

Women and Equalities Committee

Oral evidence: [Unequal Impact: Coronavirus \(Covid-19\) and the Impact on People with Protected Characteristics, HC 276](#)

Wednesday 20 May 2020

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Members present: Caroline Nokes (Chair); Nickie Aiken; Sara Britcliffe; Angela Crawley; Alex Davies-Jones; Peter Gibson; Kim Johnson; Kate Osborne; Bell Ribeiro-Addy; Nicola Richards.

Questions 118–204

Witnesses

I: David Isaac CBE, Chair, Equality and Human Rights Commission, and Melanie Field OBE, Executive Director, Policy, Strategy and Wales, Equality and Human Rights Commission.

Written evidence from witnesses:

- [Equality and Human Rights Commission](#)



Examination of witnesses

Witnesses: David Isaac and Melanie Field.

Q118 **Chair:** May I thank David Isaac and Melanie Field for coming to give evidence today and talk about the EHRC's views on the unequal impact of coronavirus? I want to start by talking about the important role that the EHRC could play in this. We heard from Melanie on 18 March that you had not been asked to provide any input to Government. Have you subsequently been asked for your input? If not, what advice would you have given?

David Isaac: I will answer that question if I may. When Melanie first gave advice at your last meeting, it was correct, and it continues to be correct, that we have not had a response to the letter that I wrote to the Prime Minister at the beginning of March—the beginning of lockdown. Having said that, we have dealt with lots of officials in different Departments, and with other arm's length bodies.

The answer to your question is that we would welcome more engagement with Ministers. We have direct requests out to the Secretary of State, who is also Minister for Women and Equalities, Liz Truss. I have met with her on a number of occasions in the past. Given the complexity of the issues, we believe that the Government has an important role, which we can assist with. The sooner we can engage in more detail, particularly in relation to building back better as we ease lockdown, the better. Our view is that the Equality Act and, in particular, the public sector equality duty, provide a really important framework.

What we are seeing as part of the covid pandemic is that some of the underlying inequalities that we identified prior to covid have become more acute. We would like to work with the Government to address those acute issues and plan for the future. Direct engagement with more senior Government colleagues would be very helpful. They have a really important role in setting strategy, and clearly in relation to legislation. They also have an overseeing role in relation to local authorities.

Q119 **Chair:** You have reached out to the Minister for Women and Equalities, but I am conscious that there are equalities issues across a variety of Government Departments. I can think immediately of the Home Office, the Department for Work and Pensions and the Department of Health and Social Care. Have you made any direct contact with the Secretaries of State in those Departments?

David Isaac: We have, yes. We understand that everyone is really busy prioritising saving lives, but we have not actually managed to get a meeting. So, for example, in relation to education, we have written to the Secretary of State and we have had various discussions with officials, but have not managed to engage so either Melanie and I, or our chief exec, can actually meet directly. If you could assist us so that we could move beyond meeting with officials—to be clear, that has been a very positive experience; we are all rowing in the same direction—to be involved in some of the strategic resolution of both short-term and long-term issues

by engaging with Secretaries of State and Ministers more generally would be very helpful.

Q120 Chair: Is it your sense through your engagement with officials that there has been buy-in at a political level to the equalities concerns that this Committee and, indeed, other Select Committees have been investigating?

David Isaac: My reply would be that it is, at best, patchy. If I am frank, my concern is that sometimes equality issues seem to be on the agenda, but not towards the top of it. That comes back to the point I was making in relation to the Government's need in a crisis situation like this to save lives. We fully understand that, but we believe that in relation to many of the concerns raised by our stakeholders, many of the individuals who approach us, and the cases that people ask us to get involved in, it would be helpful to have a coherent strategy across the whole of Government.

In short, I am in agreement with you. It would be very helpful. We have asked for that in the past. I think there is agreement in principle, but anything that you could do to assist us to actually have that joined-up conversation would be helpful. To give another example, in relation to issues in relation to race and ethnicity, we have called for a joined-up approach to race strategy across the whole of Government, but in terms of the detailed breakdown of that, particularly in the covid situation, that has sadly not happened yet.

Q121 Chair: What more do you think the EHRC could be doing proactively to make sure that there is a joined-up voice across Government on this?

David Isaac: The answer is a mixture of carrot and stick. We think that the carrot would enable the Government to come up with a more robust approach that would address the concerns of many people, particularly in areas that are more directly impacted by the virus, but also by socioeconomic issues more generally, which clearly is a concern for the Government and was part of its mandate when it was elected last year.

The other part, which is the stick, is that, as I said right at the start, the Equality Act provides a useful framework, and the public sector equality duty in particular is something that we would be really keen for the Government, individual Departments and local authorities to use as a way forward. The template exists. What we do not want to do is to be issuing investigations in relation to why the public sector equality duty was not used as much or as effectively as it might have been; we would like to do that much more through dialogue.

I have always said that, as a muscular regulator, we could and should use our enforcement powers if we have to. Right now, however, our inclination is to work constructively with the Government and local authorities to ensure that lives are saved, and to do what we are required to do, which is to draw concerns in relation to equality and human rights issues to their attention.

Q122 Chair: Do you have any concerns that the public sector equality duty and the duty to consider it has become something of a box-ticking exercise?



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David Isaac: Yes. I think the answer is that we at the commission would like that to have more teeth. We think it is an effective framework, but sadly we do not think that there is enough engagement, understanding or fear about the consequences of not using it. I would certainly like us to be in dialogue more, and also to demonstrate that the public sector equality duty is to be taken seriously and is a powerful tool to deal with the issues that we are all concerned about—not just saving lives but actually building back better to address these inequality issues that are particularly acute at the moment.

Q123 Chair: Do you think that simply having more dialogue would show the public sector equality duty as having more teeth, or have you put forward to the Government any specific proposals as to how that duty could have more teeth?

David Isaac: Dialogue, in our experience, at a time like this is a good place to start. In answer to your question about whether we have put concrete examples forward to individual Departments, yes, we have. We have been doing it in relation to our discussions with partners—for example, arm's length bodies in relation to education. I was going to refer to this later, but yesterday I met the chair of Ofqual, in relation to our concerns about some of the potential inequalities arising from predictive grades. I was able to tell colleagues at Ofqual that the public sector equality duty is a very effective tool to enable them to take those equality considerations into account when they make a decision about how the detail of predictive marking is going to operate, so that people are not disadvantaged if they come from groups of protected characteristic communities.

Q124 Chair: Can I just move on to ask you a little bit about the equality impact assessment? We heard from the Secretary of State that she regarded that as an internal document and that she certainly did not want to publish it when she appeared before the Committee, and she has subsequently continued to hold that position in writing. Why is it important that it should be published? How can you assist in putting pressure on the Government to publish it?

David Isaac: Like you, we have also encouraged the Secretary of State to share that equality impact assessment. It is important, because even though the Secretary of State does not have a legal obligation to share that with us, they do have a legal obligation to show their workings and that they have discharged the public sector equality duty, and that they have taken various factors into account to mitigate the adverse consequences of inequality.

It is a good tool, but most importantly, the reason that it would be helpful to see it is that we can then engage more constructively with their approach, there is greater transparency and, dare I say it, parliamentarians can then engage alongside us to determine whether we are satisfied that all reasonable steps are being taken to drive improved equality as part of the response to covid.



Q125 Chair: It has been really obvious over the course of the last couple of months that there are challenges around the unequal impact of covid that perhaps could not have been predicted at the start but are now certainly very apparent. I particularly highlight the unequal impact on people from black, Asian and minority ethnic communities. Do you think that the equality impact assessment, which we have not yet seen, is a static, set-in-time document, or should it continually evolve? Is there a case for there to be a refresh on it at set periods of time?

David Isaac: It is a tool, and I therefore think it should be organic, and it should be reviewed on a regular basis. I would like to do two things. First, to make sure that, in terms of the legal obligations, they were more effective. I did not pick this up in relation to my last answer, but we do not ideally want to waste the time of local authorities and the Government and the resource of the commission bringing enforcement proceedings in relation to a failure to use the public sector equality duty. It should be dynamic. It can be very effective, and it allows for transparency and discussion and the ratcheting up of expectations—we accept that that needs to be incremental—to address the very concerns that your Committee and we at the commission share.

Q126 Chair: So do you think it should be redone?

David Isaac: I would like it to be used in its existing form, so that more organisations take it more seriously. I am always worried about increased bureaucracy, but if we could have more powers, so that it was taken more seriously and it had more teeth, then I would welcome that, too.

