

## MODULE 8

### CLOSING SUBMISSION ON BEHALF OF

### THE DEPARTMENT OF EDUCATION NORTHERN IRELAND

#### Introduction

1. The Department of Education in Northern Ireland ('DE' or 'the Department') welcomes the opportunity to provide closing submissions to Module 8 of the Inquiry's work. DE is the devolved government department in Northern Ireland with responsibility for education, amongst other matters. It has actively participated in the work of Module 8 as a Core Participant. It has done so through its provision of documentary evidence, a corporate witness statement, and the oral evidence of Mr Derek Baker (Permanent Secretary until November 2020) on the 15 October 2025. Perhaps less obviously, DE has also participated in Module 8 through its senior staff who have observed with great interest the evidence and submissions received by the Inquiry, particularly from those engaged with the provision of education and the representation of children and young people in Northern Ireland.
  
2. DE has considered the documentary evidence shared with Core Participants and listened to the evidence adduced during the oral hearings and has reflected on the emerging themes. Consideration of all of this has informed the content of these submissions. Of course, these submissions do not commentate on the full breadth of the evidence received by the Inquiry. Instead, DE has sought to identify and address some of the key areas within the context of its responsibilities. These submissions, in four sections, address the following objectives:
  - a. Section 1: to describe the difficult context in which DE had to operate.
  - b. Section 2: to respond to the main concerns or criticisms relating to DE's response to the challenges of the pandemic, providing DE's reflections and insights on how this work was performed and what might have been done better.
  - c. Section 3: to document some of the positive work which was undertaken by DE and its partners during the pandemic, which helped to maintain a semblance of normality, assisted children and young people and avoided a collapse of the educational system.
  - d. Section 4: to summarise and to describe the steps which DE has taken, and the initiatives which are planned for or under consideration under its remit, whether as a direct response to its experiences of operating during the pandemic, or more generally.

#### **Section 1: Context**

5. The Covid-19 pandemic presented significant challenges right across society and DE recognises that it was a particularly difficult time for children and young people, parents and carers, and the education workforce. DE sought to respond in an effective and innovative manner, working alongside the education workforce and parents, to minimise the impact of this disruption. The Education Authority ('EA') led on engagement with children and young

people to ensure their concerns were heard and addressed. School leaders across all sectors also engaged directly with parent/carers and their own pupils. Education alone could not address all of the complex needs of vulnerable children and young people, so DE worked with other government departments, agencies and the community and voluntary sector.

6. The Inquiry heard evidence in Module 2C on governmental decision-making in Northern Ireland relating to the Covid-19 pandemic. The Department acknowledges the recent publication of the Inquiry's Module 2, 2A, 2B, and 2C report and the recommendations relating to children and young people, and the significance of those findings and the impact they may have on the lives of those affected. The Department is committed to giving those recommendations careful and thorough consideration, ensuring that its response reflects both the Inquiry's objectives and the Department's ongoing responsibility to support children and young people. DE will work collaboratively with partners and stakeholders to ensure that any actions taken are informed, evidence-based, and focused on improving outcomes. A formal response will be provided in line with the Inquiry's agreed timetable.
7. Whilst Module 8 did not, understandably, seek to rehearse the evidence heard during Module 2, DE's departmental autonomy and response to Covid-19 must necessarily be considered within the overall governance structures for Northern Ireland both in a general sense and in response to a developing emergency. By the end of January 2020, Northern Ireland's Executive Committee and Assembly had just been restored after a three-year hiatus. In her evidence to the Inquiry on behalf of the Disabled Peoples' Organisations ('DPO'), Nuala Toman reflected upon the impact of this: *"So the pandemic emerged just at the end of a political crisis. So any engagement that we would have had with the Department of Education in the run-up to the pandemic at any planning stage was in the context of the absence of ministers and the absence of any framework for ministerial decision making....That effectively meant that there was no process for change or movement beyond what was already outlined in statute and practice....So that meant that all of the formal consultation mechanisms that you see within a government were gone, and they could not be reinstated in time for pre-pandemic planning to be put in place, or indeed throughout....the life of the pandemic. So, while the Department may have tried, they couldn't possibly -- because of the lack of infrastructure, the lack of investment, they couldn't possibly have properly engaged with an organisation such as ourself -- such as ourselves."* (03/34/5-25 – 03/35/1-3)
8. This is important context. What developed in the short period of weeks following restoration of the Executive was unprecedented for all areas of government and wider society and DE was guided by those leading in civil contingency preparedness, The Executive Office, and the Department of Health ("DoH). Across the border, schools were closed by the Irish Government on 12 March 2020. On 18 March 2020, the decision to close schools in Northern Ireland was announced by the First and Deputy First Ministers, further to a decision earlier

that day by the UK Government. On 23 March 2020, the Prime Minister announced a UK wide lockdown directing all citizens to “*stay at home*” to reduce transmission of the virus.

9. On 12 May 2020, the Executive published its phased five-stage coronavirus recovery plan and established the approach the Executive would take to easing coronavirus restrictions across all sectors of society. Decision making relating to reopening and subsequent closure of educational settings and non-pharmaceutical interventions, including social distancing restrictions, was at Executive level informed by this overarching strategic approach.
10. Education is of vital importance for our children and young people, not only in terms of their long-term life opportunities, but also for their emotional well-being, safety and development, and for the fabric of wider society, including the economy. In circumstances where the pandemic presented so many unknowns, it was not in doubt that the closure of the entire school estate would result in a range of adverse impacts for children and young people and their families, and that such impacts would disproportionately affect the most vulnerable and the most disadvantaged. It was the role of DE to lead on the policy and delivery of measures to safely mitigate the impact of educational disruption, and to do so in the context of a public health emergency which evolved on a daily, and sometimes hourly, basis.
11. Many issues impacting the education sector’s response were cross cutting, with responsibilities sitting with other government departments, in particular DoH and Public Health Agency (‘PHA’) on public health and childcare matters, Department for Infrastructure on the issue of providing a safe network of home to school transport in the context of social distancing restrictions, and the Department for the Economy on linkages with further education settings and the transition into further education, training and employment.
12. While many important measures, including remote learning, were implemented to ensure continuity of education provision, albeit remotely in most cases, it is recognised that this triggered technical and operational challenges. The concerns of children and young people’s groups articulated both during the pandemic and within Module 8 are understood. The loss of peer interaction as well as disruption at key transition points in their education, will have affected all children and young people to some extent, and in many cases led to increased anxiety and worry, as documented by Newlove-Delgado et al. The closure of schools impacted on the ability of parents and carers to attend work, and the associated demand for school places and childcare was not easy to predict. All schools were advised to remain open for key worker children and vulnerable children but most settings experienced low attendance. The circumstances faced by each school presented unique challenges.
13. The restart of classroom-based learning was prioritised, subject to safety considerations. This was a complex and challenging task because the practical delivery of education intrinsically engaged the issue of social distancing. This created restrictions on classroom

capacity, attendance patterns, school meals and transport and the need for revised cleaning practices. There was a persistent yet unavoidable tension in balancing the educational outcomes of children and young people whilst protecting staff, parents and pupils. In that context, it is recognised that some necessary measures were sub-optimal for many pupils, including phased re-opening of schools and prioritisation of learners. Given that each educational setting has different physical characteristics, DE worked to strike a balance in providing guidance that was effective, whilst recognising that it was neither practical, nor helpful to be overly prescriptive about the arrangements. Flexibility was key in order to facilitate planning by schools that best met local circumstances and DE relied heavily on input from school leaders across all school settings.

14. DE also engaged with various external stakeholders in different fora throughout the pandemic, including children's representative organisations, practitioners and Trade Unions. It is recognised that there was not always opportunity for those groups to be consulted on decisions impacting children and young people and the education workforce. This is a regrettable but largely unavoidable consequence in the immediacy of emergency response.
15. In the course of these submissions DE will provide elaboration and more detailed reflection on some of these important themes. It is the mission of DE to achieve the best outcome for all children in its decision-making and in the delivery of the services which it provides or supports through its Arms Length Bodies (ALB). It is emphasised that this mission remained unaltered during the pandemic. DE recognises the unstinting efforts which were made during that time by many people to support the needs of children and to keep them safe, particularly in the sphere of education. Pursuant to those efforts, there were many innovative, selfless and caring actions taken to help children through the worst of the pandemic, which are worthy of commendation. Some of that work was undertaken by DE and its staff or supported by the Department and put into effect by others.
16. However, the resources, as well as the skills and abilities of DE staff were stretched by the unprecedented demands of the pandemic. Despite the best of efforts and intentions, DE recognises that it did not get everything right. The scrutiny which the Inquiry has directed to DE's activities before, during and after the pandemic, whilst challenging, is greatly welcomed. The Department recognises that scrutiny and challenge also brings the opportunity to reflect, grow and develop. The Department has embraced that opportunity to learn lessons for the future and with a view to ensuring that if or when there is another pandemic, that the response is an improved one, more comprehensively planned for and responded to, in the interests of the children and young people which this Department exists to serve.
17. It is recognised that the impact of the pandemic on children and young people's learning and wellbeing have stretched beyond the duration of the pandemic itself and are still being felt by some. The Department once again acknowledges the profound impact which the pandemic

has had on the lives of many children and young people in Northern Ireland, and particularly on those children from disadvantaged and marginalised groups. The evidential resources commissioned by the Inquiry for the purposes of Module 8 speak eloquently to this hardship, and the devastating consequences of loss and illness faced by some others. DE is conscious of the enduring impacts of the pandemic, and as is explained later in these submissions, it is committed to addressing those impacts as part of its ongoing work and strategic planning.

