HOUSE OF COMMONS

Women and Equalities Committee

Oral evidence: Unequal impact? Coronavirus, disability and access to services, HC 386

Wednesday 2 September 2020

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Watch the meeting

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

Questions 94–165

Witnesses

I: Vicky Ford MP, Parliamentary Under-Secretary of State for Children and Families, Department for Education; Victoria Prentis MP, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs; Helen Whately MP, Minister for Care, Department of Health and Social Care; Justin Tomlinson MP, Minister for Disabled People, Health and Work, Department for Work and Pensions; Martin Woolhead, Deputy Director for Vulnerabilities, Department for Environment, Food and Rural Affairs; Antonia Williams, Director of Mental Health, Dementia and Disabilities, Department of Health and Social Care; Sarah Baker, Deputy Director, Disability Unity, Cabinet Office.

Examination of witnesses

Witnesses: Vicky Ford, Victoria Prentis, Helen Whately, Justin Tomlinson, Martin Woolhead, Sarah Baker and Antonia Williams.

Chair: Good afternoon and welcome to this afternoon's session on "Unequal impact? Coronavirus, disability and access to services". I would like to thank the four Ministers who we have joining us this afternoon for the evidence they are going to give. I am going to start by asking Angela Crawley to put a question.

Q94 **Angela Crawley:** My first question is regarding the many people who were impacted by shielding, particularly people with disabilities. We have heard that many disabled people found the communications around the easing of the shielding guidance on 31 May quite confusing, contradictory and, in some cases, quite distressing. Was it necessary and appropriate to announce the changes to the shielding guidance by a press release on the Saturday night, with disabled people receiving communications via text message about changes to happen to them on that Monday? That is to Helen Whately or Justin Tomlinson, if they would like to answer that question.

Helen Whately: I am very happy to start. I then may also bring in Antonia Williams from the Department, who worked extensively on the area of shielding and guidelines and who can give further detail.

What I can say as a top line is that clearly, in the situation of the pandemic, we were focused on getting communications out as quickly as possible with the overall objective of saving people's lives. Time was very much of the essence. It was a priority to get communications out and to give people the best possible advice we could on a timely basis. That is why the communications flowed as they did.

What I would also say is that during the pandemic we have absolutely learned lessons, responded to feedback and been engaging with disabled people and their representatives. Where we have heard, "We would like to have greater forewarning and more information", we have absolutely responded to that and made sure that the communications gave people, for instance, more advanced notice and more information when people wanted it, as time went on.

Justin Tomlinson: I have met Angela on many occasions, and I know this is an important issue that was raised with stakeholders. Yes, these were unprecedented times. As the Minister for Disabled People, I am here representing DWP, but I am also representing the Disability Unit based in the Cabinet Office. That actually shows the importance of this. The Prime Minister personally commissioned the Disability Unit to be set up so that it could be the eyes and ears of disabled people across Government to embed issues and suggestions for how things can be improved.

There were examples during Covid-19, with the communications, where things were done at pace and it was actually very easy for stakeholders to flag up concerns. We could then match them to the relevant Department and utilise their expertise and their real lived experience. We were finding that Departments welcomed that, because it was a useful resource. In some of the challenges we all had to navigate, you did not know the questions or the answers, but those were the real lived experiences. One of the positives for me is how different Departments now fully embrace how we can bring together the right stakeholders. You have the main disability charities and disability organisations led by disabled people, and individual disabled people are able to feed in through our different networks and engagement process. They have become a really valuable resource.

Specifically on communication, they also have extensive mailing lists and they are a trusted source of news. Working with them, for them to directly share updates with their members, was a really effective way to get communications to disabled people.

Q95 **Angela Crawley:** Justin, my next question is also for you. Given what you have just outlined, you will obviously appreciate that many disabled people had a long list of complaints about the Government's communications in terms of the lack of accessible formats, including Easy Read and British Sign Language, during the pandemic. Did the accessibility of the Government's communication fall short of their equality duties? Specifically with regard to disability charities, they emphasised that, in terms of accessible communications particularly for those who are deaf and disabled people, it ought to be simpler to achieve, particularly if it had been designed from the start and accessible. Why was that not built in from the start or at least at a much earlier stage in the communications?

Justin Tomlinson: That is a really fair challenge. Right throughout Covid-19, I have been doing extensive engagement with stakeholders of different sizes right across the country. That is important. It cannot just be London-based organisations; it has to be right across the country. At the beginning, there were concerns raised about different parts of communications, but actually there has been a really positive response. You hit the nail on the head there about the importance of involving those organisations.

