**Evidence to the Women and Equalities Committee inquiry on coronavirus (COVID-19) and the impact on people with protected characteristics**

Friday 1 May 2020

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1. Executive summary

The equality and human rights implications of the coronavirus pandemic stretch far and wide. It has precipitated a global public health and economic crisis that is significantly impacting all areas of life for everyone throughout Britain.

Early evidence and information from our stakeholders indicates that coronavirus and responses to it may be directly impacting disproportionately on some groups, and causing indirect impacts by exacerbating existing inequalities across all areas of life.

Before the outbreak of coronavirus, we knew that persistent disadvantages faced by certain groups were leaving too many people behind. Our state of the nation report, ‘Is Britain Fairer? 2018’, found that progress in some areas was overshadowed by alarming backwards steps in others. Prospects for disabled people, some ethnic minorities and children from poorer backgrounds had worsened in many areas of life. Sexual harassment and domestic violence remained persistent and growing concerns, affecting women and girls disproportionately, and women were more likely than men to be in low-pay occupations. We found poverty to be particularly prevalent among disabled people and some ethnic minorities.

### The impact of the pandemic on people sharing protected characteristics

People who share certain protected characteristics are disproportionately adversely impacted by coronavirus and the measures being taken to respond to it, in particular: disabled people, older people, some ethnic minorities and some women. We recognise that Government resources and public services are under exceptional strain, and that responding to the pandemic means responding to a rapidly evolving situation and making tough decisions. However, now, and as we emerge from this crisis, it is crucial that equality and human rights are at the centre of decision-making so that responses to it are effective and no-one is left behind.

#### Disabled people and older people

Disabled people and older people may be particularly at risk from COVID-19 and face life-threatening concerns about access to appropriate medical treatment. We are deeply concerned about reports that Do Not Attempt Resuscitation (DNAR) notices have been applied to advance care plans for older or disabled people in care or residential homes without proper consultation. Some GP surgeries have reportedly sent blanket communications to disabled and older patients asking them to consent to DNAR notices on the basis of pre-existing or non-pertinent health conditions. Easements to the Care Act provided in the Coronavirus Act 2020 are set to have a disproportionate impact on disabled people and older people, who could see vital care support they receive significantly restricted. Disabled and older people are already at heightened risk of food insecurity, with social distancing measures creating new challenges. There have been grave concerns around the lack of virus testing and personal protective equipment (PPE) for people in care homes and for care workers, putting disabled and older people at heightened risk of exposure to coronavirus, and reports of individuals in care homes being told they cannot go to hospital.

#### Disabled people

The rapid expansion of video and telephone hearings across courts and tribunals risks increasing barriers to effective participation for some disabled people and undermining the right to a fair trial if their specific needs are not recognised and met.

The temporary modification of the duty on local authorities to secure the provision set out in Education, Health and Care Plans risks undermining the rights of children with special educational needs and disabilities.

#### Ethnic minorities

Emerging evidence indicates that coronavirus and the response to it disproportionately affects ethnic minorities, including healthcare professionals. Ethnic minorities are over-represented in low-paid and gig economy employment, and so will be disproportionately impacted by the lack of financial support packages for workers in this sector. PPE shortages, and concerns about the suitability of the design of standard PPE for health and social care workers, are likely to particularly impact ethnic minorities and women, who are over-represented in this sector. Ethnic minorities are also significantly over-represented in the prison population, giving rise to significant equality concerns around the risk of COVID-19 outbreaks in prisons.

Ethnic minorities may face particular challenges in complying with Government guidelines as they are more likely to live in overcrowded accommodation and may have lower ability to self-isolate. Gypsy, Roma and Traveller communities – who already experience persistent disadvantage – face particular challenges to self-isolation in encampments and traveller sites, exacerbated by limited access to water and sanitation, and the long-standing acute shortage of authorised sites.

#### Gender equality

Evidence suggests that domestic abuse is increasing during the crisis, with large rises in calls to helplines and reports that domestic homicides have more than doubled. Women are twice as likely as men to experience domestic abuse, and ethnic minority and disabled women are at greater risk.

This crisis is likely to expose many of the multiple and intersecting forms of discrimination experienced by some groups. We are aware of concerns that pregnant women and those on maternity leave are being forced to take unpaid leave or are being refused furlough. Ethnic minority women are more likely to be in precarious employment and could therefore feel the brunt of any economic recession caused by the crisis.

#### Other equality concerns

Certain groups sharing protected characteristics may experience disproportionate adverse effects from social distancing measures and the diversion of government resources for the coronavirus response. The reprioritisation of health services in response to COVID-19 is impacting many groups including trans people and cancer patients, who have seen appointments and surgeries delayed or cancelled. Restrictions on religious observance such as collective worship, weddings and funerals may impact some groups more than others.

### Monitoring and mitigating impacts

The Equality Act 2010, and the Public Sector Equality Duty in particular, provides a clear legal framework for the Government and other public authorities when considering their responses to the pandemic.

This includes ensuring that the potential impacts of policies, practices and guidance on people who share protected characteristics are understood and mitigated, and that affected groups are meaningfully consulted in decision-making.

Effective impact monitoring will require good quality data disaggregated by protected characteristics. It is of great importance that the Government gathers and analyses data by protected characteristics and finds ways to innovate where normal data gathering methods have been disrupted.

### Challenging and reviewing Government responses

We recognise that to keep people safe, restrictions on our rights and freedoms may be required. However, any restrictions must be necessary, proportionate, time-bound and receive adequate and regular public and parliamentary scrutiny.

We welcome provisions that facilitate parliamentary scrutiny of the Coronavirus Act 2020 and consider that statutory reports to Parliament must address equality and human rights considerations, reflecting the views and experiences of groups sharing protected characteristics.

### Our role and submission

As Britain’s national equality body and as a human rights institution, we will play a key role supporting and scrutinising the impact of the Government response. We will work with Government and Parliament, as well as regulators, public bodies, business and non-governmental organisations, to monitor and mitigate direct and indirect equality and human rights impacts.

We will provide advice on the steps we think are needed to protect the most disadvantaged in our society and will use our unique powers to drive appropriate responses to the crisis. We will be closely monitoring and supporting compliance with the Equality Act and will take action quickly, using our enforcement powers where needed, to protect people in the most vulnerable situations.

This submission looks at the equality implications of the pandemic and responses to it across a number of areas of life, including health and social care, work and income, treatment in institutions, access to justice, education, transport, and living standards – including access to food and housing. We make recommendations for measures we think should be taken by the Government in response.[[1]](#footnote-2)

### Recommendations

#### Legal and Policy Context

1. All public authorities and those carrying out public functions must comply with the Public Sector Equality Duty in developing and implementing responses to the pandemic, ensuring they are informed by evidence and engagement with representative groups, and embed learning from different approaches across the UK.
2. Government should ensure groups likely to experience particular disadvantage arising from social distancing measures receive appropriate and accessible guidance and information, and work with community leaders, networks and civil society organisations to ensure this reaches target audiences.
3. Public authorities should seek to minimise the extent to which socio-economic disadvantage is compounded when developing responses to the pandemic. In the longer term, the UK Government should bring the socio-economic duty into force at the earliest opportunity, and the Welsh Government must meet its commitment to commence the Duty this year, to help ensure that everyone can share equitably in the post-crisis recovery.

#### Protecting our fundamental rights and freedoms

1. Government must ensure that any restrictions on people’s freedoms in response to the pandemic comply with equality and human rights laws and standards and are necessary, proportionate, time-bound and are properly scrutinised.

##### Data, scrutiny and monitoring

1. Government and public authorities responsible for data collection should assess, monitor and report on the impact, including the health and other effects, of coronavirus and the legislative and policy response on human rights and equality. Where normal data gathering methods are disrupted or inadequate, they should use new sources and alternative methods to gain insight into potential impacts for different protected characteristics.
2. Government should urgently publish the equalities assessment prepared to accompany the Coronavirus Act 2020. Government should also ensure that statutory reports to Parliament required by the Coronavirus Act 2020 address the impact of the legislation on equality and human rights and reflect the views and experiences of groups sharing protected characteristics.

##### Supporting civil society

1. Government must monitor support for civil society organisations and ensure they have the resources necessary to provide specialist services. It must ensure funding reaches smaller organisations on the frontline, especially those representing protected characteristic groups and those providing advice.
2. Government should take steps to increase the involvement of civil society organisations representing protected characteristic groups in policy-making related to the pandemic.

##### Hostile environment

1. Government should implement the recommendations of the Windrush review in full and take immediate steps to ensure that people with insecure immigration status are not prevented from accessing essential services, by ending data-sharing between the Home Office, police, education, and healthcare services for the purposes of immigration enforcement. Government should also consider a public health campaign to reassure migrants that it is safe to access care.

#### Health and social care

##### Disproportionate impact of COVID-19 on health outcomes

1. Government should ensure collection and publication of disaggregated data on COVID-19 cases – including by sex, ethnicity, nationality and disability – in order to better understand the differential health impact of the virus, inform decision-making and assist compliance with the PSED.

##### Advance care planning and prioritisation of access to treatment

1. Government should work with the Care Quality Commission (CQC), NHS England, Public Health England, the National Institute for Health and Care Excellence (NICE) and professional bodies to:
	1. ensure all policy decisions about care and treatment for COVID-19 are made in collaboration and consultation with disabled and older people and their representative organisations, underpinned by clear, accessible and consistent guidance that fully complies with equality and human rights laws and standards, including the principles of individual autonomy and non-discrimination.
	2. agree national clinical and ethical guidance on provision of treatment, to ensure that decision-making is transparent, consistent, and underpinned by equality and human rights principles.

##### Easement of social care duties

1. Government should ensure effective, ongoing scrutiny and oversight of local authorities to ensure they do not introduce easements to social care duties unless strictly necessary and to ensure their decision-making complies with human rights obligations.
2. Local authorities should ensure that decisions on how to allocate resources for social care are compliant with the Equality Act 2010 and human rights obligations.
3. Government should consider all possible means to maintain social care provision at the level available prior to the outbreak of the pandemic.

##### Care Homes

1. Government must work with the CQC to ensure effective and ongoing monitoring and oversight of COVID-19 cases and deaths in care homes, as well as ensuring urgent access to testing and healthcare for care workers and residents.

##### PPE shortages

1. Government must urgently act to protect the rights of health and social care workers at potential risk of contracting COVID-19 by providing adequate PPE, which is appropriate for different groups of workers such as women and ethnic minorities, who are overrepresented within the health and social care workforce.

#### Work and income

##### Pregnancy and maternity

1. The Department for Business, Energy and Industrial Strategy (BEIS) should:
	1. Introduce the right to request furlough and part-time furlough and take steps to promote this widely to all employers and employees.
	2. Make clear to employers that if they cannot ensure the health and safety of pregnant employees by making workplace adjustments, pregnant employees should be placed on full paid leave.
	3. Remind employers of their obligations under equality law in relation to unlawful pregnancy and maternity discrimination.
2. BEIS should implement as a matter of urgency its earlier commitment to extend pregnancy and maternity redundancy protections by a further six months so that women with childcare responsibilities are not placed at a disadvantage.

##### The impact on gig economy workers, employees in low-paid industries, and the self employed

1. Government should consider taking steps to mitigate the financial hardship faced by gig economy workers by providing the same financial support available to other employees.
2. Government should remove the earning thresholds for Statutory Sick Pay (SSP) and the Coronavirus Job Retention Scheme (CJRS), and increase SSP to National Minimum Wage levels to help reduce the financial disadvantage experienced by pregnant and disabled workers.

##### Social security

1. We recommend that the Department for Work and Pensions takes all reasonable steps to reduce the five week wait for a first Universal Credit payment, to support the right to an adequate standard of living for claimants who have lost their income during the pandemic.

#### Treatment in Institutions

##### Detention under the Mental Health Act

1. The Department for Health and Social Care should not implement emergency provisions relating to the Mental Health Act unless strictly necessary and only for as long as is essential. Use of these powers must be recorded and monitored to ensure they are proportionate, including the justification for use and data on protected characteristics.
2. The Department for Health and Social Care should monitor the temporary changes to mental health tribunal rules, and ensure tribunals are recording the justification for use and data on location and protected characteristics.

##### Prisons and youth custody

1. The Ministry of Justice must expedite appropriate releases from prisons and youth custody, prioritising those at heightened risk of harm, including children, older people and women who are pregnant or have new babies. It should publish regular updates on the number and protected characteristics of those released and the number of cases and deaths related to COVID-19 in these settings.

##### Immigration detention

1. The Home Office should continue to release people held in immigration removal centres and avoid further detentions wherever possible, particularly for those at heightened risk of harm, including those with underlying health conditions, older people, pregnant women, and people with mental health conditions.

#### Access to Justice

##### Video and phone hearings

1. The Ministry of Justice, judiciary and other frontline professionals should consider the evidence from our inquiry report on the use of video-links in the criminal justice system as the use of video and telephone hearings expands.
2. Guidance on video and telephone hearings across all courts and tribunals should refer to the need to consider and make adjustments for disabled people and the effect of this guidance should be kept under review.
3. The Ministry of Justice should take urgent steps to capture data on the experiences of court users and outcomes of cases across courts and tribunals, disaggregated by case type and protected characteristic, to inform any required changes to the use of remote hearings.

##### Access to legal advice and information, and legal aid

1. The Ministry of Justice should address all outstanding recommendations from our inquiry into legal aid for discrimination cases and consider what further support measures are necessary to ensure the legal aid sector can survive the coronavirus crisis.
2. Government should ensure the impact of Practice Direction 51ZA is kept under review; and judicial guidance should be strengthened to support discretionary decisions to extend time limits beyond the statutory limits.
3. Government should legislate to extend the time limits in Employment Tribunals for bringing claims under the Equality Act 2010 to six months, to help alleviate any barriers to accessing justice and ensure that people who have experienced discrimination can get an effective remedy. In addition, the discretion to extend time limits on a just and equitable basis should be extended to include equal pay claims.

##### Violence against women and girls

1. Government should ensure that addressing the rise in violence against women and girls is integral to the response to coronavirus, and that the duty to prevent and protect is built into planning at all levels.

##### Domestic abuse support services

1. Government should urgently provide unrestricted and ring-fenced funding to cover the additional costs to domestic abuse charities resulting from coronavirus (both now and to respond to a likely spike in demand when emergency measures are eased), ensuring this funding is available to smaller organisations, including those led ‘by and for’ ethnic minority, disabled and LGBT women.
2. Government must ensure that migrant survivors of domestic abuse with no recourse to public funds (NRPF) can access equal protection and support (including refuge accommodation). This should include extending the route to secure immigration status to all domestic abuse survivors with NRPF, and prohibiting the sharing of survivors’ personal data for the purposes of immigration enforcement if collected when accessing assistance or support for domestic abuse.

##### Policing violence against women and girls (VAWG)

1. Government should work with the National Police Chiefs’ Council (NPCC) and police forces to ensure that crimes of violence against women and girls continue to be addressed as high priorities. Police and Crime Commissioners and Chief Constables should give public assurances of this at a local level.

##### Police enforcement of restrictions

1. Home Office should work with the National Police Chiefs’ Council (NPCC), College of Policing, Association of Police and Crime Commissioners and police forces in England and Wales to:
	1. Ensure that police officers are properly informed about the limits of new powers and restrictions, including the obligation to use or enforce them in a proportionate, non-discriminatory manner;
	2. Consult with diverse communities to better understand particular needs around police community relations, and ensure that the use and enforcement of new powers does not have a disproportionate impact on particular groups; police forces should record data and report on the number of fines issued by protected characteristic under the Equality Act 2010;
	3. Establish a mechanism for independent oversight of police use of new emergency powers in England and Wales to monitor compliance with equality and human rights obligations, similar to that established by Police Scotland.

##### Hate crime

1. The National Police Chiefs’ Council, with the support of the Home Office, should make clear that preventing and responding to hate crime remains a priority. The Home Office should ensure that sufficient support is available to victims, including by providing sufficient funding for third-party reporting and other support services.

#### Education

Disproportionate impact of school closures on children with SEND

1. Part of the Government’s pandemic grant to local authorities should be ring-fenced to ensure that children with special educational needs and disabilities (SEND) who stay at home receive the support they need, including specialist equipment, training materials and social care.
2. Government should require local authorities to publish a re-integration policy for any children moved from mainstream education to special schools during the pandemic.
3. Following modification of the duties to secure provision set out in Education, Health and Care Plans (EHCPs), Government must provide effective oversight of the ‘reasonable endeavours’ adopted by local authorities and health bodies to discharge these duties in order to ensure that decision-making complies with equality and human rights obligations.

##### Risk that the shift to online learning will exacerbate existing inequalities

1. The Department for Education should seek to ensure that the provision of digital devices and internet access is available to children of all ages who do not have adequate access to computers or the internet, including those in primary education.

##### Concerns about discrimination in approaches to grading

1. Government should issue guidance on the approach that teachers should take to predicting grades and ranking pupils to minimise the risk of conscious or unconscious bias. Schools should be required to provide exam boards and Ofqual with data on the socio-economic background and protected characteristics of the assessed pupils, including by ethnic group.
2. Ofqual should require exam boards to use this data to support the statistical standardisation process and should then publish a report evaluating this. It should also investigate any higher than average disparities for pupils sharing particular protected characteristics revealed by the report.
3. Government should ensure that pupils are able to appeal their grades, including on grounds of suspected unlawful discrimination.

##### Increased vulnerability of children eligible for Free School Meals

1. Government should urgently address any remaining administrative difficulties associated with the national voucher scheme and consider introducing an option for families to receive cash payments rather than vouchers.

##### Concerns about the safeguarding gap created by school closures

1. Government should reinstate the legal protections that have been removed for children in care and consider the need to allocate additional, ring-fenced funding to local authorities to ensure increased access to support services for children at risk of harm during the period of school closures.

#### Transport

1. Government should advise transport operators to provide accessible information on the operation of services. Where possible, operators should seek to involve disabled passengers in decisions regarding changes to scheduled services during the pandemic.
2. Government should look to support disabled passengers with their essential travel costs during the pandemic where possible. This could include increasing the discount offered by the Disabled Persons Rail Card, or allowing a carer travelling with a disabled person to travel for free.

#### Living standards

##### Access to food

1. Government should work with the British Retail Consortium and supermarkets to update and implement guidance on who is considered to be ‘high risk’. This should ensure policies related to access to shops are flexible to accommodate the needs of carers or those living in unsafe households and that reasonable adjustments are made to enable disabled and older people access. Government should also clarify the role of GPs in identifying individuals who are at ‘high risk’ and registering those individuals on the Government’s database.

##### Housing

1. Government should direct local authorities and other local partners to facilitate access by Gypsy, Roma and Traveller groups to sanitation facilities and healthcare services, open additional temporary sites where possible, and adopt a presumption against eviction (including by police) unless suitable alternative provision has been secured.
2. Government should tailor current and future guidance on social distancing and self-isolation to different living arrangements and accommodation settings.

2. Introduction

1. The Equality and Human Rights Commission has been given powers by Parliament to advise Government[[2]](#footnote-3) on the equality and human rights implications of laws and proposed laws, and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.
2. In this submission, we provide views on the equality implications of the coronavirus pandemic and responses to it across a number of areas of life, including health and social care, work and income, treatment in institutions, access to justice, education, transport, and living standards – including access to food and housing. We make recommendations for measures we think should be taken by Government in response.[[3]](#footnote-4)
3. We have a key role supporting and scrutinising the Government response to the pandemic. Our Business Plan for 2020/21 sets out important steps we will take. We will be working with stakeholder groups to update our approach as the impacts on communities, individuals and the economy become clearer. We will use our powers and levers flexibly and strategically to promote compliance with the law and ensure people understand their rights, working closely with regulators, inspectorates and ombudsmen schemes to improve practice. We will take action quickly to defend the rights of people in the most vulnerable situations, through strategic legal action, investigations and other enforcement activities and inquiries.