## **Section 2: Addressing Criticisms of DE**

### **Planning**

18. The Department is aware of the concern that it might have done more to prepare for the closure of schools in advance of the announcement which eventually came on the 18 March 2020. However, it is important to set the closure decision in its proper context before assessing what could have been done differently.
  
19. At the commencement of the pandemic, the Permanent Secretary of DE was Derek Baker. In his oral evidence Mr Baker accepted that DE *"was neither psychologically or practically prepared for huge swathes of the education system closing down in March 2020"* (11/136/12-15). He explained that DE's ability to prepare was crucially dependent upon the intelligence available from elsewhere in the government system, particularly in terms of public health advice. He emphasised that *"in February, early March, 2020, there was no public health advice that the department was aware of that indicated that [it] should prepare for the whole-scale closure of the education system"* (11/140/15-20). He recalled that there was a meeting of Ministers and Permanent Secretaries on the 12 March 2020 (INQ000289859) after the announcement of school closures in the Republic of Ireland and the message from the First Minister, the Health Minister, the CMO and the Education Minister, was that *"schools should not close"* (11/151/1-2). It was only during the course of 17 March, following a letter written by the Education Minister to schools which warned of the potential for closure, that it became apparent to DE officials that there could be an announcement that schools might have to close (11/154/2-4). The Department was taken off guard by the decision to close schools (11/152/12), and it was Mr Baker's experience that they was insufficient time to *"make proper preparations."* The reality was that the Northern Ireland Executive made the closure announcement only a matter of a few short days after it first became clear that closure was an increasing possibility (11/156/11-15).
  
20. Mr Baker was not suggesting in his evidence that DE proceeded on the basis that the creep of the pandemic would permit business as usual. He was emphasising, however, that no one in government, whether in London or in Belfast, was making it known that the education sector should anticipate closure of the entire school estate on a prolonged basis. There was clearly an expectation that normal business would be the subject of interruption, and sensible steps were taken to assess preparedness. For example, the Education Minister asked

officials to write to ALBs on 9 March 2020 to ask them to provide assurance on their contingency plans. Mr Baker explained that this assurance was not sought in the expectation that the wider education system would close down (11/147/24 -11/148/8). Instead, he was prudently seeking confirmation that appropriate business continuity arrangements were in place, if for instance, staff absence became a problem due to Covid related illnesses.

21. Mr Baker explained that there was something of a step change in thinking amongst some officials in DE following the meeting of Ministers on the 12 March, when school closures in Ireland were discussed. Mr Baker recalled that in light of that development, officials had *"started to think about"* how to operate services if schools had to close eg. the delivery of public examinations and the provision of free school meals. He told the Inquiry that when the unexpected announcement came, less than a week after that meeting, officials were *"only in the foothills of considering those issues"* (11/155/5-7).
22. During his oral evidence Mr Baker was questioned about the applicability of the existing Pandemic Influenza Contingency plan (INQ000617116). Mr Baker indicated that at that time he was unaware of the plan (11/143/17-20), and that there may have been a loss of corporate memory with regard to its existence and the redrafting which had been partially undertaken. Therefore, the plan had not been drawn to his attention in March 2020 (11/143 24-25 - 11/144/1-5). In any event, as he explained to the Inquiry, the provisions of that plan were not germane to the challenges arising in the context of the Covid-19 pandemic and would not have assisted with the situation as it presented. In particular he stated: *"I think the previous flu guidance that was issued in 2009, 2010, anticipated at worst, perhaps individual schools having to close periodically for short period, but it did not foresee in any respect the circumstances which we faced in March 2020 with whole swathes of the education system closing down. So I think, in many respects, that bird flu guidance was irrelevant to the Covid-19 crisis."* (11/136/25 -11/137/1-7).
23. It is undoubtedly true to say that DE's focus during February and March 2020 was on working with DoH officials to keep schools open because it was abundantly clear that closure would cause widespread harm. As a result of this focus, and in the absence of expert opinion that complete closure was likely and should be planned for, DE did not give active consideration to assessing whether there was a risk that there might be a need for complete closure, or measuring the extent of that risk. It follows, that until about the 12 March, DE officials did not begin to contemplate the consequences of closure or the need to develop mitigations. It is submitted that in assessing whether the performance of DE in this respect should be the subject of any criticism, that appropriate allowance should be made for the features set out above, and in particular the absence of any clear intelligence that schools would have to close on a prolonged basis, allied to the determination to keep them open.

24. Of course, with hindsight, the idea that schools could have stayed open appears naive. Accordingly, the Department has taken stock. It recognises that one of the lessons of the pandemic is that in the context of a developing emergency, where it is possible to do so, it would be better to implement what might be described as a more inquisitive approach, rather than the one which was adopted during the earliest weeks of the Covid-19 pandemic, when DE was a largely passive recipient of information handed down by DoH and PHA officials.
25. Such a philosophy, if applied, should trigger intensive discussions with government partners in which the lead department, whether DoH or any other department, should be expected to provide adequate information so that risks can be properly assessed in a timely fashion. In other words, with hindsight, during the last pandemic DE would have wished to have placed itself in a position to conduct meaningful scenario planning by extracting more extensive information from the DoH, so that it could more intelligently plan for worst case scenario through to best case scenario, building into a proper process for establishing contingencies to be implemented as the situation developed and as more information became available. Unfortunately, this was not done and was not possible during the Covid-19 pandemic.
26. DE is not complacent. It recognises that as well as a change of approach or philosophy in the event of a future pandemic, there is a need for work to be done now to make improvements in the area of emergency planning. Mr Baker explained that this is under way: *"the Department is enhancing its capacity in the area of emergency planning and contingency planning and has put in place dedicated resource for that"* (11/191/7-10). The Department is also looking beyond its own core activities to those of its ALB. Mr Baker indicated that DE *"is working with all of its Arm's Length Bodies to set up a strategic steering group on emergency planning so that it is better placed to respond to such emergencies"* (11/191/10-13).
27. DE did of course have its own Major Emergency Response Plan and Business Continuity Plan. These were stood up on the 19 March 2020 (11/148/9-11) following the announcement of school closures. It is submitted that these plans were demonstrably robust and effective and supported a vast range of decision-making and new methods to deliver and support services to help overcome the challenges of the pandemic, and to mitigate its effects.

### **Guidance to Schools**

28. It is recognised that schools in Northern Ireland were left underwhelmed by the output from the Department and its partners particularly at the earliest stages of the pandemic. We refer to some examples of the concerns which have been indicated to the Inquiry. Katrina Yeates (Principal of Killard Special School) has said that her school *"planned for the pandemic without EA guidance"* (INQ00058797\_0001 para 2) and that there was *"minimal guidance given in the first few weeks from the Department of Education"* (INQ00058797\_0001 para 6). She has said that during those early stages, there was a tendency to hear about DE decisions through news articles or from social media, but not directly (INQ00058797\_0001

para 7). When asked by the Inquiry what could be done better in the event of a future pandemic, she issued a blunt answer: "*clearer guidance*" (INQ00058797\_0005 para 35).