Q127 Bell Ribeiro-Addy: Following on from that, I just wanted to ask this: do you think that it is right that the Government are not made to publish an equality impact assessment, given that it is their duty to produce it, and are there no ways that the EHRC can compel them to do so?

David Isaac: Can I hand over to Melanie in relation to that, because she has just been in touch with me to say she is quite keen to answer something I said earlier on? So, Melanie could respond to that first and then I can pick up later, as appropriate.

Melanie Field: Sorry, I wanted to come back to one point of clarification. Earlier, David said that we had not met any Ministers in relation to this, and I just wanted to let you know that I actually had a meeting with Victoria Prentis of DEFRA last week, regarding some concerns that we had raised about disabled people's access to food. So I just wanted to make that clarification.

In response to the questions about the public sector equality duty, I think I talked a little bit last week about our proposals to strengthen the public sector equality duty. We would like to see it being used in a more strategic way, and we have developed proposals and we have been working with a range of Government and non-Government stakeholders to develop those proposals. So I just wanted to flag that.

I think the importance of the equality impact assessment is that it gives transparency about the possible impacts and enables people, as David said, to engage on what potential mitigations there might be. I think that links also to our calls for the two-monthly reports to Parliament on the use of the emergency legislation, the first one being due next Monday, I believe. We have been calling for those to include an assessment of how those measures have impacted on people with different protected characteristics. So it is really about having transparency and enabling there to be constructive challenge and the development of measures to try to mitigate some of the impacts that are emerging over time, as we are going through this process.

Q128 Bell Ribeiro-Addy: Just to follow up again, my worry is that if it is not transparent, as it seems in this case, then all of those other aspects that you have mentioned kind of fall away, in terms of what we are able to see and what we are able to do. Generally, I have always thought of the EHRC as the police of the Equality Act. Is there nothing that can be done to compel certain things to come forward? I know that obviously you can ask for the two-month review, but in terms of its being published is there nothing that can be done?

Melanie Field: The position on the public sector equality duty in England is that there is no specific duty in the secondary legislation to support the public sector equality duty, or for equality impact assessments to be written or published. The position is different in both Wales and Scotland. And what we have been doing is looking at how the public sector equality duty can be strengthened in a way that does not just lead to a process that, as the Chair was saying, that is a tick-box approach, but actually to meaningful consideration about how public functions can be used to improve equality—not just to mitigate against negative impacts but actually to improve the position of groups that have been historically disadvantaged.

Q129 Chair: Specifically on that point, would there be the possibility of legal action in Scotland and Wales but not in England to compel them to publish it? If so, would the commission consider that?

Melanie Field: The Scottish and Welsh public sector equality duties apply to Scottish and Welsh public authorities. They do not apply to the UK Government.

Q130 Chair: So there is no legal avenue you could pursue to oblige them to publish.

Melanie Field: As David explained, what we can do is challenge compliance with the substantive duty. They need to be able to show, if challenged legally, that they have had due regard to the three limbs of the public sector equality duty. They would need to produce evidence that they had considered the equality impacts. Publishing an equality impact assessment is a very easy way of doing that. Of course, some equality impact assessments do not actually show that there has been proper consideration, but that would certainly be a start. The failure to publish would not prevent us, if we chose to do that, from bringing a challenge or



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doing an assessment to examine the extent to which there was that consideration.

Q131 **Chair:** Are you considering that?

Melanie Field: We are considering a whole range of issues, yes. Obviously, the duty falls on specific Departments rather than Government as a whole. We are looking at where we can get that information to give ourselves assurance that the duty has been complied with.

Q132 **Chair:** If it falls on specific Departments, are you considering action against, for example, the Government Equalities Office?

Melanie Field: We see the Government Equalities Office as having an important leadership role in terms of ensuring that Government as a whole gives proper consideration to equality issues.

Chair: Thank you. Sorry, Bell, back to you.

Q133 **Bell Ribeiro-Addy:** You will be aware of the Office for National Statistics review that found that black people are four times more likely to die from covid-19 than white people. Even after they take into account age, health, disability and other socio-demographic characteristics, BAME people are still up to 2.5 times more likely to die from a covid-19-related death. Along with other issues relating to those with protected characteristics, this has led to Public Health England's review into health outcomes. I understand from what you said earlier, David, that you have not been asked directly by the Government to be involved in any particular review, but has the EHRC been asked in any way to feed into Public Health England's review into this matter, and what would you want to feed into that review?

David Isaac: I am going to ask Melanie to answer this, because we have been asked and Melanie is actively involved.

Melanie Field: We contacted both NHS England and Public Health England when we heard about the review. We asked to engage with it to offer our expertise in terms of our understanding of the systemic issues potentially underlying some of these emerging bits of evidence, and also to assist with any stakeholder engagement. I attended the first stakeholder roundtable that Professor Fenton held. Following that, we had a separate meeting with the team to feed in our views. We have already submitted some comments on the methodology, and this week we will submit our own analysis of other pieces of relevant work that is going on and also some policy recommendations. Our general approach is that we welcome this review, but it is very limited in scope. It is obviously being done rapidly, and it has a very specific focus. It will not answer all the questions that we believe need to be answered about the multiple factors that could be contributing to the sorts of figures that we are seeing.

Q134 **Bell Ribeiro-Addy:** On that basis, you will have seen that a lot of prominent people in the BAME community and other MPs called for a public inquiry. Do you think that is a more appropriate way to deal with these disparities? Obviously, we do need some answers now, but given the



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amount that you are saying is involved, do you think that would be more appropriate?

Melanie Field: On the precise mechanism, there are various ways that it could be done, but what is definitely needed is a comprehensive and joined-up approach that looks at all the potential contributing factors, draws together all the research and anecdotal evidence emerging, and seeks to draw some well-founded conclusions, which would enable us to develop proper responses that would be effective. I think there are various ways in which that can be done.

The race disparity unit in Government have an important role to play here, and we have been seeking to engage with them on that. We have also been doing our own mapping of what we know about the research going on and looking to see if there are gaps that can be filled. But what is needed is a really comprehensive and joined-up approach, and then, coming out of that, a really comprehensive and joined-up cross-Government strategy to address the factors that are contributing to these disparities.

David Isaac: Bell, I am keen to say that, obviously, we share your real concern and the concern of the BAME community and their allies about the severity of the impacts of the virus on the BAME community, as well as other communities. We understand the real anxieties that exist and, building upon what Melanie was saying, we are really keen to play our part.

This is a wake-up moment in relation to the severity of the issues affecting BAME communities, and we do need a coherent way forward. Covid presents an opportunity—as well as a disaster—and we want to play our part along with our partners and parliamentarians in delivering that.

Q135 Bell Ribeiro-Addy: Thank you. You will have seen that the Government have taken the time—rightly so—to shield people with protected characteristics. We know that people with diabetes are 3.5 times more likely to die from covid-19, and they are being shielded, as that would come under a disability. With BAME people being up to four times more likely—and 2.5 times more likely once underlying health conditions are removed—should the Government be looking towards more shielding measures for them, putting them on parity with some others who are being protected from the coronavirus?

Melanie Field: The problem is that it is too early to say what the factors are. We know that comorbidities may be a factor, as may be socioeconomic issues, housing conditions and the places where BAME people are disproportionately employed. So there is a whole range of issues around exposure and susceptibility that we really need to unpack. There would be concerns about applying blanket measures that restrict the freedoms of a sector of the community without those being properly evidence based. That is why we need that better evidence base.

We published a report back in 2017 called “A road map to race equality”, where we called for a joined-up race equality strategy. That called for



action in five areas: health, education, employment, housing and criminal justice. Those are all factors that we think may be contributing to what we are seeing at the moment, so these are long-standing issues that are being thrown into sharp relief by this current crisis.

Q136 Bell Ribeiro-Addy: Do we think that that may be an issue in itself? We have touched on data today—getting the appropriate amount of data—and there seems to be enough evidence, as you are saying, about people with underlying health conditions to warrant them needing some sort of shielding in this case. When it comes to not looking at certain measures for BAME people, do you think that the issue might be that a sufficient amount of data has not been collected, and that if the data had been collected in line with what we expect under equalities provision, we may have had a clearer answer by now about what we should do?