3. Legal and policy context

1. The Equality Act 2010 (‘the Equality Act’) provides a legal framework that protects individuals from discrimination, promoting a fair and more equal society.[[4]](#footnote-5) Continued compliance with the Equality Act, by Governments and other public bodies, is essential in the current crisis, which is likely to hit already disadvantaged people the hardest. Responses will be more effective and sustainable if they consider how to mitigate the disproportionate impact on groups who share different protected characteristics.
2. The Equality Act protects people against discrimination on the basis of nine protected characteristics.[[5]](#footnote-6) The Government should recognise that, although the virus’ ability to infect people might not discriminate, some groups are hit harder by the disease and measures developed in response to it. Early available evidence[[6]](#footnote-7) and information from our stakeholders[[7]](#footnote-8) indicates that coronavirus and the response to it are affecting people differently according to protected characteristics. The impact is wide-ranging, from restricting how people can practise their religious beliefs,[[8]](#footnote-9) to significant changes in how we access goods and services.
3. Unless the response is fully informed by equality considerations, these effects will further entrench the worst inequalities in the long-term. The Equality Act contains the Public Sector Equality Duty (PSED), which requires all public authorities to take active steps to consider equality when exercising their functions.[[9]](#footnote-10)
4. **All public authorities and those carrying out public functions must comply with the PSED in developing and implementing responses to the pandemic, ensuring they are informed by evidence and engagement with representative groups, and embed learning from different approaches across the UK.** They should assess the potential impact of policies as they develop, monitor their impact during implementation, and stop or adapt them when evidence shows they can lead to unlawful discrimination or disproportionately adversely affect people with particular protected characteristics.
5. Regulators, Inspectorates and Ombudsmen (RIOs) also play an important role in scrutinising and guiding responses from public authorities to the pandemic, and should ensure that they are embedding equality and human rights considerations as they prioritise their work and perform their functions in the context of coronavirus.
6. Recognising the pressures facing public authorities due to the pandemic, we have reviewed and, where appropriate, postponed our activities to enforce compliance with the reporting requirements in the PSED specific duties.[[10]](#footnote-11) However, we have encouraged listed public authorities to continue to meet these obligations where possible.
7. We refer throughout this document to the impacts of social distancing measures, and associated guidance, on groups sharing different protected characteristics. **Government should ensure groups likely to experience particular disadvantage arising from social distancing measures receive appropriate and accessible guidance and information, and work with community leaders, networks and civil society organisations to ensure this reaches target audiences**.For example, Government may need to provide specific guidance for Gypsy, Roma and Traveller (GRT) communities, to reflect differences in living arrangements, and to engage, support and build trust with organisations that represent them.[[11]](#footnote-12)
8. The Equality Act sets out the requirement for organisations to make reasonable adjustments and take positive steps to remove barriers that disabled people face. The duty is particularly relevant to organisations that communicate and use technology to make their services accessible during the crisis.[[12]](#footnote-13) Governments and other bodies must proactively consider the need for, and make, reasonable adjustments in their pandemic responses. This includes ensuring key information is accessible to all, for example by providing BSL interpreters during public health announcements, publishing materials in alternative formats, and proactively reaching out to people affected.
9. This submission highlights the differential impact according to people’s socio-economic background, which often correlates with their protected characteristics.[[13]](#footnote-14) The crisis is also likely to worsen socio-economic disadvantage, since reduced income or an economic downturn affects people on low incomes or with less accumulated wealth more greatly.[[14]](#footnote-15) The Equality Act provides a framework for public authorities to address these impacts in a proportionate, evidence-based and effective way, by requiring them to have due regard to the desirability of reducing the inequalities of outcome resulting from socio-economic disadvantage when taking strategic decisions on exercising their functions (‘the socio-economic duty’). The Scottish Government has brought the duty into force and the Welsh Government planned to do so this year.[[15]](#footnote-16) The duty is not in force in England.[[16]](#footnote-17) **Public authorities should seek to minimise the extent to which socio-economic disadvantage is compounded when developing responses to the pandemic. In the longer term, the UK Government should bring the socio-economic duty into force at the earliest opportunity, and the Welsh Government must meet its commitment to commence the Duty this year, to help ensure that everyone can share equitably in the post-crisis recovery.**

4. Protecting our fundamental rights and freedoms

1. The Commission recognises the Government’s current priority is keeping people safe and protecting our nation’s future. Although emergency measures that restrict our rights and freedoms may be necessary, these must be proportionate and measured, rooted in human rights and equality standards, have clear review and end points, be flexible to specific needs, and be open to scrutiny and challenge.[[17]](#footnote-18) The Government’s response will be most effective if it is rooted in values of freedom and respect, using human rights and equality laws as a framework to guide its decision-making. **Government must ensure that any restrictions on people’s rights and freedoms in response to the pandemic comply with equality and human rights laws and standards and are necessary, proportionate, time-bound and properly scrutinised**.

### Data, scrutiny and monitoring

1. To ensure effective monitoring of the impacts of coronavirus and the emergency measures – particularly indirect effects – it is essential that good quality data disaggregated by different protected characteristics is available. The pandemic has shown that where there is a lack of protected characteristic data, for example ethnicity in mortality data, this can delay awareness of impacts for different groups.
2. Coronavirus and the associated social distancing measures are limiting many data gathering mechanisms. Face-to-face surveys are restricted and pressures on public bodies may delay publications, potentially limiting the available data on the pandemic in the medium term. There will be greater reliance on administrative data sources, which often do not use Government Statistical Service harmonised categories, or do not cover some protected characteristics. For example, sexual orientation and religion are commonly not included in administrative sources. **Government and public authorities responsible for data collection should assess, monitor and report on the impact, including the health and other effects, of coronavirus and the legislative and policy response on human rights and equality. Where normal data gathering methods are disrupted or inadequate, they should use new sources and alternative methods to gain insight into potential impacts for different protected characteristics.**
3. It is vital that Parliament is able to scrutinise the impact of the emergency legislation on equality and human rights.[[18]](#footnote-19) We welcome existing provisions that facilitate this.[[19]](#footnote-20) We agree with the Women and Equalities Committee that **Government should urgently publish the equalities assessment prepared to accompany the Coronavirus Act 2020**.[[20]](#footnote-21) **Government should also ensure that statutory reports to Parliament required by the Coronavirus Act 2020 address the impact of the legislation on equality and human rights and reflect the views and experiences of groups sharing protected characteristics.** These reports should assess the use of emergency legislative powers[[21]](#footnote-22) and monitor the protected characteristics of those affected.

### Supporting civil society

1. The pandemic and responses to it present particular challenges for equality and human rights at a time when many of the organisations which hold the Government to account and help people in vulnerable situations, such as Parliament, civil society, RIOs and the media, have reduced capacity.
2. We welcome the Government’s pledge to provide £750m to the charity sector.[[22]](#footnote-23) However, many services for protected characteristic groups are often provided by small organisations, with many facing severe financial difficulties and increased demand due to coronavirus. With the NCVO estimating charities stand to lose £4bn in twelve weeks,[[23]](#footnote-24) we are concerned smaller charities providing vital services, including advice services, are ill-placed to weather the storm.[[24]](#footnote-25)
3. **Government must monitor support for civil society organisations and ensure they have the resources necessary to provide specialist services. It must ensure funding reaches smaller organisations on the frontline, especially those representing protected characteristic groups and those providing advice.**
4. **Government should take steps to increase the involvement of civil society organisations representing protected characteristic groups in policy-making related to the pandemic.**[[25]](#footnote-26)

### Hostile environment

1. Coronavirus and the measures taken in response to it may impact particularly harshly on people from ethnic minority communities[[26]](#footnote-27), including those with insecure immigration status.[[27]](#footnote-28) The recent Windrush lessons learned review demonstrated the need for public officials to understand the likely impact of immigration policies and practices on the people affected by them.[[28]](#footnote-29) This is particularly important at the current time when reliance on essential public services such as health, social care and welfare support is heightened. The Home Office must pay particular attention to ensuring its response to the pandemic enables and supports people to access the services they need.
2. Fear of data-sharing for immigration enforcement is likely to deter migrants from accessing healthcare[[29]](#footnote-30) and other essential public services, such as the police, posing risks to those individuals and to wider public health.[[30]](#footnote-31) Our research showed that migrants, including those lawfully resident in the UK, were deterred from accessing treatment for communicable diseases and other healthcare services owing to fears that their immigration status would be reported to the Home Office.[[31]](#footnote-32) The World Health Organization (WHO) warns that such exclusionary policies towards migrants heighten the risk of infection.[[32]](#footnote-33) **Government should implement the recommendations of the Windrush review in full and take immediate steps to ensure that people with insecure immigration status are not prevented from accessing essential services, by ending data-sharing between the Home Office, police, education and healthcare services for the purposes of immigration enforcement. Government should also consider a public health campaign to reassure migrants that it is safe to access care.**

5. Health and social care

1. The current crisis is putting unprecedented pressure on the health and social care system. It is nonetheless essential that health and social care is provided in compliance with equality and human rights laws. The Government’s obligations to protect the right to life,[[33]](#footnote-34) freedom from inhuman and degrading treatment,[[34]](#footnote-35) the right to physical and psychological integrity[[35]](#footnote-36) and the right to health,[[36]](#footnote-37) without discrimination,[[37]](#footnote-38) are crucial in this context, alongside obligations to ensure the equality impacts of any measures introduced have been considered under the PSED.[[38]](#footnote-39)
2. The current crisis and the Government’s emergency response measures may put these rights at risk, including in the context of care planning and the prioritisation of health and social care.
3. Resource constraints, arising from the diversion of staff and funding to address the needs of those critically ill with COVID-19, disproportionately impacts access to healthcare for individuals sharing certain protected characteristics. The cancellation or postponement of routine treatment and procedures particularly affects those with health conditions other than COVID-19.[[39]](#footnote-40) Trans people have seen surgeries and gender identity clinics cancelled,[[40]](#footnote-41) and those already taking hormones may struggle to get prescriptions renewed.[[41]](#footnote-42) Women’s organisations are concerned about the impact on women’s access to contraception, abortion services, and antenatal,[[42]](#footnote-43) perinatal and maternity services.[[43]](#footnote-44)
4. The crisis is also having a ‘profound’ effect on mental health,[[44]](#footnote-45) with Mind warning of a potential rise in self-harm and suicide as people struggle to access necessary support.[[45]](#footnote-46) Particular concerns are the impact on children’s mental health,[[46]](#footnote-47) and on those who are at increased risk of severe illness from COVID-19 and have therefore been advised to follow more stringent social distancing measures. This includes older people, those with underlying health conditions and pregnant women.[[47]](#footnote-48) Access to, and outcomes from, mental health services are likely to worsen during the crisis,[[48]](#footnote-49) and NHS England is not taking appropriate action to address this.[[49]](#footnote-50) As set out under Section 3, the Government and other public bodies must ensure that they comply with the Public Sector Equality Duty and incorporate human rights considerations into decision-making about health and social care.

### Disproportionate impact of COVID-19 on health outcomes

1. We are concerned by the apparent disproportionate impact of COVID-19 on health outcomes for certain groups. Early evidence suggests ethnic minorities,[[50]](#footnote-51) men and older people[[51]](#footnote-52) and those with underlying health conditions are dying at disproportionate rates from COVID-19.[[52]](#footnote-53) Some ethnic minority groups experience worse health outcomes[[53]](#footnote-54) and are at heightened risk of serious symptoms of COVID-19.[[54]](#footnote-55) We welcome the Public Health England review into the disproportionate impact on ethnic minorities.[[55]](#footnote-56) We further recommend **Government should ensure collection and publication of disaggregated data on COVID-19 cases – including by sex, ethnicity, nationality and disability – in order to better understand the differential health impact of the virus, inform decision-making and assist compliance with the PSED**.

### Advance care planning and prioritisation of access to treatment

1. When accessing healthcare services, people have the right to be involved in decisions about their care and treatment.[[56]](#footnote-57) Advance care planning enables the care and treatment preferences of an individual to be understood, considered and applied if they lose capacity.[[57]](#footnote-58)
2. During the current crisis, charities and trade unions have reported that Do Not Attempt Resuscitation (DNAR) notices have been applied to the advance care plans of older or disabled people in care or residential homes without proper consultation.[[58]](#footnote-59) Some health and care providers, including GP surgeries, have reportedly sent blanket communications to older and disabled patients asking them to consent to DNAR notices on the basis of pre-existing or non-pertinent health conditions.[[59]](#footnote-60)
3. The Care Quality Commission (CQC), British Medical Association (BMA), Care Provider Alliance and Royal College of General Practitioners have jointly written to adult social care providers and GP practices in England to stress that advance care planning should be carried out on an individual basis and should not ‘be applied to groups of people of any description’.[[60]](#footnote-61)
4. We understand that, in the event that demand for critical care outstrips supply, doctors will make incredibly difficult decisions about treatment prioritisation, but existing guidance is insufficient to avoid the risk of unlawful discrimination against older and disabled people.
5. Greater clarity is required that blanket policies, where prioritisation decisions are based solely on protected characteristics, such as age or disability, are directly discriminatory and not permitted.[[61]](#footnote-62)
6. How decision-makers should prioritise treatment of patients with non-pertinent health conditions or impairments has caused confusion. Numerous disabled people’s organisations have made clear that decisions to refuse access to care on the basis of clinically irrelevant health conditions or impairments are not permitted, nor should assumptions be made about the quality of life of disabled people.[[62]](#footnote-63)
7. Guidance on prioritisation is likely to result in indirect discrimination against older and disabled people. For example, decision-making which is framed around a ‘capacity to benefit quickly’ assessment indirectly discriminates against disabled people with certain underlying health conditions.[[63]](#footnote-64) UN experts emphasise that everyone has the right to life-saving treatment, and that scarcity of resources should never be used to justify discrimination against certain groups of patients except where all efforts to provide the necessary resources have failed.[[64]](#footnote-65)
8. This is a fast-changing landscape, and updated guidance has addressed some of these concerns;[[65]](#footnote-66) however, a lack of consistency in the guidance remains.[[66]](#footnote-67) Disability campaigners have sought to take legal action to challenge the Secretary of State and NHS England’s failure to publish a national policy and framework for treatment prioritisation.[[67]](#footnote-68)
9. **Government should work with the Care Quality Commission (CQC), NHS England, Public Health England, the National Institute for Health and Care Excellence (NICE) and professional bodies to:**
	1. **ensure all policy decisions about care and treatment for COVID-19 are made in collaboration and consultation with disabled and older people and their representative organisations, underpinned by clear, accessible and consistent guidance that fully complies with equality and human rights laws and standards, including the principles of individual autonomy and non-discrimination.**
	2. **agree national clinical and ethical guidance on provision of treatment, to ensure that decision-making is transparent, consistent, and underpinned by equality and human rights principles.[[68]](#footnote-69)**

### Easement of social care duties

1. Prior to the outbreak of coronavirus, adult social care was already at crisis point across in England due to substantial reductions in Government funding to local authorities since 2010-11, combined with growth in the adult population.[[69]](#footnote-70) Consequently, only those with severe needs were receiving support.[[70]](#footnote-71)
2. The Coronavirus Act 2020 has the potential to worsen this situation by allowing local authorities in England to suspend their duties to meet eligible care and support needs, review care plans, and carry out financial assessments, while also relaxing the requirement to carry out assessments of individuals’ needs.[[71]](#footnote-72) By the Government’s own reckoning, if triggered, these clauses could result in individuals not receiving support for some needs.[[72]](#footnote-73)
3. Several local authorities in England have already triggered the easements.[[73]](#footnote-74) Since these are required to meet an individual’s care needs where a failure to do so would breach their human rights,[[74]](#footnote-75) **Government should ensure effective, ongoing scrutiny and oversight of local authorities to ensure they do not introduce easements to social care duties unless strictly necessary and to ensure their decision-making complies with human rights obligations.**
4. Social care easement is set to disproportionately affect disabled adults, those with long-term health conditions and older people with care needs, who are at risk of having their essential needs neglected, such as access to food and water, medicines, clothing, hygiene and exercise, with immediate and long-term implications for well-being.[[75]](#footnote-76) It is also likely to result in an increase in unpaid, informal care, with the burden of providing such care falling disproportionately on women.[[76]](#footnote-77) **Local authorities should ensure that decisions on how to allocate resources for social care are compliant with the Equality Act 2010[[77]](#footnote-78) and human rights obligations.[[78]](#footnote-79)**
5. In England, suspension of the duty to assess a child’s needs for care and support risks disproportionately affecting disabled young people and those with long-term health conditions.[[79]](#footnote-80) Suspension of the duty to assess carers’ needs, including young carers,[[80]](#footnote-81) is also concerning, given the increased strain carers are likely to face. These provisions may not be compatible with the Equality Act or the Government’s human rights obligations.[[81]](#footnote-82)
6. Continued underfunding of the social care sector has led the United Kingdom Homecare Association to warn that many UK home care providers might have to shut, due to financial pressures resulting from the coronavirus outbreak, including the growing price of Personal Protection Equipment (PPE). If this happens, disabled people, individuals with long-term health conditions and older people with care needs face their social care being curtailed. **Government should consider all possible means to maintain social care provision at the level available prior to the outbreak of the pandemic.**

### Care homes

1. Significant gaps in the monitoring and oversight of the prevalence of COVID-19 in care homes exist. The CQC did not require home providers to indicate whether a death was COVID-19 related until 9 April 2020 and so the number of deaths in residential and nursing homes may have been significantly understated in national statistics presented by the Government.[[82]](#footnote-83) Based on an independent benchmarking of its members, the National Care Forum has estimated that more than 4,000 people may have died of COVID-19 within UK residential and nursing services prior to 13 April 2020.[[83]](#footnote-84) The latest ONS statistics for the week ending 17 April 2020 show that the number of deaths in care homes was 7,316, almost double the figure from two weeks previously.[[84]](#footnote-85) There are also serious concerns around the lack of virus testing[[85]](#footnote-86) and PPE for care workers (see below), which puts disabled and older people at heightened risk of exposure to COVID-19, and reports of individuals in care homes being told they cannot go to hospital.[[86]](#footnote-87)
2. We welcome the fact that, from 28 April 2020, ONS will publish the number of deaths involving COVID-19 in care homes, based on care home operators’ reports to CQC. **Government must work with the CQC to ensure effective and ongoing monitoring and oversight of COVID-19 cases and deaths in care homes, as well as ensuring urgent access to testing and healthcare for care workers and residents.**

### PPE shortages

1. The Government has been criticised over PPE shortages for those working in health and social care, and community health services.[[87]](#footnote-88) This puts workers at considerable risk and is inconsistent with the Government’s human rights obligations to protect the rights to life[[88]](#footnote-89) and health,[[89]](#footnote-90) and to provide safe and healthy working conditions.[[90]](#footnote-91) It particularly affects women and ethnic minorities, who are disproportionately represented among health and social care workers.[[91]](#footnote-92) One-size-fits-all PPE also puts certain groups, particularly female workers, at heightened risk.[[92]](#footnote-93) The lack of PPE for carers also raises concerns that older and disabled people will be at an increased risk of infection.[[93]](#footnote-94) **Government must urgently act to protect the rights of health and social care workers at potential risk of contracting COVID-19 by providing adequate PPE, which is fit for different groups of workers such as women and ethnic minorities, who are over-represented within the health and social care workforce.**

6. Work and income

1. All workplaces and employees will be affected by coronavirus. However, this crisis is clearly gendered in nature. While noting that men comprise the majority of critical care cases, the Women’s Budget Group has highlighted how women are disproportionately affected, for example through comprising the majority of health and care workers and of low paid workers.[[94]](#footnote-95) Younger and older workers, ethnic minority employees, and disabled people, also face disproportionate disadvantage and discrimination due to coronavirus, in terms of their current roles and longer-term participation in the labour market.
2. While Government and employers have taken some positive steps, further immediate and longer-term action is required in order to ensure that the Government upholds its obligations under the Equality Act and international human rights treaties to which it is committed.[[95]](#footnote-96)

### Pregnancy and maternity

1. Pregnant women should not be disadvantaged financially, or in their careers, by following advice to protect the health of themselves and their families. This is particularly important given the Government’s obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[[96]](#footnote-97) to eliminate discrimination against women in the field of employment.
2. The Government currently advises pregnant employees to practice social distancing in case they are at a particular risk during the coronavirus pandemic.[[97]](#footnote-98) We are aware of concerns relating to pregnant workers and those on maternity leave,[[98]](#footnote-99) which has been compounded by vague or inconsistent advice from Government and certain health sector representative bodies. These include:
3. Being forced to take unpaid leave, start maternity leave early, or being placed on sick leave, rather than furloughed.
4. Being refused furlough despite male colleagues being placed on the Coronavirus Job Retention Scheme, because they have childcare responsibilities and are not deemed to be working.[[99]](#footnote-100)
5. Being forced to work without proper health and safety risk assessments.
6. Facing financial penalties due to salary calculations for furlough support schemes, which are based on an employee’s actual salary at 28 February 2020. This disadvantages parents who have just returned from maternity or paternity leave, especially women who may be returning from a period of unpaid maternity leave.
7. **The Department for Business, Energy and Industrial Strategy (BEIS) should:**
	1. **Introduce the right to request furlough and part-time furlough and take steps to promote this widely to all employers and employees.**
	2. **Make clear to employers that if they cannot ensure the health and safety of pregnant employees by making workplace adjustments, pregnant employees should be placed on full paid leave.**
	3. **Remind employers of their obligations under equality law in relation to unlawful pregnancy and maternity discrimination.**
8. There are clear signs that Britain is entering a period of recession. Our analysis of the previous recession showed that women with childcare responsibilities were at a greater disadvantage than either men or other women in continuous employment.[[100]](#footnote-101) The Commission’s research into pregnancy and maternity discrimination also found that one in 20 pregnant workers or those on, or recently returning from, maternity leave experienced redundancy.[[101]](#footnote-102) **BEIS should implement as a matter of urgency its earlier commitment to extend pregnancy and maternity redundancy protections by a further six months so that women with childcare responsibilities are not placed at a disadvantage.**

### The impact on gig economy workers, employees in low-paid industries, and the self employed

1. We welcome the financial measures the Government has put in place for many employees and employers; however, there has been confusion over eligibility for self-employed[[102]](#footnote-103) and gig economy workers. This unprecedented situation has revealed the lack of basic employment rights such as sick pay that mean many gig economy workers have no choice but to continue working. This type of work is predominantly low-paid and precarious, with an overrepresentation of young workers[[103]](#footnote-104) and ethnic minorities.[[104]](#footnote-105) **Government should consider taking steps to mitigate the financial hardship faced by gig economy workers by providing the same financial support available to other employees.**
2. Concerns have also been raised about the lack of support available to the self-employed, where certain ethnic groups, particularly Pakistani men, and Gypsy, Irish and Traveller groups, are concentrated.[[105]](#footnote-106) Low-paid work also has an over-representation of women, and disabled people who often fail to meet the earnings threshold for either Statutory Sick Pay (SSP) or the Coronavirus Job Retention Scheme (CJRS). **Government should remove the earning thresholds for SSP and the CJRS, and increase SSP to National Minimum Wage levels to help to reduce the financial disadvantage experienced by pregnant and disabled workers**.