RNIB is an example. They have been working with a number of Departments to help design communications going forward, to make sure that, as the Prime Minister will issue letters in the future, they will be put into Easy Read, they will be in the correct font, braille will be available, et cetera. This is really important. As these issues were being raised, we were quickly able to share them with each individual Department, which is responsible in its own right for following the Equality Act.

We were able to make sure, through the Cabinet Office equality team, that there was training available. I know over 300 comms representatives across Government have taken up that training since April, and things have been rightly transformed. Again, there is an opportunity here. We do not just want this to be a significant improvement as we have navigated through Covid-19 but to become embedded and to become a given.

There was a Covid-19 ministerial group that met, and I was able to champion the resource of the Disability Unit and the disability stakeholder network to say, as you rightly highlighted, that it is far quicker to use those organisations, with their own collective experience and expertise, to share how we do things. In my own Department, DWP, I am proud that we have our own DWP signed YouTube channel where we have 21 Covid-19 updates provided with a BSL interpreter. Those might be about explaining how universal credit or the personal independence payment works. There are a number of videos on Access to Work provided in BSL. This is working with organisations like RNIB to transcribe the GOV.UK pages on advice around Covid-19 and financial support. Again, sharing that information through their networks is really good.

There is another positive that I saw from it. We have a monthly network with about 5,000 subscribers. That jumped to 9,000. That is welfare advisers, disability organisations and charities. We went from providing monthly updates to weekly updates, and we have very good feedback from that.

Q96 **Angela Crawley:** My next question was going to be about how you intend to improve on the accessibility of communications for disabled people for the remainder of the pandemic and in the future, but you have more or less answered.

Justin Tomlinson: We just have to make it embedded. It is an opportunity for Departments to communicate their message better. Long gone are the days when everybody bought a daily newspaper and that was their main source. We have to use the stakeholder network and their respective mailing lists and forums to make sure that we can get the information to people at the end.

In some cases, we can do that ourselves. We made significant changes to how disability assessments work. We rightly took the decision to suspend face-to-face assessments, and those who would have been due within the next three months, on a rolling monthly basis, were given a six-month extension. We knew who those people were so we could write directly to them, but, when you are trying to put out wider messaging to society, which would also include hard-to-reach groups, vulnerable groups and those with disabilities, you do need to work hand in hand with those who are trusted sources of information, including the disability charities themselves.

Q97 **Angela Crawley:** You have made a number of commitments there about the work the Government will continue to do going forward. I just want to be absolutely clear on when each of these stages will be implemented and who in the Government will be responsible for the implementation of each of the commitments you have made.

Justin Tomlinson: Each individual Department is responsible for its own accountability to the Equality Act, but, through the equalities team in the Cabinet Office and, in our specific case, around disabled people, the Disability Unit, which I am accountable for, we are actively working with those Departments to provide them with support and advice and to introduce them to those stakeholders. I know Minister Prentis will talk later on about how much help she got from some of the disability charities around the work with supermarkets to provide access to food and things. I am sure she would agree that they were able to get to a good place much quicker, because they were using that combined expertise and real lived experience.

Vicky Ford: I just wanted to reinforce what Minister Tomlinson has just said about the importance of working with specialist organisations to get messages across. It has been really important in terms of communicating with disabled children and their families. This has not only been through the wonderful children's charities we have and organisations such as the Council for Disabled Children, but also through parent-carer forums. We have done very close work with the parents of disabled children so they are fully involved as much as possible in making decisions about their children.

Indeed, Minister Whately and I wrote very early on to children and their families who were affected to make sure that they had the best possible information, communicating throughout. That letter went out in April to children, and there have been communications since then. It has been really helpful to have the support of those charities, specialist schools and especially the parent-carers themselves. They have really worked very closely with my Department and with others across Government to communicate.

Angela Crawley: Thank you, and also welcome back to the Committee in your new position.

Vicky Ford: It is great to be back on the other side of the table, Angela. I loved it as a member of the Committee too.

Q98 **Angela Crawley:** My next question is for Minister Tomlinson regarding the consultation with groups. We have heard from Disability Rights UK that it felt that the Government's efforts to consult with disabled people and their organisations about the measures required to tackle the pandemic were inadequate. How do you respond to that? How do you intend to embed better consultation with disabled people into the planning for the remainder of the pandemic and for future health crises?

