



Ymateb i Ymgynghoriad / Consultation Response

Date / Dyddiad: 6th April 2022

Subject / Pwnc: Covid-19 UK Inquiry Terms of Reference

Background information about the Children's Commissioner for Wales

The Children's Commissioner for Wales' principal aim is to safeguard and promote the rights and welfare of children. In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC). The Commissioner's remit covers all areas of the devolved powers of the Senedd that affect children's rights and welfare.

The UNCRC is an international human rights treaty that applies to all children and young people up to the age of 18. The Welsh Government has adopted the UNCRC as the basis of all policy making for children and young people and the Rights of Children and Young Persons (Wales) Measure 2011 places a duty on Welsh Ministers, in exercising their functions, to have 'due regard' to the UNCRC.

This response is not confidential.

Are you submitting feedback as an individual or on behalf of an organisation?

(Required) Individual Organisation

Organisation name: Children's Commissioner for Wales

Do the Inquiry's draft Terms of Reference cover all the areas that you think should be covered by the Inquiry?

Yes No

Please explain why you think the draft Terms of Reference do not cover all the areas that the Inquiry should address.

Children are not included as a discrete group for consideration under the draft Terms of Reference (TOR), although I note that there is specific focus on education. Whilst there are no specific groups listed or named in the TOR, it is important to point out how children's experiences will have differed from those of adults, in terms of how they've received information about what was happening, how they've been supported and how their specific children's rights under the United Nations Convention on the Rights of the Child (UNCRC) have been protected and upheld.

The section on education does not specifically mention early years education and childcare settings. I would wish for this to be included as the impact on child development will be a key factor for future life chances and an important aspect of lessons learned.

The lessons learned section should ensure that children's distinct experiences are being focused upon and addressed, separately from those of adults. There should be a specific point in the lessons learned around the delivery of education in future pandemics. There should also be a specific point around protection of children's rights in future pandemics, or an all-age one around protection of human rights generally.

It was widely observed that restrictive measures had a particular impact on more vulnerable or minority communities, including those from Black, Asian or other minority ethnic backgrounds, older people, disabled people and children. This includes health inequalities but also to the closure of supports and services including community facilities. The impact on all children, and on particular groups of children, has already been clearly identified through research evidence, and therefore needs to have its own focus within the Inquiry.

Whilst the TOR refers in outline to how decisions were "made, communicated and implemented", I would like to see a specific focus on the right to suitable and accessible information. Lack of accessible information sources for children and young people meant that children carried a heavy burden in worrying about the impact of the virus, and in some cases that we are aware of, children were not aware of the details of the lockdown restrictions and therefore were being approached by the Police and criticised or penalised for their conduct. In addition, information being available in the language of their choice is a key human right for all, including children. Welsh has specific legal status to have parity with English here in Wales, so I would like to see language rights and access reflected in the TOR. This will of course be relevant to other languages too, particularly for core public health and legal messaging.

There is rightly a focus on care homes within the TOR, but it is important to separate out different types of provision, so that children's homes are specifically considered. We

received casework throughout the lockdowns and restricted periods where small children's homes providing residential care for healthy and active children and young people were being treated in the same way as large providers of elderly and specialist nursing care, despite differing risk profiles. It would be welcome for the lessons learned section to consider the definitions that were applied in the legislation and guidance in more detail. In addition, the wider duties of social care teams, particularly in relation to supporting children such as with family contact or progression of fostering or adoption assessments could get lost. We are aware of the approach taken in England and other nations to remove safeguards for children in local authority care or in receipt of specialist support services, which was resisted here in Wales. The lessons learned should also cover these differing approaches.

In addition, where the justice system is referred to, specific account needs to be taken of those in youth justice settings including where their liberty is restricted. I am aware from the first lockdown period of severely restrictive regimes that were introduced in custodial settings, including those housing children and young people, such as 23 hours in their own cells. Whilst these measures were introduced as a public health mechanism, changes were made swiftly to these 'regimes' here in Wales so it was possible to do things differently. I would like children's experiences of this to be particularly looked at, with consideration again as to the necessity of these measures based on the risk profile of the settings and children and young people generally.

It is unclear from the TOR how approaches to safeguarding and child protection would be picked up and addressed by the inquiry. This is an important aspect for inclusion as this has to be a core purpose for all Governments in carrying out their functions.

Which issues or topics do you think the Inquiry should look at first?

I have no specific preference on the order of the Inquiry's approach.

Do you think the Inquiry should set a planned end-date for its public hearings, so as to help ensure timely findings and recommendations?

Yes No

Yes I think it is important for the Inquiry to set a planned end-date to give clarity of expectations to the public on when reporting will take place, and over who is being included in the evidence sessions.

How should the Inquiry be designed and run to ensure that bereaved people or those who have suffered serious harm or hardship as a result of the pandemic have their voices heard?

At present, the description of “those who have suffered serious harm or hardship” appears quite vague. I would personally interpret this as including children and young people, who were unable to attend places of education, access support services and community facilities, meet friends and socialise, continue their normal child development phases and access medical care in a timely fashion for childhood conditions. However, it is not immediately obvious that they will be included within this definition, nor how this will be carried out.

I will supply the Inquiry, once a call for evidence is launched, with the reports and work that my office has undertaken in the period reflecting on the views and experiences of children and young people. However, this should not be seen as a direct substitute for hearing the voices of children and young people in Wales. I would therefore urge the Inquiry to gather views of children and young people directly. I would expect children and young people from Wales to be given the opportunity to provide evidence in Welsh or English, with suitable translation facilities provided where needed and accessible information on how they can participate and how their views will be incorporated.

I would anticipate that the Children’s Commissioners’ offices for each of the nations, including my own, could support with identifying groups and advising on methodologies and practice. Specifically, my office would be pleased to offer advice on listening to younger children and to those with additional communication needs. I would expect children and young people from all UK nations to be involved in this, as children will have had differing experiences throughout the UK.

Submitted by:



Professor Sally Holland
Children’s Commissioner for Wales