### Social security

1. We recognise the unprecedented scale of the challenge the Government faces in responding to an influx of new Universal Credit claims.[[106]](#footnote-107) We welcome the additional support and easements that the Government has provided, such as increasing the Universal Credit work allowance by around £1,000 per year from April 2020.[[107]](#footnote-108) However, it is unclear whether the social security safety net is sufficiently supportive, responsive and humane to ensure an adequate standard of living for the large number of people who are now dependent on it. We have long voiced concerns about the disproportionate negative impact on groups that already face higher levels of inequalities, such as disabled people, lone parent families and some ethnic minority groups.[[108]](#footnote-109)
2. We are particularly concerned about new Universal Credit claimants who have to wait five weeks before they receive their first payment, placing many in financial difficulty and having to rely on food banks.[[109]](#footnote-110)  The five-week wait has been a longstanding issue of concern, despite the availability of advance payments which are provided as loans, as it has been shown to contribute to child poverty.[[110]](#footnote-111) **We recommend that the Department for Work and Pensions takes all reasonable steps to reduce the five week wait for a first Universal Credit payment, to support the right to an adequate standard of living for claimants who have lost their income during the pandemic.**

7. Treatment in institutions

### Detention under the Mental Health Act

1. The Coronavirus Act 2020 includes provisions that would relax crucial safeguards under the Mental Health Act in England and Wales.[[111]](#footnote-112) This includes reducing the number of doctors needed to approve detention, extending or removing time limits and reducing oversight for forced treatment.[[112]](#footnote-113)
2. These provisions could exacerbate existing problems in the use of the Mental Health Act (which the Government has previously recognised and committed to reform)[[113]](#footnote-114) and lead to inappropriate and prolonged detentions of disabled people. This could particularly affect Black men, who are already subject to higher rates of detention.[[114]](#footnote-115) Moreover, more people with learning disabilities and/or autism, especially children with special educational needs and disabilities, could be admitted to inpatient units and held in restrictive settings.[[115]](#footnote-116) Reduced independent monitoring[[116]](#footnote-117) and restrictions on family visits heighten these risks.[[117]](#footnote-118)
3. **The Department for Health and Social Care should not implement emergency provisions relating to the Mental Health Act unless strictly necessary and only for as long as is essential. Use of these powers must be recorded and monitored to ensure they are proportionate, including the justification for use and data on protected characteristics.**
4. Changes to mental health tribunals in response to the pandemic are already in force in England and Wales, and could make it significantly harder for people to challenge their detention and treatment.[[118]](#footnote-119) Fewer tribunal panel members are needed to make a decision,[[119]](#footnote-120) pre-hearing assessments are waived, and decisions can sometimes be made without a hearing.[[120]](#footnote-121) **The Department for Health and Social Care should monitor the temporary changes to mental health tribunal rules, and ensure tribunals are recording the justification for use and data on location and protected characteristics.**

### Prisons and youth custody

1. Prison conditions significantly increase the risks associated with coronavirus, particularly poor sanitation, overcrowding and limited access to healthcare.[[121]](#footnote-122) A quarter of the adult prison population and more than half of all children in prison are from ethnic minorities.[[122]](#footnote-123) This suggests that any outbreak of COVID-19 in prisons could disproportionately affect them, especially if they have potentially worse health outcomes.[[123]](#footnote-124) Some disabled people are also likely to be over-represented in prisons, with evidence of high rates of mental health conditions, neuro-diverse conditions and cognitive impairments.[[124]](#footnote-125)
2. Older people and pregnant women in prisons are also at higher risk of harm from COVID-19. More than 5,000 prisoners are aged 60 or over.[[125]](#footnote-126) 60 women who were pregnant or had young babies were accommodated in mother and baby units in prisons in the year to March 2018.[[126]](#footnote-127) As at 27 April, only 33 people had been released under the Government’s early release programs.[[127]](#footnote-128)
3. **The Ministry of Justice must expedite appropriate releases from prisons and youth custody, prioritising those at heightened risk of harm, including children, older people and women who are pregnant or have new babies. It should publish regular updates on the number and protected characteristics of those released and the number of cases and deaths related to COVID-19 in these settings.**
4. Restricted regimes may disproportionately affect people with protected characteristics who remain in custody. Many prisoners are reportedly in effective solitary confinement with poor cell sanitation and without activity or other interventions.[[128]](#footnote-129) Visits from family members and solicitors have been suspended, and access to phone calls may be limited.[[129]](#footnote-130) Restricted regimes could negatively affect children’s mental health and increase levels of violence and self-harm.[[130]](#footnote-131) The risk of violence, exacerbated by significant staff shortages, may result in increased use of restraint, which disproportionately affects people from ethnic minorities in both the adult and youth estates.[[131]](#footnote-132)
5. Restrictions on movement and fear of transmission may exacerbate existing problems for people released from custody in securing safe and suitable accommodation, and benefits and services for mental health, addiction and domestic abuse. This raises particular concerns for children and young people, as well as women, who are more likely to be released into homelessness.[[132]](#footnote-133)

### Immigration detention

1. Our evidence to the Home Affairs Select Committee outlines the significant risks to people held in immigration removal centres, which share many of the features of prisons.[[133]](#footnote-134) Failures to identify vulnerability may lead to continued use of immigration detention for people with certain protected characteristics who are at heightened risk of harm. **The Home Office should continue to release people held in immigration removal centres and avoid further detentions wherever possible, particularly for those at heightened risk of harm, including people with underlying health conditions, older people, pregnant women, and people with mental health conditions.**

8. Access to justice

1. Police forces and the justice system are facing unprecedented strain, while some crimes that disproportionately impact certain protected characteristic groups (particularly violence in the home) are reportedly increasing.[[134]](#footnote-135)

### Video and phone hearings

1. The use of video and audio hearings across courts and tribunals has rapidly expanded since the outbreak of coronavirus and the passage of the Coronavirus Act 2020.[[135]](#footnote-136) We welcome the Ministry of Justice’s efforts to keep the justice system operating and avoid lengthy delays in proceedings. However, we have concerns about the implications of the increasing use of video and telephone hearings for effective participation and equal access to justice, and the lack of effective impact evaluation.
2. Interim findings from our inquiry into access to justice for disabled people in the criminal justice system[[136]](#footnote-137) found that the use of phone and video hearings can significantly impede communication and understanding for disabled people with certain impairments, such as learning disability, autism spectrum disorders and mental health conditions, who are over-represented in the criminal justice system.[[137]](#footnote-138) Other barriers include the absence of processes to identify, record and share information about impairments and the lack of adjustments (such as registered intermediaries) to ensure that disabled people accused of crime can understand and effectively participate in legal proceedings against them.
3. The impact of remote hearings on justice outcomes has not been fully evaluated and their implications are not fully understood. There may be unintended equality implications associated with video hearings given the disproportionate representation of people sharing particular protected characteristics in the criminal justice system.[[138]](#footnote-139)
4. The Ministry of Justice has found that defendants appearing over video were less likely to be represented and more likely to plead guilty and to receive custodial sentences.[[139]](#footnote-140) Early anecdotal reports indicate challenges to participation and fair hearings in criminal courts[[140]](#footnote-141), the family court[[141]](#footnote-142) and the Court of Protection since the expansion of remote hearings.[[142]](#footnote-143) Remote hearings could also undermine the principle of open justice owing to restrictions on access at the current time,[[143]](#footnote-144) while the current suspension of jury trials may risk incentivising defendants on remand to enter guilty pleas.[[144]](#footnote-145)
5. We recommend that the **Ministry of Justice, judiciary and other frontline professionals should consider the evidence from our inquiry report on the use of video-links in the criminal justice system as the use of video and telephone hearings expands.**
6. **Guidance on video and telephone hearings across all courts and tribunals should refer to the need to consider and make adjustments for disabled people[[145]](#footnote-146) and the effect of this guidance should be kept under review.** HM Courts and Tribunal Service (HMCTS) guidance acknowledges that the current expansion of telephone and video hearings across courts and tribunals would ordinarily involve ‘extensive testing, training and slow roll-out’.[[146]](#footnote-147) **The Ministry of Justice should take urgent steps to capture data on the experiences of court users and outcomes of cases across courts and tribunals, disaggregated by case type and protected characteristic, to inform any required changes to the use of remote hearings**.

### Access to legal advice and information, and legal aid

1. While many advice services have moved to operating online, digital exclusion may affect the ability of some older and disabled people[[147]](#footnote-148) to access this advice. Telephone advice may also be available, but our inquiry into civil legal aid for discrimination cases showed the real difficulties that many people, particularly disabled people, faced in accessing telephone advice.[[148]](#footnote-149)
2. As set out in section 4, many smaller charities providing services for protected characteristic groups, including advice services, may struggle to meet increasing demand. The legal aid sector is also facing difficulties. Access to free legal representation for those who cannot afford to pay for it themselves is crucial for people to assert their rights, including the right to non-discrimination.
3. We welcome the Government’s announced expansion of the evidence requirements needed to qualify for legal aid for domestic abuse victims in response to the coronavirus pandemic.[[149]](#footnote-150) We also welcome the initial Government support measures for the legal aid sector[[150]](#footnote-151) but this must be kept under review as the crisis unfolds to ensure the survival of the legal aid sector.
4. Our legal aid inquiry found that victims of discrimination are not getting the help they need to enforce their rights in the courts.[[151]](#footnote-152) Government has addressed some but not all of our recommendations from this inquiry. **The Ministry of Justice should address all outstanding recommendations from our inquiry into legal aid for discrimination cases and consider what further support measures are necessary to ensure the legal aid sector can survive the coronavirus crisis**.
5. Increased barriers to accessing legal advice and information, including for discrimination claims, during the pandemic may lead to delays in lodging claims. The judiciary may exercise their discretion to permit claims made out of time for COVID-19 related reasons, but this does not provide certainty for people with potential claims who are unable to access advice or help. We welcome new Practice Direction 51ZA[[152]](#footnote-153) which makes provision for parties to certain civil proceedings to agree extensions of time to comply with procedural time limits in the Civil Procedure Rules, Practice Directions and court orders, and provides guidance to the court when considering applications for extensions of time and adjournments. **Government should ensure the impact of Practice Direction 51ZA is kept under review; and judicial guidance should be strengthened to support discretionary decisions to extend time limits beyond the statutory limits.**
6. The time limits for bringing claims under the Equality Act 2010[[153]](#footnote-154) may prevent some people with protected characteristics from getting access to justice in the current circumstances.[[154]](#footnote-155) **Government should legislate to extend the time limits in Employment Tribunals for bringing claims under the Equality Act 2010 to six months, to help alleviate any barriers to accessing justice and ensure that people who have experienced discrimination can get an effective remedy. In addition, the discretion to extend time limits on a just and equitable basis should be extended to include equal pay claims.**

### Violence against women and girls

1. Increased risk of violence against women and girls is a predictable major ‘secondary’ impact of the coronavirus pandemic. Evidence suggests that domestic abuse is increasing during the crisis, with large increases in calls to helplines[[155]](#footnote-156) and reports that domestic homicides have ‘more than doubled’.[[156]](#footnote-157) These are gender-based crimes that disproportionately affect women,[[157]](#footnote-158) and we know that ethnic minority and disabled women are at greater risk.[[158]](#footnote-159) Children are also seriously impacted by witnessing domestic abuse, which is the most common factor amongst children considered to be ‘in need’ of support from local authority children’s social care.[[159]](#footnote-160)
2. The Government has positive obligations under international and domestic human rights law to prevent, and protect women from, gender-based violence, and to prosecute offenders, especially where there is a predictable increased risk to women and children.[[160]](#footnote-161) Obligations under the UN Convention on All Forms of Discrimination Against Women (CEDAW) also require Government to place particular emphasis on those who are most marginalised, including women who are migrants, refugees, seeking asylum or stateless.[[161]](#footnote-162) Specifically with respect to domestic abuse, the European Court of Human Rights has made clear that a State’s “failure to protect women against domestic violence breaches their right to equal protection of the law and that this failure does not need to be intentional.”[[162]](#footnote-163)
3. **Government should ensure that addressing the increase in violence against women and girls is integral in the response to coronavirus, and that the duty to prevent and protect is built into planning at all levels**.[[163]](#footnote-164)

### Domestic abuse support services

1. There is a serious lack of funding and shortage of services for domestic abuse survivors, including for survivors with no recourse to public funds.[[164]](#footnote-165) Funding cuts have disproportionately affected organisations run by and for disabled and ethnic minority women,[[165]](#footnote-166) even though some ethnic minority groups and disabled people are more likely to suffer sexual violence and domestic abuse[[166]](#footnote-167) and there is a stark lack of service provision for disabled women.[[167]](#footnote-168)
2. The UK Government’s announcement of £750 million for charities, including domestic abuse charities, and £2 million for domestic abuse helplines and online support services is welcome.[[168]](#footnote-169) However, it is unclear what proportion of the £750 million will be allocated to domestic abuse charities, or how the funds will be distributed. We are concerned funding may not reach smaller organisations providing life-saving services to survivors of violence against women and girls, particularly those organisations led by and for ethnic minority, disabled and LGBT women.[[169]](#footnote-170)
3. **Government should urgently provide unrestricted and ring-fenced funding to cover the additional costs to domestic abuse charities resulting from coronavirus (both now and to respond to a likely spike in demand when emergency measures are eased), ensuring this funding is available to smaller organisations, including those led ‘by and for’ ethnic minority, disabled and LGBT women.[[170]](#footnote-171)**
4. Migrant survivors, especially those with insecure immigration status and no recourse to public funds (NRPF), face particular barriers to accessing support,[[171]](#footnote-172) including being unable to access key support services such as refuges, and are not entitled to other welfare benefits. **The Government must** **ensure that migrant survivors of domestic abuse with no recourse to public funds NRPF can access equal protection and support (including refuge accommodation). This should include extending the route to secure immigration status to all domestic abuse survivors with NRPF,[[172]](#footnote-173) and prohibiting the sharing of survivors’ personal data for the purposes of immigration enforcement if collected when accessing assistance or support for domestic abuse**.[[173]](#footnote-174)

### Policing violence against women and girls (VAWG)

1. Prior to the pandemic, there were already significant concerns about the low rates of prosecution of crimes of rape and sexual offences, linked to significant delays to the progress of these offences through the criminal justice system.[[174]](#footnote-175) With all new jury trials currently suspended, delays may now increase further. **Government should work with the National Police Chiefs’ Council (NPCC) and police forces to ensure that crimes of VAWG continue to be addressed as high priorities**. **Police and Crime Commissioners and Chief Constables should give public assurances of this at a local level.**

### Police enforcement of restrictions

1. Regulations introduced in response to the pandemic have given police[[175]](#footnote-176) across the UK unprecedented powers to intervene in the lives of the public, including by dispersing gatherings and fining people who leave their homes without a ‘reasonable excuse’.[[176]](#footnote-177) We recognise these powers are key to slowing the spread of coronavirus and protecting the right to life. However, their use may have a disproportionately negative impact on groups with particular protected characteristics, as well as people who have less opportunity to access outside space, which may align with socio-economic factors.[[177]](#footnote-178)
2. Some ethnic minority groups are at risk of disproportionate enforcement of the new powers given that they are already subject to stop and search and police use of weapons at a far higher rate than White people.[[178]](#footnote-179)
3. Before recent changes in Government guidance in England,[[179]](#footnote-180) people with specific health needs were disproportionately impacted by guidance limiting the number of times people are expressly permitted to leave the house to exercise to once a day. This was having a negative impact on people with autism or learning disabilities, who may require specific exercise outside more than once a day.[[180]](#footnote-181)
4. To ensure the exercise of powers under the Coronavirus Act 2020 and enforcement of restrictions under the coronavirus regulations effectively balances the safeguarding of public health and people’s rights, we recommend that the **Home Office should work with the National Police Chiefs’ Council, College of Policing, Association of Police and Crime Commissioners and police forces in England and Wales to:**
	1. **Ensure that police officers are properly informed about the limits of the new powers and restrictions, including the obligation to use or enforce them in a proportionate, non-discriminatory manner.**
	2. **Consult with diverse communities to better understand particular needs, including around police community relations, and ensure that the use and enforcement of new powers does not have a disproportionate impact on particular groups;** police forces should record data and report on the number of fines issued, including a breakdown by protected characteristic under the Equality Act.
	3. **Establish a mechanism for independent oversight of police use of new emergency powers in England and Wales to monitor compliance with equality and human rights obligations, similar to that established by Police Scotland**.[[181]](#footnote-182)

### Hate crime

1. There have been reports of racist incidents and racially-aggravated offences targeting people perceived to be Chinese or East Asian, and incidents of violence and abuse against LGBT people in connection with the pandemic.[[182]](#footnote-183) This comes when levels of hate crime are rising, with more than 100,000 such crimes recorded by police in 2018/19.[[183]](#footnote-184) There are reports of materials shared online falsely suggesting that Muslim communities are not following social distancing measures,[[184]](#footnote-185) and various forms of antisemitism connected to the pandemic including the hacking of virtual synagogue services.[[185]](#footnote-186) Online harms not directly linked to the pandemic may also increase as people spend longer periods at home and online.[[186]](#footnote-187)
2. It is unclear whether police contingency plans during the pandemic explicitly prioritise hate crime. The Association of Police and Crime Commissioners has urged the Government to confirm publicly that police forces will continue to investigate hate crimes and incidents, and that victims should continue to report.[[187]](#footnote-188) This is particularly important as charities who provide third-party reporting and support services are likely to have reduced capacity, and victims may be hesitant to draw on police resources. **The National Police Chiefs’ Council, with the support of the Home Office, should make clear that preventing and responding to hate crime remains a priority. The Home Office should ensure that sufficient support is available to victims, including by providing sufficient funding for third-party reporting and other support services.**

9. Education

1. This section considers the impacts of the Government’s response to the pandemic on children and young people with certain protected characteristics in education, particularly the decision to close schools at a time when children’s services are under unprecedented pressure.