Justin Tomlinson: I think that was a bit of an unfair comment from it. Disability Rights UK are part of the Disability Charities Consortium, which is made of eight of the bigger disability charity organisations. They would meet with me personally on a quarterly basis at least, monthly with the Disability Unit and then on an ad hoc basis. I met with Disability Rights UK personally on a number of occasions during Covid-19. It is an organisation that represents lots of organisations, so some of the smaller groups within there may not have had direct access to me during that time, but it would have been able to feed it through. They are very productive and helpful meetings.

I love stakeholder engagement. I was lonely in a former life, so I spend a significant proportion of my working week meeting stakeholders. I do not just meet the big disability charities. We have set up a separate group for disability-led organisations. Again, I am meeting those monthly to empower their voices. I then also get invites from Members of Parliament on a cross-party basis, who have good organisations that wish to meet with me. I am also working with the elected mayors. I had a very good forum with the Greater Manchester Mayor, Andy Burnham, who had embedded disabled voices in some of their decision-making. I got to meet those representatives.

There are places where we have to get better. I have been a Disability Minister for a number of years now. It was easier to be a London-based charity raising issues, and that is why we set up the regional network, so that all voices, particularly of all sizes of disability organisation, can share their real lived experience and help us improve our policies and our communications. I find it a very rewarding part of my role.

Angela Crawley: Thank you. We will obviously watch the work closely as it continues.

Q99 **Chair:** Can I come in on some of the responses that you have given, please, Minister? You were talking about the Disability Unit and how that has made it easier for disabled people, disabled organisations and charities to feed in directly to Government. Have you set out to them how they should do that?

Justin Tomlinson: Yes, that is through the regular stakeholder engagement. On a day-to-day basis, we have the regular stakeholder meetings. We have set up that regional network for the reason of taking it beyond just London and the larger charities. The larger charities have a very important role to play, but they are already getting an audience through the Disability Charities Consortium and the ad hoc meetings that we will have on a reasonably regular basis.

They are able to highlight issues, and those are then fed in. If a group was to raise an issue with the Department for Transport, we would then take that on. During Covid-19, in those meetings there were many examples of things that were raised that DWP is not responsible for, but we would then join them together with the relevant Department.

On a wider perspective, we will shortly be launching the National Strategy for Disabled People, which is looking at how every Department across Government can unlock barriers in society to help disabled people fulfil their potential. That will be led by disabled people; it will be a genuine, open and extensive national consultation exercise, where they can identify where the things are that each Department can make improvements to.

The Prime Minister has personally supported this. It has been covered at Cabinet and in inter-ministerial groups. Each Department has had to have a named Minister who will make sure that each Department identifies what it thinks it is doing well, what it thinks it is going to do and then, over the autumn of this year, we will be consulting extensively to see whether that is right, whether it is ambitious enough or whether there should be other priorities. In spring next year, we will bring forward an ambitious National Strategy for Disabled People to help disabled people fulfil their lives. The Disability Unit is co-ordinating all of that work.

Q100 **Chair:** If you were an individual disabled people or the family of a disabled child, and perhaps you were not plugged into networks or charities, if an issue arose during the pandemic, how would you know to go to the Disability Unit and how would you do that?

Justin Tomlinson: There are two separate things. On the day-to-day stuff for Covid-19, everything is originated on GOV.UK and then you are signposted to the relevant area. In the case of DWP, if people were seeking to access benefits or looking to get support through programmes such as Access to Work, they would be signposted to those, and that is where we would then have the accessible communications.

On a wider perspective, that is why we are doing things like the National Strategy for Disabled People. It may be that an individual would not necessarily go to one of the regional network events, but they might be able to submit their evidence, ideas, suggestions and criticisms for the consultation online, because we will be providing that so that all voices can have an opportunity to be heard. That is very important to my Secretary of State. She wants all voices, including those of individuals.

When I go on visits, I find it fascinating to talk particularly to young disabled people. I always play "Fantasy Minister", where I will say to them, "If you had my job, what would you do?" They always come up with good ideas, which I then go back and try to utilise. Often they will be very different to the things I have been told by policy people.

Pre-Covid, if you asked a young disabled people, it was almost a given that they just wanted to have the same opportunities that all of their friends took as a given. It is perhaps not surprising, but it really focuses the mind when you are told that time and time again. That is why we invest so much time particularly around disabled people having an opportunity to get into work. I am very proud that since 2014 we have 1.4 million more disabled people into work, because that is a genuine priority of disabled people.