Melanie Field: I think if we had better data—we certainly need better data—we would know more than we know now. I just think we need to be slightly cautious about the extent to which what we are seeing is due to increased levels of exposure to the virus; hopefully, the Public Health England review will shed some light on that. We are relying on the BAME community to drive our buses, serve us in supermarkets and provide our health and care services. These are all areas where ethnic minority communities are over-represented in the workforce and are facing increased exposure to the virus.

Then there are the increased levels of comorbidities that we know about, diabetes being one example, which means that black and minority ethnic people who get the virus may be more susceptible to experiencing it worse, and, therefore, experiencing higher mortality rates. However, I am not clear that we have the evidence yet to say that that means those communities should be subject in any way to more restrictions than other members of the community.

Q137 Bell Ribeiro-Addy: You touched on members of the BAME community doing certain jobs, in relation to their being more exposed. Do you think that, as part of the review, we should be looking at what has happened with personal protective equipment in relation to why that may have happened, and that, in fact, that should factor quite heavily into any review or inquiry?

Melanie Field: As I understand it, the bit of the review that is being done by NHS England will be looking at the impacts on NHS staff, so, hopefully, that will shed some light. Certainly, there is lots of media coverage, and we are getting lots of information from stakeholders about their concerns, firstly about the availability of PPE at all, and secondly about the suitability of PPE, particularly for women. There have also been some concerns from some ethnic minority staff about whether PPE fits people properly—whether it was designed to fit a range of body shapes and face shapes—so that is clearly an issue. Of course, we also know about the issues around PPE in care homes, where, again, BAME people are working in disproportionate numbers.

Q138 Bell Ribeiro-Addy: Finally, you pointed to a lack of consistent guidance and the absence of a national policy framework about who gets what type of treatment. Is it possible that the disproportionate deaths from covid-19 in the BAME community highlight inequalities in treatments when people become critically ill from the virus? Do you think the Government are doing enough in that regard, given what the Minister for Women and Equalities said? She was quite clear that the Government are doing enough to get out the message that there should not be discrimination, but without a policy framework, do you think it is possible to ensure that there is no discrimination? If we were to put one in place, who should have oversight of it?

Melanie Field: There is NICE guidance on access to treatment. There were some early concerns about that NICE guidance. I think that is representative of the whole crisis: Government and other public authorities have had to respond incredibly quickly to unprecedented circumstances. NICE developed some guidance on the assumption that the NHS could be overwhelmed and there could be a need to ration access to treatment and equipment. There were some early concerns about that guidance, particularly in relation to how it dealt with disabled people and whether disabled people with non-pertinent disabilities or long-term conditions might be disadvantaged by that. I am not aware of any particular issues related to concerns about how the guidance would apply to BME people. But those concerns were addressed quite rapidly by NICE.

The BMA also produced some ethical guidance, which raised similar concerns. We wrote to the BMA about that, and they very quickly amended their guidance and addressed those concerns.

Given that the circumstances did not come to pass, in that the NHS has in fact coped incredibly well with the pressures that it has been facing and has not been put in the position of having to make those choices, we feel at the moment that the guidance that is there is sufficient.

Bell Ribeiro-Addy: Thank you very much.

Q139 Kim Johnson: Hello, David and Melanie. The social care sector, as we know, is very large, very diverse and very fragmented and has been under-resourced in the last 10 years. The Government have said that the easing of local authority duties was intended to help local authorities to prioritise those most in need. Can you tell us, from your discussions with stakeholders, what has actually been happening on the ground, particularly within care homes and within care settings in the community, because social care is not just about care homes?

David Isaac: Thank you for the question. I am going to answer this, and I'll start by saying I completely agree with the point you ended on, which is that social care is not just about care homes. We have been hugely concerned about the release of people from hospital without testing and, obviously, the large number of deaths in care homes.

But going back to your main question, we have had concerns for some time about the adequacy of social care provision for people with protected



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characteristics. This really comes back to one of my opening comments, which is that covid has obviously shone a light on some of the existing inequalities in relation to how people from particular communities are impacted. In relation to older people and disabled people, in particular, we have been looking at this and doing a lot of work, particularly with disabled people's organisations.

To answer your question about what stakeholders are telling us, they are telling us that there is huge anxiety about lack of provision. They are telling us that, on the ground, they are seeing that easements have a real impact on their ability to get support, to get personal assistance and to contribute in a way in which they would otherwise wish to contribute.

We understand why local authorities, in particular, are constrained, but, going back to my earlier point about the role of Government, the Government, we would urge, should ring-fence sufficient funds for people who are, in particular, old and vulnerable or for—another category that I am hugely supportive of working with—children with special educational needs and disabilities. These communities are already struggling, and covid has seen their support particularly worsened.

Ring-fencing money, overseeing the provision and a commitment to that continuation is absolutely vital to protect these people, who don't like to be called vulnerable, for very important reasons, but who are valid recipients of our support and the money that we, as a state, contribute to look after everybody.

Q140 Kim Johnson: Thanks, David. You mentioned funding. The Government have committed extra funding to local authorities. You have had some criticism from some authorities, in that the money has not been sufficient and the last tranche of funding that some authorities received, particularly mine in Liverpool, was not enough to meet the needs that we are actually dealing with. Do you think the money is enough and is the funding getting to where it should be?

David Isaac: I cannot comment on the adequacy of the funds, as you will understand. Clearly, my desire to protect people with protected characteristics is to ensure that they have adequate provision. Listening to what you are saying, I return to my earlier point about ensuring there are adequate funds. We know that local authorities have to make difficult decisions, but they should not be made at the expense of people with disabilities, older people and children or students with special educational needs and disabilities.

Q141 Kim Johnson: David, you just mentioned the easements that have been allowed as a result of the Coronavirus Act. What kind of information do we need from local authorities to ensure these powers aren't being used in a way that amounts to discrimination? What is the role of local authorities in scrutinising that?

David Isaac: I would say that easements should only be used if they are absolutely essential. I urge them to use the public sector equality duty approach that we have talked about in this meeting to determine whether



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equality considerations are being factored into their thinking, either in relation to the prioritisation of funds or, equally, in relation to how easements will be implemented.

We understand that when people are dying, Government and local authorities must try to be as agile as they can to protect lives. We hear from people who talk to us, through various organisations that we work in partnership with, that that is having a detrimental effect on their day-to-day provision of funding and support and their ability to live.

Q142 Kim Johnson: Do you have any idea of the number of local authorities that are using these powers across the country at the moment?

David Isaac: I do not know the total number at the moment, but we know that in the midlands seven local authorities were seeking to use easements. Melanie, do you have any more up-to-date information than that?

Melanie Field: In the briefing that our colleagues provided, at the point of writing, there were seven: Derbyshire, Coventry, Birmingham, Solihull, Warwickshire, Staffordshire and Sunderland. Middlesbrough triggered the easements in April but has since withdrawn them.

Q143 Kim Johnson: Related to that, do you have any idea whether the reduction of those easements has had a significant impact on any particular protected characteristic in any of those local authorities?

David Isaac: We do not know currently what is happening in those local authorities. We do know about the generic anxiety and reporting of deterioration in support and personal assistance provision, which I talked about.

In relation to social care, we have enforcement powers. I've talked about how we are keen to be in dialogue and to be constructive, but because of the real anxiety, particularly in the SEND community and in the disabled community, this is an area that we will be looking at very carefully.

Melanie Field: Can I come back in on the end of that, because I think this goes back to the earlier conversation about transparency? Obviously, when the reporting is done on Monday on the use of the emergency legislation, that's exactly the sort of information that we would like to see, so that we can see what the impact of this has been on the ground.

Q144 Kim Johnson: There has been some criticism from some groups in terms of underlying health conditions and people being denied treatment and families being asked to sign DNRs. What are you doing to ensure that these particular people with care needs remain visible during this crisis?

David Isaac: Melanie, do you want to answer that, given your involvement with the BMA?

Melanie Field: Yes. We have seen some quite worrying examples of letters that have gone out to people in care homes and people with learning disabilities about what they might expect in terms of treatment



should they contract the virus, and we have been alerted to instances of people feeling pressured to sign “Do not attempt resuscitation” notices, and people with learning disabilities perhaps being asked to do that without appropriate support. We have been working very closely with the CQC and referring those concerns to them. They are the appropriate regulator for that, and they have been taking that very seriously, and I understand are taking action to ensure that that kind of approach doesn’t occur. I think everyone is very clear that it shouldn’t be happening.