29. Resha Rasdale (Principal of Killyhommon PS) remarked that although DE sent regular updates after lockdown, "*there was little guidance for schools before the lockdown*" (INQ000587865\_0003 para 9). In her witness statement she described the consequences of what she viewed as delayed communication concerning school closures: "*[this] placed considerable pressure on school leadership to implement contingency plans quickly. Government guidance at that time was general in nature, and schools were left to interpret and apply it within their own unique contexts, often without clarity or detailed support*" (INQ000587865\_0005 para 17). Ms Rasdale recognised that DE was operating in unprecedented times, but maintained that schools would have benefitted from, "*clearer, more consistent and timely communication*" because this would have enabled schools to "*respond more confidently and effectively to government decisions*" (INQ000587865\_0006 para 23).
30. In general it is fair to say that the Northern Ireland school leaders who have engaged with the Inquiry have indicated that the guidance provided by DE, or by government more generally, significantly improved after the closure decision had been implemented, and was much better by the time of the second schools closure in January 2021. It is interesting to contrast Ms Rasdale's experiences across the two school closure periods. She has commented that although schools were given short notice of the second closure period (INQ000587865\_0005 para 19), nevertheless, the guidance issued in January 2021 "*was more structured than in the first lockdown, with clearer expectations around remote learning, digital provision and provision for key worker and vulnerable children*" (INQ000587865\_0005 para 20).
31. Deborah O'Hare (Principal of Wallace High School) has pointed to "*a significant difference in communication directly to schools between March 2020 and January 2021*" (INQ000588087\_0002 para 6). She has highlighted that in her experience, "*consultation with schools in Northern Ireland became richer and much deeper towards the end of March and into April of 2020, as it was clear that DENI in March, had been reacting to Government decisions at short notice. The then NI Education Minister was approachable and liaised with a range of school leaders, MLAs and others in civil society to discuss the Area Learning approaches...*" (INQ000588087\_0003 para 8).
32. DE has the greatest of respect for school leaders in Northern Ireland. It has listened to those voices who have said that in the early stages of the pandemic, before the initial school closure and during the early stages of that first period of closure, communication should have been better, and more thought should have been given to the provision of guidance. It is accepted that there were obvious shortcomings in communication at that time. It will be of scant consolation to school leaders that this resulted from the fact that the DE was not directly sighted on all of the relevant information (as this was primarily located within DoH

and PHA), which in turn impacted its ability to anticipate and plan for the closure and communicate with schools in a timely fashion. DE deeply regrets its failure to provide schools with adequate support during this period, the more so because this may have placed school leaders under greater pressure at a time of unheralded stress and difficulty.

33. DE also accepts that at the early stages of the pandemic there may have been a tendency to assume that schools, who are quite properly protective of their autonomy in normal times, would be able to cope with the changed circumstances without the need for extensive engagement. DE acknowledges that one of the key lessons, in terms of its role, was that schools are entitled to look to the centre for leadership and direction during a pandemic, and that this support wasn't always there in the way and at the time that it was needed. Greater effort should have been made to talk to schools about the issues which they were facing or likely to face, to build relationships and create systems of partnership working.
34. DE is heartened that there has been an acknowledgment by school leaders that communication and guidance improved as the pandemic unfolded. It is submitted that this improvement was reflective of the fact that DE and its ALB were determined to learn from experience and, and that the initial shortcomings aside, that they understood the need to support schools and help lead them through the pandemic.

#### **School Attendance for Vulnerable Children**

35. The Inquiry has heard evidence from various witnesses throughout the Module 8 hearings about the implementation by all four governments of a policy to facilitate vulnerable children attending school, amidst concerns about the effectiveness of that policy.
36. From the unanticipated announcement on 18<sup>th</sup> March 2020 that schools were to close, DE worked quickly to find a solution to protect vulnerable children. In his letter to schools of 19<sup>th</sup> March 2020, the Education Minister set out the need for schools to continue to facilitate vulnerable children (INQ00067121\_004). As has been explained within the DE Corporate Statement (INQ000588169\_007), a cross-departmental definition of '*vulnerable children and young people*' was formulated based on the definition contained within Article 17 of the Children (NI) Order 1995, and this was reflected in Northern Ireland's Guidance on Vulnerable Children which was published on 10<sup>th</sup> April 2020 (INQ000651913).
37. The Inquiry has heard submissions from the DPO that it was problematic, across all four nations, to adopt extant definitions of vulnerability for the purposes of providing an exemption from the stay at home / school closure arrangements: (DPO written opening submissions, page 6 para 13). However, it is apt to note that in her oral evidence, Professor McCluskey explained that the effort to define '*vulnerable children*' within the four jurisdictions, represented "*...a genuine, I think, and principled attempt to understand that children with*

*additional levels of vulnerability needed extra support.” (06/118/22-25). While Professor McCluskey's conclusion was that the dispensation which permitted vulnerable children to attend school may have failed in the sense that a very low percentage of eligible vulnerable children took up that opportunity, she opined, “that the policy was in itself, seemed a good one. I think it made genuine attempts to try to include as many aspects of vulnerability as possible” (06/161/22-25).*

38. It is respectfully submitted that the *Vulnerable Children and Young People Guidance* promulgated by DE was indeed a genuine attempt to safeguard the interests of a broad category of vulnerable children; it provided an opportunity for educational continuity and a means to address the risks which can be encountered when not attending school.
39. During his evidence Mr Baker was asked whether low attendance by vulnerable children was *“an intended outcome?”* (11/164/11-14). In connection with this question he was referred to his comments within the PSS Covid 19 Group Chat (INQ000308437\_0019). It is respectfully submitted that the question posed may have formed out of a misinterpretation of what was said within the Group Chat. As Mr Baker explained, his remarks were directed to the low school attendance statistics for the children of key workers, as opposed to vulnerable children (11/167/2-4). He was welcoming the fact that children of key workers were attending in low numbers because this was consistent with the overall *‘stay at home’* message, and the view that those children should attend at school as a last resort, if their parents had no other option (11/166/6-23). This view and this message did not apply to vulnerable children and Mr Baker was not suggesting otherwise when he contributed to the Group Chat.
40. On the contrary, the *Vulnerable Children and Young People Guidance* set out an expectation that individual schools would advise the parents or caregivers of eligible children that they were entitled to attend school. Mr Baker referred the Inquiry to the correspondence which the Minister sent to school principals on 8<sup>th</sup> April 2020, in which he sought to reinforce the position that schools were open for vulnerable children. In that correspondence the Minister raised his concern about low attendance of vulnerable children and encouraged schools to work in conjunction with parents, the EA and social services to address the issue (INQ000617154). Mr Baker remarked that *“the minister made it absolutely clear to all school principals that he wanted them to consider very carefully the position of vulnerable children, of whom they were aware, and schools would have been aware of vulnerable children. It's what they do. They have a designated teacher to look after the interests of vulnerable children, and he was encouraging school principals to reach out to those families to ensure vulnerable children knew that they could attend”* (11/169/18-25 – 11/170/1-2).
41. DE commends the committed efforts of school principals and teachers to implement the policy goals set out in the Guidance, and to keep open channels of communication and

support with the parents/caregivers of their vulnerable pupils throughout the pandemic, even if efforts to secure the attendance of those children were often unsuccessful.

42. The reasons for low attendance of vulnerable children attending school in Northern Ireland during the pandemic were multi-faceted. Professor McCluskey's oral evidence in this respect is important:

*"I think, again, there's a number of reasons, and it's really a case of collating those reasons from a number of different studies rather than from one source. So we know, for example, that there was confusion and lack of clarity...a fear of risk of infection for children who had some kind of vulnerability... The stigma of being identified as vulnerable... if vulnerable pupils included pupils for whom perhaps specific arrangements would have needed to be in school, and it was difficult to provide them, then, you know, even though they were eligible, the staff and resourcing might not have been in place. Obviously staff and resources were affected by Covid as well. School staff were affected. They were getting Covid as well. So it was really difficult to maintain a stable staff base...and transport would be another aspect... So there was a real combination of reasons (06/176/18 - 06/178/10).*

43. Professor McCluskey's views are largely reflective of the evidence provided by Northern Ireland school leaders. Katrina Yeates has explained that all pupils were entitled to attend Killard because it catered exclusively for SEND children. Accordingly, the senior leadership team reached out to parents to encourage attendance, but *"the offer was very much declined"* (INQ000587897\_0002 para 11). Indeed out of a school population of 220 pupils only 3 attended during the summer term of 2020. This improved significantly by January 2021, when attendance stood at about 50% (INQ000587897\_0003 para 13,). Nevertheless, such a significant level of absence highlights the struggle which schools encountered in their efforts to encourage vulnerable pupils to return to the classroom. Ms Yeates has reflected that significant numbers of parents were impervious to these efforts, preferring to *"safeguard their families by pupils not attending"* (INQ000587897\_0003 para 15).

44. Paul Marks (Principal of the High School, Ballynahinch) had a similar experience. In his oral evidence to the Inquiry he highlighted the efforts made to encourage attendance, but no parents responded. It was his sense that parents *"didn't want to burden the school or there was a fear of sending their children in, because then you're mixing with other children and bringing back Covid. Or there was also a fear of, you know, "We're doing okay, and we don't want to admit we're under pressure."* (06/46/12-21).

45. Resha Rasdale found that although Killyhommon PS was open for vulnerable children, in common with the experience of the other schools just mentioned, *"no one came"* (INQ000587865\_0001 para 3). While this is entirely understandable as families made their own assessment of what was appropriate for their own particular circumstances, Ms Rasdale has highlighted that it is SEND children who have faced the *"greatest difficulties"* in

recovering from the disruption of the pandemic (INQ000587897\_0013 para 63). This has included *"longer term challenges in progress towards individual targets"* (INQ000587897\_0015 para 79).