Q101 **Chair:** Given that you go out around the country playing "Fantasy Minister", can you give us one specific example of a Covid policy change that happened because of engagement with disabled people?

Justin Tomlinson: Minister Prentis will go over this later on, but in my initial stakeholder engagement there was genuine and real concern about those with disabilities and vulnerable people in society accessing food and medicine. The Government had to get that right quickly. We were able to provide a number of stakeholders with really good expertise and a list of very valid asks. They were able to sit around the table with Minister Prentis and other Ministers, and that then, in my opinion, significantly sped up what was then a good outcome.

This is why, whenever I get an opportunity at inter-ministerial groups or just meetings with other Ministers, I am not wanting to say, "Look, we wish to add a burden to you by making you consider your responsibility under the Equality Act". I say, "It is an opportunity. We can bring together people who can make your policy decisions right first time, delivered quicker and be well received". I get a lot of very good feedback from Ministers who take that opportunity up. The more who have done that, the easier it has become.

Going back to my original remarks at the beginning, we have had to navigate a lot of challenges, but I genuinely think that a lot more awareness is now embedded across Government, and there is an understanding that this is a good thing to do.

Q102 **Chair:** Twenty-five years on from the Disability Discrimination Act and 10 years on from the Equality Act, has that been embedded fast enough?

Justin Tomlinson: There are many good examples, and there are many challenges that remain, particularly around good intentions. This is part of why the Disability Unit needed to be set up. There was a lack of data. Sometimes we would realise things too late as a Government. There is actually a huge amount of work happening around gathering more data so that we can make better decisions earlier on. Also having real lived-experience voices at the beginning of policy development makes a big difference.

Shared spaces, which was a clever architectural thing a few years ago from DHCLG, was winning all sorts of awards because it looked very good in town centres, but it was an absolutely disaster for those with guide dogs. Local authorities had been given lots of money to change their landscapes. They did that, they all patted themselves on the back and then the charity Guide Dogs led a very important campaign to highlight what a disaster they were, and suddenly local authorities are having to retrospectively undo the work.

The whole point of a Disability Unit is that, as Departments develop their policies, they are able to get those voices in at the beginning and make sure we avoid those sorts of errors. Therefore, when we finally legislate and deliver policies, they are more inclusive and we are more likely to get it right first time.

Q103 **Chair:** Finally from me, you raised the issue of how well the DWP had done getting disabled people into employment. How much of a worry is it to you that the pandemic will see that work go backwards, and what steps is the DWP taking to make sure that does not happen or to continue their work keeping disabled people in employment and getting more of them into employment?

Justin Tomlinson: It is a real challenge. Pretty much, year on year, we were having really good growth. Record numbers of disabled people were in work; employers had awareness of and confidence in the talent that was often being missed in the past. We were seeing really good positive news. I would look forward to DWP Oral Questions, hoping somebody would ask me what the latest statistics were. We got to 52.6% of disabled people in work; we closed the disability employment gap. As I said, 1.4 million people were benefitting from the opportunity of work who previously had not.

These are unprecedented times, which is why Treasury and DWP have worked on comprehensive support for all people, including disabled people. I was pleased that the support provided to disabled people was ring-fenced and protected so it will remain. In addition, all the extra spending we are doing as a Department and as a Government is open to people with disabilities and long-term health conditions.

We have also been able to make changes. On Access to Work, which is a scheme that provides financial assistance to remove barriers to either remain in work or stay in work, we have now changed the rules so that, if you are home-working, we can buy equipment and provide support in your home. That presents an opportunity, because there will be some disabled people for whom, pre-Covid, going to work was the barrier that was insurmountable. For many organisations, that is now seen as a norm. Therefore, there are more opportunities open.

These are going to be challenging times and we are going to be working tirelessly to make sure there is not a disproportionate impact on disabled people, but, as we return to normality, there are also some opportunities where disabled people will benefit.

Q104 **Chair:** Do you know how many disabled people have been made redundant so far?