Q145 Kim Johnson: It has also been suggested that unconscious bias has played a role, in terms of the disproportion in black people being affected by the coronavirus. Do you have an opinion on that?

David Isaac: Melanie, I’ve got a view, but do you want to continue?

Melanie Field: Sorry, I am not sure—in what respect?

Kim Johnson: Well, in terms of—as black people and not getting equal access to treatment. It has been suggested that this has been a contributory factor in terms of the increasing number of deaths within this particular group.

Melanie Field: I would hope that that is something that will be picked up in the Public Health England review; but, David, you wanted to come in.

David Isaac: I was going to make a wider point about unconscious bias, because I think, in relation to many of the issues that we are hearing about and are seeing in the context of covid, unconscious bias does actually play a role, so as a commission we really appreciate the significance that conscious and unconscious bias actually have in contributing towards unequal treatment; and this is particularly the case in relation to education. The whole area of unconscious bias training and its impact is something I raised with Ofqual yesterday.

Kim Johnson: Thanks very much, David and Melanie. Those are all my questions.

Q146 Chair: Thank you very much, Kim. Can I just pick up on something David said about how he didn’t feel able to comment on the adequacy of funding? Is that through a lack of information on your part or some other reason?

David Isaac: A lack of information, because what I was able to comment on was that in relation to social care, there should be adequate provision. What the quantum of that might be, I am not entirely sure, but my concern to ensure that there is no discrimination is that older, disabled or other groups with protected characteristics should be adequately provided for to live their lives to their full potential.

Q147 Chair: When it comes to unconscious bias, does the commission have any concerns with regard to the development of things like track and tracing apps, where we know that the vast majority of all apps are designed by white men in their early 20s—that there might be any challenge around



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unconscious bias within those apps?

David Isaac: We do have concerns about that. We talk about those sorts of issues a lot. We talk about how unconscious bias training is important, but not a universal panacea. Awareness of that kind of bias is a good starting point, but actually some of our research has demonstrated that it can be counterproductive too.

Transparency, which is a theme that is coming through this afternoon, is really important, and awareness is really important, and making people understand what those issues are. Often my biggest concern is that it should not result in paralysis. That would be my concern about overplaying unconscious bias in the development of a tracing app. We need that as soon as possible.

Q148 **Alex Davies-Jones:** Thank you, Melanie and David, for giving evidence to us today. You have told us that pregnancy and maternity discrimination in the workplace during the pandemic is a major equality concern. What types of discrimination with regard to pregnancy and maternity are you aware of?

David Isaac: Melanie is going to answer that question, please.

Melanie Field: We have done some quite rapid engagement with stakeholders, gathering information that comes in through the Equality Advisory and Support Service, and also talking to employers, just to try to understand what issues really started to arrive in the workplace at the beginning of the lockdown.

Concerns about pregnant workers and mothers in the workplace were a theme that came through quite strongly, through confusion about employers' obligations and workers' rights, particularly in relation to decisions being made about furloughing and decisions being made to put pregnant workers on sick leave rather than on furlough, and concerns about the inability or inadequacy of health and safety risk assessments for pregnant workers who were working either in more risky situations or at home.

Again, where an employer is unable to redeploy a pregnant worker to somewhere where they are safe to work, they should be suspended on full pay rather than asked to take sick leave or put on furlough. There is a clutch of issues around that—some through lack of understanding and unfortunately some potentially just discriminatory decisions.

Q149 **Alex Davies-Jones:** How prevalent are each of these forms of discrimination, and how much have they increased as a result of the pandemic?

Melanie Field: We did a piece of work some time ago that suggested that pregnancy discrimination was quite prevalent. I am just trying to find the relevant figures, but certainly a number of women were made redundant while on maternity leave. That was a particular issue that came out of that. We did a joint piece of work with the Department for Business, Energy and Industrial Strategy that gave us some information about that.



We would very much like to see that kind of study repeated, so that we can get a better understanding of what is actually going on in the current situation.

Q150 Alex Davies-Jones: Is there a specific sector in which this is more prevalent than in others?

Melanie Field: I don't think we have that data, but there are sectors where younger women tend to work—for example, in the hospitality sector and in health and care. I guess we would expect to see those issues arising more in those sectors. We do not really have the data at the moment.

Q151 Alex Davies-Jones: That leads on to my next question. Are you collecting the data on pregnancy and maternity discrimination during the pandemic, or is it not available?

Melanie Field: We are gathering what information is coming in, but short of doing a universal survey, it is difficult to know. You would need quite a sizeable survey to get a real picture; we are relying on evidence of the issues that are brought to our attention. We would like to see a broader study and we think that that is something that the Government should be doing routinely.

Q152 Alex Davies-Jones: What steps is the Equality and Human Rights Commission taking with regards to some of that discrimination? Do you plan to carry out any enforcement action or support any legal cases that result from it, for example?

Melanie Field: We wrote to all our stakeholders, particularly our legal stakeholders and advice agencies—again, this was at the beginning of the pandemic—to seek information about what was going on and to ask them to let us know about relevant cases. Although at the moment I am not aware of any that have come in that we are considering supporting, in the meantime, we have quite rapidly produced some guidance for employers to remind them of their obligations to pregnant workers and new mothers. We issued that quite quickly, working in conjunction with a lot of business organisations to get it out. This afternoon, colleagues of mine are at a meeting with all the British Chambers of Commerce branches, as part of our dissemination of that guidance. We have been doing a lot of work with employer organisations, and that guidance was really warmly welcomed by the business sector.

Q153 Alex Davies-Jones: Do you foresee a bigger risk of more employment discrimination of all kinds as the furlough and self-employment schemes are phased out? What do you think should to be done to mitigate that?

Melanie Field: As well as the guidance I just mentioned, we produced some other guidance about making reasonable adjustments for disabled workers and about avoiding discriminatory decision making generally. The fact is that employers are having to make quite difficult decisions—everybody is at the moment. As David said earlier, it is important that people have equality considerations at the front of their minds and think about their obligations. In times of pressure, I think that the risk of



discrimination—whether intentional or unintentional—is always heightened, and we need to be hyper-alert to it. Reminding people of that is part of our role, but it is also part of the Government's. I think it really important to mention our concern that, in the guidance about returning to work that the Government are developing, equality considerations have not been sufficiently brought out. We raised that with the Department and have meetings coming up with officials about it; it is something for which we would really like to see an improved approach.

Q154 Alex Davies-Jones: Thank you, Melanie. You have warned that pregnant women and those on maternity leave face a greater risk of redundancy in a recession, and you recommend that the Government urgently extend redundancy protections. Can you explain briefly how you would like the current protections to be strengthened?

Melanie Field: The Government have already committed to extending the redundancy protection that is available to pregnant workers, which is currently for three months. They have said that they will extend it to six months, and we would like that to happen now.

We are also concerned about people's ability, when they are discriminated against, to bring employment tribunal claims of discrimination during this period. We are also calling on the Government to extend the time limit for all types of discrimination claim: pregnancy and maternity discrimination, sexual harassment, disability discrimination and race discrimination. We would like the time limit to be extended to six months; at the moment it is three months, which we do not think adequate, given the difficulties that people will face in accessing advice.

Q155 Alex Davies-Jones: How are you pushing for that to be carried out? Do you think there should be legislation for pregnancy and maternity protections, for example?

Melanie Field: I believe that there will be a need for a legislative change to the redundancy protection, and also to extend the time limit. There is some support guidance that encourages discretion to be exercised, in terms of increasing time limits, but we would like to see that put on a statutory footing. We would like the Government to be looking for an opportunity in a piece of legislation to insert that provision.

Q156 Alex Davies-Jones: You have been pushing the Government, but what type of response have you had, in terms of their willingness to co-operate with you on this?

Melanie Field: We have not had any kind of formal response to that. It was one of the recommendations that we included in our evidence to you, which has been published today. We have also written to the Business Secretary and the Minister for Women and Equalities.

Q157 Alex Davies-Jones: And you have had no response thus far?

Melanie Field: Not yet.

Q158 Alex Davies-Jones: I have heard from a constituent of mine who owns a



small business. They had an employee who went on maternity leave in July last year, and then after an annual review, during maternity leave was given a pay rise in September last year. The company has now had to furlough that member of staff. Her pay rise has not been included in the Government's furlough calculations, since if the person was not at work in February this year due to maternity leave, the furlough pay is calculated from February last year—before her pay rise. Would you argue that that breaches the Equality Act, because if it were a male, they would not be financially disadvantaged in that way?

