and after the pandemic. Not everything worked perfectly; it took too long to ensure that there were robust data streams in place and there was an absence of cross-governmental workstreams focussed on children. As stated above, the absence of robust planning was the biggest challenge.

(v) Evidence of practice on the ground

89. The DfE invites the Inquiry to acknowledge the resilience and resourcefulness of the sector in meeting the challenges of the pandemic. The evidence, for example from Kent County

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[97] INQ000588009_0004 at paragraph 2.4.
[98] INQ000588009_0006 at paragraph 2.11
[99] INQ000587996_0060-0061 at paragraphs 5.6 to 5.8.
[100] INQ000588009_0004 at paragraphs 2.1 and 2.2.
[101] INQ000587996_0014 at paragraph 3.26.
[102] INQ000587996_0023 at paragraphs 3.49, INQ000587996_0026 at paragraph 3.60 and INQ000587996_0100-0104 at Annex 3
[103] INQ000587996_0030 at paragraph 3.73.

Council[104] of RAG rating to identify which children required a face-to-face visit and which could be seen virtually is reflected in the responses provided to the Local Government Association[105]:

- The number of children in need assessments reduced by a "great" proportion in 4% of LAs and by a "moderate amount" in 26% of LAs. Therefore, for 70% of LAs there was either a small (28%) or no (42%) reduction. (Table 14)[106].
- The number of child protection enquiries reduced by a "great" amount in 5% and by a "moderate amount in 21% of LAs." Therefore, for 74% of LAs there was either a small (19%) or no (55%) reduction in child protection enquiries. (Table 15)[107].
- The number of children's conferences reduced by a "great" amount in 4% and by a "moderate amount in 23% of LAs." Therefore for 73% of LAs there was either a small (20%) or no (53%) reduction. (Table 16)[108].
- There were examples from both Welsh and English authorities of risk assessing who should have a virtual visit and who should retain an in person visit[109].
- In terms of other services, 17% of LAs said these reduced by a great amount and 25% by a moderate amount; therefore 57% said there was either a small (32%) or no (25%) reduction. (Table 19)[110].
- 92% of LAs stated that the impact of the pandemic was either challenging but did not threaten delivery (50%) or not a problem at all (42%). Of the remaining 8%, only 1% said that the challenges of the pandemic threatened the delivery of services throughout the pandemic as opposed to "at points" (Table 20)[111].
- In terms of impact, the negative changes were broadly as reasonably anticipated (greater difficulty seeing children (63%), fewer referrals (57%), harder to maintain contact (54%) (Table 22)[112].
- LAs prioritised face to face visits for children on protection plans (29% noted a reduction) as opposed to children's residential care (45%), foster care (54%) and child in need plans (56%) (Table 27)[113].

[104] [8/59/15]-[8/61/5]
[105] INQ000546957
[106] INQ000546957_0048
[107] INQ000546957_0051
[108] INQ000546957_0053
[109] INQ000546957_0058
[110] INQ000546957_0060
[111] INQ000546957_0062
[112] INQ000546957_0068
[113] INQ000546957_0082

- Virtual visits increased for all groups with a majority of LAs reporting an increase in virtual visits for foster care (65%), children in need (64%), children in residential care (58%) and children on child protection plans (or their equivalent) (49%) (Table 28)[114].
- The period between social work visits does not appear to have changed with only 6% of LAs reporting an increase in gaps between visits (Table 30). Similarly, few councils reported an increase in timescales in the review of care plans for children in care (3%) (Table 32)[115].
- There was a large number of LAs that increased the period that children were placed with foster carers (78% in all or some cases), the mean extension was 10 weeks, with a median of 7 (indicating that there was a tail of longer placements, but most were 7 or fewer weeks) (Tables 38 and 39)[116]. Linked to this, a majority of LAs reported that there was a decrease in the number of foster placements (54%,) (Table 57)[117]. A minority of councils used the relaxations regarding independent panels for foster carers and adoptions placements (71% reported not using them) (Table 44)[118].
- In contrast, a majority (65%) used the regulation regarding medical reports for adopters and foster parents (Table 43)[119].