Justin Tomlinson: It is too early on the data, but we are actively looking at that, because there is a presumption that vulnerable groups may be disproportionately impacted. That has been shown yet in the evidence; it is too early. Obviously, we have had the furlough scheme, which has been very successful. Believe me: we are looking at that on a daily basis. As I said, we have extended the support that is available through universal credit. It is vital that we continue to offer personalised and tailored support that then looks at each individual’s opportunity to stay in work or enter work for the first time. Again, in conjunction with the National Strategy for Disabled People, we will be doing our Green Paper consultation that will look at what more tailored support we can give to help people into work.

Q105 **Chair:** We know that women were more likely to be furloughed than their male colleagues. Do we have any evidence on whether disabled people were?

Justin Tomlinson: It is still too early. I have seen some evidence that suggests the opposite, actually. That is a surprise. It is not an official figure yet. We will be closely keeping an eye on that. The key is that they are not disproportionately impacted. The key overall is that we do everything we can as a Government and a society to keep as many people in work as possible, but, from my perspective, I will be looking very carefully at the impact on disabled people.

Helen Whately: I just wanted to come in on stakeholder engagement, because I feel that has been something that has been a very important part of the response to the pandemic. We have made sure that we have tailored out actions and our guidance for disabled people wherever possible. You asked Minister Tomlinson for an example of one of the impacts of stakeholder engagement. I can give you three very quick examples where stakeholder engagement made a difference and triggered a change in policy. One, for instance, was on the social distancing guidance around exercise. That was updated in response to feedback from people with autism about enabling them to take more exercise. There were exemptions on the wearing of face coverings for those with disabilities that makes that difficult. There was also the very rapid action we took on inappropriate use of DNACPRs. Those were all in response to communications with stakeholders.

Q106 **Alex Davies-Jones:** Thank you all for meeting with us today. I would like to discuss access to food, which was a problem for many people throughout the pandemic, especially in the early few weeks but particularly disabled people. Minister Whately and Minister Prentis, have you made any assessment on the appropriateness of using the definition of "clinically extremely vulnerable" to determine who was entitled to the support, including the free food parcels, from the National Shielding Service?

Helen Whately: I am happy to come in first about the "clinically extremely vulnerable" definition, which was a definition used for people who were put on our shielding list. That was based on guidance from the Chief Medical Officer. It was very much a clinically led process of identifying people who would be most vulnerable to complications in the event that they caught Covid-19, and therefore it was with that group that we communicated to particularly protect them and reduce the risk that they would catch Covid-19. It was very much, as I say, based on the clinical risks to that group of people.

Victoria Prentis: I will just come in too. We were obviously presented by the Department of Health and Social Care with a list of individuals who they had assessed as clinically extremely vulnerable, and we had to deal with their needs in the context of not wishing them to leave their houses in order to protect themselves as well as other people.

So we dealt with that cohort by means of the shielding boxes, but, truthfully, a lot of the work that I did in the Department and that I did as the leader of the taskforce for feeding the vulnerable was all about not putting people in boxes. We spent a lot of time referring to "the vulnerable", which was supposed to encompass a wide range of people with very varied needs and to make sure that those needs were met as best as the commercial sector could. I spent a lot my time during the pandemic, despite my lifetime's work in Whitehall, trying very hard not to think in a siloed way.

Q107 **Alex Davies-Jones:** Was any specific assessment done on that term?

Victoria Prentis: Was an assessment done on "clinically extremely vulnerable"? You would have to ask the Department of Health and Social Care about that. I merely received the data and dealt with passing that on and providing those people with food.

Justin Tomlinson: Can I just say that this was something that was raised a lot at the beginning in my stakeholder engagement? It was a really difficult balancing act for DHSC. On one hand, if you were classed as being clinically extremely vulnerable, then you had access to certain services much quicker, but the downside was that there was a presumption, whether you liked it or not, that you would have to shield.

I know we received mixed opinions back from disability charities, because a lot were keen to have access to the support, but, at the same time, they wished to be treated as individuals and not put into that box, as Minister Prentis explained very well. DHSC got a good balance here, because, for speed, they were able to create certain cohorts where we could be fairly confident that they almost certainly would need access to that support but then made sure that individual GPs who understood individuals were then able to add to that list. That was a good balance, and very quickly that ceased to be a topic during the stakeholder engagement.

Vicky Ford: If I can add to that from a children's perspective, it was extremely valuable to work with Victoria and the Defra team. We had about 90,000 children on the shielding list, and what was important was that, of course, the shield covered them and their families. For example, this involved food supplies going out not just for the child but for the wider family. Those were the sorts of issues that we were picking up from stakeholder engagement.