Melanie Field: Our general position is that the furlough scheme and the support scheme for self-employed people need to take account of the fact that people go on maternity and parental leave, and that they shouldn't be disadvantaged because of that. I am not able to say at this moment whether I think that is a breach of the Equality Act, but it is certainly something that we can look at.

Q159 **Alex Davies-Jones:** Are you working with frontline advice services like Maternity Action, Working Families and Pregnant Then Screwed, who have all voiced their concerns quite loudly to the Committee, the media and anyone who will listen about the volume of calls they are receiving about pregnancy and maternity discrimination at the moment?

Melanie Field: They are within the stakeholders we regularly engage with, so that information is coming through to us from them, and obviously we agree with many of the positions that they have been pushing.

Q160 **Peter Gibson:** Just a small follow-up on the questions that Alex raised with you. Is it possible for a business to legally and legitimately make a pregnant woman on maternity leave redundant without it being deemed discriminatory?

Melanie Field: I think I would need to come back to you with the help of one of our lawyers to answer that question definitively.

Q161 **Peter Gibson:** So the implication is that it is automatically discriminatory?

David Isaac: I do not think it is automatically discriminatory, but we would have to check.

Q162 **Peter Gibson:** There is an issue here, in terms of exploring that discrimination, which needs to be rightly checked, balanced and tackled, against the fear of an employee being treated for redundancy in an absolutely fair, transparent and open way, just as if they were at work and were not on maternity leave. There is need for some clarity around that messaging for our business community, so that if they are running a redundancy process—the likelihood of there being redundancy processes in the months ahead is increasingly high—there is clarity that they can proceed in the normal course of dealing with the challenges caused by the pandemic and the downturn in their businesses without fearing challenges in employment tribunals for discrimination.



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Melanie Field: I take the point. I am pretty sure that the guidance we produced covers it, but I am afraid that I haven't got that level of detail at my fingertips. We can certainly write to you and clarify that point.

Q163 **Peter Gibson:** It might be something that requires some publicity at this time to bring it to people's attention.

David Isaac: In our guidance, we are very closely in dialogue with the business community. They are important stakeholders of ours. That kind of clarity and their ability to continue to run their businesses and balance that ability with protecting equality rights is something we are very mindful of.

Q164 **Chair:** May I just follow something up with Melanie? You referenced returning to work and the Government's approach to that. I think you used the phrase that it needed an improved approach. Have you given any consideration to, or expressed a view on, which industries and sectors of the economy are returning? For example—everyone believes me to be obsessed with this—the fact that the hair and beauty sector, which employs 83% women in hairdressing and 94% in the beauty industry, looks to be one of the last sectors that is going back, yet construction was very early. I wondered whether you had any concerns about the ease with which women would be able to return to work given the phasing that is going to have to go on.

Melanie Field: I probably share your concern and obsession with the hair and beauty sector. It is something that I hope we will have dialogue with the Department about, in terms of the segmentation of the approach and the differential impacts of that on different protected characteristic groups. Those discussions are ongoing at the moment, so we will certainly be looking at that.

Q165 **Angela Crawley:** Hello to David and Melanie. Can I just cover one point briefly? You will be aware that there is a judicial review application in place by the Child Poverty Action Group regarding maternity pay. The understanding is that maternity allowance is treated as unearned income by the Department for Work and Pensions. Could you comment on what the EHRC is doing on this issue, if anything?

David Isaac: Melanie, can I ask you to respond?

Melanie Field: I confess I wasn't aware of that. Thank you for drawing it to our attention and I will go away and see what we can find out.

Q166 **Angela Crawley:** Okay, thank you for that.

Coming on to income, some of your key recommendations for protecting people's incomes during the pandemic have been specifically on offering the same financial support to gig economy workers as furloughed employees, removing lower income thresholds for statutory sick pay and the furlough scheme, and more than tripling the rate of statutory sick pay to over £300 per week. Why do you think these are the best measures to ensure the interests of equality?



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David Isaac: I'll start off the with areas that I feel able to talk about in relation to universal credit and sick pay. Obviously, we are very concerned about non-discrimination in those areas. What we are worried about from an equality point of view is adequacy of income, to allow people to continue to live independently, particularly if they are disabled. Equally, even though various easements have been introduced, the conditionality in relation to some of the provisions means that there are large numbers of people, particularly if they are disabled, who are not eligible, or feel deterred from actually applying, particularly for benefits. You probably know we have seen a reduction in the number of disabled people applying for benefits during the lockdown. That might be for a variety of reasons.

We would say that equality considerations underpin our responses to this whole area in relation to social security. It comes back to many of the themes that we have been talking about—enabling people to receive adequate income if through no fault of their own they are unable to generate income independently.

Q167 **Angela Crawley:** Thank you, David. Specifically, which groups of people with protected characteristics would most benefit from some of the recommendations you just outlined? I am thinking specifically of black, Asian and minority ethnic women, who are particularly impacted by this pandemic. Could you comment on any specific recommendations that you have put forward to protect that group?

David Isaac: Melanie, may I hand over to you in relation to the BME side? I clearly flagged our concern about disabled people, and that continues to be a major theme of our work and our stakeholder engagement, but on black and minority ethnic employment issues, I hand over to Melanie.

Melanie Field: You are welcome to, but I am afraid I couldn't really hear the question very well. Sorry; you were breaking up a little bit. Is it possible for you to repeat that?

Q168 **Angela Crawley:** My question was specifically on what recommendations have been made to protect black, Asian and minority women, who are particularly impacted by the covid pandemic.

Melanie Field: I think that this relates to the earlier questions from Bell about the extent to which particular protections need to be put in place. We are concerned about the suitability and availability of PPE, and we are concerned about the prevalence of black and minority ethnic workers in public-facing frontline roles, and what that means for their exposure. There is a whole range of issues there that I think need to be looked at properly and understood properly. Employers need to look at an individually based risk-based approach when thinking about the risks that their workers face, given those multiple factors that can come together to increase the risk.

Q169 **Angela Crawley:** David, you mentioned your concerns regarding universal credit. You told us that your key concern about the benefits system is the five-week wait between the first universal credit claim and the first payment. You want the Government to take "all reasonable steps"



to reduce it, but what do you actually mean by “all reasonable steps”? If five weeks is too long, but universal credit cannot deliver first payments quicker, is there a different solution that you consider essential and that you would recommend?

David Isaac: It is a killer question, because obviously the law fudges this issue about what those reasonable steps actually are in practice. Sometimes, what is reasonable is so subjective that it is very difficult to come up with an objective standard, as you will appreciate. My answer really goes back to the whole question of conditionality, which I referred to a second ago. The presumption should be—this is particularly the case during covid—that we need to protect our people and that we need to ensure that they have adequate income and provision. On that basis, we hope to set up a social security system that will work for everybody, particularly at a time of a pandemic. Creating thresholds and conditions that actually make large numbers of people ineligible is a real bar to many people who have protected characteristics. That is the area of our concern.

Q170 Angela Crawley: Would you support changing the emergency advance scheme to an emergency grant, which claimants would not need to pay back if they could show that they needed it to cover essentials? Similarly, would you consider an alternative scheme entirely, as you just outlined—potentially a universal basic income—to support those who are most vulnerable and in need in a sustained way?

David Isaac: I know that there is a big debate going on about universal basic income. As yet, we do not have a position on that. Our approach is very much focused on equalities and human rights considerations, which really focuses on the fact that we are concerned that, during the pandemic, there are many people who do not have any food. The number of people who are going hungry is a major issue. There are fundamental socioeconomic considerations here.

You know from previous evidence that we have given to the Committee that we would like the socioeconomic provisions in part 1 of the Equality Act to be implemented. They are not currently, so it is an area that is outside our remit. There are very significant concerns here and a people-first approach during the pandemic is something that we would urge the Government to consider.

Q171 Angela Crawley: Thank you, David; your responses are really helpful to the Committee. Melanie, you appeared before the Committee on 18 March. The GEO and EHRC announced the suspension of the gender pay gap reporting deadline and any enforcement of action. Can you talk us through the thinking on that recommendation and why you did not press to postpone the deadline?

Melanie Field: Could you repeat the end of what you said?

Angela Crawley: Why did you not postpone the deadline instead?

Melanie Field: As you say, I was here on 18 March. The reporting deadline was at the end of March. I think I attended the last meeting that



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you had in reality, as opposed to virtually. Everything was just on the verge of shutting down and the country was in a state of flux. Employers were faced with having to move very quickly from normal ways of working to very different ways of working.