### Children with special educational needs and disabilities (SEND)

1. Disproportionate impact of school closures on children with special educational needs and disabilities (SEND). We support the case-by-case risk assessment which local authorities are required to undertake to determine whether pupils on an Education, Health and Care Plan (EHCP) should attend school or stay at home – as long as this process reflects the wishes of pupils and their families.[[188]](#footnote-189)
2. Although children with EHCPs who stay at home are entitled to receive appropriate support,[[189]](#footnote-190) anecdotal evidence suggests that children with substantial needs are now at home without support.[[190]](#footnote-191) **Part of the Government’s pandemic grant to local authorities should be ring-fenced to ensure that children with special educational needs and disabilities (SEND) who stay at home receive the support they need, including specialist equipment, training materials and social care.**
3. The Alliance for Inclusive Education (ALLFIE) is concerned that the Government’s guidance permits the transfer of children from mainstream to special schools in order to manage shortages of specialist staff. This may raise long-term risks for the right of disabled children to be educated in mainstream schools.[[191]](#footnote-192) **Government should require local authorities to publish a re-integration policy for any children moved from mainstream education to special schools during the pandemic.**
4. The Government’s decision to issue a notice temporarily modifying the duty on local authorities and health commissioning bodies to secure special educational and health provision in accordance with a child’s EHCP is a concern.[[192]](#footnote-193) **Following modification of the duties to secure provision set out in EHCPs, Government must provide effective oversight of the ‘reasonable endeavours’ adopted by local authorities and health bodies to discharge these duties in order to ensure that decision-making complies with equality and human rights obligations.[[193]](#footnote-194)**

### Risk that the shift to online learning will exacerbate existing inequalities

1. Up to one million pupils from lower socio-economic backgrounds are estimated to lack adequate access to computers or the internet. This is likely to significantly affect their ability to access education while schools are closed.[[194]](#footnote-195) These effects will be more pronounced for children from migrant backgrounds and for Gypsy, Roma and Traveller pupils, whose parents often face language or literacy barriers.[[195]](#footnote-196)
2. The Department for Education announced that it would give free laptops and internet access to disadvantaged Year 10 pupils,[[196]](#footnote-197) as well as those receiving support from a social worker and care leavers.[[197]](#footnote-198)
3. This announcement is welcome, but we are concerned that the scheme has narrow eligibility criteria. **The Department for Education should seek to ensure that the provision of digital devices and internet access is available to children of all ages who do not have adequate access to computers or the internet, including those in primary education.[[198]](#footnote-199)**

### Concerns about discrimination in approaches to grading

1. Concerns have been raised about the decision to replace exams with predicted grades, in view of evidence that suggests there may be patterns of conscious or unconscious bias when teachers predict grades, with particular implications for Black and Gypsy, Roma and Traveller pupils, and children with SEND.[[199]](#footnote-200)
2. We welcome Ofqual’s decision to publish a consultation on the exceptional arrangements for awarding exam grades this year. This will include a statistical standardisation process to address inconsistencies in the grade predictions made by individual schools, and proposals to address any that may arise due to conscious or unconscious bias.[[200]](#footnote-201) To ensure that this process is effective:
	1. **Government should issue guidance on the approach that teachers should take to predicting grades and ranking pupils, to minimise the risk of conscious or unconscious bias. Schools should be required to provide exam boards and Ofqual with data on the socio-economic background and protected characteristics of the assessed pupils, including by ethnic group.**
	2. **Ofqual should require exam boards to use this data to support the statistical standardisation process and should then publish a report evaluating this. It should also investigate any higher than average disparities for pupils sharing particular protected characteristics revealed by the report.**
	3. **Government should ensure that pupils are able to appeal their grades, including on grounds of suspected unlawful discrimination.**

### Increased vulnerability of children eligible for free school meals

1. School closures have placed children eligible for free school meals (FSM) at increased risk of going hungry.[[201]](#footnote-202) The Government’s introduction of a national voucher scheme to make sure all eligible children can benefit from FSM[[202]](#footnote-203) has been marred by administrative difficulties.[[203]](#footnote-204)
2. With disabled children[[204]](#footnote-205) and children from certain ethnic minorities[[205]](#footnote-206) disproportionately represented among those eligible for FSM, the failure to deliver food to the families concerned could breach the Equality Act and potentially violate the Government’s international obligation to provide an adequate standard of living, including for children. **Government should urgently address any remaining administrative difficulties associated with the national voucher scheme and consider introducing an option for families to receive cash payments rather than vouchers.**

### Concerns about the safeguarding gap created by school closures

1. School closures may weaken the safeguarding role of schools in respect of children at risk of abuse and neglect, including those who experience domestic abuse at home.[[206]](#footnote-207) Although government guidance specifies that schools should remain open for children identified as ‘vulnerable’, the uptake of school places by ‘vulnerable’ children has been low.[[207]](#footnote-208) This situation is compounded in England by reduced children’s social care services due to social distancing measures and regulatory changes that have weakened the duties of local authorities toward children in care.[[208]](#footnote-209)
2. The increased risk of exposure of children to online abuse and grooming due to the shift to remote learning raises additional safeguarding challenges for schools,[[209]](#footnote-210) particularly where platforms have reduced human moderation owing to self-isolation.[[210]](#footnote-211)
3. Disabled children are likely to be particularly affected by these developments, because it is harder for them to report abuse and receive support.[[211]](#footnote-212) **Government should reinstate the legal protections that have been removed for children in care and allocate additional, ring-fenced funding to local authorities to ensure increased access to support services for children at risk of harm while schools are closed.**

10. Transport

1. Coronavirus and the response to it has significantly affected the transport industry, including through a dramatic drop in passenger numbers.[[212]](#footnote-213) Many transport operators are now at risk of serious financial difficulty, and the Government has announced targeted measures to help support the rail[[213]](#footnote-214) and bus industries.[[214]](#footnote-215) Staff shortages, lack of staff training and awareness, as well as reductions and changes in scheduled bus and train services associated with the pandemic, have particularly affected disabled passengers who may rely on public transport.
2. The Coronavirus Act 2020 did not change the law in terms of accessible travel.[[215]](#footnote-216) The Government has written to the Rail Delivery Group (RDG)[[216]](#footnote-217) emphasising that, ‘rail must, irrespective of the circumstances, always be accessible for all.’[[217]](#footnote-218) However, disabled passengers have experienced a lack of accurate and accessible information about the operation of services, uncertainties about the availability of passenger assistance, and reduced travel options compared to non-disabled people.

### Accurate and accessible information

1. Early data suggests that disabled rail passengers have found it harder than non-disabled passengers to find accurate and accessible information about which services are running.[[218]](#footnote-219)
2. Disabled rail passengers require accessible information on the provision of passenger assistance. The RDG has issued guidance on how train operating companies can continue to meet their legal obligations regarding assistance, while ensuring passenger and staff safety.[[219]](#footnote-220) **Government should advise transport operators to provide accessible information on the operation of services. Where possible, operators should seek to involve disabled passengers in decisions regarding changes to scheduled services during the pandemic.**

### Concessionary travel

1. Many disabled passengers and their families are likely to face particular financial hardship during this period, and measures to support them with their costs of essential travel may be needed to address this.[[220]](#footnote-221) **Government should look to support disabled passengers with their essential travel costs during the pandemic where possible.** **This could include increasing the discount offered by the Disabled Persons Railcard, or allowing a carer travelling with a disabled person to travel for free.**

11. Living standards

1. Under international human rights law, everyone has the right to an adequate standard of living, including adequate food and housing;[[221]](#footnote-222) this right must be guaranteed without discrimination, including on grounds of disability, age, sex, ethnicity and socio-economic status.[[222]](#footnote-223) The current crisis has increased existing inequalities in living standards, raising concerns that the UK is not meeting its international obligations to ensure equal access to adequate food and housing.

### Access to food

1. The coronavirus crisis is exacerbating levels of food insecurity: the number of food insecure adults in Great Britain is estimated to have quadrupled since social distancing measures commenced, with 1.5 million people having gone a day without eating.[[223]](#footnote-224) Children, disabled people, older people and ethnic minority groups are particularly disadvantaged.[[224]](#footnote-225) Disabled and older people, and those with health conditions, are already at heightened risk of food insecurity, with social distancing measures creating new challenges.[[225]](#footnote-226) Thousands of disabled people who need to self-isolate or face challenges in complying with social distancing guidelines (because, for example, they are blind or visually impaired) struggle to buy food;[[226]](#footnote-227) difficulties in securing online delivery timeslots, and a lack of accessible services in supermarkets, have been reported.[[227]](#footnote-228)
2. We welcome the UK Government’s emergency delivery scheme for those in England considered to be at ‘high risk’ if they contract COVID-19.[[228]](#footnote-229) However, many disabled people who are not on the database also face considerable barriers to shopping and require reasonable adjustments to enable them to buy essentials such as food and medicine.[[229]](#footnote-230) Disabled people’s organisations and charities have called on the Government to work urgently with supermarkets to update and implement guidance on eligibility for priority access to buying goods online.[[230]](#footnote-231) In addition to the specific needs of disabled people, it is also important for retailers to consider the needs of carers and those living in unsafe households, who may require flexibility around one-person shopping policies.
3. **Government should work with the British Retail Consortium and supermarkets to update and implement guidance on who is considered to be ‘high risk’. This should ensure that policies related to access to shops are flexible to accommodate the needs of carers, or those living in unsafe households, and that reasonable adjustments are made to enable disabled and older people access. Government should also clarify the role of GPs in identifying individuals who are at ‘high risk’ and registering those individuals on the Government’s database.**

### Housing

1. Ethnic minorities may face challenges in complying with government guidelines as they are more likely to live in overcrowded accommodation[[231]](#footnote-232) and may have lower ability to self-isolate.[[232]](#footnote-233)
2. Gypsy, Roma and Traveller (GRT) communities, who already experience persistent disadvantage,[[233]](#footnote-234) face particular challenges to self-isolation in encampments and traveller sites, exacerbated by limited access to water and sanitation, and the long-standing acute shortage of authorised sites.[[234]](#footnote-235) We welcome the Government’s recognition that local authorities have a responsibility to support GRT communities,[[235]](#footnote-236) but are concerned about possible disparities in outcomes across different regions. **Government should direct local authorities and other local partners to facilitate access by GRT groups to sanitation facilities and healthcare services, open additional temporary sites where possible, and adopt a presumption against eviction (including by police) unless suitable alternative provision has been secured.**[[236]](#footnote-237)
3. More broadly, **Government should tailor current and future guidance on social distancing and self-isolation to different living arrangements and accommodation settings** (see also our recommendation on guidance in section 3).

Annex

### Human Rights Legal Framework

1. Public authorities in the UK are bound by the Human Rights Act 1998 (HRA) which incorporates into domestic law the rights contained in the European Convention on Human Rights (ECHR). The UK is also party to seven legally binding UN human rights treaties, which protect civil and political rights,[[237]](#footnote-238) economic, social and cultural rights,[[238]](#footnote-239) freedom from torture and other ill-treatment,[[239]](#footnote-240) and the rights of women,[[240]](#footnote-241) racial and ethnic minorities,[[241]](#footnote-242) disabled people,[[242]](#footnote-243) and children.[[243]](#footnote-244) The UK Government’s human rights obligations should inform its response to the current crisis – both in the immediate and longer term – and provide a framework against which to assess whether its response protects everyone’s rights. There are a number of overarching principles which should guide the Committee’s inquiry:
	1. The UK Government is obliged to respect, protect and fulfil these rights without discrimination.[[244]](#footnote-245) The grounds of discrimination prohibited under international human rights law are broader than under the Equality Act 2010; for example, they include socio-economic status[[245]](#footnote-246) and nationality.[[246]](#footnote-247) Furthermore, the UK Government must take specific, positive measures to ensure the protection and equal enjoyment of rights for groups particularly affected by the current crisis,[[247]](#footnote-248) such as disabled people[[248]](#footnote-249) and women at risk of violence and abuse.[[249]](#footnote-250)
	2. Domestic and international human rights law recognises that certain rights may be restricted for public health reasons, provided there is a legal basis for such restrictions, and the action taken is necessary and proportionate.[[250]](#footnote-251) Some rights – such as the prohibition of torture and inhuman or degrading treatment – cannot be restricted under any circumstances.[[251]](#footnote-252)
	3. Human rights are interdependent. This means that the UK Government must take a holistic view of the rights implications of the current crisis, considering how interferences with certain rights (such as freedom of movement) will affect the enjoyment of other rights (such as the right to adequate food, and freedom from ill-treatment). There is also no hierarchy of rights: all human rights have equal status,[[252]](#footnote-253) meaning the UK Government should not narrowly pursue the fulfilment of one right to the detriment or exclusion of others.
	4. As regards the enjoyment of economic and social rights – which include the rights to education, health, work, social security and an adequate standard of living – the UK Government must not take regressive measures that hinder or reduce the enjoyment of these rights unless there are strong justifications.[[253]](#footnote-254) In the context of economic and financial crises, the UN has made clear that any regressive measures must be temporary, necessary, proportionate, non-discriminatory, and meet a core minimum level of protection of the right(s) in question.[[254]](#footnote-255)
2. Lasting changes to our equality or human rights legal framework should not be made during the crisis. The human rights framework is explicitly designed to accommodate emergency situations, for example through the ability written into the legislation to place restrictions on rights. The crisis must not be used to justify any long-term, radical or unnecessary changes to our rights and freedoms.
3. Government must ensure that its response to the current crisis – both in the immediate and longer term – is informed by and compliant with its international and domestic human rights law obligations. Any measures that restrict rights must be lawful, necessary, proportionate, temporary, non-discriminatory, and meet a core minimum level of protection for rights.

Further information

The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about our work on [our website](https://www.equalityhumanrights.com/en).