46. DE acknowledges that the low numbers of attendance of vulnerable children at school ultimately meant that the policy of seeking to safeguard their longer term interests by permitting and encouraging school attendance, was largely unsuccessful. However, as Professor McCluskey has acknowledged, it was undoubtedly the right policy to adopt. The interventions by DE and its Minister, as well as the work of school leaders and teachers, demonstrates that efforts were made to try to improve attendance, but the existence of strong countervailing factors rendered those efforts ineffectual. It is unclear what other practical measures could have been put in place to address this issue.

#### **Easement of core statutory duties**

47. An issue of particular interest to the Inquiry has been the easement of core statutory duties which was implemented by all four governments during the pandemic. DPO and NICCY have argued that these easements led to a reduction in support for SEND children in particular (INQ000588025\_0018 para 53) (INQ000588091\_0021-22 para 61).
48. In Northern Ireland the statutory modification removed the absolute duty (in relation to special educational needs provision) replacing it with a duty to make *"best endeavours"*. This modification applied where the ability to meet the duty was hindered by the outbreak of the coronavirus in Northern Ireland (INQ000588169\_0022 para 79 and \_00035\_ para 133). The Children's Law Centre has observed that in Northern Ireland, the adoption of a *"best endeavours"* test at least established a higher standard for public bodies than was the case in England, with its *"reasonable endeavours"* test (INQ000588026\_0018 para 52), although the Department cannot point to any significant example of a different outcome in practice.
49. Plainly, the dilution of statutory duties had the potential to interfere with the availability or quality of services which, prior to the pandemic, may have been available to SEND children pursuant to an absolute duty. However, it is submitted that the decision to modify the statutory obligation did not come lightly to DE and was obviously made in the context of a national emergency, a reduction in available resource, and as result of unprecedented pressure on the services affected. Furthermore, there is no evidential support for the suggestion, which has sometimes been raised, that government used the pandemic as an opportunity to casually reduce services without good reason, using the easement of statutory duties as a convenient cover (INQ000588025\_0018 para 53). Nevertheless, DE accepts that a deeply regrettable consequence of the challenges which it faced was that valuable support services were interfered with and this impacted negatively upon some children.

50. DE submits that throughout the pandemic it actively strived to use its 'best endeavours' to provide services for SEND children in compliance with its statutory duty. It is accepted that difficulties sometimes arose. For example, it is acknowledged that the EA was slow to address transportation needs for two pupils, and that this resulted in the commencement of judicial review proceedings (JR225 and JR226). More positively, a significant amount of work was undertaken by EA officials to find a solution to those issues at an early stage of the proceedings, so that final declarations were reached by agreement to resolve the disputes.
51. It is recognised that SEND provision in Northern Ireland has been historically under-supported. Shortly before the pandemic, there was a call for an urgent overhaul of the entire system of SEND policies, processes and procedures due to persistent resourcing issues. In June 2017 the NI Audit Office published a Special Educational Needs report highlighting that the number of children with SEN and the associated costs of services was continuing to rise; it made 10 recommendations (INQ000643671\_0060). A review of the 2017 report published in September 2020 indicated that in 2019 – 2020 85% of statements of special educational needs were issued outside the 26-week statutory limit (INQ000643671\_10) and highlighted that significant delays in assessment persisted and current funding was not sustainable (INQ000643671\_0013).
52. Since the pandemic, DE and its ALB have worked hard to develop policy and to secure resources to enhance SEND provision in Northern Ireland. The Department accepts that the experience of the pandemic was particularly difficult for this cohort of children; in theory the school door remained open for them, but many felt unable to access their school because of legitimate fears around infection, and for other reasons. For those who did attend school, it was often impossible for teachers and other staff to deliver the same high standard of educational and specialist support services which would ordinarily have been in place. It is recognised that some children suffered significant deficits which continues to impede their progress, and that in some cases, children may not have recovered lost ground. This all took place in an environment which, as we have set out above, was well recognised as being poorly resourced for historic reasons, which pre-date the pandemic.
53. Accordingly, the Department in conjunction with its ALB has prioritised SEN provision, and has taken steps to direct greater resources to this area of need: EA has published its Strategic Area Operational Plan 2 (2024-26) with a clear priority on forward planning for special education provision in line with projected need; the second phase of the ETI's review of specialist provision in mainstream schools is ongoing and expected to report by December 2025; since the beginning of the 2025/26 academic year, 8 of the EA pupil support services have been consolidated into 28 multi-specialist locality-based teams (Local IMPACT Teams); the Department continues to invest in the region of £6m to support ongoing initiatives, in conjunction with Department of Health (DoH), as part of the joint DoH/ DE 'Emotional Health and Wellbeing in Education Framework'; a public consultation on changing the

'supernumerary' status for children with a statement of SEN closed on 26 June 2025, and a consultation report is being produced for the Minister's consideration; the Pre-school Education Inclusion Support Fund was launched in November 2024 and funding has been secured to continue this into 2025/26; a total of 213 pre-school settings received support funding totalling just over £1m in the 2024/25 academic year.

## **Engagement with Children and Young People**

54. A number of organisations have spoken about the importance of engaging with children and young people and their advocates, and have contended that it was not always obvious that decisions affecting children, taken during the pandemic, took their rights into account: see for example, the evidence of Mr Chris Quinn (16/11/11-24), as well as the CRO closing submissions (16/64 24-25 and 16/65/1-10). The Northern Ireland Commissioner for Children and CRO have advanced the criticism that all UK governments, including the devolved administration in Northern Ireland, failed to adequately consult when the rights of children were in issue.
55. DE did engage with NICCY during the pandemic, albeit that it is accepted that this engagement was often less extensive than would otherwise have been desirable. The witness statement of former Children's Commissioner Koulla Yiasouma (INQ000588091\_007\_21) confirms that five meetings took place between May 2020 and February 2022 between NICCY, the Minister for Education, and DE officials. At paragraph 28 she confirms that she held private communications with Ministers, as well as with Special Advisers and civil servants in DE in the early stages of the pandemic. Nevertheless, DE regrets that children and their representatives felt overlooked, side-lined or undervalued during the pandemic when key decisions were being made. This was never the intention of DE, which values the professional relations which it enjoys with the Children's Commissioner and his staff, and with children's advocacy organisations such as the Children's Law Centre.
56. It is understandable that a particular sense of grievance will have arisen from the fact that DE did not formally consult with the Children's Commissioner in advance of school closures in March 2020. As we have explained elsewhere in these closing submissions, DE frankly acknowledges that there was an inability to plan for the eventuality of mass school closures, and that it was taken off guard by the announcement that schools would close. Accordingly, DE was also unable to engage in the kind of consultation with the Commissioner which a seismic decision such as this undoubtedly warranted. It is submitted that in the initial phases of the pandemic emergency there was effectively no time for consultation processes to take place and quick decision making was necessary where the priority was saving lives. It is

appreciated that in his oral evidence the current Children's Commissioner, Mr Chris Quinn, acknowledged the significant difficulties faced by public bodies at that time and the hard work of government to try to navigate this challenging set of circumstances (16/14/11-15).

57. At other junctures during the pandemic, decisions had to be made at very short notice in a fast paced and pressurised environment. It is accepted by DE that better engagement with children and young people and their advocates, such as the Commissioner, should have been facilitated as the pandemic progressed. DE has greatly benefited from the evidence of the young people represented by NICCY, which has provided further insight into the impact decisions had on them. It is accepted that there would have been benefit to all in consulting and taking their views into account.
58. It is the case that in all of its decision-making during the pandemic, the best interests of children were to the fore of DE's considerations. This approach was visible across a range of policy and service areas, and notably so in the policy decisions which were taken in relation to vulnerable children, the insistence that schools must remain open and accessible to this broadly defined group, and the steps taken to support digital based remote learning, to cite just some examples. DE does not accept that the rights of children were abandoned or routinely undermined during the pandemic. Of course it might sometimes have appeared that there was an excessive focus on the adult-world when decisions were taken by government, particularly when those decisions were reached at pace without opportunity for discussion or consultation. But it is clearly the case that in the education sphere the interests of children as well as the interests of adults responsible for providing them with services or safeguarding their needs, often coalesced. Decision-making at that time was rarely a zero-sum exercise.
59. It should be acknowledged that it wasn't always easy for DE to defend the rights and interests of children particularly at the early stages of the pandemic when a requirement to close schools was reached by the NI Executive, because there were competing interests and a need to do what was right for society as a whole, and in particular to do what was necessary to protect the NHS. DE recognises that decisions were made which, despite the great efforts to resource mitigations and provide alternatives, caused children to temporarily lose their entitlements and to suffer harm. This is deeply regretted, even if in many respects the circumstances of that time rendered harms unavoidable.
60. Having listened to the evidence and submissions, DE acknowledges the sense of grievance felt by children and their representatives. DE accepts that with more time or greater planning more could have been done to listen and engage, particularly where it was known that children might suffer adverse consequences. DE recognises that there is more work to be done to explore how adequate consideration can be given to the views of children when decisions affecting them are being made, even if during an emergency, the restrictions of time, resources and working methods, will necessarily hinder optimal engagement.