It became apparent to us very quickly that making employers think that they needed to focus on publishing their gender pay gap information at the end of that month was not helpful and that one thing we could do to support the country was to make it clear that that requirement was not going to take place. We talked to the Government about that and whether a suspending or postponing approach was better. We came to the joint conclusion that, because we did not know what was going to happen over the next several months, it could well be that we would be pushing the deadline back to a point where it merged into the next reporting period.

The decision was taken to just make a clean break and make it clear to everybody that that requirement was not in place, but we still encouraged people to publish their information if they could. In fact, I understand that about 71.5% of public sector bodies have published their gender pay gap information regardless and about 45.8% of private and voluntary sector organisations. That is really encouraging and we will have some data. It may well be that others will publish later when things become a little bit more normal hopefully.

Q172 Angela Crawley: Okay, but would that pay gap data not have helped in analysing the impact of covid on existing inequalities and designing a gendered response to the economic crisis? Would it not have been beneficial in the longer term to have that data?

Melanie Field: We will still have the data that is collected through normal employment statistics in terms of a global and sectoral basis. What we will not have is the individual organisation-level data. Obviously, that would be desirable, but I do not think it is necessarily fatal in terms of progressing work to close the gender pay gap.

Angela Crawley: Okay, thank you.

Q173 Peter Gibson: We know that the majority of victims of domestic violence are women. We have seen reports of increases of that during the current period of lockdown. What evidence, if any, is available to you of women with other protected characteristics suffering increasingly or to a greater extent as a result of covid-19?

David Isaac: Melanie, can I ask you to lead on that, please?

Melanie Field: Yes, certainly. We have had some evidence from stakeholders about the kind of issues that you are talking about. Older survivors of domestic abuse are generally very unlikely to access any form of support. They are less likely to do so than other groups. Victim Support and Hourglass report a 37% increase in reports of domestic abuse against people aged 65 and over during this period, and they say that calls from elderly victims have risen by 30%, so there clearly is an issue there. We have also heard concerns from LGBT organisations about the safety of



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LGBT individuals at home during the lockdown, particularly because of specific issues around threats of outing to other people being used as a means of coercive control.

There are long-standing concerns around access to support for women from ethnic minority communities. There had already been funding cuts, which had particularly impacted on BME-led support services. We are particularly concerned about the position of migrant women, who may have insecure immigration status and may therefore face particular barriers in reaching out and accessing support.

Q174 Peter Gibson: Just looking at those other characteristics, including the LGBT community—thank you for highlighting the prevalence of violence among that community during the lockdown—the older generation and the black and ethnic minority community, have you got access to enough information to be able to be sufficiently informed about that? If not, what other avenues could you go down to achieve sufficient data in respect of that?

Melanie Field: I should also have mentioned disabled women, for whom accessible refuge space is very difficult to find. The main source of our information, other than crime statistics, is the sector itself. We have good relationships with the End Violence Against Women Coalition, Safelives and Women's Aid. We are in contact with them. They are better placed to report on what is happening on the ground and the kinds of challenges that they are facing during this period.

Q175 Peter Gibson: Do you think the Government are doing enough to provide resources to meet the needs of some of our protected characteristic communities? I am thinking particularly about disabled women and the LGBT community, in respect of refuge accommodation and domestic violence services.

Melanie Field: We welcome the fact that the Domestic Abuse Bill is proceeding. We have some suggestions about improvements that could be made to it, which we will be pushing forward. We also warmly welcome the Government's information campaign about domestic abuse, which is really important at this time. The reporting opportunities that have been opened up in pharmacies and that type of thing are really helpful. We also welcome the provision of funding support for the third sector. The concern is that the nature of the scheme means that the smaller grassroots, frontline-facing organisations may find it difficult to access that support. So we feel that it is really important for the funding to be accessible to those frontline organisations that really need it.

Q176 Peter Gibson: So, noting your welcoming of the various support packages that have been coming from Government, have you fed back to Government your concern about how that support could be more appropriately targeted to reach those harder-to-reach groups—disabled women, the LGBT community and so on—and what sort of format has that taken?



Melanie Field: We have constant dialogue with the Home Office around the Bill and around these issues, so there are relationships that we have with officials, through which we raise these concerns. Obviously, we have raised them in our evidence to this Committee, and we will continue to make recommendations. Also, in our submission to the Home Affairs Committee, we made a number of recommendations in this space, which were supported by that Committee.

Q177 **Peter Gibson:** Moving away from domestic violence to issues of policing, at the time of the passage of the coronavirus Bill, the commission was concerned about the increase to police powers and how those increased powers may disproportionately affect members of society who fall into categories of people with protected characteristics. Have you seen any evidence of that?

David Isaac: I will take this question, if I may. You are absolutely correct in relation to our very particular concerns at the time of the passing of the Bill. In terms of evidence that we have received, some of our stakeholders have raised their concerns and particular cases with us—the LGBT community and BME communities.

What we do know, in terms of Home Office information, is something that has been widely discussed in the press—the 21% increase of reported hate crimes against members of the south and east Asian communities, and the link, or purported link, with China. That particularly concerns us. So, in terms of anecdotal and other information, we have continuing concerns.

We need to be proportionate, which is something we are alive to in the feedback that we have received, but it is an area where we continue to be vigilant and look at the information, and work closely our police forces where we have those relationships. In Scotland in particular, we have a close relationship with the police there.

Q178 **Peter Gibson:** You highlight to me the issue of the increase of hate crime towards the Asian community—the south-east Asian community—during the pandemic. But specifically in respect of my earlier question, and the concern that the commission had about the police’s disproportionate use of their increased powers as a result of the coronavirus Bill, is it the case that you have seen no evidence of that being visible?

David Isaac: In terms of individual cases referred to us, I am not aware of any. I know that in the early days, considerable attention was given to disproportionate application more generally in relation to police powers. But unless Melanie can come in in relation to anything that has been referred to us, I do not think that—other than our anxieties and some of our stakeholders’ concerns—there are particular cases where there is an equality or protected characteristic dimension that translates into actual cases.

Melanie Field: I would just add that we have seen the National Police Chiefs’ Council data, which suggests some small disproportionality in the issuing of fixed penalty notices in relation to ethnicity. Again, we go back to transparency and the need for proper oversight of the use of these



powers, as there is in Scotland. In the reporting to Parliament on the use of the emergency measures, it would be really helpful to have that analysis.

Q179 Peter Gibson: Could you just clarify what you mean by further oversight that is available in Scotland? I think you are implying that we do not have that in England and Wales.

Melanie Field: That is right. The Scottish police have set up an oversight body, which includes a representative of my organisation and the Scottish Human Rights Commission, to oversee and monitor the use of the police emergency powers in Scotland. So we have called for a similar oversight mechanism to be set up in relation to England and Wales.

Peter Gibson: I see. Thank you for clarifying.

Q180 Nicola Richards: Thank you, Melanie and David, for joining us. I would like to ask a few questions about education. It has been reported that low numbers of vulnerable children have been attending school. Do vulnerable children currently have enough funding and support from the Government to study at home?

David Isaac: I will answer the questions on education, if I may. In relation to our recommendations and many of the statements that the commission and I personally have made, we do have concerns about how the closure of schools does disproportionately impact upon particular communities: young working-class boys; young working-class children; children with special educational needs and disabilities; and disabled children more generally. Some of the statistics, which I am sure you are aware of, seem to be pretty alarming in relation to the need for some of those children to receive free school meals to be fed. We do have real concerns about the ability of those children to keep up with their schooling, not having access to technology and generally falling behind. Those are real equality concerns, which we have been very vocal about.

We do understand the complexity of the situation and we are not suggesting that this is an easy one for the Government, for schoolteachers or indeed the unions to resolve. But yet again—hopefully this theme is coming across to you—as part of the discussion and consideration of these complicated issues, we are very keen—it is our job—to ensure that equality considerations and human rights considerations are factored into the discussion. That is why this afternoon’s session is really helpful. These are children who do need support, for whom education is transformational, and they can quite easily fall behind. It is something that, as part of the very difficult balancing act about when children return to school, desperately needs to be factored in. It is a point made by the Children’s Commissioner very powerfully last week.

Q181 Nicola Richards: Currently, the Government are providing support to vulnerable year 10 students in the form of laptops and internet access. Will that reduce the risk of widening existing inequalities among pupils?