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1. References to Government, Departments and Ministers throughout this submission refer to the UK Government, Departments and Ministers except where otherwise specified. [↑](#footnote-ref-2)
2. References to Government, Departments and Ministers throughout this submission refer to the UK Government, Departments and Ministers except where otherwise specified. [↑](#footnote-ref-3)
3. The situation and associated legislative and policy responses are shifting at pace. We will update our advice in consultation with Government and stakeholders as the situation evolves. [↑](#footnote-ref-4)
4. An overview of the human rights legal framework in relation to the crisis is contained in the Annex. [↑](#footnote-ref-5)
5. Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation (Section 4, Equality Act 2010) [↑](#footnote-ref-6)
6. NHS England (2020), [NHS England Covid-19 daily deaths](https://www.england.nhs.uk/statistics/statistical-work-areas/covid-19-daily-deaths/) and Intensive Care National Audit and Research Centre (2020), ‘[ICNARC report on COVID-19 in critical care](https://www.icnarc.org/Our-Audit/Audits/Cmp/Reports)’ [↑](#footnote-ref-7)
7. Our response to this inquiry draws on points raised with us by our stakeholders. These have been identified throughout this report. [↑](#footnote-ref-8)
8. Restrictions on public gatherings limit opportunities for religious observance and place restrictions on the right to manifest one’s religion or belief in community with others. These restrictions have impacted on aspects of religious observance such as attending collective worship, weddings and funerals and may impact on some groups more than others. See, for example, Church of England (24 March 2020), ‘[Press Release: Church of England to close all church buildings to help prevent spread of virus](https://www.churchofengland.org/more/media-centre/news/church-england-close-all-church-buildings-help-prevent-spread-coronavirus)’ [↑](#footnote-ref-9)
9. Section 149 of the Equality Act 2010 requires public authorities and those exercising a public function to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those who share protected characteristics and those who do not. [↑](#footnote-ref-10)
10. Equality and Human Rights Commission (2020), ‘[Advice and Guidance on the Public Sector Equality Duty](https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty)’ for more information on our compliance activity [↑](#footnote-ref-11)
11. Friends, Families and Travellers (2020), ‘[Stay at Home: Guidance for Gypsy, Traveller and Liveaboard Boater Households with Possible Coronavirus (COVID-19) Infection](https://www.gypsy-traveller.org/advice-section/guidance-for-gypsy-traveller-and-liveaboard-boater-communities-on-coronavirus/)’ [↑](#footnote-ref-12)
12. Section 20 of the Equality Act 2010. See also for example, Office for National Statistics (‘ONS’) (2020), ‘[Internet users, UK: 2019](https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2019)’ which found that 78 per cent of disabled adults in the UK were recent internet users, compared to 95 per cent of non-disabled adults [↑](#footnote-ref-13)
13. Inequalities of outcome related to socio-economic disadvantage are closely linked to inequality experienced by people sharing protected characteristics. See, for example, Equality and Human Rights Commission (‘EHRC’) (2018), [Is Britain Fairer?](https://www.equalityhumanrights.com/en/publication-download/britain-fairer-2018) which found in 2015/16 disabled people (36.8%) were nearly three times as likely to experience severe material deprivation as non-disabled people (13.5%). Pakistani (44.3%), Bangladeshi (48.4%) and Black African (44.9%) adults were over twice as likely as White British people (17.2%) to live in poverty [↑](#footnote-ref-14)
14. Emerging evidence already indicates the crisis is having a bigger impact on the most deprived. See, for example, Office for National Statistics (1 May 2020), ‘[Deaths involving COVID-19 by local area and socioeconomic deprivation: deaths occurring between 1 March and 17 April 2020](https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsinvolvingcovid19bylocalareasanddeprivation/deathsoccurringbetween1marchand17april)’. In the accompanying press release, Nick Stripe, Head of Health Analysis at the ONS said: “People living in more deprived areas have experienced COVID-19 mortality rates more than double those living in less deprived areas.” [↑](#footnote-ref-15)
15. The socio-economic duty was due to be commenced in Wales in September 2020. See, however, Welsh Government (2020) ‘[A More Equal Wales: Preparing for the commencement of the Socio-economic Duty](https://gov.wales/sites/default/files/publications/2020-04/preparing-for-the-commencement-of-the-socio-economic-duty.pdf)’, page 4, ‘the Welsh Government has reprioritised its business to reflect the unprecedented nature of the Coronavirus crisis. Therefore further information on [a revised commencement date] will be communicated when known’. [↑](#footnote-ref-16)
16. Section 1 of the Equality Act 2010. [↑](#footnote-ref-17)
17. See Annex for a summary of the relevant human rights legal framework and how it provides effective and proportionate safeguards in the current crisis. [↑](#footnote-ref-18)
18. EHRC (March 2020). ‘[Parliamentary Briefing on the Coronavirus Bill 2019-21 House of Commons and House of Lords (all stages)](https://www.equalityhumanrights.com/sites/default/files/parliamentary-briefing-covid-19-coronavirus-23-march-2020.docx)’ where the Commission raised concern about provision for effective parliamentary scrutiny of the impact of the Coronavirus Act 2020 during its swift passage through Parliament. [↑](#footnote-ref-19)
19. Coronavirus Act 2020, Section 97-9, which require Government to report to Parliament every two months on the implementation of non-devolved provisions of the Act, as well as the requirement for a debate in the House of Commons on the continuing need for the legislation at 6-month review points and a “one-year status report” and debate in both houses. [↑](#footnote-ref-20)
20. UK Parliament, Women and Equalities Committee (30 April 2020), [Covid-19: Committee calls on Govt to publish Equalities Assessment of Coronavirus Act](https://committees.parliament.uk/committee/328/women-and-equalities-committee/news/146209/equalities-assessment-covid-19/). [↑](#footnote-ref-21)
21. These powers, addressed in this submission, include: a) The use of offences under the Coronavirus Act 2020 and powers to direct, remove and detain potentially infectious people (see section 8 on police enforcement of restrictions); The implementation of changes to NHS and Local Authority Care and Support (see section 5 on health and social care); Powers to temporarily remove or relax the duty on local authorities to secure special educational and health provision in accordance with a child’s Education and Health Care Plan (EHCP) (see section 9 on education); Changes to the operation of [courts and tribunals provided under the Coronavirus Act 2020, including the use of video and audio technology](http://www.legislation.gov.uk/ukpga/2020/7/part/1/crossheading/courts-and-tribunals-use-of-video-and-audio-technology/enacted) (see section 8 on access to justice); Any changes to decision-making procedures under the Mental Health Act 2014 (see section 7 on treatment in institutions). [↑](#footnote-ref-22)
22. UK Government (2020), ‘[News Story: Chancellor sets out extra £750 million coronavirus funding for frontline charities](https://www.gov.uk/government/news/chancellor-sets-out-extra-750-million-coronavirus-funding-for-frontline-charities)’ announcement published 8 April 2020 [↑](#footnote-ref-23)
23. National Council for Voluntary Organisations (2020), ‘[GOVERNMENT SUPPORT FOR CHARITIES – NCVO REACTION](https://www.ncvo.org.uk/about-us/media-centre/press-releases/2752-government-support-for-charities-ncvo-reaction)’ published 8 April 2020. [↑](#footnote-ref-24)
24. We set out specific recommendations in this respect of specialist domestic abuse organisations under and on access to advice under section 8. [↑](#footnote-ref-25)
25. The active and informed participation of everyone in decisions that affect their lives and rights is consistent with the human rights-based approach in public decision-making processes, and ensures good governance and social accountability. See UN Committee on Rights of Persons with Disabilities (2018), ‘[General comment No. 7 (2018) on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the Convention](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsnbHatvuFkZ%2Bt93Y3D%2Baa2pjFYzWLBu0vA%2BBr7QovZhbuyqzjDN0plweYI46WXrJJ6aB3Mx4y%2FspT%2BQrY5K2mKse5zjo%2BfvBDVu%2B42R9iK1p)’ [↑](#footnote-ref-26)
26. Zubaida Haque, Runnymede Trust (March 2020), ‘[Coronavirus will increase race inequalities](https://www.runnymedetrust.org/blog/coronavirus-will-increase-race-inequalities)’, [↑](#footnote-ref-27)
27. Joint Council for the Welfare of Immigrants, [Protecting migrants from Covid-19](https://www.jcwi.org.uk/protecting-migrants-from-covid-19). [↑](#footnote-ref-28)
28. Home Office (March 2020), [The report of the Windrush lessons learned independent review by Wendy Williams](https://www.gov.uk/government/publications/windrush-lessons-learned-review) [↑](#footnote-ref-29)
29. Regulations came into force on 29 January 2020 to add Covid-19 to Schedule 1 of the NHS (Charges to Overseas Visitors) Regulations concerning infection diseases. This provides that there can be no charge made to an overseas visitor for the diagnosis, or, if positive, treatment, of Covid-19. Government guidance confirms patients that are known to be undergoing testing and treatment for Covid-19 only are not subject to Home Office status checks. See HM Government, (March 2020), ‘[NHS visitor and migrant cost recovery programme](https://www.gov.uk/government/collections/nhs-visitor-and-migrant-cost-recovery-programme)’ [accessed: 30 April 2020) [↑](#footnote-ref-30)
30. There is evidence of widespread data-sharing between the Home Office and other agencies as part of compliant or hostile environment controls, including sharing of personal data when people access healthcare and education services, or report a crime to the police. See Liberty (2018), [Care don’t share](https://www.libertyhumanrights.org.uk/wp-content/uploads/2020/02/Liberty-Care-Dont-Share-Report-280119-RGB.pdf) [↑](#footnote-ref-31)
31. Equality and Human Rights Commission (2018), ‘[The lived experiences of access to healthcare for people seeking and refused asylum.](https://www.equalityhumanrights.com/sites/default/files/research-report-122-people-seeking-asylum-access-to-healthcare-lived-experiences.pdf)’ [↑](#footnote-ref-32)
32. World Health Organization (2020), ‘[Preparedness, prevention and control of coronavirus disease (COVID-19) for refugees and migrants in non-camp settings](https://www.who.int/publications-detail/preparedness-prevention-and-control-of-coronavirus-disease-%28covid-19%29-for-refugees-and-migrants-in-non-camp-settings)’, page 1. [↑](#footnote-ref-33)
33. Article 2 of the European Convention on Human Rights (‘ECHR’); Article 6 of the International Covenant on Civil and Political Rights (‘ICCPR’) and Article 10 of the UN Convention on the Rights of Persons with Disabilities (‘CRPD’). [↑](#footnote-ref-34)
34. Article 3 ECHR; Article 7 ICCPR; Article 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment (‘CAT’). [↑](#footnote-ref-35)
35. Article 8 ECHR. [↑](#footnote-ref-36)
36. Article 12 of the International Covenant on Economic, Social and Cultural Rights (‘ICESCR’). [↑](#footnote-ref-37)
37. Article 2, 3 and 8 ECHR in conjunction with Article 14; Articles 2(1),6 and 7 ICCPR, and Human Rights Committee, [General Comment No. 36: right to life](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsrdB0H1l5979OVGGB%2bWPAXhNI9e0rX3cJImWwe%2fGBLmVrGmT01On6KBQgqmxPNIjrLLdefuuQjjN19BgOr%2fS93rKPWbCbgoJ4dRgDoh%2fXgwn), para 61; Article 2(2) and 12 ICESCR. See also, Article 11 CRPD which makes clear that disabled people have the right to equal treatment in situations of risk. [↑](#footnote-ref-38)
38. Section 149 Equality Act 2010. See further discussion of the PSED in section 3. [↑](#footnote-ref-39)
39. For example, in conversations with EHRC in April 2020, disabled people’s organisations have raised concerns around the cancellation of pain management appointments, which have a substantial impact on quality of life. See also The Independent (April 2020), ‘[Coronavirus: Cancer treatment cutbacks could lead to 60,000 premature deaths, oncologist warns](https://inews.co.uk/news/health/coronavirus-cancer-treatment-cutbacks-uk-latest-calls-charities-breast-cancer-2541044)’ which indicates cancer patients have also been impacted by cutbacks in treatment and support centres [accessed:30 April 2020]. See also The Guardian (March 2020), ‘[As the NHS pivots to coronavirus, what about its other patients?](https://www.theguardian.com/commentisfree/2020/mar/25/cancer-patients-coronavirus-crisis-surgeon).. See also, NHS England, (April 2020), [COVID-19 prioritisation within community health services](https://www.england.nhs.uk/coronavirus/publication/covid-19-prioritisation-within-community-health-services-with-annex_19-march-2020/) [↑](#footnote-ref-40)
40. Pink News (March 2020), ‘[Trans people are seeing surgeries cancelled and healthcare deemed ‘non-essential’ during coronavirus](https://www.pinknews.co.uk/2020/03/23/coronavirus-trans-healthcare-gender-reaffirming-essential-surgery-cancelled-vice/)’ [↑](#footnote-ref-41)
41. Information received by EHRC from LGBT organisation, March 2020. [↑](#footnote-ref-42)
42. In most hospitals and maternity units, there are now restrictions on visitors which might mean that birth partners or other supportive people are not able to attend routine antenatal appointments, or stay with women on antenatal or postnatal wards. See Royal College of Obstetricians & Gynaecologists (April 2020), [Coronavirus infection and pregnancy](https://www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-pregnancy/covid-19-virus-infection-and-pregnancy/#antenatal) [↑](#footnote-ref-43)
43. Women’s Budget Group (April 2020), [Crises Collide: Women and Covid-19](https://wbg.org.uk/wp-content/uploads/2020/04/FINAL.pdf); Birth Rights (March 2020), [Human Rights Charity Calls For Protection Of UK Women In Childbirth During National Emergency](https://www.birthrights.org.uk/wp-content/uploads/2020/03/Final-Covid-19-Birthrights-31.3.20.pdf) [↑](#footnote-ref-44)
44. Holmes, E. and others (April 2020), [Multidisciplinary research priorities for the COVID-19 pandemic: a call for action for mental health science](https://www.thelancet.com/pdfs/journals/lanpsy/PIIS2215-0366%2820%2930168-1.pdf), Lancet Psychiatry [↑](#footnote-ref-45)
45. BBC News (April 2020), [Coronavirus: 'Profound' mental health impact prompts calls for urgent research](https://www.bbc.co.uk/news/health-52295894) [↑](#footnote-ref-46)
46. Dalton, E. and others (March 2020), [Protecting the psychological health of children through effective communication about COVID-19](https://www.thelancet.com/journals/lanchi/article/PIIS2352-4642%2820%2930097-3/fulltext), Lancet Child & Adolescent Health. [↑](#footnote-ref-47)
47. UK Government (March 2020), [Guidance on social distancing for everyone in the UK](https://www.gov.uk/government/publications/covid-19-guidance-on-social-distancing-and-for-vulnerable-people/guidance-on-social-distancing-for-everyone-in-the-uk-and-protecting-older-people-and-vulnerable-adults), updated 30 March 2020. For example, concerns have been raised about restrictions being age-related, rather than risk-related, and the impact on older people’s mental health if an extended lockdown is imposed. See The Guardian (April 2020), ‘[Older people could face extended coronavirus lockdown, Lords hears](https://www.theguardian.com/world/2020/apr/23/older-people-could-face-extended-coronavirus-lockdown-lords-hears)’. [↑](#footnote-ref-48)
48. Prior to the current crisis, we had already raised serious concerns about the lack of support for mental health. See EHRC (July 2019), [Our advice to parliament: reforming the Mental Health Act](https://www.equalityhumanrights.com/sites/default/files/parliamentary-briefing-mental-health-act-review-july-2019.pdf). [↑](#footnote-ref-49)
49. Information received by EHRC, April 2020. [↑](#footnote-ref-50)
50. See NHS England (26 April), ‘[COVID-19 Daily Deaths Publication](https://www.england.nhs.uk/statistics/statistical-work-areas/covid-19-daily-deaths/)’. Early analysis also points to an overrepresentation of ethnic minority health and care professionals among coronavirus fatalities. See NHS Confederation (April 2020), ‘[The impact of COVID-19 on BME communities and health and care staff](https://www.nhsconfed.org/resources/2020/04/the-impact-of-covid19-on-bme-communities-and-staff)'. [↑](#footnote-ref-51)
51. ONS statistics from March 2020 show that men died at twice the rate of women in England and Wales and the rate of death due to COVID-19 increased significantly in each age group, with one in five deaths in age group 80 to 84 years. See ONS (April 2020), ‘[Deaths involving COVID-19, England and Wales: deaths occurring in March 2020](https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsinvolvingcovid19englandandwales/deathsoccurringinmarch2020)’. [↑](#footnote-ref-52)
52. Ibid. 91% of the deaths that occurred were individuals with at least one pre-existing condition. [↑](#footnote-ref-53)
53. Some ethnic groups experience higher rates of heart disease and hypertension, and are six times more likely to develop diabetes. See Runnymede Trust (March 2020), [Coronavirus will increase race inequalities](https://www.runnymedetrust.org/blog/coronavirus-will-increase-race-inequalities) [↑](#footnote-ref-54)
54. Ibid. See also Guardian (April 2020), [Coronavirus exposes how riddled Britain is with racial inequality](https://www.theguardian.com/commentisfree/2020/apr/20/coronavirus-racial-inequality-uk-housing-employment-health-bame-covid-19). [↑](#footnote-ref-55)
55. The Guardian (April 2020), [Inquiry announced into disproportionate impact of coronavirus on BAME communities](https://www.theguardian.com/world/2020/apr/16/inquiry-disproportionate-impact-coronavirus-bame). [↑](#footnote-ref-56)
56. Article 8 ECHR and Articles 3(a) and 4(3) CRPD provide a right to participate in decision-making and respect for individual autonomy. See also Department for Health and Social Care (October 2015), [NHS constitution](https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england) [↑](#footnote-ref-57)
57. National Institute for Clinical Excellence: (2020), ‘[Guidance: advance care statements: a quick guide for registered managers of care homes and home care services](https://www.nice.org.uk/about/nice-communities/social-care/quick-guides/advance-care-planning)’ [↑](#footnote-ref-58)
58. The Guardian (April 2020), [UK healthcare regulator brands resuscitation strategy unacceptable](https://www.theguardian.com/world/2020/apr/01/uk-healthcare-regulator-brands-resuscitation-strategy-unacceptable),. [↑](#footnote-ref-59)
59. BBC News (April 2020), [Coronavirus: GP surgery apology over 'do not resuscitate' form](https://www.bbc.co.uk/news/uk-wales-52117814); Age UK ‘[Response to DNR forms during Covid-19 crisis (April 2020)](https://www.ageuk.org.uk/latest-press/articles/2020/04/age-uk-response-to-dnr-forms/)’ and CQC ‘[Joint statement on advance care planning (April 2020)](https://www.cqc.org.uk/news/stories/joint-statement-advance-care-planning)’ [all accessed: 30 April 2020] [↑](#footnote-ref-60)