In terms of stakeholder engagement, the parent-carer forums have over 80,000 members. If you think that there are about 300,000 children who have education, health and care plans, it is a very significant proportion that they are in touch with and feeding that sort of information to. The lines of communication were very open, and there was constant dialogue about how we support those shielding children and their families.

Q108 **Alex Davies-Jones:** My next set of questions is specifically to you, Minister Prentis, but if any of the other Ministers would like to chip in, please do so. The Equality and Human Rights Commission were dissatisfied with the British Retail Consortium's response to concerns about the failures to make the reasonable adjustments necessary to maintain equal access to food for the broader population of disabled people. What discussions did you have with the commission about this?

Victoria Prentis: We woke up fairly early in the pandemic. I would say it was probably the first week of April, when shopping was really unpleasant and frightening for a lot of us, if we cast our minds back. For disabled people and the wider vulnerable group, which often encompasses a lot of older people, shopping was really difficult. Right from the beginning of the pandemic, officials from my Department were in touch with disability groups.

We kept in touch. We were particularly concerned about blind and partially sighted people having difficulties with social distancing, about autistic people being frightened by changes to the way they normally shop, and about all sorts of access issues to food. If you cast your mind back to those days of empty shelves and no loo roll, it felt like a jungle when you went shopping. We were live to that from the beginning, and we talked to disability groups right from the beginning about issues that they were having, and that was really helpful.

I saw some correspondence between the Equality and Human Rights Commission and the British Retail Consortium, and I asked whether I could politely bang heads together a little bit and facilitate communication between these two excellent groups. I cannot thank the British Retail Consortium enough for what they did to feed the nation during the pandemic. The supermarkets really stepped up, and we should all be very grateful for the way they did adapt and made adjustments for the needs of our population. The Equality and Human Rights Commission also have a very valid role to play in helping us all to serve the needs of more vulnerable people.

We also got together a group of 24 disability charities who met with me and who helped me and my officials make some tailor-made guidance that we then passed on to the retailers; it was not just supermarkets but also smaller convenience stores, which were really important in feeding people on a day-to-day basis. That guidance was helpful.

It is a two-way street. The supermarkets and other retailers have, as usually, worked very hard and very well with disability groups, with whom they have close links, because of course these are their customers. It was not that we had to reinvent the wheel at all, but what we did do as a Department was encourage people to work together at a time of national crisis.

Q109 **Alex Davies-Jones:** You provided guidance for big and small retailers.

Victoria Prentis: The disability charities wrote that guidance; we just helped them to write it. We passed it on. They were great. They were really giving in their meeting with me. They were giving in what officials asked of them. I am very grateful to both sides for the help that we got.

Q110 **Alex Davies-Jones:** If the supermarkets did not comply with that guidance or comply with the law, is it your opinion that they should face the full force of the law?

Victoria Prentis: I am a lawyer, but this is not something I want to give a legal opinion on at all. In my mind, I was very grateful for the work that supermarkets did. I believe that what the law asks them to do—sorry; I am already giving legal advice—is to make reasonable adjustments. I felt that they were going above and beyond, truthfully, and really trying hard to meet the needs of their communities.

If I am allowed to give you a few brief examples, many supermarkets—Marks & Spencer springs to mind, but there were many others—have a Sunflower Lanyard Scheme with greeters at the door who will help people who might need a little bit of help to access food. Locally in my area, I am very aware that the Co-op provided staff who would shop for people who either texted or phoned and take their shopping to their door. Morrisons did something similar. The list is enormous. Sainsbury's were fantastic with my elderly father, for example, and they helped a whole group of people who would not have been helped otherwise. I am so grateful for the work that supermarkets did during the pandemic; I really am. I hope very much that we need not get too legalistic about this. Of course the law is important, and of course it is important that reasonable adjustments should be made, but they have to be reasonable ones.

Q111 **Alex Davies-Jones:** The National Shielding Service was paused from 1 August, which meant that the free food parcels were stopped before the decision was actually taken. What assessment did you make of the effects of this change on disabled people's access to food?

Victoria Prentis: That is probably not really a question for Defra. The shielding parcels were set up by COBRA in mid-March. We merely organised them. Again, that is another good example of the commercial sector working well for Government. Brakes and Bidfood, which were the two providers of those packages, set aside their normal commercial competition. We were able to set aside normal competition laws in order to assist them to do that in Defra, but they worked together to feed that very vulnerable group.