61. A number of consultations undertaken by the Education and Training Inspectorate ('ETI') have provided significant information to DE about the impact of the pandemic on children and young people. These have included a consultation with year 6 -14 pupils (June 2021) about their learning experiences from January to March 2021 during the second lock down, and consultations on the delivery of Remote Learning and Quantitative Analysis Outcomes which follows on from the published consultation findings for years 6-14 learning experiences in January to March 2021 in pre-schools, primary schools, post primary schools, special schools and Education Other Than At School (EOTAS) (INQ000588168\_0141). Having regard to the lessons which DE has learned as a result of its experience of the pandemic, it will endeavour to continue to seek the views of children and young people to gain better insights and understandings of their interaction with the education system.
62. Finally in this respect, DE looks forward to receiving any findings which the Inquiry thinks it appropriate to make in response to Mr Quinn's evidence advocating for the incorporation of the UNCRC into domestic law in Northern Ireland (16/46/6-13), as well as any direction it would wish to provide in relation to the structures which may need to be implemented to ensure that children's rights are adequately considered during any future emergency. The Department notes with specific interest the terms of Recommendation 7 of the Inquiry's Module 2 report which encourages the Northern Ireland Executive to give consideration to introducing legislation to place child rights impact assessments on a statutory footing, and looks forward to playing its part in the Executive's consideration of that issue.

### **The Digital Divide**

63. The Inquiry has heard the concern that the decision to resort to remote learning disproportionately disadvantaged those who were already marginalised for socio-economic reasons. Particular concerns have been identified around the so-called 'digital divide' and it has been suggested that DE and its agencies failed to address this issue quickly enough. (INQ000588091\_0030\_82)
64. Concerns about inequality of access to remote learning impacting those children who did not have use of the internet or portable IT devices, was a priority issue for DE. Work began quickly to address this following school closures in March 2020. As Mr Baker explained in the course of his evidence, DE initiated a rapid assessment of need during April 2020 (11/173/14-18). This took the form of a Departmental survey of school principals into usage of online learning. Furthermore, the EA conducted an analysis of digital device requirements and provided advice to DE on 10 May 2020. DE was advised that many children did have access to devices and that schools had a stock of devices which were available to loan to their pupils. Accordingly, the Minister approved a lending scheme and this was announced on 22 May 2020, and which began with the prioritisation of existing school stock. Killard Special

School (INQ000587897\_0004 para 24) and Killyhommon Primary School (INQ000587865\_0003 para 11) were amongst those schools able to lend devices to pupils.

65. Nevertheless, it was also clear that many children did not have access to a digital device and would benefit from obtaining one. The information provided by the EA resulted in a submission to the Minister seeking authority for the purchase of devices with a view to making up the short fall (INQ000617163). A procurement process led to the purchase and distribution of devices to disadvantaged and vulnerable children from May 2020. In December 2020 the Minister approved the procurement of an additional 6,872 devices and the refresh of 3,664 previously loaned units. Further details of the timeline for procurement and distribution can be found in the DE Corporate statement (INQ000588169\_0059 paras 234 - 242). As Mr Baker explained (11/172/1-24), by the end of the procurement process in mid 2021, some 25,000 devices had been purchased and distributed, so that identified need was met in the priority groups, Years 3-7 at primary and Years 10-14 at post-primary.
66. It is disappointing that some children remained without devices by January 2021. Mr Baker remarked that procuring devices wasn't straightforward: there was a high level of demand for laptops in the global economy and this had an impact on the time-frame for delivery, meaning that some devices which were expected to be delivered in September 2020 were not delivered until January 2021(11/175/7-20). There were also hurdles to overcome in respect of connectivity. These were recognised and addressed. There is perhaps a tendency to assume that such problems can be resolved overnight, but as Mr Baker explained, they were complex issues which involved discussion and negotiation with providers, after the nature and extent of the need had been identified (11/174/ 21-25). Some 10,000 internet solutions were issued in the course of the year, after DE's intervention (11/174/7-16).
67. It is submitted that from a standing start, the success of DE and its partners in addressing the digital divide, was impressive, having regard to the challenges which existed. It is a testament to the hard work and determination of the teams within DE and EA as well as those within the school communities that significant hurdles were overcome, so that at least by the commencement of the second period of school closure, very many pupils were provided with the equipment to take advantage of the increasingly innovative teaching techniques which were being directed through on-line platforms by their teachers.
68. Nevertheless, it is clear that some children remained without devices or were not the beneficiaries of digital access. In her evidence to the Inquiry, Ms Rasdale (Principal of Killyhommon PS) recalled that despite the school's efforts to support learners by loaning I-pads, "*digital poverty remained a persistent barrier*" throughout the two closures (INQ000587865\_0011 para 55). Unfortunately, it appears that some children were not provided for. DE recognises that this was a wholly unsatisfactory state of affairs. DE has taken particular note of Ms Rasdale's thoughtful reflection where she states that, "*If closures*

are unavoidable [in the future] there must be swift and equitable distribution of resources (devices, internet access, learning materials) to all pupils to avoid widening attainment gaps" (INQ000587865\_0018 para 94).

### **Monitoring the quality of remote teaching and learning**

69. The DE corporate statement states rather bluntly that there was no formal monitoring of the quality of remote learning during the pandemic (INQ000588169\_0124 para 485). During his oral evidence, Mr Baker was afforded the opportunity to explain that the situation was rather more nuanced than has been allowed for in the statement.
70. In doing so, Mr Baker acknowledged that before the pandemic DE had not planned for delivery of remote learning, or developed standards, regulation or guidance for schools (11/170/11-14). He explained that none of this was in place because schools didn't operate remotely, that *"it wasn't part of our system"* and that to develop remote learning arrangements before the pandemic would have required a lot of effort from schools and would have been *"expensive"* (11/171/2-10).
71. Mr Baker went on to observe that in general there was *"nothing positive"* about remote learning and that the best that could be said about it was that, during the pandemic, it provided limited *"mitigation of these very negative circumstances."* He described it as a *"a very, very second best"* approach and one which *"could never be a substitute for classroom-based learning"* (11/149/1-8). It should be clear that these remarks were not intended to diminish the outstanding efforts of the teaching profession and their support staff throughout the pandemic, to provide stimulating remote learning. They worked tirelessly to construct home-based work for learners, to develop new ways to deliver learning whether on paper or by using innovative digital-based techniques, to maintain contact with their pupils, and to provide leadership and support, and DE pays tribute to that work and to those who performed it. In some settings significant strides were made in a short period of time, and examples of novel practice were much in evidence. However, consistent with Mr Baker's views, Ms Rasdale has also shared her experience that remote learning did not and could not serve as an adequate substitute for the class-room teaching: *"Consistent access to face to face education is critical. Even with the best efforts in remote learning, nothing can replace the value of direct teacher-pupil interaction"* (INQ000587865\_0018 para 94).
72. Even if it is clear that the teaching profession committed wholly to making every effort to deliver quality remote learning, no one would suggest that it was always perfect. It could never have been optimal in the time that was available to stand it up. Northern Ireland schools had engaged in much pioneering work in the years before the pandemic to take advantage of the opportunities provided by digital resources in the classroom, but there had been little work undertaken to use digital platforms to deliver education remotely.