90. Whilst this overall shows that the sector displayed great resilience, that does not detract from the scale of the challenge that was faced. This is particularly evident from the increase in serious incident notifications, despite the drop of referrals to the sector[120] and the evidence in the reports into tragic deaths including those of Arthur Labinjo-Hughes and Star Hobson. It is clear that the challenges of the pandemic exacerbated the difficulties in caring for these young children, and as set out above the DfE has reflected on the ways in which the changes to guidance and regulations, in particular, could have been better focussed and better expressed, particularly through being better informed by input from across the sector. The DfE recognises the need for continued improvement in CSC, and measures taken since the pandemic have resulted in the highest number of social workers being employed in the sector since data collection began in 2017, whilst measures such as the number of children in need and looked after children have returned to pre-pandemic levels.

D: Continuing impacts and responses

(i) Children's wellbeing and mental health

[114] INQ000546957_0084
[115] INQ000546957_0091
[116] INQ000546957_0096 & INQ000546957_0100
[117] INQ000546957_0138
[118] INQ000546957_0108
[119] INQ000546957_0104
[120] INQ000587996_0080-0081 at paragraph 6.9-6.10.

91. Whilst direct policy responsibility for child and adolescent mental health resides with DHSC and NHS England, mental health has obvious consequences for the delivery of education and children's social care, as well as academic achievement, and DfE has conducted research into, and made provision to support, children's mental health.

92. The evidence of impact is consistent as between the DfE's research[121] and the expert report provided to the Inquiry by Professors Newlove-Delgado and Creswell[122]. The balance of evidence suggests that overall children's mental health and wellbeing was negatively impacted by the pandemic, although this was unsurprisingly not uniform as individual experiences varied enormously. It is not realistically possible to attribute this harm as between specific elements of the pandemic experience, which of course included closure of education settings but also high levels of stress for families and the impacts of lockdown more widely. The DfE is of course acutely aware that the loss of routine, and of the ability to socialise, at school and in other education settings will have contributed to and compounded those other effects; this was one of the reasons why there was such reluctance to close schools, and why it is recognised that it must always be a last resort.

93. The DfE recognised the likely impacts on children's mental health at an early stage. It worked with experts ahead of the return to school in 2020 to identify what the needs were likely to be, and put in place a range of support, complementing that provided by DHSC, including the provision of, and funding for, resources and training for teachers to enable training for senior mental health leads at every school[123]. It also adopted a more hands-on approach to student mental health in the HE sector[124], providing significant support and intervention as set out in HS paragraph 5.48[125].

94. The DfE is absolutely committed to working to meet the mental health needs of children as they exist now, recognising as well the complex issues arising out of online harms and the use of social media. These are issues that require a cross-government and indeed cross-society response, and the DfE looks forward to recommendations made with the benefit of the wide-ranging analysis that the evidence provided to the Inquiry will facilitate.

(ii) Academic attainment

[121] INQ000587992_161-170
[122] INQ000587958
[123] INQ000587992_0169-0170, paragraphs 9.30-9.34
[124] INQ000588004_0083 at paragraph 7.10
[125] INQ000588004_0041-0046

95. The DfE recognised the need for recovery measures at an early stage. It worked with and supported Sir Kevan Collins as Education Recovery Commissioner, on the recovery package that he proposed. Whilst the largest element of that, being additional time in the school day, was not ultimately approved for funding, all of the other elements were delivered[126]. It can be seen that, for most children, these measures have been largely successful.

96. At both KS2[127] and KS4[128], overall results show attainment broadly matching pre-pandemic outcomes, rather than evidence of wholesale regression. However, these headline figures mask a regression in the closing of the attainment gap between disadvantaged and non-disadvantaged pupils. In 2023/24, the disadvantage gap index at KS2 was 3.13 compared to 2.91 in the year 2018/19. This is a return to the score of 2013/14 but an improvement on the score of the baseline year of 2010/11 (3.34) [129]. The picture is similar at KS4: the disadvantage gap index regressed to 3.92 in 2023/24 from 3.66 in 2019/20; [130] although this remains an improvement on the baseline score of 4.07 in 2010/11[131].

