NICCY Advice to UK Covid-19 Inquiry on its draft Terms of Reference

06.04.2022

Introduction

The Commissioner for Children and Young People (NICCY) was created in accordance with ‘The Commissioner for Children and Young People (Northern Ireland) Order’ (2003) to safeguard and promote the rights and best interests of children and young people in Northern Ireland. Under Articles 7(2) and (3) of this legislation, NICCY has a mandate to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities. Under Article 7(4), NICCY has a statutory duty to advise any relevant authority on matters concerning the rights or best interests of children and young persons. The Commissioner’s remit includes children and young people up to 18 years, or 21 years, if the young person has a disability or experience of being in the care of social services. Its remit also includes all devolved pertaining to the NI Assembly that affects children and young people. In carrying out her functions, the Commissioner’s paramount consideration is the rights of the child or young person, having particular regard to their wishes and feelings. In exercising her functions, the Commissioner is required to have regard to all relevant provisions of the United Nations Convention on the Rights of the Child (UNCRC).

NICCY welcomes the opportunity to respond to the independent public inquiry to examine the Covid-19 pandemic in the UK. It is vital that the preparedness and response to the pandemic by the UK and devolved governments is undertaken, and that lessons are learnt for any similar future situation**.**

We agree that the UK wide Inquiry should include Northern Ireland. However, there are significant deficits in the ToR, and it requires a more explicit focus on children and young people and human rights. Furthermore, it must be followed by a methodology for evidence gathering that sufficiently focuses on these key principles and is led by an independent and impartial Chairperson.

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

We recommend that specific reference is made to the importance of a human rights approach to the Inquiry and explanation of how this will be taken into account during all stages of the Inquiry.

The United Nations Convention on the Rights of the Child published a statement on [April 2020](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT/CRC/STA/9095&Lang=en), in which it pointed out that many children would be gravely affected physically, emotionally and psychologically by the pandemic and the response to it, especially in countries that had declared states of emergencies and mandatory lockdowns, and outlined 11 recommendations to States, to safeguard children’s rights during the pandemic. NICCY used these recommendations as a framework to conduct its own comprehensive report in August 2021 on the impact and Government response to the Covid-19 pandemic on children’s rights in Northern Ireland, titled [‘A New and Better Normal’](https://www.niccy.org/about-us/our-current-work/covid-19-niccys-work/). NICCYs report is now amongst a wide range of work which has highlighted the profound and disproportionate negative impact of the pandemic on children and young people.

We would strongly recommend that the terms of reference (ToR) is more explicit in its focus on reviewing Government preparedness and response to the effect of the pandemic on children (0-18) and across key ‘children’s services’. We understand that the intention is to review the impact of the pandemic against equality law / section 75 groups which will include age, alongside disability, race, sexual orientation etc. as key characteristics. However, there is a risk that the significant impacts on the 0-18 age group will not be sufficiently covered unless further details are included as part of this Inquiry ToR, and the scope expanded where necessary. We have set out below aspects of the ToR which should contain a more explicit focus on 0-18 yr olds.

1. **Health**

We note the plans to focus on the health and social care systems response across hospitals and care homes and care settings. We would recommend that children’s homes, childcare settings / private nursery / day-care and regional children’s facilities are included with a particular focus on preparedness and support for these sectors and facilities. We also assume that ‘access to therapeutics and vaccines’ and ‘long covid clinics’ noted in this section will have a focus on children and young people. As we know children were last to be offered vaccines and this was particularly stressful for families with clinically vulnerable children who had extended periods of isolation. Furthermore, access to long covid care for under 18s continues to be patchy and is an area where an immediate response is required.

1. **Education**

Under Aim (1.) the only context listed that would apply specifically to children is ‘education’ and at present the focus is also limited to “restrictions on attendance at places of education”, it is not clear if the scope of the review will include early years (to include Sure Starts) and pre-school settings, but we would recommend that it does. Furthermore, the current focus on education is limited to decision making about impact on attendance, we would strongly argue that the range of issues considered under education is expanded to include the impact of decision making on the quality of education, roll out of remote learning and support for children to access laptops etc., the specific impact and response to Government on children in transitional or exam years and infection control measures in school to include face coverings, class bubbling, use of remote teaching etc.

1. **Safeguarding**

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.With respect to NI we would recommend that the Inquirygives particular focus to the impact of the Children’s Social Care (Coronavirus) (Temporary Modification of Children’s Social Care) Regulations (Northern Ireland) 2020.

1. **Access to Information and Participation**

Whilst the ToR intends to consider how decisions were “made, communicated and implemented”, we would recommend that specific focus is given to the availability and accessible of information suitable to children and young people throughout the pandemic.

1. **Social and recreational activities**

We note that decision making and its consequences on access to social and recreational activities is in the ToR, however, we would emphasise the need to include young children’s access the play facilities as part of this focus. Play has a critical role in children’s development and the impact of restrictions on children’s access to these facilities should be considered.

**‘Lessons to be Learned’ Section**

The lessons learned section should ensure that the impact on children, informed by their distinct experiences, are focused upon and addressed separately from those of adults. There should be a specific point in the lessons learned section around the unimpeded delivery of education in future pandemics. There should also be a specific point around the protection of rights in future pandemics. We welcome the plan to include the experiences of ‘key workers’ to inform lessons learnt and would suggest that the definition used is inclusive of teachers, social care workers, childcare and residential children’s home staff.

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

NICCY does not have a strong view on this. However, depending on the length of the Inquiry and whether it plans to produce a series of reports on different issues, areas which address the after-effects of the pandemic may require more urgent attention and immediate recommendations to be made. With respect to children and young people this may include support for those dealing with long covid, physical and mental health problems, consequences of delayed access to child development services such as speech and language services and impact on educational attainment.

**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, it is important for the Inquiry to set out clear timeframe for all key activities. To include a date for final reporting and recommendations, and timeframes for evidence sessions for different stakeholders. We do not under-estimate the scale of this task for the Inquiry to conduct a UK wide Review that sufficiently covers issues for all groups within society and the specific experiences and learning points for devolved nations.

It will be important that sufficient resource is given to the Inquiry to ensure that as many voices as possible are heard and encouraged to feed into the Inquiry process. It is important that the Inquiry team have clear and timely communication with all devolved nations on plans. It is also important that the evidence gathered by the inquiry includes the direct experiences of children and young people and the methodology will need to be adapted from that used with adults.

**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?**

It is the case that some groups within society have been impacted more negatively than others by the pandemic, there is already strong evidence of who those groups are- from our perspective as the statutory body established to promote and safeguard the rights and best interests of children and young people we would highlight the profound impact of the pandemic on children, particularly infants, younger children, children with a disability, children living in disadvantaged communities, BME groups, separated and asylum / refugee children, children in care or accommodated in regional facilities for mental health, secure care and youth justice reasons.

We would be happy to discuss the methodology and findings from NICCYs Right Based Review- A New and Better Normal. We would also be happy to promote the Inquiry and ways individuals and groups can engage with it through our networks and contacts.

In conclusion, it is vital that this inquiry provides an equitable and proportionate focus on all part of the UK, to include engaging with children and young people from different jurisdictions to capture the differing impacts and takes a human right based approach at all stages of the inquiry process.