73. Since remote online learning was not a feature of the education system in Northern Ireland before the pandemic, it is submitted that it is unrealistic to expect that a fully functioning parallel system would have been in existence and ready to be initiated in March 2020. Nevertheless, DE was able to publish the first official remote learning guidance by June 2020 (INQ000617179). This was formulated and issued based on learning from the first few months of lockdown. Regulation and guidance did progress steadily after that, with updates and revised guidance issuing regularly. This included the following: DE Restart Guidance in September 2020 (INQ000651671) which provided advice to schools and clear expectations regarding remote learning; updated guidance on Remote Learning was issued to schools in January 2021 (INQ000615177) and further revised guidance was issued in December 2021.
74. DE recognises the challenges faced by children and teachers during the rapid shift to online learning for many. It is also clear that some subjects could not be taught adequately in a remote setting, especially those subjects with a significant practical component. Furthermore, many pupils were incapable of adapting to the particular demands of remote learning, whether the learning was delivered digitally or using more traditional methods. In her evidence to the Inquiry Ms Yeates (Principal of Killard Special School) recalled that *"remote learning was extremely challenging due to the complexity of many of our pupil needs"* (INQ000587897\_0004 para 22). DE also acknowledges that children's experiences varied significantly depending on parental support and home circumstances, and that the adverse impact of the remote learning arrangements was felt disproportionately by disadvantaged groups. DE recognises that the closure of schools was damaging for many children, and that the use of remote learning was of no particular benefit for some children.
75. Plainly, as Mr Baker indicated, the circumstances of the pandemic meant that the Department's ability to monitor the quality of teaching and learning when delivered and received remotely, was severely curtailed (11/176-177). The conventional way to oversee the quality of education delivery in Northern Ireland is through a system of rigorous inspection, whereby every school is the subject of regular inspection across the range of its delivery in accordance with prescribed standards. This exercise is generally performed through the offices of the ETI. In the new circumstances of remote education delivery, inspection was suspended by ETI in March 2020, and it pivoted to deploy its resources optimally to support schools in dealing with the challenges of operating during a pandemic.
76. This does not mean that there was no interaction between schools and ETI inspectors. During the pandemic those inspectors, as well as staff from EA, CCEA, and other educational ALB were redeployed as Cross-Organisational Link Officers (COLO). Of course they did not carry out inspections, but they were available to provide practical support and guidance to schools in connection with their approaches to remote teaching and learning so that in Mr Baker's view, the process of delivering remote learning *"wasn't without a quality*

*assurance process.*" He emphasised that the tasks which they performed *"was a much more productive use of the time"* because it provided support to schools at a really difficult moment. In particular, the COLO applied *"their knowledge and skills and pedagogy to assist schools in remote teaching and learning, to signpost them to sources of advice, and materials on teaching and learning, to share group practice, both within and across schools, and to gather case studies and to feed that back to the department"* (11/177/1-9).

77. The ETI role gradually expanded over the January to Easter term of 2021, to include the more normal monitoring and advisory role carried out by inspectors as District Inspectors, engaging with and visiting schools, further education colleges, and early years, youth and training organisations, in line with the prevailing Covid restrictions. Inspectors engaged in professional dialogue with leaders and practitioners seeking their views on emerging issues and providing prompt advice and support as the landscape changed. Other aspects of support from ETI included: providing practical advice and guidance on learning and teaching to support continuity of learning; and providing policy advice and support to DE in relation to the creation, implementation and evaluation of alternative approaches to learning and assessment, including alternative assessment for public examinations.
78. It is acknowledged that some school leaders found engagement with the COLO was not always a positive experience. In her evidence, Deborah O'Hare (Principal of Wallace High School) recalled that *"in many cases their roles and functions were unclear and ad hoc in terms of their effectiveness"* (INQ000588087\_0015 para 49). It is accepted that the performance of the COLO role may not have been consistently helpful in every setting, but this perhaps owed much to the novelty of the approach, and the time available refine it. Nevertheless, it is submitted that the establishment of the COLO role is an example of good practice by DE, using scarce resources imaginatively to support schools in a practical way and to ensure that lines of communication were maintained. Furthermore, by deploying ETI inspectors and others in this way, DE was able to obtain the kind of information and feedback which was necessary to develop the curricular guidance on remote learning which was issued to schools on 5 June 2020, referred to above (INQ0006171790).
79. The published guidance was not the first support provided to schools and parents but rather built upon the feedback and research stimulated by the work of the COLO, as well as reports from schools and a detailed review of relevant local and international literature. At that time, there was no established best practice for remote learning, and therefore the feedback supplied by the COLO was an invaluable source of information. The Guidance helped schools to plan and shape their remote learning provision for the remainder of the term and the 2020/21 academic year. It was supported by phase-specific publications for pre-school, primary, post-primary, special schools, and learning support centres.

80. Remote learning guidance was refined and updated by the Department over the next two academic years as circumstances evolved. The Department did not stand-still; it embraced the opportunity to learn lessons and drive improvement. In her evidence to the Inquiry, Ms Rasdale (Principal of Killyhommon Primary) spoke positively of the *"helpful resources shared over time particularly around digital learning"* (INQ000587865\_006 para 22).
81. The DE Restart Guidance, published in August 2020, included clear expectations for remote learning. It advised schools on what needed to be provided when pupils or classes were self-isolating or in the event of school closures. When the Executive decided to close schools in January 2021, the Department issued Circular 2021/01 on 4 January, providing updated guidance on remote learning. Emergency legislation was also introduced to make the provision of remote learning a legal requirement. In February 2021, the Department published a one-page summary titled *Effective Practice in Remote Learning*. It set out clear expectations, including the need for daily checks on pupil engagement, monitoring of work completion across the curriculum, and contacting parents or carers if engagement was lacking. On 6 December 2021, the Department issued revised guidance on remote learning, reflecting the latest public health situation and staffing challenges. It included a checklist for school leaders to consider before implementing remote learning.
82. It is emphasised again that remote learning is a step down from classroom based teaching. There were many problems with remote learning which could not be overcome, and progress and attainment suffered. Those were the harsh realities of the pandemic for almost all of our schools. Nevertheless, in the face of all of the challenges, DE considers that its output, as well as that of its ALB to support remote learning, whether through the deployment of Link Officers, the expansion of digital access, or the provision of ongoing guidance was, after initial difficulties, a significant achievement.

### **Data collection**

83. Concerns were raised with the Inquiry in the course of Module 8 which suggested that DE was responsible for a situation, during the pandemic, where there were gaps in the collation of data relating specifically to vulnerable children.
84. An explanation of how data on pupil attendance at schools was collected and utilised by DE during the pandemic is set out in its Corporate Statement (INQ00058169\_0021 paras 76 - 77). This was addressed by Mr Baker during his oral evidence to: *"We issued a survey every day to all schools asking schools: which schools are open? How many pupils are attending? How many teaching staff are attending? How many non-teaching staff are attending? And that was broken down by phase, pre-school, primary school, post-primary, special school and so forth. And occasionally we supplemented those daily surveys with information about*

*vulnerable pupils so we would have up-to-date data for the top management in the department and the minister about what was happening out there (11/161/12-21).*

85. Specific information requests relating to vulnerable children included details on the number of vulnerable children in attendance (INQ000588169\_002 para 76). DE was anxious to obtain that information in order to keep the senior management team abreast of the situation and to facilitate decision making and it was then fed up to CCG (NI) and the Executive to update them of the position *on the ground*.
86. When addressing the suggestion by Counsel to the Inquiry that there were gaps in Northern Ireland's collation of data relating specifically to children with characteristics that made them vulnerable, Mr Baker explained: *"I fully accept the comments by the former Children's Commissioner that we didn't go right down into disaggregating the data by all kinds of different vulnerable children. I think, from our guidance on vulnerable children, we identified 12 different categories of vulnerable children, and we certainly didn't ask schools to fill in that data on a daily basis. I think, in due course, school leaders and school principals found the imposition of a daily survey quite difficult, given all the other things they were having to cope with, and later in the crisis we reduced the daily survey maybe to a weekly survey. (11/161/22-25 - 11/162/1-6).* Mr Baker confirmed that the survey of pupil attendance was broken down by school setting. In respect of data quality issues Mr Baker explained that minor concerns regarding the validity of data raised by statisticians at an early stage were resolved and that the data was considered sufficient to be relied upon during that period for relevant purposes (11/164/1-10).
87. The difficulties in collecting and collating more detailed data have been explained by Mr Baker. It is clear that a balance was necessary: DE required some key information for planning purposes, particularly in relation to vulnerable children, but it was important not to over-burden schools, which were already under intense pressure, by imposing excessive administrative requirements. DE does not seek to diminish the importance of the availability of good quality data to inform decision-making and to allow for the reliable analysis of policy decisions. It is recognised by DE that better, more detailed data around vulnerable children would have been helpful to inform decision making, including data which would have provided a basis for disaggregation. However, in the context of an emergency situation this ought properly to be regarded as something of a luxury. Overall, it is respectfully submitted that reliable data was being collected and used effectively by EA and DE to support their work.