60. Care Quality Commission (CQC) (April 2020), [Joint statement on advance care planning](https://www.cqc.org.uk/news/stories/joint-statement-advance-care-planning). [↑](#footnote-ref-61)
61. British Medical Association’s (‘BMA’) (April 2020) ‘[Guidance COVID-19 – ethical issues](https://www.bma.org.uk/advice-and-support/covid-19/ethics/covid-19-ethical-issues)’, which states that a ‘simple ‘cut-off’ policy with regard to age or disability would be unlawful as it would constitute direct discrimination’. Civil society organisations working with older people have highlighted the need for individualised decision-making, and cautioned against age being used as a proxy for health status. See Age UK and others (March 2020), [Joint statement on the rights of older people in the UK to treatment during this pandemic](https://www.ageuk.org.uk/latest-press/articles/2020/03/rights-of-older-people-during-pandemic/). [↑](#footnote-ref-62)
62. Disability Rights UK and others (April 2020), [Covid 19 and the rights of disabled people – statement supported by disabled people’s organisations and allies](https://www.disabilityrightsuk.org/news/2020/april/covid-19-and-rights-disabled-people) [↑](#footnote-ref-63)
63. British Medical Association’s (‘BMA’) (April 2020) ‘[Guidance COVID-19 – ethical issues](https://www.bma.org.uk/advice-and-support/covid-19/ethics/covid-19-ethical-issues)’, page 6, which states that ‘during the peak of the pandemic, it is possible that doctors will be required to assess a person’s eligibility for treatment based on a ‘capacity to benefit quickly’ basis’. This would disproportionately disadvantage older people and disabled people with certain underlying health conditions, who would have unequal access to critical care, even when they are assessed as likely to respond well to treatment. This requires careful justification, and we are concerned that this may not take place in busy clinical settings. See also EHRC (April 2020), [Coronavirus pandemic: a letter to the British Medical Association](https://www.equalityhumanrights.com/en/our-work/news/coronavirus-pandemic-bma-ethical-guidelines?utm_source=Twitter&utm_medium=social&utm_campaign=SocialSignIn). [↑](#footnote-ref-64)
64. Office of the High Commissioner for Human Rights (March 2020), [No exceptions with COVID-19: “Everyone has the right to life-saving interventions” – UN experts say](https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25746&LangID=E). Under international human rights law, a lack of available resources is not an objective and justifiable reason for differential treatment in the enjoyment of economic and social rights, unless every effort has been made to use all resources at the state’s disposition to address and eliminate the discrimination. See Committee on Economic, Social and Cultural Rights (2009), [General Comment No. 20: Non-discrimination](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f20&Lang=en). [↑](#footnote-ref-65)
65. See, for example, the National Institute for Health and Care Excellence (‘NICE’), ‘[NICE COVID-19 rapid guideline on critical care](https://www.nice.org.uk/guidance/ng159)’ which was amended on 27 March 2020 to address concerns that the guidance put individuals with non-pertinent health conditions or impairments at a disadvantage. The amendments clarified that an individualised assessment of frailty should be conducted for people with learning disabilities, autism and other stable long-term disabilities, instead of applying the Clinical Frailty Scale. [↑](#footnote-ref-66)
66. Financial Times report (2020) ‘[NHS COVID-19 Decision Support Tool](http://prod-upp-image-read.ft.com/765d3430-7a57-11ea-af44-daa3def9ae03)’, which was recently published. This is inconsistent with the updated NICE guidelines. See, NICE (March 2020), ‘[NICE COVID-19 rapid guideline on critical care](https://www.nice.org.uk/guidance/ng159)’. See also The Independent (April 2020), [New Covid-19 'Decision Support Tool' developed to help doctors decide who to send to intensive care](https://inews.co.uk/news/health/covid-19-decision-support-tool-doctors-patients-intensive-care-2536903). [↑](#footnote-ref-67)
67. Disability campaigners have taken legal action to challenge the Secretary of State and/or NHS England’s failure to publish guidance on how doctors will decide which patients receive life-saving treatment during the pandemic, in the event that the number of patients needing treatment outstrips supply. See Rook Irwin Sweeney (April 2020), [Disability campaigners challenge failure to explain how life-saving treatment for coronavirus (COVID-19) will be prioritised](https://1f2ca7mxjow42e65q49871m1-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/Press-Release-NHS-treatment-prioritisation-Rook-Irwin-Sweeney_6.pdf). [↑](#footnote-ref-68)
68. In particular, the rights to equality and non-discrimination, including in the enjoyment of the rights to life and health; and the principles of individual autonomy and participation in decision-making (see references above) [↑](#footnote-ref-69)
69. CQC (2018), [The state of health care and adult social care in England 2017/18](https://www.cqc.org.uk/news/stories/state-care-201718-published), pages 20-21; The Health Foundation (2019), [£4.4bn funding gap projected for social care in England as spending per person falls further behind other UK countries](https://www.health.org.uk/news-and-comment/news/4.4bn-funding-gap-projected-for-social-care-in-england). See also, Women’s Budget Group (April 2020), [Briefing from the UK Women’s Budget Group: Social care and Covid-19](https://wbg.org.uk/wp-content/uploads/2020/04/Covid-and-social-care-briefing-FINAL-1.pdf); Carers UK (April 2020), [Carers UK responds to new guidelines on Care Act easements](https://www.carersuk.org/news-and-campaigns/news/carers-uk-responds-to-new-guidelines-on-care-act-easements). [↑](#footnote-ref-70)
70. Age UK (November 2019), [The number of older people with some unmet need for care now stands at 1.5 million](https://www.ageuk.org.uk/latest-press/articles/2019/november/the-number-of-older-people-with-some-unmet-need-for-care-now-stands-at-1.5-million/); The King’s Fund (April 2019), [More people asking for social care support but fewer getting it as demand leaves social care system at crisis point](https://www.kingsfund.org.uk/press/press-releases/social-care-system-crisis-point). [↑](#footnote-ref-71)
71. The Coronavirus Act 2020 replace the previous duty on local authorities in England to assess and meet a person’s needs for care and support(as provided for by the Care Act 2014) with a power to do so, thereby downgrading the level of care to which an individual is entitled. See [Coronavirus Act 2020](http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted), Clause 15 and Schedule 12, and [Coronavirus Bill Explanatory Notes](https://publications.parliament.uk/pa/bills/lbill/58-01/110/5801110en.pdf), paras 232-237. [↑](#footnote-ref-72)
72. Department of Health & Social Care (March 2020), [Corona Virus Bill Summary of Impacts](https://publications.parliament.uk/pa/bills/cbill/58-01/0122/Coronavirus%20Bill%20Impact%20Assessment%20final%20pdf.pdf), para 99. [↑](#footnote-ref-73)
73. As at 23 April 2020, it was reported that eight English local authorities had introduced easements to the Care Act 2014. See The Law Society Gazette (April 2020), [Coronavirus Act: Councils move to ditch social care duties](https://www.lawgazette.co.uk/law/councils-move-to-ditch-adult-social-care-duties/5103972.article) [accessed: 23 April 2020]. [↑](#footnote-ref-74)
74. In England, amendments to the previous duty on local authorities to assess and meet a person’s needs for care and support are underpinned by an explicit continued duty to meet needs where failure to do so would result in a breach of the ECHR. See [Coronavirus Act 2020](http://www.legislation.gov.uk/ukpga/2020/7/contents/enacted), Schedule 12, para 4. [↑](#footnote-ref-75)
75. Cumiskey, L. (2020), [Coronavirus Bill: Disabled people in Islington fear they’ll be ‘thrown under the bus’ if Care Act suspended](https://www.islingtongazette.co.uk/news/health/coronavirus-bill-disabled-people-in-islington-fear-they-ll-be-without-support-if-care-act-suspended-1-6577109); Pring, J. (2020), [Coronavirus: Disabled people say ‘shocking’ new laws will strip away rights](https://www.disabilitynewsservice.com/coronavirus-disabled-people-say-shocking-new-laws-will-strip-away-rights/), Disability News Service; Jayanetti, C. (2020), [Warning raised over Coronavirus bill impact on elderly and disabled](https://www.politics.co.uk/comment-analysis/2020/03/23/warning-raised-over-coronavirus-bill-impact-on-elderly-and-d); Inclusion London (March 2020), [Coronavirus Bill could leave thousands of Disabled people without support](https://www.inclusionlondon.org.uk/campaigns-and-policy/act-now/coronavirus-bill-could-leave-thousands-of-disabled-people-without-support/) [all accessed: 30 April 2020]. [↑](#footnote-ref-76)
76. Women’s Budget Group (April 2020), [Social care and Covid-19](https://wbg.org.uk/wp-content/uploads/2020/04/Covid-and-social-care-briefing-FINAL-1.pdf). [↑](#footnote-ref-77)
77. The Government’s guidance for local authorities on Care Act easements stipulates that duties imposed under the Equality Act 2010 remain, and that these should underpin any decisions made with regard to care and support someone receives during this period. See Department of Health & Social Care (April 2020), [Care Act easements: guidance for local authorities](https://www.gov.uk/government/publications/coronavirus-covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities). [↑](#footnote-ref-78)
78. Including the right to life (Article 2 ECHR; Article 6 ICCPR); right to family and private life (Article 8, ECHR; Article 17, ICCPR); right to adequate standard of living (Article 11, International Covenant on Economic, Social and Cultural Rights (ICESCR)); right to independent living (Article 19, CRPD); and freedom from inhuman and degrading treatment (Article 3, ECHR; Article 7, ICCPR; Article 16, CAT). In England, the Coronavirus Act 2020 stipulates a continued duty to meet needs where failure to do so would result in a breach of the European Convention on Human Rights. See: Coronavirus Act 2020, Schedule 12. [↑](#footnote-ref-79)
79. In England, the Coronavirus Act 2020 suspends the duty to assess a child’s needs for care and support when transitioning from child to adult care, or to continue provision of child care support until such an assessment has been completed. See Schedule 12, paras. 2(3)(a) and 15 Coronavirus Act 2020. [↑](#footnote-ref-80)
80. Schedule 12, para 2 Coronavirus Act 2020. [↑](#footnote-ref-81)
81. Including under Articles 3, 8 and 14 ECHR. [↑](#footnote-ref-82)
82. The Guardian (April 2020), [UK care home inspectors did not ask about Covid-19 deaths until April](https://www.theguardian.com/society/2020/apr/15/uk-care-home-inspectors-did-not-ask-about-covid-19-deaths-until-april) [↑](#footnote-ref-83)
83. National Care Forum (April 2020), [Ring of Steel Needed to Support Care Homes as Deaths Double in a Week](https://www.nationalcareforum.org.uk/ncf-press-releases/ring-of-steel-needed-to-support-care-homes-as-deaths-double-in-a-week/) [↑](#footnote-ref-84)
84. The number of overall deaths in care homes for Week 16 was 7,316. This is 2,389 higher than Week 15, almost double the number in Week 14 and almost triple the number in Week 13. See ONS (29 April 2020), [Deaths registered weekly in England and Wales, provisional: week ending 17 April 2020](https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/deathsregisteredweeklyinenglandandwalesprovisional/weekending17april2020) [↑](#footnote-ref-85)
85. On 26 April 2020, the BBC reported that out of 210 care providers spoken to by BBC England, 159 stated that none of their workers had been tested for Covid-19. See BBC (April 2020), [Coronavirus: Care home staff struggling to get tests](https://www.bbc.co.uk/news/uk-england-52418630). On 28 April, the Government announced that testing for all asymptomatic NHS and social care staff and care home residents would be rolled out. See HM Government (28 April 2020), [Press Release: Further expansion of access to coronavirus testing helps protect the most vulnerable](https://www.gov.uk/government/news/further-expansion-of-access-to-coronavirus-testing-helps-protect-the-most-vulnerable) [↑](#footnote-ref-86)
86. Alzheimer’s Society, Age UK, Care England and Independent Age, Marie Curie (April 2020), [Joint letter to the Secretary of State for Health and Social Care](https://www.mariecurie.org.uk/media/press-releases/support-for-social-care/273019); Age UK (April 2020), [Government must act now to avert disaster in our care homes](https://www.ageuk.org.uk/discover/2020/04/government-care-homes-coronavirus/) [↑](#footnote-ref-87)
87. See, for example: British Medical Association, ‘[Doctors still without adequate supplies of PPE, major BMA survey finds’](https://www.bma.org.uk/news-and-opinion/doctors-still-without-adequate-supplies-of-ppe-major-bma-survey-finds), 18 April 2020 [accessed: 20 April 2020]; The Guardian, ‘[Residential homes 'desperate' for PPE, as two care workers die](https://www.theguardian.com/society/2020/apr/06/residential-homes-desperate-for-ppe-as-two-care-workers-die)’, 6 April 2020 [accessed: 20 April 2020]. [↑](#footnote-ref-88)
88. Article 2 ECHR; Article 6 ICCPR. [↑](#footnote-ref-89)
89. Article 12 ICESCR. [↑](#footnote-ref-90)
90. Article 7(b) ICESCR. [↑](#footnote-ref-91)
91. According to the Women’s Budget Group, 77% of healthcare staff are women; 83% of those working in social care are women, and around 21% are ethnic minorities. See Women’s Budget Group (April 2020), [Crises Collide: Women and Covid-19](https://wbg.org.uk/wp-content/uploads/2020/04/FINAL.pdf) [↑](#footnote-ref-92)
92. The Independent (April 2020), [Female NHS staff at risk due to not being able to ‘access protective gear correctly sized for women](https://www.independent.co.uk/news/uk/home-news/coronavirus-ppe-women-wrong-size-doctors-nurses-uk-cases-a9476766.html). See also British Medical Association (April 2020), [BAME doctors hit worse by lack of PPE](https://www.bma.org.uk/news-and-opinion/bame-doctors-hit-worse-by-lack-of-ppe), which highlights the need to ensure effective PPE to meet different needs, including for Sikh and Muslim doctors who wear beards for religious reasons. [↑](#footnote-ref-93)
93. Research Institute for Disabled Consumers (April 2020), [Covid-19: Impact on disabled and older people survey](https://www.ridc.org.uk/news/covid-19-impact-disabled-and-older-people-uk); Women’s Budget Group (April 2020), [Social care and Covid-19](https://wbg.org.uk/wp-content/uploads/2020/04/Covid-and-social-care-briefing-FINAL-1.pdf). [↑](#footnote-ref-94)
94. Women’s Budget Group (April 2020), [Crises Collide: Women and Covid-19](https://wbg.org.uk/wp-content/uploads/2020/04/FINAL.pdf) [↑](#footnote-ref-95)
95. We will also be making a submission to the Business, Energy and Industrial Strategy Committee Inquiry into the impact of the coronavirus on businesses and workers, which will provide more detailed analysis on the future challenges facing Britain’s labour market. For the purposes of this submission, we focus on the most urgent, immediate threats to equality. [↑](#footnote-ref-96)
96. [Article 11 of the Convention on the Elimination of Discrimination against Women (‘CEDAW](https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx)’)whichsets out the State’s obligation to eliminate discrimination against women in the field of employment, including their obligation to prevent discrimination against women on the grounds of marriage or maternity. [↑](#footnote-ref-97)
97. Public Health England (March 2020), ‘[Guidance on social distancing for everyone in the UK](https://www.gov.uk/government/publications/covid-19-guidance-on-social-distancing-and-for-vulnerable-people/guidance-on-social-distancing-for-everyone-in-the-uk-and-protecting-older-people-and-vulnerable-adults)’ [↑](#footnote-ref-98)
98. Maternity Action (April 2020), ‘[Our letter to Dominic Raab MP on the health & safety of pregnant employees and financial support for working parents 21 April 2020](https://maternityaction.org.uk/2020/04/our-letter-to-dominic-raab-mp-on-the-health-safety-of-pregnant-employees-and-financial-support-for-working-parents/)’. [↑](#footnote-ref-99)
99. Working Families (2020), [Weathering the storm: the Covid 19 pandemic and working parents](https://workingfamilies.org.uk/wp-content/uploads/2020/04/Weathering-the-Storm-the-COVID-19-pandemic-working-parents.pdf). [↑](#footnote-ref-100)
100. T. Hogarth et al, EHRC (2009), ‘[The Equality Impacts of the Current Recession](https://www.equalityhumanrights.com/sites/default/files/research-report-47_the-equality-impacts-of-the-current-recession_0.pdf)’. [↑](#footnote-ref-101)
101. EHRC and Department for Business, Innovation and Skills (2016), ‘[Pregnancy and maternity related discrimination: experiences of mothers](https://www.equalityhumanrights.com/en/managing-pregnancy-and-maternity-workplace/pregnancy-and-maternity-discrimination-research-findings)’ [↑](#footnote-ref-102)
102. Self-employed women working full-time earn on average 66% of the annual earnings of self-employed men who do so. See Department for Work and Pensions (2018), ‘[Family Resources Survey 2017-18](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/791271/family-resources-survey-2017-18.pdf)’. [↑](#footnote-ref-103)
103. Department for Business, Innovation and Skills (2018), ‘[The characteristics of those in the gig economy](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/687553/The_characteristics_of_those_in_the_gig_economy.pdf)’. [↑](#footnote-ref-104)
104. Analysis from the Women’s Budget Group states that BME women are three times more likely to be in precarious work and are therefore unlikely to qualify for either SSP or furlough. See Women’s Budget Group (April 2020), [Crises Collide: Women and Covid-19](https://wbg.org.uk/wp-content/uploads/2020/04/FINAL.pdf) [↑](#footnote-ref-105)
105. Zubaida Haque, Runnymede Trust (March 2020), ‘[Coronavirus will increase race inequalities](https://www.runnymedetrust.org/blog/coronavirus-will-increase-race-inequalities)’, [↑](#footnote-ref-106)
106. Sky News (14 April 2020), [Coronavirus: Another 200k sign on for Universal Credit - taking total to 1.4 million](https://news.sky.com/story/coronavirus-another-200k-sign-on-for-universal-credit-taking-total-to-1-4-million-11973030). [↑](#footnote-ref-107)
107. HM Government (20 March 2020), ‘[Chancellor announces workers’ support package](https://www.gov.uk/government/news/chancellor-announces-workers-support-package)’ [↑](#footnote-ref-108)
108. EHRC (2018) ‘[The cumulative impact of tax and welfare reforms](https://www.equalityhumanrights.com/en/publication-download/cumulative-impact-tax-and-welfare-reforms)’ [↑](#footnote-ref-109)
109. Food bank managers report that administrative delays to benefits lead to food bank use. See Trussell Trust (2016), ‘[Mapping Hunger: New Technology to Help Tackle UK Poverty](https://www.trusselltrust.org/wp-content/uploads/sites/2/2016/04/Mapping-Hunger-Report.pdf)’ [↑](#footnote-ref-110)
110. Child Poverty Action Group (June 2019), ‘[Universal Credit: what needs to change to reduce child poverty?](https://cpag.org.uk/sites/default/files/files/policypost/Universal%20credit%20-%20what%20needs%20to%20change_0.pdf)’ [↑](#footnote-ref-111)