David Isaac: It is obviously a step in the right direction and, for those in that year 10 group, it is obviously hugely important. I understand why they are a priority group in relation to their position in the education cycle, but nevertheless there are other children whose lives are entirely dependent upon attending school for education, food and care provision. We would like—it is the point I just made, really—that provision to be extended more widely. I am keen that we do not sound naïve in relation to the fact that there are affordability issues in relation to all these things. Clearly, at a time of crisis there are difficult decisions to make, but we need to protect our future citizens. Education is a fundamental right, of which it is our duty to remind Government and local authorities.

Q182 Nicola Richards: With the cancellation of GCSE and A-level examinations this year, teachers will be predicting grades for their students. I know you have touched on this already, but can you set out the risk to students facing discrimination and how you think this can be managed?

David Isaac: I referred to the meeting I had with Ofqual yesterday. The good news is that, having brought their attention to the issue, they are now very mindful of equality considerations and the public sector equality duties, which I mentioned earlier and are incumbent upon them.

Based on that call, it is clearly a very complex issue. Whichever way they go, it will result in some difficulty and potential equality considerations, which might have a negative impact. I am not suggesting that this is easy. We concluded that they will take those issues into account in their deliberations, but it is really important not to underestimate the unconscious bias—if I may call it that—that sometimes exists in relation to particular communities and how they do in school prior to exams. We know that often they do better in exams than during term time. There are potential discriminatory factors there.

To address some of those concerns, we talked about training for those teachers who wanted it as part of the assessment exercise. We also talked about the right to an appeal and an overall evaluation of the process. We were sympathetically received on those points and we will continue to work with Ofqual on them.

Q183 Nicola Richards: Great. Sounds good. You also touched on free school meals. Have the Government successfully supported children enough throughout the pandemic with those?

David Isaac: We know that about 31% of children who are eligible are not actually receiving school meals and they are getting vouchers. We have asked for cash payments to be made. Clearly, it is a difficult issue, but we need our young people to eat.

Q184 Nicola Richards: Thank you. Moving on to the recovery strategy, do you think the Government's strategy has any implications for the equality of students?

David Isaac: This comes back to many of the issues we have touched on. Melanie has talked about how, when the covid Act is reviewed every



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couple of months, we are concerned that equality considerations are taken into account. Our overall concern as a commission is that however difficult crisis management is, when we build back, we need to build back better, and equality considerations need to be centre stage.

I was at a meeting this morning where technology change was being discussed. Apparently, there has been more technology change in the past two months than the past 10 years. It occurred to me that if technology change, which we all depend upon, can happen that quickly, why can't we accelerate discussions about equality considerations?

We all know that the pandemic has unearthed real inequalities. Our Chancellor, Rishi Sunak, spoke very powerfully on the economic response to the pandemic by saying that we depend on each other. I have been using that statement a lot, not only because it is true, but because it could not be truer in relation to how we respond from an equality and human rights point of view to the pandemic, and how we build for the future.

My plea is that we need to take these equality considerations into account. They should be centre stage rather than optional in how we move out of lockdown, ease the situation and provide for everybody as we deal with the longer-term consequences of the virus.

Q185 Nicola Richards: It looks unlikely that Wales, Scotland and Northern Ireland will align with England's plans to reopen schools, so what impact is this likely to have on educational parity across the four nations?

David Isaac: Obviously, the different timing is a matter for the devolved jurisdictions. Our desire is to ensure that children can get back to school safely as quickly as possible. We also want to ensure that if the timing is not aligned—it does not appear that it will be—the lessons learned from the early return to school in whichever jurisdiction it is, possibly England, are shared more widely, and as coherent an approach to returning to school as possible is adopted across the whole of the UK.

Q186 Kim Johnson: David, nine out of 30 kids in this country live in poverty. You have just mentioned some groups that are disproportionately affected, but you did not mention how black kids are disproportionately affected. There is also the point about having access to laptops and wi-fi. Do you know how many have been distributed to disadvantaged children across the country?

David Isaac: Forgive me for not namechecking BME schoolchildren in particular, but I certainly intended for them to be included in the groups I was talking about. I do not know the actual numbers, but I know that year 10 have been prioritised, and also that large numbers of children still go without access to online teaching.

Chair: Can I bring Bell in, please?

Q187 Bell Ribeiro-Addy: Thank you. This follows on quite well, because what I have is that 7% of households do not have access to the internet, and all of the work for kids at home is being provided online. I know that the

Welsh Labour Government has put down a £3 million scheme that is providing laptops and 4G mobile wi-fi to any school pupils who do not have it, so it can be done, but I was wondering what overall impact on equality in education you think this is going to have, and what actions the EHRC might be able to take.

David Isaac: The initiative in Wales sounds very positive, and goes to my earlier point about the importance of access to technology to allow everybody to have online teaching. It is fundamental that that provision of laptops happens as quickly as possible, until there is a return to school. I accept that there is an affordability issue, but as I think I said earlier on, these are our future talents. If we are going to ensure that we are an equal society and the next generation has the same opportunities that we seek to deliver under the Equality Act, this is absolutely fundamental.

Q188 **Kate Osborne:** Hello, David and Melanie. I want to ask you about access to food. What have been the experiences that you know about of vulnerable people and people with protected characteristics when it comes to accessing food?

David Isaac: Melanie is going to answer that question, please.

Melanie Field: Thank you, David. We have heard of concerns from disabled and older people's organisations about difficulties that individuals have faced in accessing food. It is important to set this in the general context of the strong support for the shielded group that has been developed by the Government and the food retail sector. We think that that response was rapid and generally effective.

The concerns that have really been raised with us have been about people who fall outside that clinically extremely vulnerable group, but none the less face particular barriers in being able to shop or to access food. The sorts of barriers that we are aware of are inaccessible websites, inability to secure delivery slots, inability to stand in long queues without anywhere to sit, some restrictions on shopping being applied in ways which prevent carers accompanying, for example, partially sighted or sight-impaired shoppers—so some incidents where things have not been working as well as perhaps they might. Those are the issues that we have been concerned about.

Q189 **Kate Osborne:** Certainly, early on in the pandemic I had a lot of correspondence from constituents who struggled to get an online supermarket delivery slot. Have supermarkets taken the necessary steps to protect vulnerable people when they are shopping?

Melanie Field: Obviously, the supermarket sector had to pivot quite quickly to respond to the crisis, and I think some of the initial issues have eased slightly in that they have managed to create additional delivery slots, etc. The problems are for people who have got, for example, access barriers, who may not have access to the internet, who may want to place a telephone order, and that facility might not be available.



What we have sought to do is remind the sector that the duty under the Equality Act to make reasonable adjustments for disabled customers still applies during this period, and we seek to work constructively with them to see how things could work better for people across the board. I think there are really good examples—I personally have experienced very good examples—of staff in-store responding really sensitively and positively where people have faced particular barriers; but as with any large sector, that is not uniformly the case across the board, as has been highlighted from the sorts of issues that we have seen.

Q190 Kate Osborne: Apologies—my internet completely dropped out there. I continued with the sound in the main, but apologies if I ask you anything now from the period when you did drop out. Can I ask what has the outcome of your correspondence—*[Inaudible]*—disabled people shopping?

Melanie Field: We wrote to the British Retail Consortium highlighting concerns that had been drawn to our attention. They wrote back and we were just concerned that that point about the kind of ongoing duty to make reasonable adjustments hadn't been fully responded to, so we wrote again. We also wrote to DEFRA, just to draw the Minister's attention to that correspondence and, as I mentioned earlier, as a result of that I met with the Minister last week and continue to have dialogue with officials there, which I think is constructive in terms of seeking to address the kinds of issues that we and disability organisations have been raising.

Q191 Kate Osborne: We know that the food parcels from the Government to those who are shielding have often contained very little and have often arrived weeks into the crisis. How effective have the food packages been for the most vulnerable?

Melanie Field: I don't have a massive amount of detail about the operation of the system. Obviously, it is great to have that system. We haven't been particularly alerted to problems about the operation of the system, except that it would be welcomed if it could be broadened out beyond that clinically extremely vulnerable group, which might go some way to addressing some of the concerns that have been raised by that broader group.

Q192 Kate Osborne: With one in three children in poverty and most households in financial hardship due to the coronavirus pandemic, what more should the Government be doing to ensure food security?