### **Section 3: Positive Work**

88. The Department does not dispute the proposition that some of its actions could have been performed better and that it did not get every decision right. It recognises that it is important for the Inquiry, on behalf of the public, to highlight where failings occurred, to pinpoint the inadequacies and to suggest where improvements should be made, and how this might be achieved. There is no difficulty with any of that, and as we have indicated in the foregoing, this scrutiny is welcomed as it will further stimulate the Department's thinking in the broad area of emergency planning and the delivery of services at times of stress or emergency.
89. However, DE considers that this is only part of the story. It is respectfully submitted that it is also an important part of the Inquiry's role to document that the educational system did not collapse, and that significant effort, courage, ingenuity and hard work was applied to a range of problems by individuals as well as teams of dedicated people within that system to ensure that children and young people did not get lost, and to enable them to continue to learn and progress. The Department commends the efforts of all of those people, and submits to the Inquiry that despite the acknowledged insufficiency of its planning for school closures in March 2020, and 'lockdown' more generally, which was multifactorial in its cause, the evidence demonstrates that from that point onwards DE mobilised quickly and effectively in highly pressurised and unprecedented circumstances to respond to the unfolding situation.
90. We have already referred to the exceptional work which was undertaken in a number of areas: the standing up of a digital device procurement and distribution scheme to tackle inequalities and improve the environment for remote learning; creating the role of COLO with a view to supporting schools and for ensuring effective feedback and communication; the steps taken, on a regular basis to guide schools on approaches to remote learning, and building learning and improvement into the various iterations of the Guidance which was produced, including with respect to the use of digital mediums; the efforts which were made to protect vulnerable children, and to encourage and support their attendance at school where that was possible, including the intervention by the then Minister to highlight the importance of promoting the right of vulnerable children to come to school.
91. We also take this opportunity to refer to a number of other examples of practice which was clearly constructive or positive in nature, which brought significant mitigation of the harsh consequences of the curtailments brought about by the pandemic:-

#### **Free School Meals Scheme**

92. DE officials worked hard to quickly develop a contingency plan to address risks to Free School Meal so that there would be access to food during school closures, reducing the potential for food insecurity. Three support mechanisms were successfully introduced: the provision of direct payments in lieu of free school meals during term time when schools were closed; school holiday food grant payments; and the provision of food parcels to pupils who

were unable to attend school due to Covid-19 related reasons. Further details of that positive work are set out in the DE corporate statement (INQ000588169\_0132- 140).

### **The EA Sensory Service**

93. Arrangements were made by the EA Sensory service in March 2020 for all children to be able to take their assistive technology home to enable continued access to learning. Guidance on the use of assistive technology was made available on the Sensory Service area of the EA website. Parents had direct access to Teachers of the Deaf for any troubleshooting issues or advice on the use of assistive technology at home.
94. Engagement took place between DE and the National Deaf Children's Society to address issues relating to mask-wearing. DE's guidance on the use of face coverings attempted to mitigate the challenges experienced by deaf children and young people in schools when face coverings were worn by staff and peers. An exemption permitted face masks and coverings to be temporarily removed to facilitate communication when lip-reading. Furthermore, DE took steps to remind schools of the applicability of the Disability Discrimination Act 1995, and to encourage schools to carefully consider where there was a need to make adjustments. The EA Sensory Service was available to provide support in this context.
95. The Inquiry might note that so far as the Department is aware, by contrast with other UK jurisdictions, there was no judicial review challenge brought in relation to these issues in Northern Ireland. It may be that the sensitive and careful handling of the challenges posed by mask wearing in the context of educating disabled learners, particularly deaf children, and the positive work which went into building constructive relations between DE and the National Deaf Children's Society, were key factors in resolving problems before they escalated (INQ000588169\_0106 para 404-406).

### **Cancellation of Public Examinations**

96. CCEA was promptly commissioned by DE to provide detailed advices on contingency planning to take account of the anticipated decisions about the cancellation of exams on 17<sup>th</sup> March 2020. On 18<sup>th</sup> March 2020 DE officials provided the Minister with advice based on CCEA's conclusions (INQ000588169\_70 para 269 -270). The first decision to cancel exams was announced by the Minister on 19<sup>th</sup> March 2020.
97. The priority for DE was to establish robust arrangements so that learners were awarded qualifications fairly and enabled to progress with their education. Officials worked with counterparts across the UK and with CCEA to develop contingency plans for the awarding of GCSE and GCE grades in summer 2020. This collaborative approach focused on avoiding disadvantage for Northern Ireland students and maintaining parity with the other jurisdictions.

98. The initial awarding of grades relied on using a statistical model alongside teacher judgements. CCEA advised DE at that time that although this carried risk as it required further work to develop a new untested process for calculating grades, they were confident it would result in a workable solution. It was also the option other jurisdictions were indicating was their preferred option (INQ000588169\_0070-71 para 270).
99. There was a great breadth of work undertaken to try to arrive at workable solutions and to build confidence with teachers, parents and children. For example, in her evidence, Faustina Graham (Chief Inspector of ETI) has explained how ETI inspectors were deployed in the provision of advice relating to examination cancellations and the use of teacher/assessed grades. This work included talking to focus groups of pupils to take their views on the best way of implementing the response from their perspective (INQ000588054 Para 112 -118).
100. DE acknowledges that there were challenges with the 2020 awarding process which necessitated the withdrawal and reissuing of AS and A level outcomes and that this caused additional stress for pupils, with some receiving grades lower than expected. However, as the DE Corporate statement explains (INQ00588169\_0072 para 278), CCEA had advised that there were risks with every option. CCEA were clear that the most reliable method of awarding qualifications was through external examinations and that in the absence of those examinations they were submitting the *"least worst option"* as an alternative.
101. The DE Corporate statement sets out in detail the work undertaken by DE to plan for a return to examinations in 2021 and to include contingency planning should those examinations be unable to proceed due to a further lockdown (INQ000588169\_0084 para 313 - 341).
102. CCEA was commissioned to undertake a consultation on proposed options for a return to exams in Summer 2021 (INQ000588169\_00849 para 333). That consultation ran from 24 August 2020 to 7 September 2020. Respondents were asked to outline any specific equality impacts which should be considered, received by DE from principals, students, parents and other stakeholders was considered when developing proposals for a return to exams in 2021. Based on that feedback, CCEA was directed by DE officials to take account of the mental health and well being of students and particularly the impact of the burden of assessment.
103. Drawing on the lessons learned from the experience of the 2020 awarding arrangements, it was determined that qualification assessment for 2021 would be based on centre determined grades based on teacher professional judgment with moderation by CCEA (INQ000588169\_0094 para 353). CCEA provided support to schools and colleges to ensure the judgements made were objective and fair and consistent and this was delivered successfully (INQ000588169\_005-96 paras 355-358). DE monitored the implementation of the arrangements with regular and ongoing engagement with CCEA and also turned quickly

to planning for the new academic year to ensure clarity was provided to young people and teachers (INQ000588169\_0099 para 372).

104. CCEA advice in regard to the managing the impact of the burden of assessment on students led to development of unit omission policy in examinations to reduce the burden of assessment without interfering with the integrity of the qualification being awarded. The policy was eventually implemented in 2022 to help ease the transition back to exams for pupils. (INQ000588169\_100 para 376).
105. DE acknowledges the difficulties caused for students and educators by the cancellation of exams and the implementation of processes of alternative awarding of qualifications during the pandemic. The path was far from straightforward and unforeseen difficulties had to be overcome. Nevertheless, it is submitted that throughout this challenging period, the Department initiated and maintained communication with schools and stakeholders, seeking to provide guidance and reassurance during an unprecedented situation. It should be recognised that a huge amount of positive work was undertaken by DE and its Arm's Length bodies CCEA and ETI to find appropriate solutions to issues as they arose and that lessons were learned quickly which saw vast improvements made to the process of awarding qualifications between 2020 and 2021.

### **Addressing Wellbeing Issues**

106. Professor Newlove-Delgado et al have explained the mental health impact of the pandemic:

*Overall the balance of evidence suggests that the pandemic had a detrimental impact on the mental health of children and young people at population level...due in large part to the disruption on a population level of many protective factors, such as in-person connection, learning, play and socialising, and to a greater exposure to risk factors, such as unstable home environments, parental stress, isolation, and financial strain, as well as reduced opportunities to identify and address emerging problems early through support in home, school, community or service settings (INQ000587958\_0004 para 5).*

107. The deterioration of child mental health has been multi-causal, but it is plain that the removal of the protections which would generally have been available in the school environment prior to the pandemic, has been a significant factor. The Department quickly recognised this and took action to address the issue. As has been described in the DE Corporate Statement (INQ000588169\_0114 para 440) the Department identified *wellbeing* as a key area of the Education Restart programme and much positive work was directed to that issue through the provision of additional financial support to educational settings in 2020/21. £5M was allocated in the first financial year.

108. Further steps were taken. In 2021/22 an additional £5m was secured through Covid-19 funding which enabled the Department to develop *'Healthy Happy Minds'*, a pilot counselling and therapeutic support programme, for primary school age children (INQ000588169\_0115 para 442). The pilot was due to conclude at the end of March 2022 with the cessation of Covid-19 funding. However, recognising the continued need to address wellbeing issues, an extension was granted until the end of June 2022 with supporting budget of £1.82m. Two further extensions were granted via Ministerial Directions to 31 March 2023; actual spend for the 2022/23 financial year was £4.1m. Given significant pressure on the education budget in 2023/24, a decision was taken to end the pilot in March 2023.