111. [Coronavirus Act 2020, Schedule 8, Part 2](http://www.legislation.gov.uk/ukpga/2020/7/schedule/8/part/2/enacted). [↑](#footnote-ref-112)
112. Rethink (2020), [Coronavirus: temporary changes to the Mental Health Act](https://www.rethink.org/news-and-stories/blogs/2020/03/coronavirus-temporary-changes-to-the-mental-health-act/); Royal College of Psychiatrists (2020), [Legal matters - COVID-19 guidance for clinicians](https://www.rcpsych.ac.uk/about-us/responding-to-covid-19/responding-to-covid-19-guidance-for-clinicians/legal-covid-19-guidance-for-clinicians). [↑](#footnote-ref-113)
113. UK Government (2019), [Queen's Speech December 2019: background briefing notes](https://www.gov.uk/government/publications/queens-speech-december-2019-background-briefing-notes). [↑](#footnote-ref-114)
114. Department for Health and Social Care (2018), [Modernising the Mental Health Act – final report from the Independent Review](https://www.gov.uk/government/publications/modernising-the-mental-health-act-final-report-from-the-independent-review). [↑](#footnote-ref-115)
115. These children are no longer receiving support normally provided in schools or community services. See National Preventive Mechanism (2020), [Letter to UK Secretary of State for Justice Robert Buckland QC MP](https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/03/NPM-letter-to-Robert-Buckland-re-COVID19-300320.docx-WEB-2.pdf). See also Joint Committee on Human Rights (2019), [The detention of young people with learning disabilities and/or autism](https://publications.parliament.uk/pa/jt201919/jtselect/jtrights/121/121.pdf); and EHRC (2020), [Health Secretary faces legal challenge for failing patients with learning disabilities and autism](https://www.equalityhumanrights.com/en/our-work/news/health-secretary-faces-legal-challenge-failing-patients-learning-disabilities-and). [↑](#footnote-ref-116)
116. The Care Quality Commission in England and the Healthcare Inspectorate Wales paused routine inspections from 16 and 17 March respectively. See Care Quality Commission (2020), [CQC to stop routine inspections to focus on supporting providers to deliver safe care during COVID-19 pandemic](https://www.cqc.org.uk/news/releases/cqc-stop-routine-inspections-focus-supporting-providers-deliver-safe-care-during-cov-0); Healthcare Inspectorate Wales (2020), [Healthcare Inspectorate Wales statement on Coronavirus (COVID-19)](https://hiw.org.uk/coronavirus-covid-19-statement-17-march). [↑](#footnote-ref-117)
117. INQUEST (2020), [INQUEST briefing on COVID-19: protecting people in places of custody and detention](https://www.inquest.org.uk/Handlers/Download.ashx?IDMF=01507b67-d172-440f-b66e-311bd9b61bf4). [↑](#footnote-ref-118)
118. Courts and Tribunal Judiciary (2020), [Pilot practice direction: health, education and social care chamber of the first-tier tribunal (mental health)](https://www.judiciary.uk/publications/pilot-practice-direction-health-education-and-social-care-chamber-of-the-first-tier-tribunal-mental-health/); [Coronavirus Act 2020 (Commencement no. 1) (Wales) Regulations 2020](http://www.legislation.gov.uk/wsi/2020/366/regulation/2/made); Mental Health Review Tribunal for Wales (2020), [Practice direction COVID-19](https://mentalhealthreviewtribunal.gov.wales/practice-direction-covid-19). [↑](#footnote-ref-119)
119. A judge acting alone can now make a decision in mental health tribunals in England and Wales. However, in England there is provision for a judge acting alone to receive advice from a doctor or lay member before or during the tribunal. There is no equivalent provision explicitly set out in Wales. [↑](#footnote-ref-120)
120. Paper hearings are now allowed in certain contexts in England and Wales. In England, but not in Wales, the consent of all parties is required before a decision can be made in these cases. [↑](#footnote-ref-121)
121. National Preventive Mechanism (2020), [Letter to UK Secretary of State for Justice Robert Buckland QC MP](https://s3-eu-west-2.amazonaws.com/npm-prod-storage-19n0nag2nk8xk/uploads/2020/03/NPM-letter-to-Robert-Buckland-re-COVID19-300320.docx-WEB-2.pdf); WHO Europe (2020). [Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance, 15 March 2020](http://www.euro.who.int/__data/assets/pdf_file/0019/434026/Preparedness-prevention-and-control-of-COVID-19-in-prisons.pdf). See also Equality and Human Rights Commission (2019), [Torture in the UK: update report](https://www.equalityhumanrights.com/sites/default/files/convention-against-torture-in-the-uk-update-report-may-2019.pdf). At 14 April, cases of Covid-19 have been reported in more than half of prisons in England and Wales, and 13 prisoner deaths are believed to be related to the virus, see BBC (April 2020) [Coronavirus: HMP Wymott prisoners transferred due to outbreak](https://www.bbc.co.uk/news/uk-england-lancashire-52286711). [↑](#footnote-ref-122)
122. Ministry of Justice (2019), [Statistics on race and the criminal justice system 2018](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/849200/statistics-on-race-and-the-cjs-2018.pdf). Two fifths (40 per cent) of prisoners aged under 18 were Black or Mixed ethnicity, despite these ethnic groups accounting for less than one fifth (17 per cent) of the entire prison population. [↑](#footnote-ref-123)
123. BBC (2020), [Are ethnic minorities being hit hardest by coronavirus?](https://www.bbc.co.uk/news/uk-52219070). [↑](#footnote-ref-124)
124. Health and Social Care Committee (2018), [Prison health, twelfth report of session 2017-19](https://publications.parliament.uk/pa/cm201719/cmselect/cmhealth/963/963.pdf). [↑](#footnote-ref-125)
125. More than 1,800 are aged over 70. The Centre for Crime and Justice Studies (2020), [Coronavirus and the ageing prison population](https://www.crimeandjustice.org.uk/news/2020-04-17/coronavirus-and-ageing-prison-population). Figures are as at 31 December 2019. [↑](#footnote-ref-126)
126. HMPPS (2020), [Annual digest 2018/19](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/873344/hmpps-annual-digest-2018-19-march-2020-update.pdf). [↑](#footnote-ref-127)
127. HC Deb 27 April 2020 vol 675 c92. [↑](#footnote-ref-128)
128. Prison Reform Trust and the Howard League for Penal Reform (2020), [Covid19: the need for immediate further early release of prisoners](http://prisonreformtrust.org.uk/portals/0/documents/letters/Covid-19%20open%20letter%20to%20SoS%20020420.pdf). [↑](#footnote-ref-129)
129. Ibid. [↑](#footnote-ref-130)
130. Children’s Commissioner (March 2020), [Calling on the Lord Chancellor and Secretary of State for Justice to ensure the rights of children in custody are upheld during the coronavirus outbreak](https://www.childrenscommissioner.gov.uk/2020/03/25/calling-on-the-lord-chancellor-and-secretary-of-state-for-justice-to-ensure-the-rights-of-children-in-custody-are-upheld-during-the-coronavirus-outbreak/) [↑](#footnote-ref-131)
131. EHRC (2019), [Torture in the UK: update report](https://www.equalityhumanrights.com/en/publication-download/torture-uk-update-report). [↑](#footnote-ref-132)
132. HC Deb, 5 June 2019, cW. [↑](#footnote-ref-133)
133. EHRC (2020), [Written evidence to the Home Affairs Select Committee on Home’s Office preparedness for Covid-19 (Coronavirus)](https://committees.parliament.uk/committee/83/home-affairs-committee/publications/written-evidence/). [↑](#footnote-ref-134)
134. The Home Affairs Committee reported increased reporting of domestic abuse with calls to the National Domestic Abuse helpline increased 49% to the three weeks to 15th April. See the Home Affairs Select Committee (24 April 2020), ‘[Home Office preparedness for Covid-19 (Coronavirus): domestic abuse and risks of harm within the home’,](https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/321/321.pdf) Second Report of Session 2019 -21 [↑](#footnote-ref-135)
135. Coronavirus Act 2020, Sections 53-57 [Courts and tribunals: use of video and audio technology](http://www.legislation.gov.uk/ukpga/2020/7/part/1/crossheading/courts-and-tribunals-use-of-video-and-audio-technology/enacted). [↑](#footnote-ref-136)
136. EHRC (April 2020), ‘[Inclusive justice: a system designed for all](https://www.equalityhumanrights.com/en/publication-download/inclusive-justice-system-designed-all)’. Whilst the findings relate to defendants in criminal hearings, they should provide a helpful insight into the impact on participation for parties to other proceedings. [↑](#footnote-ref-137)
137. See, for example, JUSTICE (2017), ‘[Mental health and fair trial](https://justice.org.uk/wp-content/uploads/2017/11/JUSTICE-Mental-Health-and-Fair-Trial-Report-2.pdf)’. JUSTICE has made the case for accurate reporting by police and courts on the number of people identified as having a vulnerability in the criminal justice system. [↑](#footnote-ref-138)
138. See, for example, The Lammy Review (2017) ‘[An independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System](https://www.gov.uk/government/publications/lammy-review-final-report)’ [↑](#footnote-ref-139)
139. Ministry of Justice (2010), ‘[Virtual courts pilot: outcome evaluation report](https://www.gov.uk/government/publications/virtual-courts-pilot-outcome-evaluation-report)’ [↑](#footnote-ref-140)
140. Transform Justice (April 2020), [Is closed justice a price worth paying to keep courts running?](http://www.transformjustice.org.uk/is-closed-justice-a-price-worth-paying-to-keep-courts-running/) [↑](#footnote-ref-141)
141. See Jack Harrison, Transparency Project (23 April 2020), [P (A Child: Remote Hearing) (Rev 3) [2020] EWFC 32: When is remote justice not justice?](http://www.transparencyproject.org.uk/p-a-child-remote-hearing-rev-3-2020-ewfc-32-when-is-remote-justice-not-justice/). See also Mr Justice MacDonald (16 April 2020), [The Remote Access Family Court](https://www.judiciary.uk/wp-content/uploads/2020/04/The-Remote-Access-Family-Court-Version-4-Final-16.04.20.pdf), Version 4. [↑](#footnote-ref-142)
142. Legal Futures, [Daughter in CoP case questions “second-rate” Skype justice](https://www.legalfutures.co.uk/latest-news/daughter-in-cop-case-questions-second-rate-skype-justice), 1 April 2020 [accessed 24 April 2020]. [↑](#footnote-ref-143)
143. Legal Education Foundation (March 2020), [Coronavirus Bill, Courts and the Rule of Law](https://research.thelegaleducationfoundation.org/wp-content/uploads/2020/03/Recommendations-for-Coronavirus-Bill_V6.pdf). [↑](#footnote-ref-144)
144. Transform Justice (April 2020), [Trial by Skype – unchartered waters](http://www.transformjustice.org.uk/trial-by-skype-uncharted-waters/) [↑](#footnote-ref-145)
145. In line with the provisions of the Equal Treatment Bench Book. See Courts and Tribunal Judiciary (March 2020), ‘[Equal Treatment Bench Book](https://www.judiciary.uk/publications/new-edition-of-the-equal-treatment-bench-book-launched/)’. [↑](#footnote-ref-146)
146. HM Courts and Tribunal Service (March 2020), ‘[Guidance: HMCTS telephone and video hearings during coronavirus outbreak](https://www.gov.uk/guidance/hmcts-telephone-and-video-hearings-during-coronavirus-outbreak#the-decision-to-use-telephone-and-video-hearings)’ [accessed 25 April 2020]. [↑](#footnote-ref-147)
147. EHRC (2018), ‘[Is Britain Fairer? 2018](https://www.equalityhumanrights.com/en/publication-download/britain-fairer-2018)’ and ‘[Is Britain Fairer? 2018: supporting data](https://www.equalityhumanrights.com/en/britain-fairer/britain-fairer-2018-supporting-data)’. This showed that in 2017 1 in 5 disabled people and just under half of those over 75 had never used the internet. [↑](#footnote-ref-148)
148. EHRC (June 2019), [Access to Legal Aid for Discrimination Cases](https://www.equalityhumanrights.com/sites/default/files/access-to-legal-aid-for-discrimination-cases-our-legal-aid-inquiry.pdf). [↑](#footnote-ref-149)
149. Ministry of Justice (April 2020) [Vulnerable groups set to benefit from improved legal aid support](https://www.gov.uk/government/news/vulnerable-groups-set-to-benefit-from-improved-legal-aid-support). [↑](#footnote-ref-150)
150. Ministry of Justice (April 2020) [Support package for legal providers will ensure access to justice during coronavirus outbreak](https://www.gov.uk/government/news/support-package-for-legal-providers-will-ensure-access-to-justice-during-coronavirus-outbreak). [↑](#footnote-ref-151)
151. EHRC (June 2019), [Access to Legal Aid for Discrimination Cases](https://www.equalityhumanrights.com/sites/default/files/access-to-legal-aid-for-discrimination-cases-our-legal-aid-inquiry.pdf). [↑](#footnote-ref-152)
152. Courts and Tribunal Judiciary (2 April 2020), Practice Direction Update on Civil Procedure Rules, [‘51ZA Extension of Time Limits and Clarification of PD51Y](https://www.judiciary.uk/announcements/118th-practice-direction-update-to-the-civil-procedure-rules-coronavirus-pandemic-related/)’. This applies to procedural time limits in in county courts, High Court and Court of Appeal. [↑](#footnote-ref-153)
153. Six months for bringing non-employment claims (Section 118 of the Equality Act 2010) and three months for both employment claims (Section 123 of the Act) and judicial review (See Ministry of Justice (2020), [Civil Procedure Rules, Part 54, Judicial Review and Statutory Review](https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part54) [↑](#footnote-ref-154)
154. The Presidents of the Employment Tribunals have already recognised that ‘the pandemic may have an impact on when and how individuals can take legal advice about claims’, acknowledging it ‘has no power to change those time limits‘ and that this is a decision for Parliament. See Tribunals Judiciary (2020), [The Employment Tribunals in England and Wales and in Scotland, FAQs arising from the Covid-19 pandemic](https://www.judiciary.uk/wp-content/uploads/2020/04/FAQ-final-edition-date-03-April-2020.pdf), question 18 [↑](#footnote-ref-155)
155. (see footnote 57) [↑](#footnote-ref-156)
156. The Guardian (15 April 2020), ‘[Domestic abuse killings 'more than double' amid Covid-19 lockdown](https://www.theguardian.com/society/2020/apr/15/domestic-abuse-killings-more-than-double-amid-covid-19-lockdown)’, [↑](#footnote-ref-157)
157. Women are around twice as likely as men to experience domestic violence, and men are far more likely to be perpetrators. See Office for National Statistics (2017), ‘[Domestic Abuse in England and Wales](https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/domesticabuseinenglandandwales/yearendingmarch2017)', 2017. See also Crown Prosecution Service (2017) ‘[Violence against women and girls report, 10th edition](https://www.cps.gov.uk/publication/cps-violence-against-women-and-girls-crime-report-2016-2017)’ [↑](#footnote-ref-158)
158. EHRC (2018), ‘[Is Britain Fairer? 2018](https://www.equalityhumanrights.com/en/publication-download/britain-fairer-2018)’, page 141. See also ONS (2019), ‘[Crime Survey England and Wales 2019](https://www.ons.gov.uk/releases/crimeinenglandandwalesyearendingmarch2019)’ [↑](#footnote-ref-159)
159. Barnardo’s (February 2020), ‘[Not just collateral damage: The hidden impact of domestic abuse on children](https://www.barnardos.org.uk/sites/default/files/uploads/%27Not%20just%20collateral%20damage%27%20Barnardo%27s%20Report_0.pdf)’, page 9. [↑](#footnote-ref-160)
160. Under domestic law (the European Convention on Human Rights (‘ECHR’), given domestic effect by the Human Rights Act 1998), the government has relevant obligations under Article 2 (right to life), Article 3 (the prohibition on torture), Article 8 (the right to respect for private and family life) and Article 14 (the right to non-discrimination). The ECHR imposes positive obligations on the Government to protect individuals against abuse or harm caused by other individuals. Under article 2 ECHR, the Government has positive obligations, in appropriate circumstances, to take preventative measures to protect an individual whose life is at risk from the criminal acts of another individual. There is an equivalent positive obligation to take preventative measures to protect an individual from inhuman and degrading treatment under article 3. Further, under article 8 the Government has a duty to protect the physical and psychological integrity of an individual against harm that might be caused by other individuals. See also, UN Committee on the Elimination of Discrimination against Women (2010), [General recommendation no. 28 on the core obligations of state parties under article 2 of the Convention](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement), para 19. [↑](#footnote-ref-161)
161. UN Committee on the Elimination of Discrimination against Women (2010), [General recommendation no. 28 on the core obligations of state parties under article 2 of the Convention](https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement), para 26. [↑](#footnote-ref-162)
162. Opuz v Turkey (2009), Application no. 33401/02, para 186-191. [↑](#footnote-ref-163)
163. In this respect, we welcome the Home Affairs Select Committee recommendation that a co-ordinated cross-government action plan on domestic abuse should be “integrated into the wider Government planning through the emergency COBR committee.” See Home Affairs Select Committee (24 April 2020), ‘[Home Office preparedness for Covid-19 (Coronavirus): domestic abuse and risks of harm within the home](https://committees.parliament.uk/work/184/home-office-preparedness-for-covid19-coronavirus/publications/written-evidence/)’ Recommendation 5, page 27. [↑](#footnote-ref-164)
164. EHRC (2020), ‘[Briefing: Domestic Abuse Bill, House of Commons, Second Reading](https://www.equalityhumanrights.com/sites/default/files/parliamentary-briefing-domestic-abuse-bill-house-of-commons-second-reading-april-2020.docx)’. [↑](#footnote-ref-165)
165. See, for example, APPG on Domestic and Sexual Violence, Women’s Aid, Rape Crisis England & Wales (2015) ‘[The Changing Landscape of Domestic and Sexual Violence Services: APPG on Domestic and Sexual Violence Inquiry](https://rapecrisis.org.uk/get-informed/reports-briefings/the-changing-landscape-of-domestic-and-sexual-violence-services-all-party-parliamentary-group-on-domestic-and-sexual-violence-inquiry/)’. See also Imkaan (2019) ‘[From Survival to Sustainability](https://docs.wixstatic.com/ugd/2f475d_9cab044d7d25404d85da289b70978237.pdf)’,. [↑](#footnote-ref-166)
166. EHRC (2018), ‘[Is Britain Fairer? 2018](https://www.equalityhumanrights.com/en/publication-download/britain-fairer-2018)’, page 141. See also ONS (2019), ‘[Crime Survey England and Wales 2019](https://www.ons.gov.uk/releases/crimeinenglandandwalesyearendingmarch2019)’ [↑](#footnote-ref-167)
167. Women’s Aid has reported that during 2018-19 only 0.9% of refuge vacancies were in rooms fully accessible for wheelchairs and only a further 1.0% were suitable for someone with limited mobility. See Women’s Aid (2020) ‘[The Domestic Abuse Report 2020: The Annual Audit](https://www.womensaid.org.uk/research-and-publications/the-domestic-abuse-report/)’ [↑](#footnote-ref-168)
168. Home Office (April 2020), ‘[News Story: Home Secretary announces support for domestic abuse victims](https://www.gov.uk/government/news/home-secretary-announces-support-for-domestic-abuse-victims)’. The Ministry of Justice has also announced £600,000 for helplines for victims and witnesses, see Ministry of Justice (April 2020) [Funding boost for remote victim services.](https://www.gov.uk/government/news/funding-boost-for-remote-victim-services)