97. Professor McCluskey stated in evidence to the Inquiry that the overall results are "fairly positive, and something that tentatively we might be able to celebrate. It looks like good news."[132] However, the DfE agrees with Professor McCluskey that underlying the headline results are ongoing challenges regarding the disadvantage gap, persistent non-attendance and the performance of certain groups which require ongoing intervention[133].

98. Linked to attainment, but also to recovery more widely, there remains a real issue of increased levels of absence from school since the pandemic. It is of course difficult to improve attainment for children who are not in school. Whilst rates of overall absence and of persistent absence (less than 90% attendance) are now falling, severe absence (less than 50% attendance) is still going up, albeit for a far smaller number of children[134]. The DfE now has detailed and real time information on school attendance[135], and is working hard to reduce absence rates along with schools across the country. It is positive that persistent absence is now reducing, as severe absence has historically tracked this, but the DfE is not complacent and recognises the need for continued focus on this issue[136].

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[126] Evidence of Susan Acland-Hood [11/85/19]-[11/86/19]
[127] INQ000588423
[128] INQ000587992_0048-0049, tables 14 and 15
[129] INQ000587992_0039 at paragraph 3.56
[130] INQ000587992_0052, Table 16
[131] INQ000588463_0026
[132] [6/188/15]
[133] E.g. at [6/191/7]-[6/192/4]
[134] Evidence of Susan Acland-Hood [11/98/1-23]
[135] INQ000651498_0032, para 4.5; INQ000651498_0044, para 4.43; INQ000651498_0156, para 7.31-7.33
[136] Evidence of Susan Acland-Hood [11/98/24]-[11/99/9]

(iii) Long Covid and clinical vulnerability

99. Those representing children with Long Covid and those with other clinical vulnerabilities raised a number of important issues for the Inquiry to consider. The DfE is sympathetic to their position, and its response in terms of the general position on school attendance and NPIs in schools is dealt with above.

100. Addressing Long Covid specifically as a continuing impact of the pandemic, it is important to place on record that the DfE accepts the evidence about the symptoms and prevalence of the condition set out in the expert report of Dr Terry Segal and Professor Elizabeth Whittaker at paragraphs 5-39[137]. The discussion of delays in its recognition and the health service response are outside the DfE's scope. The DfE is guided on such matters by advice from DHSC in particular.

101. As was explored in evidence, the DfE considered providing guidance to schools on Long Covid, but ultimately there was no agreement on what it could usefully say. Any such guidance would of course need to be co-produced with DHSC, and it is unusual for guidance to be promulgated on specific conditions, including those that lead to children missing significant time in school. The response in each case needs to be child-centred and based on clinical advice, as with any other medical condition. As Professor Whitty put it in his oral evidence, the group who did need clear advice on Long Covid specifically were not teachers and school staff, but the medical profession and other healthcare workers[138].

(iv) Avoiding a "lost generation"

102. Whilst individual experiences of course varied enormously, many children unquestionably suffered greatly as a result of the pandemic. The response to that requires both that lessons are learned so that the DfE, government and society in general are in the best possible position to minimise such harm in a future pandemic or similar emergency; and that children and young people's current needs are addressed.

103. As part of that, it is vitally important not to allow a narrative of a "lost generation" to become entrenched in a way that stifles ambition or lowers expectations. Expectations are crucial to achievement, and the same can be said of well-being. That is not to seek to minimise in any way the impacts of, and the harms suffered due to, the pandemic. But the best way to respect the rights, and to meet the needs, of those who were children during the COVID-19

[137] INQ000587960_0004-0020
[138] [13/152/5-11]

pandemic is to look for ways in which they can be enabled to thrive and succeed in the post-pandemic world. The DfE is committed to continuing to learn the lessons of the last pandemic, whilst maintaining its focus on meeting the needs of children and young people as they stand now. It looks forward to receiving the Inquiry's recommendations, and to working with stakeholders throughout the system, to achieve those goals.

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