### **Schemes to address lost learning**

109. DE launched several successful schemes with investment to address *lost learning* during the pandemic which included. In the paragraphs which follow we will refer in some detail to the 'Engage Programme', but the support was not limited to that significant scheme. Other support was available on a regional basis eg. the summer schemes which were supported in 2020 and 2021, and on a local basis eg. the West Belfast "Sharing the Learning" programme. The office of the Children's Commissioner has acknowledged the positive intent of the investment to address lost learning through summer schemes for children and the investment which was applied through Engage (INQ000147139\_0013).

110. At an early stage DE recognised the severe impact of the pandemic for learners and that additional resources were necessary. The Engage Programme was developed and operated during the 2020–21, 2021–22, and 2022–23 academic years to provide additional funding for schools to enable them to address the unique challenges of the pandemic and the immediate post-pandemic period. All primary and post-primary schools in Northern Ireland received funding to provide additional teaching resources. The programme offered one-to-one, small group, or team teaching by qualified teachers to pupils identified as most in need of support following lockdown. Support was provided to pupils of all abilities, based on individual school assessment of who would benefit from enhanced learning engagement.

111. The Northern Ireland schools who have engaged with the Inquiry have referred positively to how they have applied the available funding: Killyhommon PS have used the additional resources to purchase teaching time to support literacy and numeracy (INQ000587865\_016 para 85); a similar approach was adopted at Wallace High School where funding has been invested in providing for teaching of numeracy and literacy in small classes or in 1:1 sessions (INQ000588087\_0013 para 44).

112. There is strong evidence that high-quality one-to-one and small group teaching is an effective strategy for addressing learning gaps, especially after missed schooling. The Department is aware that the teaching which has been supported through the Engage Programme focused on motivating and engaging pupils, aligned with the curriculum and

tailored to areas where additional instruction, practice, and feedback were most needed. The programme aimed to minimise long-term educational impacts of the COVID-19 lockdown by supporting pupil engagement and learning upon their return to school. Schools were not given system-wide targets; instead, they identified their own outcomes and success criteria and monitored progress using the online Targeting Social Need (TSN) Planner which was introduced in 2018/19, and with which schools in Northern Ireland were familiar. ETI provided an overall evaluation of the quality of the work within the programme and the outcomes for the teachers employed in the programme and the pupils targeted.

#### **Section 4: Lessons Learned**

113. DE has given conscientious consideration to the evidence received by the Inquiry during Module 8. It has listened to the submissions made on behalf of each Core Participant. In particular it acknowledges the criticisms outlined in the evidence and arguments placed before the Inquiry with those who have knowledge of and an interest in the delivery of education in Northern Ireland. As we have explained already in this submission, some of the criticisms which have been made of DE's approach during the pandemic are unfair and overstated, and we have explained why DE has taken that view. Nevertheless, DE also recognises that there were shortcomings in aspects of its performance, and that despite the unrelenting challenges and pressures which it faced, it is fair to say that it might have performed better in some areas. DE apologises sincerely for the shortcomings in its performance, and deeply regrets the impact which those shortcomings will have caused.
114. The challenges faced by the Department during the pandemic have underscored the need to place vulnerable children into a priority category in any emergency situation which may effect educational and ancillary services. Having regard to the impact of the pandemic for vulnerable children, DE understands more clearly than ever that their best interests must be afforded adequate weight when decisions are being made which have implications for their wellbeing. DE recognises that in the context of the operation of Northern Ireland government, it may be important for DE to draw the attention of other departments to the needs of vulnerable children before decisions are taken, so that they are fully factored into those decisions, and to enable appropriate exceptions or mitigations to be developed.
115. We have already commented in detail in the course of these submissions on the work undertaken by DE and which has already gone into developing and funding services for SEND children since the pandemic, which is a recognition of the historic under-funding of those services, as well as an acknowledgement that SEND children were amongst those most significantly harmed by the restrictions associated with the pandemic.
116. DE also now recognises that it must develop, and keep under regular review, detailed plans and associated guidance, which will enable it to cope with the disruption to education which will inevitably occur during any future pandemic or similar emergency, even if the contours of

a further crisis cannot be predicted with any certainty. We have already addressed in this submission the work which has been undertaken to date to make emergency planning more resilient in the educational sector. But is acknowledged that there is further work to be done, and the recommendations of the Inquiry will undoubtedly provide the Department with a guiding light when they are produced. It is of course recognised that the essence of any plan must be to protect the vulnerable, as well as to identify ways to reduce to a minimum, interference with educational activities. In these respects the importance of endeavouring to provide for meaningful engagement with relevant stakeholders at the earliest stages of an emergency, particularly with the representatives of children, is also well understood. As one of the guardians of education in this jurisdiction, DE is aware that it must always aim to implement the principle that the removal of direct engagement with teaching professionals should be a last resort, even if face to face contact in the classroom may not always be possible. It is anticipated that this principle will form part of future guidance.

117. DE is determined to continue to learn and to make improvements following its experience of the pandemic, and to take steps to address enduring impacts. Upon receipt of the Inquiry's Module 8 findings and recommendations, DE will take steps to consider the most appropriate way to address them. Senior personnel from across its business areas will assess how they might be best applied in the context of DE's work, and that of its ALBs.
118. While Mr Baker explained to the Inquiry that DE has not commissioned its own research to consider the impact of the pandemic in the educational domain (11/183/Line 9), it has its own corporate experience and the experiences of its employees to refer to, and it is entirely familiar with the main research literature in this field conducted by others. Its default position is to maintain a listening ear to the experiences of its stakeholders.
119. Additionally, part of DE's work in the post pandemic period has been to identify and address the enduring educational impacts of the pandemic. The Inquiry has heard through its 'Every Story Matters' record, for example, accounts of post pandemic absence in our schools: eg. INQ000588022\_101. This problem has also been reflected in the evidence which the Inquiry has received from the school leaders in Northern Ireland who have engaged with the Inquiry and is well known to the Department.
120. In his thoughtful account, Paul Marks (Principal of Ballynahinch High School) described his understanding of the complex background to increased pupil absenteeism, but ultimately, he said, many children are missing school for *"anxiety-based reasons."* He considered that *"Covid had such an impact in terms of their mental wellbeing that it's going to take them a long time, probably, to get over that."* In her evidence to the Inquiry Ms Rasdale (Principal of Killyhommon PS) has remarked upon *"a small but concerning increase in absenteeism"* since the pandemic (INQ000587865\_015 para 77). The experience of Wallace High School has been that there were concerning levels of absenteeism for about 2 years of the post-

pandemic period but having reviewed their attendance policy in order to provide for early intervention and greater parental accountability (INQ000588087\_0012 para 39), attendance has now returned to pre-pandemic levels (INQ000588087\_0013 para 41).

121. Even if some schools have turned a corner and have addressed problematic absenteeism, the issue remains acute for many schools. It is a concern which DE is cognisant of. As Mr Baker acknowledged in his evidence, *"it is a major problem"* (11/184/15-16). He went on to explain that the Department is responding to the problem by developing a strategy aimed at addressing the causes of absence and promoting attendance. The strategy is called 'Attendance Matters.' It is currently with the Minister for consideration (11/184/17-23).
122. Mr Baker explained to the Inquiry that DE is also aware that research and monitoring demonstrates that there has been some diminution in the standards of educational attainment since the pandemic (11/188/7-9). It remains vigilant in this respect and its current work is directed to the need to improve educational outcomes overall, taking into account not only those impacts which may derive directly from the pandemic, but more broadly, catering for the needs of children and young people as they are now.
123. The Department launched a new strategy for the transformation of teaching and learning in Northern Ireland in May 2025. It is known as 'TransformEd'. The strategy places attention on the core areas of curriculum, assessment, qualifications, school improvement and tackling educational disadvantage. The strategy document (INQ000642007) is available to the Inquiry. As explained by Ms Graham (Chief Inspector of ETI), *"the new strategy, having been informed by both research and inspection information, sets a confident starting point for addressing and/or mitigating the enduring impacts the pandemic has had on children's learning and education"* (INQ000588054\_0072 para 207).

## **Conclusion**

124. There are valuable lessons to be drawn from the experiences of the pandemic. The Department has already put learning into practice. It accepts that there is more that can be done and is working to achieve this. It deeply values and respects the Inquiry's role and it stands ready to receive and to consider the findings and recommendations for Module 8, and to ensure that the interests of children and young people are safeguarded to the greatest extent possible in the work of DE in any future emergency.

**Martin Wolfe KC, Nicola Leonard BL, Natalie Mackin BL**

**Bar Library, Belfast  
28 November 2025**