Melanie Field: David has already talked a little bit about the free school meal vouchers for children. There were some initial problems with that system in terms of the vouchers getting to people. In Wales, they have changed to a system of providing a cash alternative, which we think is very positive, and it would be helpful if that could be considered more broadly in other parts of Britain.

It probably comes back to the broader kind of questions that David was talking about earlier—the financial pressures that families are facing, the furlough scheme affecting people, people losing their jobs, the increase in



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the number of people claiming universal credit and the delays in receiving universal credit.

It is really important. In one of your earlier sessions in this inquiry, Professor Marmot really highlighted the relationship between welfare support and public health. That is clearly playing out in this pandemic and may be one of the contributory factors in relation to the kind of disproportionality in BAME communities' experience of the virus. All of these things come together. The experience that we are going through is a massive challenge, but it is an opportunity for us to think about some of these issues that we have been concerned about for so long, and what it means for what kind of country we want to be when we come out the other side of this.

Q193 Kate Osborne: Finally, could I take you back to your conversations with DEFRA? What exactly has been said around food insecurity and access to food for disabled and older people? Can you tell us more about what conversations you have had with them?

Melanie Field: I don't think I can really talk about the detail of the conversation, but it was a constructive conversation looking at how the concerns that have been raised by disabled people's organisations and older people's organisations could be responded to positively, given all the other constraints that everyone is operating within.

Q194 Sara Britcliffe: I would like to ask a bit about housing and how the pandemic is having an impact on people with insecure housing.

David Isaac: Melanie is going to answer the housing questions—if you are okay with that, Melanie.

Melanie Field: Yes, that's fine—thank you, David. Just to say upfront, housing is not one of the major issues that we have been prioritising work on in the current period, but we have worked particularly on housing issues and accessible housing for disabled people in the past, and we have concerns about insecure housing, overcrowding and homelessness.

We welcome the suspension of repossession activities, but obviously the impact of changes to employment—furloughing and the impact on income of that, and redundancies—and the prospect of further recession in the future are of massive concern in terms of people's housing security and ability to pay their rent or mortgage and keep a roof over their family's head.

We also really welcome the steps taken by the Government to get street sleepers off the streets. That is really great, but the concern is what is going to happen when the repossession suspension is lifted, when homeless people are no longer able to be accommodated in the hotel accommodation where they have been able to stay, and when the impact of the economic hit that many families have taken really comes to fruition—whether this could lead to a further housing crisis.

Of course, all of these issues interlink with socioeconomic inequality and a number of protected characteristics, particularly single parents, people with mental health conditions, black and minority ethnic communities and disabled people. It is an area where there are emerging concerns.

Q195 Sara Britcliffe: With the concerns going forward, what further steps do you think the Government could take to support people to retain their housing?

Melanie Field: I think the financial support that the Government have provided to keep people in work is really helpful, and it is good to see that that is being extended and that part-time furloughing is going to be available. We would like to see that happening sooner.

We have not developed any specific recommendations in this place; it is just an area that we would flag as one to be really aware of. Again, the Government should think about human rights obligations and the public sector equality duty in thinking about how we come out of the situation that we are in now, and anticipate some of the impacts that could occur in the future and develop steps to mitigate those where possible.

Q196 Sara Britcliffe: I know you said that you have not really looked at it in depth during covid-19, but do you know whether the Government provided sufficient guidance on how to protect vulnerable people who lived in overcrowded housing?

Melanie Field: I do not, specifically. Complying with social distancing is particularly difficult for people who live in overcrowded accommodation or accommodation where there is no access to outside space, and those may well be factors that are playing into how the virus is spreading more in particular communities. These are all issues that I hope the Public Health England inquiry will shed some light on, and other research that is being done.

Q197 Sara Britcliffe: Has the Everybody In campaign been successful?

Melanie Field: We think it has and it is to be welcomed, but the question is what happens when it comes to an end.

Q198 Sara Britcliffe: Have the Government provided sufficient guidance for hostels and day centres? Is that something that you know?

Melanie Field: It is not something that we have particularly looked at, I'm afraid.

Q199 Sara Britcliffe: In your assessment, has the data reported on the number of homeless people being given accommodation been accurate?

Melanie Field: I have no reason to think that it is not accurate, but again, it is not something that we have specifically been focusing work on.

Q200 Sara Britcliffe: I would like to know what the impact has been on Gypsy, Roma and Traveller communities and how the Government can address the impact on those communities?

Melanie Field: This goes beyond the housing issues and into the health impacts, impacts in education and access to the employment support schemes. We know that Gypsy, Roma and Traveller communities are multiply disadvantaged and face multiple barriers. I was pleased to see that the Public Health England work will be looking at them as a particularly vulnerable group. In relation to what David was saying about education, we know that Gypsy, Roma and Traveller children face particularly big attainment gaps. There are concerns in relation to those children and others who are already facing barriers in education, like children with special educational needs, that this period will just lead to those gaps widening, so it is really important that as we come out of this period, special attention is paid to providing the support needed to reduce those gaps and bring those children back on track.

Sara Britcliffe: Thank you, Melanie.

Q201 **Chair:** Melanie, may I follow up on the Everybody In campaign and those who might remain excluded from that? While I know that many local authorities have worked incredibly hard to bring as many people into emergency and temporary accommodation as possible, certainly anecdotally it is the case that those with mental health conditions—we know that street homeless people often have multiple vulnerabilities, but particularly those with mental health conditions have found it harder to access hotel accommodation. Do you have any evidence around numbers for that and whether those with mental health conditions are receiving the parity that they should do?

Melanie Field: I do not have any information about that, I'm afraid.

Q202 **Kim Johnson:** Melanie, I want to ask a quick question about care leavers and looked-after children and issues about homelessness and whether that type of data is collected currently.

Melanie Field: I think it is collected, but it is not data that I have to hand. I would imagine that that data is available and I can look into that for you and come back to you.

Q203 **Kim Johnson:** I see that as an equally vulnerable group at the moment, given that a lot of care leavers and looked-after children end up living rough on the streets and subject to mental health issues, and it would be useful to have sight of some of that information, so thanks, Melanie.

David Isaac: Chair, may I just make a particular point about the breadth of our work? Melanie referred to this. We have obviously had to try to prioritise our particular responses not just during covid but more generally, because clearly there is a lot that we could do. Our board, having liaised with our stakeholders, worked out a clear set of priorities, which is part of our business plan. We have adapted that quite quickly to respond to covid.

I was really keen to reinforce that, on the homelessness point and housing more generally, it is not because we consider the issues to be unimportant or insignificant; it is just that due to our resources and the fact that we as



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an organisation are similarly challenged by working remotely during covid, we have alighted on priorities that really focus on much, but not everything, that we have talked about today.

Q204 **Chair:** At various points during your evidence we have heard the phrase "seeking to engage". Melanie said it in relation to the race disparity unit, but there has been much reference to trying to engage with Secretaries of State and Ministers at all levels. You have had engagement from officials, but it has been hard to break through with Ministers. Do you think that the commission could do more to make sure that your voice is heard? What could we do as a Committee to help you make that breakthrough with Ministers where you perhaps are not getting responses or you feel that you might be being ignored?

David Isaac: Thank you for asking the question, Chair. I was alive to the fact that you had started off with that tenor of questioning, and I had similarly been listening with that in mind. As an organisation, we have been very agile and very assertive and been very clear with a large number of Government Departments and with officials. We have tried to reach out to the Prime Minister and to Ministers. While we are in close contact with No. 10 we are not getting the traction that we would like. Two things: first, we want equality and human rights to be embedded in everything that the Government do. There is a lot of very good will to ensure that that happens, but in practice I think other priorities sometimes overtake it and it is seen as an optional extra. Secondly, there is a question of affordability, but I am keen to stress that we would like your help. There are affordability issues that some people [Inaudible] to say that this is an optional set of objectives, which we do not agree with, clearly.

In answer to your question, we would like to engage at the highest possible levels. We would like your support to enable those meetings to happen. I think they are not happening not because we are not demanding them or being assertive enough; it is just that we are not seen currently as being a top-table issue.

Chair: I think I might have to take issue with anybody who considers equality not to be a top-table issue. Clearly, you are right when you say it should be embedded across Government in everything that they do. As Members have not indicated that they wish to ask additional questions, this concludes the Women and Equalities Committee evidence session on covid-19 and the impact on people with protected characteristics. I thank both our witnesses for contributing today. It has been much appreciated.