 Additionally, Welsh Government have announced an additional £200,000 funding to help refuges source furnishings and white goods to respond to the crisis, whilst the annual Violence Against Women, Domestic Abuse and Sexual Violence capital grant will prioritise projects that respond to the immediate crisis. See Welsh Government (April 2020) [Welsh Government supports survivors of domestic abuse during coronavirus](https://gov.wales/welsh-government-supports-survivors-domestic-abuse-during-coronavirus). The Scottish Government has granted £1.576 million to Scottish Women’s Aid and Rape Crisis Scotland. See Scottish Government (March 2020) [Support for victims of domestic violence during COVID-19 outbreak](https://www.gov.scot/news/support-for-victims-of-domestic-violence-during-covid-19-outbreak/). [↑](#footnote-ref-169)
169. See, for example, Consortium for Stronger LGBT+ Communities (April 2020), [Covid-19 Insight Report](https://www.consortium.lgbt/wp-content/uploads/2019/07/LGBT-Sector-Covid-19-Insight-Report-1.pdf) which found that 78% of its members are ‘micro’ organisations with an annual income of between £0 and £50,000, and are very ill-placed to weather the storm [↑](#footnote-ref-170)
170. We welcome the Home Affairs Select Committee’s recommendation on ensuring sufficient funding for domestic abuse organisations, and particularly that “Government funding for support services and refuge accommodation must include specialist provision and must ensure that BME services can continue and expand to meet any increased need”. See [Home Office preparedness for Covid-19 (Coronavirus): domestic abuse and risks of harm within the home](https://committees.parliament.uk/work/184/home-office-preparedness-for-covid19-coronavirus/publications/written-evidence/), 24 April 2020, Recommendation 19 p.29. [↑](#footnote-ref-171)
171. Bates, L., Gangoli, G., Hester, M. and Justice Project Team (2018), [Policy Evidence Summary 1: Migrant Women](https://research-information.bris.ac.uk/files/188884552/Policy_evidence_summary_1_Migrant_women.pdf), University of Bristol, Bristol. See also End Violence Against Women (2018), ‘[Women living in a hostile environment - Increasing justice and protection for migrant women in the Domestic Violence and Abuse Bill](https://www.endviolenceagainstwomen.org.uk/wp-content/uploads/FINAL-living-in-a-hostile-environment-for-Web-and-sharing-.pdf)’. [↑](#footnote-ref-172)
172. The Commission has recommended that barriers to protection and support faced by survivors with insecure immigration status could be reduced by extending eligibility to apply under the Domestic Violence (DV) Rule and Destitution Domestic Violence Concession (DDVC) to all migrants experiencing or at risk of abuse. See, EHRC (2020), [Briefing: Domestic Abuse Bill, House of Commons, Second Reading](https://www.equalityhumanrights.com/sites/default/files/parliamentary-briefing-domestic-abuse-bill-house-of-commons-second-reading-april-2020.docx). [↑](#footnote-ref-173)
173. This is in addition to our recommendation under section 4 for a general prohibition on data-sharing between the Home Office, police, education, and healthcare services for the purposes of immigration enforcement. We welcome the Home Affairs Select Committee’s recommendation that domestic abuse survivors with no recourse to public funds be entitled to access state support during the coronavirus crisis, regardless of their immigration status. See Home Affairs Select Committee (24 April 2020), [Home Office preparedness for Covid-19 (Coronavirus): domestic abuse and risks of harm within the home](https://committees.parliament.uk/work/184/home-office-preparedness-for-covid19-coronavirus/publications/written-evidence/), Recommendation 20, p.29. [↑](#footnote-ref-174)
174. Claire Waxman, Independent Victims’ Commissioner for London (2019), [The London Rape Review: Reflections and recommendations](https://www.london.gov.uk/sites/default/files/vcl_rape_review_-_final_-_31st_july_2019.pdf) (2019); HMCPSI (2019) [2019 Rape Inspection: thematic review of rape cases by HM Crown Prosecution Service Inspectorate](https://www.justiceinspectorates.gov.uk/hmcpsi/wp-content/uploads/sites/3/2019/12/Rape-inspection-2019-1.pdf), p.16. [↑](#footnote-ref-175)
175. The regulations provide police officers, PCSOs and others if designated with a range of enforcement powers. See House of Commons Library (17 April 2020), ‘[Coronavirus: Policing the instruction to stay at home](https://researchbriefings.files.parliament.uk/documents/CBP-8875/CBP-8875.pdf)’, p. 4. [↑](#footnote-ref-176)
176. Regulations 6 to 9, [The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020](https://www.legislation.gov.uk/uksi/2020/350/contents/made); regulations 5 to 9, [The Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020](http://www.legislation.gov.uk/ssi/2020/103/made); regulations 8 and 12, [The Health Protection (Coronavirus) (Wales) Regulations 2020](http://www.legislation.gov.uk/wsi/2020/353/contents/made). [↑](#footnote-ref-177)
177. Blackall, M., The Guardian (23 April 2020), ‘[Lockdown UK: “There now two classes, people with gardens and the rest of us”](https://www.theguardian.com/world/2020/apr/23/trapped-in-coronavirus-lockdown-uk-no-garden-outside-space)’ [↑](#footnote-ref-178)
178. UK Government (March 2020), [Stop and Search](https://www.ethnicity-facts-figures.service.gov.uk/crime-justice-and-the-law/policing/stop-and-search/latest); Busby, M., The Guardian (17 April 2020), ‘[Rights groups quit police body over stun gun use against BAME people’](https://www.theguardian.com/uk-news/2020/apr/17/rights-groups-quit-uk-police-body-stun-gun-use-bame-people). [↑](#footnote-ref-179)
179. Unlike the Welsh regulations, the English and Scottish regulations do not specify a limit on the number of times a person will have a ‘reasonable excuse’ to go out to exercise. Recent guidance from the National Police Chiefs’ Council and College of Policing has specified that in England exercising more than once per day is ‘likely to be reasonable’. See National Police Chiefs’ Council and College of Policing (April 2020), ‘[What constitutes a reasonable excuse to leave the place where you live](https://www.college.police.uk/What-we-do/COVID-19/Documents/What-constitutes-a-reasonable-excuse.pdf)’. [↑](#footnote-ref-180)
180. Cabinet Office (March 2020), ‘[Coronavirus outbreak FAQs: what you can and can’t do](https://www.gov.uk/government/publications/coronavirus-outbreak-faqs-what-you-can-and-cant-do/coronavirus-outbreak-faqs-what-you-can-and-cant-do)’, paragraph 1 specifies that people should only leave the house for one form of exercise a day. Following legal action this was updated to include paragraph 15, which specifies that people with specific health conditions requiring them to leave the house more than once a day may do so. See Bindmans (April 2020), ‘[Government guidance changed to permit people with specific health needs to exercise outside more than once a day and to travel to so where necessary](https://www.bindmans.com/news/government-guidance-changed-to-permit-people-with-specific-health-needs-to-exercise-outside-more-than-once-a-day-and-to-travel-to-do-so-where-necessary)’. [↑](#footnote-ref-181)
181. In Scotland, Chief Constable Iain Livingstone has commissioned John Scott QC to lead a review of how Police Scotland officers and staff are applying emergency powers provided for by coronavirus legislation. See Law Society of Scotland (14 April 2020), ‘[John Scott QC to oversee police use of emergency powers](https://www.lawscot.org.uk/news-and-events/legal-news/john-scott-qc-to-oversee-police-use-of-emergency-powers/)’. [↑](#footnote-ref-182)
182. The Guardian (February 2020), [Chinese in UK report ‘shocking’ levels of racism after coronavirus outbreak](https://www.theguardian.com/uk-news/2020/feb/09/chinese-in-uk-report-shocking-levels-of-racism-after-coronavirus-outbreak); BBC News (April 2020), [Coronavirus: arrests over ‘disgusting’ racist Covid-19 stickers](https://www.bbc.co.uk/news/uk-england-south-yorkshire-52314222); Crown Prosecution Service (March 2020), ‘[News story: Man jailed for coronavirus-related hate crime](https://www.cps.gov.uk/west-midlands/news/man-jailed-coronavirus-related-hate-crime)’. See also Galop (2020), Covid-19 and anti-LGBT+ hate crime (unpublished), notes that LGBT people have been falsely linked to the spread of the virus and that there is evidence of an escalation in hate crime towards LGBT people from neighbours. [↑](#footnote-ref-183)
183. Home Office (2019), [Hate crime, England and Wales 2018/19](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/839172/hate-crime-1819-hosb2419.pdf). [↑](#footnote-ref-184)
184. See, for example, Tell MAMA, [Shropshire Police debunk malicious tweet about a mosque ‘ignoring’ the coronavirus lockdown](https://tellmamauk.org/shropshire-police-debunk-malicious-tweet-about-a-mosque-ignoring-the-coronavirus-lockdown/), 20 March 2020. [↑](#footnote-ref-185)
185. Community Security Trust (2020), [Briefing: coronavirus and the plague of antisemitism](https://cst.org.uk/data/file/d/9/Coronavirus%20and%20the%20plague%20of%20antisemitism.1586276450.pdf). [↑](#footnote-ref-186)
186. For information on the prevalence of online harms, see, for example, Department for Health and Social Care (2020), [Online harms white paper](https://www.gov.uk/government/consultations/online-harms-white-paper/online-harms-white-paper). [↑](#footnote-ref-187)
187. Association of Police and Crime Commissioners, [Evidence to the Home Affairs Select Committee on Home Office preparedness for Covid-19 (Coronavirus](https://committees.parliament.uk/download/file/?url=%2Fwrittenevidence%2F2293%2Fdocuments%2F4366%3Fconvertiblefileformat%3Dpdf&slug=cor0098pdf)), April 2020. [↑](#footnote-ref-188)
188. UN Convention on the Rights of the Child (‘UNCRC’), Articles 3 and 12 and UNCRC, General comment No. 14 (2013) on the right of the child to have their best interests taken as a primary consideration (art. 3, para. 1) establish a right for children to be heard in the determination of their best interests [↑](#footnote-ref-189)
189. UK Government (April 2020), [Guidance: Coronavirus (COVID-19): SEND risk assessment guidance](https://www.gov.uk/government/publications/coronavirus-covid-19-send-risk-assessment-guidance). [↑](#footnote-ref-190)
190. Challenging Behaviour Foundation (updated 20 March 2020), [Information Sheet: Coronavirus and the Law](https://www.challengingbehaviour.org.uk/learning-disability-assets/coronavirusandthelawinformationsheet1.pdf). [↑](#footnote-ref-191)
191. ALLFIE Briefing (March 2020), [Coronavirus Bill Debate 23 March 2020](https://www.allfie.org.uk/news/briefing/coronavirus-bill-debate-march/) [↑](#footnote-ref-192)
192. UK Government (30 April 2020), [Decision: Modification notice: EHC plans legislation changes](https://www.gov.uk/government/publications/modification-notice-ehc-plans-legislation-changes). The order modifying this duty was issued alongside a new regulation modifying the time limits for undertaking certain processes relating to children with special educational needs and disabilities, principally those relating to the Education, Health and Care needs assessments and plans. See ‘[The Special Educational Needs and Disability (Coronavirus) (Amendment) 2020](http://www.legislation.gov.uk/uksi/2020/471/note/made#_blank)’. Under the Coronavirus Act 2020, the Secretary of State has powers to downgrade the duty on local authorities to deliver the support listed in an EHCP from a legal obligation to a ‘reasonable endeavours’ duty. Coronavirus Act 2020, s38 and Schedule 17, Part 1, para 5. [↑](#footnote-ref-193)
193. The Coronavirus Act 2020 provides that an order temporarily relaxing or removing the duties of local authorities in relation to EHCPs can only be issued when ‘strictly necessary’ and for the shortest possible amount of time, but there is no requirement for the Secretary of State to disclose his reasons for issuing an order. [↑](#footnote-ref-194)
194. Institute for Public Policy Research (March 2020), [Children of the Pandemic: Policies needed to support children during the Covid-19 crisis](https://www.ippr.org/files/2020-03/1585586431_children-of-the-pandemic.pdf). [↑](#footnote-ref-195)
195. Traveller Movement (April 2020), [Open letter to the Department for Education](https://travellermovement.org.uk/news-news/125-open-letter-to-the-department-for-education-don-t-further-marginalise-gypsy-and-irish-traveller-school-pupils) [↑](#footnote-ref-196)
196. This followed a legal challenge citing breaches of the right to education and discrimination on grounds of sex and race. See Richard Adams, The Guardian (6 April 2020), [UK councils face lawsuits over access to education in lockdown London](https://www.theguardian.com/education/2020/apr/06/uk-councils-face-lawsuits-over-access-to-education-in-lockdown). A pre-action protocol issued by the Good Law Project notes that the effect of digital exclusion will be felt more by children in lone parent families which are mainly comprised of lone parent mothers, and by children from certain ethnic minority groups, given their disproportionate representation among socio-economically deprived households. See Simpson Millar LLP (17 April 2020), [Letter to the Secretary of State for Education](https://www.crowdjustice.com/case/no-child-left-behind/), Judicial Review – Pre-action Protocol. [↑](#footnote-ref-197)
197. UK Government (April 2020), [Guidance: Get help with technology for remote education during coronavirus (COVID-19)](https://www.gov.uk/guidance/get-help-with-technology-for-remote-education-during-coronavirus-covid-19). The guidance indicates that pupils aged 16 to 19 without a suitable device for education may be eligible for support through the 16 to 19 Bursary Fund. The eligibility criteria for accessing a bursary are restricted to 16-19 year olds who are in receipt of benefits or income support in their own name. [↑](#footnote-ref-198)
198. [↑](#footnote-ref-199)
199. Similar issues concerning digital exclusion in Higher Education have been raised by the National Union of Students. See NUS (April 2020), ‘[National approach needed to exams, assessment and ‘no detriment](https://www.nus.org.uk/en/news/press-releases/national-approach-needed-to-exams-assessment-and-no-detriment-policies-says-nus-/)’. Runnymede Trust (5 April 2020), [Open Letter: Predicted Grades and BME students](https://www.runnymedetrust.org/blog/predicted-grades-bme-students-letter-to-ed-sec). [↑](#footnote-ref-200)
200. Ofqual (15 April 2020), [Open consultation: Exceptional arrangements for exam grading and assessment in 2020](https://www.gov.uk/government/consultations/exceptional-arrangements-for-exam-grading-and-assessment-in-2020). [↑](#footnote-ref-201)
201. Sally Weale and Jessica Murray, The Guardian (9 April 2020), ‘[UK’s poorest families suffering as free school meal vouchers delayed](https://www.theguardian.com/education/2020/apr/09/uks-poorest-families-suffering-as-free-school-meal-vouchers-delayed)’. [↑](#footnote-ref-202)
202. UK Government (20 April 2020), [Guidance: Coronavirus (COVID-19): free school meals guidance for schools](https://www.gov.uk/government/publications/covid-19-free-school-meals-guidance/covid-19-free-school-meals-guidance-for-schools). The Government has described the voucher scheme as a ‘back up’ where schools cannot continue to provide FSM through current providers. See, Freddie Whittaker, Schools Week (22 April 2020) ‘[Coronavirus: Schools can feed pupils without ‘evidence’ of universal credit claim, says minister](https://schoolsweek.co.uk/coronavirus-schools-can-feed-pupils-without-evidence-of-universal-credit-claim-says-minister/)’. [↑](#footnote-ref-203)
203. Judith Burns, BBC News (21 April 2020), [Schools give emergency food to families with nothing to eat](https://www.bbc.co.uk/news/education-52325332). [↑](#footnote-ref-204)
204. UK Government (24 April 2020), [Special education needs in England: January 2019](https://www.gov.uk/government/statistics/special-educational-needs-in-england-january-2019), national tables (table 5). [↑](#footnote-ref-205)
205. UK Government (24 April 2020), [Key stage 4 performance 2019 (revised), national characteristics tables (table CH2)](https://www.gov.uk/government/statistics/key-stage-4-performance-2019-revised). [↑](#footnote-ref-206)
206. The Government’s announcement of £3.1 million for specialist services for children affected by domestic abuse is welcome. See Home Office (April 2020), [Further support for children affected by domestic abuse](https://www.gov.uk/government/news/further-support-for-children-affected-by-domestic-abuse). [↑](#footnote-ref-207)
207. Jason Farrell, Sky News (21 April 2020), [Coronavirus: Fears for vulnerable children as thousands miss first day of new school term](https://news.sky.com/story/coronavirus-fears-for-vulnerable-children-as-thousands-miss-first-day-of-new-school-term-11976181). Early data shows that uptake by ’children in need’ or with an EHCP is as low as 5%. See Department for Education (21 April 2020), [Coronavirus (COVID-19) attendance in education and early years settings – summary of returns](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/880424/Coronavirus__COVID-19__attendance_in_education_and_early_years_settings___summary_of_returns.pdf). [↑](#footnote-ref-208)
208. The Adoption and Children (Coronavirus) (Amendment) Regulations 2020 came into force on 24 April 2020, temporarily removing a number of legal protections for children in care, including an entitlement to receive visits from social workers on a 6-weekly basis. See Article 39 (23 April 2020), [Ministers use COVID-19 to destroy children’s safeguards](https://article39.org.uk/2020/04/23/ministers-use-covid-19-to-destroy-childrens-safeguards/). [↑](#footnote-ref-209)
209. BBC News (27 March 2020), [Coronavirus: Online child abuse warning during lockdown](https://www.bbc.co.uk/news/technology-52067507). [↑](#footnote-ref-210)
210. Home Affairs Committee (15 April 2020), ‘[Home Office preparedness for COVID-19 (Coronavirus) – Summary](https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/321/32104.htm)’. [↑](#footnote-ref-211)
211. Childline has reported an unprecedented spike in demand for their services since the outbreak of COVID-19, with a 13% rise from young people who are disabled or have special educational needs. See NSPCC (27 March 2020), ‘[Hundreds of children counselled over impact of coronavirus (COVID-19) outbreak](https://www.nspcc.org.uk/what-we-do/news-opinion/childline-coronavirus-counselling/)’. [↑](#footnote-ref-212)
212. Domestic rail passenger journeys are down 95% compared with the equivalent week in 2019. On buses and coaches, excluding London, bus passengers are down 88%, within London they are down 80%. See evidence from Chris Heaton-Harris MP to the Transport Select Committee (7 April 2020), ‘[Oral evidence: Coronavirus: implications for transport, HC 268](https://publications.parliament.uk/pa/cm5801/cmselect/cmtrans/correspondence/transcript-coronavirus-implications-for-transport-07-04-20.pdf)’ [↑](#footnote-ref-213)
213. Department for Transport (23 March 2020), ‘[Written statement to Parliament: Rail emergency measures during the COVID-19 pandemic](https://www.gov.uk/government/speeches/rail-emergency-measures-during-the-covid-19-pandemic)’ [↑](#footnote-ref-214)
214. Department for Transport (3 April 2020), ‘[News story: Almost £400 million to keep England’s buses running](https://www.gov.uk/government/news/almost-400-million-to-keep-englands-buses-running)’ [↑](#footnote-ref-215)
215. The Equality Act 2010, the international human rights framework, in particular the UN Convention on the Rights of Persons with Disabilities, the relevant EU legislation and rail companies’ Accessible Travel Policies remain fully in force. [↑](#footnote-ref-216)
216. The Rail Delivery Group is a membership organisation that brings together all the passenger and freight rail companies in the UK into a single representative body. [↑](#footnote-ref-217)
217. Department for Transport (8 April 2020), ‘[Letter from the Rail Minister to the Rail Delivery Group on maintaining accessibility during the COVID-19 outbreak](https://www.gov.uk/government/speeches/letter-from-the-rail-minister-to-the-rail-delivery-group-on-maintaining-accessibility-during-the-covid-19-outbreak)’ [↑](#footnote-ref-218)
218. Transport Focus (April 2020), ‘[Coronavirus travel survey](https://www.transportfocus.org.uk/research-publications/publications/coronavirus-travel-survey/)’ [↑](#footnote-ref-219)
219. Guidance shared confidentially to the Equality and Human Rights Commission by the Department for Transport. [↑](#footnote-ref-220)
220. Those living in a family with a disabled member are more likely to be on low income than non-disabled families. See Department for Work and Pensions (March 2020), [Households Below Average Income](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/875261/households-below-average-income-1994-1995-2018-2019.pdf), page 11. [↑](#footnote-ref-221)
221. Article 11 ICESCR; Articles 24(2)(c) and Article 27(3) CRC; Article 28 CRPD; Article 5(e)(iii) ICERD. [↑](#footnote-ref-222)
222. Article 2(2) ICESCR; Committee on Economic, Social and Cultural Rights (2009), [General Comment No. 20: Non-discrimination](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f20&Lang=en). [↑](#footnote-ref-223)
223. Food Foundation (April 2020), [New Food Foundation Survey: Three Million Britons Are Going Hungry Just Three Weeks Into Lockdown](http://foodfoundation.org.uk/new-food-foundation-survey-three-million-britons-are-going-hungry-just-three-weeks-into-lockdown/); Loopstra, R. (April 2020), King’s College London, [Vulnerability to food insecurity since the COVID-19 lockdown](https://foodfoundation.org.uk/wp-content/uploads/2020/04/Report_COVID19FoodInsecurity-final.pdf). [↑](#footnote-ref-224)
224. As above. For older people, see Research Institute for Disabled Consumers (April 2020), [Covid-19: the impact on disabled and older people in the UK](https://www.ridc.org.uk/news/covid-19-impact-disabled-and-older-people-uk). [↑](#footnote-ref-225)
225. See above and Loopstra, R (April 2020), [Vulnerability to food insecurity since the COVID-19 lockdown](https://foodfoundation.org.uk/wp-content/uploads/2020/04/Report_COVID19FoodInsecurity-final.pdf), King’s College London. [↑](#footnote-ref-226)
226. Disability Rights UK (April 2020), [Thousands struggle to buy food](https://www.disabilityrightsuk.org/news/2020/april/thousands-struggle-buy-food); Disability News Service (April 2020), [Coronavirus: Government could face legal action over food delivery fears](https://www.disabilitynewsservice.com/coronavirus-government-could-face-legal-action-over-food-delivery-fears/). [↑](#footnote-ref-227)
227. See The Guardian (April 2020), [Disabled people left off coronavirus vulnerable list go without food](https://www.theguardian.com/society/2020/apr/19/disabled-people-left-off-coronavirus-vulnerable-list-go-without-food). [↑](#footnote-ref-228)
228. Under this scheme, up to 1.5 million people in England, identified by the NHS as being at higher risk of severe illness if they contract COVID-19, are entitled to receive home deliveries of basic groceries and medicines. See UK Government (March 2020), [Major new measures to protect people at highest risk from coronavirus](https://www.gov.uk/government/news/major-new-measures-to-protect-people-at-highest-risk-from-coronavirus). [↑](#footnote-ref-229)
229. See our letter to the British Retail Consortium, EHRC (April 2020), [Letter to the British Retail Consortium](https://www.equalityhumanrights.com/sites/default/files/letter-to-helen-dickinson-british-retail-consortium-21-april-2020.pdf). [↑](#footnote-ref-230)
230. See also Disability Rights UK (April 2020), [Thousands struggle to buy food](https://www.disabilityrightsuk.org/news/2020/april/thousands-struggle-buy-food). [↑](#footnote-ref-231)
231. Equality and Human Rights Commission (2018), [Is Britain Fairer?](https://www.equalityhumanrights.com/sites/default/files/is-britain-fairer-accessible.pdf). [↑](#footnote-ref-232)
232. Atchison, C. and others (April 2020), [Perceptions and behavioural responses of the general public during the COVID-19 pandemic: A cross-sectional survey of UK Adults](https://www.medrxiv.org/content/10.1101/2020.04.01.20050039v1). [↑](#footnote-ref-233)
233. GRT communities experience some of the most persistent disadvantages in Britain. See Equality and Human Rights Commission (2018), [Is Britain Fairer?](https://www.equalityhumanrights.com/sites/default/files/is-britain-fairer-accessible.pdf). [↑](#footnote-ref-234)
234. Friends Families and Travellers (March 2020), [COVID-19: UK Government Must Lay Out Clear Plan To Support Gypsies, Travellers And Boaters](https://www.gypsy-traveller.org/health/covid-19-uk-government-must-lay-out-clear-plan-to-support-gypsies-travellers-and-boaters/); Community Law Partnership (March 2020), [CLP Writes to Lord Chancellor about Traveller Evictions](http://www.communitylawpartnership.co.uk/news/clp-writes-to-lord-chancellor-about-traveller-evictions). [↑](#footnote-ref-235)
235. Minister Stephen Greenhalgh (April 2020), [COVID-19 – Mitigating Impacts on Gypsy and Traveller Communities](https://www.local.gov.uk/sites/default/files/documents/COVID-19%20Mitigating%20impacts%20on%20gypsy%20and%20traveller%20communities.pdf). [↑](#footnote-ref-236)
236. A presumption against eviction has been taken in Scotland as part of local authority responses to the pandemic. See Scottish Government and COSLA (April 2020), [COVID-19 Response Planning Supporting Gypsy and Traveller Communities: A Framework to Support Local Authorities and Their Partners in Local Decision-Making](https://www.gov.scot/publications/coronavirus-covid-19-supporting-gypsy-traveller-communities/). [↑](#footnote-ref-237)
237. Including the rights to life, liberty, and a fair trial; freedom of expression, thought and religion; the rights to privacy and a family life; and freedom of movement, association and peaceful assembly: [International Covenant on Civil and Political Rights (ICCPR)](https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx) [accessed: 9 April 2020]. [↑](#footnote-ref-238)
238. Including the rights to education, health, work, social security and an adequate standard of living: [International Covenant on Economic, Social and Cultural Rights](https://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx) (ICESCR) [accessed: 9 April 2020]. [↑](#footnote-ref-239)
239. [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](https://www.ohchr.org/en/professionalinterest/pages/cat.aspx) (CAT) [accessed: 9 April 2020]. [↑](#footnote-ref-240)
240. [Convention on the Elimination of All Forms of Discrimination against Women](https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx) (CEDAW) [accessed: 9 April 2020]. [↑](#footnote-ref-241)
241. [International Convention on the Elimination of All Forms of Racial Discrimination](https://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx) (CERD) [accessed: 9 April 2020]. [↑](#footnote-ref-242)
242. [Convention on the Rights of Persons with Disabilities](https://www.un.org/disabilities/documents/convention/convoptprot-e.pdf) (CRPD) [accessed: 9 April 2020]. [↑](#footnote-ref-243)
243. [Convention on the Rights of the Child](https://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx) (CRC) [accessed: 9 April 2020]. [↑](#footnote-ref-244)
244. Article 14 ECHR; Articles 2(1) and 26 ICCPR; Article 2(1) ICESCR. [↑](#footnote-ref-245)
245. Economic, Social and Cultural Rights, [General Comment No. 20: Non-discrimination](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f20&Lang=en), 2 July 2009 [accessed: 9 April 2020]; Human Rights Committee, [General Comment No. 36: Right to Life](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f36&Lang=en), 3 September 2019 [accessed: 15 April 2020]. [↑](#footnote-ref-246)
246. Nationality encompasses migrants, refugees, asylum-seekers, stateless persons: see Economic, Social and Cultural Rights, [General Comment No. 20: Non-discrimination](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f20&Lang=en), 2 July 2009 [accessed: 9 April 2020]. [↑](#footnote-ref-247)
247. Human Rights Committee, [General Comment No. 18: Non-discrimination](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6622&Lang=en). [↑](#footnote-ref-248)
248. Article 11 CRPD. [↑](#footnote-ref-249)
249. Article 2 CEDAW; Committee on the Elimination of Discrimination against Women, [General Comment No. 35: gender-based violence against women](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/35&Lang=en), 26 July 2017. [↑](#footnote-ref-250)
250. The articles of the HRA set out the lawful basis for any restriction in those rights. According to the Human Rights Committee, in order to be proportionate, restrictive measures “must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected”. Furthermore, “In no case may the restrictions be applied or invoked in a manner that would impair the essence of a Covenant right.” See Human Rights Committee, [General Comment No. 31: Nature of the General Legal Obligation Imposed on States Parties to the Covenant](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.13&Lang=en), 26 May 2004; and Human Rights Committee, [General Comment No. 27: Article 12 (Freedom of Movement)](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.9&Lang=en), 2 November 1999. [↑](#footnote-ref-251)
251. Article 3 ECHR; Article 7 ICCPR. [↑](#footnote-ref-252)
252. On the basis that each right is inherent to the dignity of every individual, see the Universal Declaration of Human Rights, 1948. [↑](#footnote-ref-253)
253. Committee on Economic, Social and Cultural Rights, [General comment No. 3: The nature of States parties’ obligations](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCESCR%2fGEC%2f4758&Lang=en), 1990. [↑](#footnote-ref-254)
254. Pillay, A. (Chairperson, Committee on Economic, Social and Cultural Rights), [Personal communication by letter 16 May 2012](https://www2.ohchr.org/english/bodies/cescr/docs/LetterCESCRtoSP16.05.12.pdf). [↑](#footnote-ref-255)