I am not sure now that we would set it up in the same way. If—God help us—it happens again and we have a second wave, I am not sure we would need a box in quite the same way, because things have moved on and we now have a system whereby people are able to access supermarket slots for their food in the normal way. After all, disabled people normally buy food just as everybody else does: they pay for it in shops or online. The shielding box was there to fulfil a particular need at a particularly difficult time, when we as a nation were very worried not just about the health of people who were shielding but also about the effect on the NHS if that particular cohort caught Covid. That is why the box was set up, and it was probably time to bring it to an end. However, many of those decisions were taken by Cabinet committees rather than me personally.

Q112 **Alex Davies-Jones:** That takes me on to my next question quite nicely, because, although nobody hopes we are going to get a second wave, we are unfortunately seeing in England some pockets of the virus picking up, resulting in localised lockdowns. Do you have any information on what is happening with food parcels in areas subjected to extended restrictions?

Victoria Prentis: Absolutely, yes. We need to get away from the food-parcel model. We have moved on, broadly, from that. We have a great Food and Essential Supplies to the Vulnerable Task Force, on which Minister Ford sat with me, with DWP, MHCLG and other Departments as we needed them. It was great, because we were able to work genuinely across Whitehall. The officials worked very effectively together, and it meant were able to take decisions quickly.

As a group, we have all decided that shielding boxes have probably had their day, we hope. What we are now doing is enabling local authorities to deal with specific local lockdowns. They have been provided with funding for that.

One of the things we were able to do in our work with the wider vulnerable group is set up very good links with local authorities to enable them and selected charities, including RNIB, Scope, Age UK and Mind, to refer people directly to supermarket priority slots. No longer did you have to fight with the supermarket website; you could go directly through your local authority or through one of those charities. I should also say that you did not have to have the disability of one of those charities; they acted for anybody that needed them to. I am pretty confident, going forward, that the offer is good enough and that vulnerable people will be able to access food.

I should also mention, very briefly, the volunteers who were also available to those who needed help with shopping and the setting up of things like safe ways to pay, which are particularly helpful for elderly and vulnerable shoppers, who are asking somebody else to do their shopping for them.

Q113 **Alex Davies-Jones:** Minister Whately, if I could come back to you, I am a Welsh MP; it would be remiss of me not to ask about what conversations you have had with the Welsh Government, and the other devolved nations as well, about the broad challenges across the UK that have been felt by disabled people and that they have faced throughout the pandemic.

Helen Whately: There have been communications between the devolved nations. There has been really close working between the Chief Medical Officers, the Deputy Chief Medical Officers and also on the part of Public Health England, with equivalents in the devolved nations. What I can say is that there has absolutely been collaboration and we have drawn on the experiences that each nation has had in updating our policies and our responses.

Q114 **Alex Davies-Jones:** That is good. Wales was actually the last part of the UK to end the state-funded food support scheme, and there has actually been a reduced R rate across all of Wales. What can the UK Government learn from Wales' approach in this aspect?

Helen Whately: I am sorry. Is that question to me?

Alex Davies-Jones: It can be to you or to Minister Prentis.

Victoria Prentis: I would just like to say that Lesley Griffiths was a very active, capable and welcome member of the task force and added great value to our discussions, as indeed did the other devolved Administrations. I never felt at any point during the pandemic that we were not in touch. We were meeting on a very regular basis, particularly at the beginning. It was interesting to share best practice and to share thoughts as to where to go next. We were genuinely able to work together to help each other.

Alex Davies-Jones: That is good to hear.

Q115 **Chair:** Can I just go back to Minister Whately? You made the point that Public Health England had had close communications with the devolved Administrations. What communications did you have with your fellow Ministers in Scotland, Wales and Northern Ireland?

Helen Whately: As I said, the communications were particularly between, for instance, the Chief Medical Officer and the Deputy Chief Medical Officer. It was at that level.

Q116 **Chair:** There was no engagement at ministerial level.

Helen Whately: I believe there has been engagement, for instance, at the COBRA-level meetings. They had attendees from across the nations.

Q117 **Chair:** Have you had any engagement?

Helen Whately: I have not had one-to-one communications at my personal level, but what I have done is I have engaged with Ministers from several countries around the world to share experiences particularly around responses to social care, so that we can learn international lessons.

Q118 **Chair:** So you have engaged with Ministers around the globe but not with those in Wales, Scotland and Northern Ireland.

Helen Whately: Not at my particular level, no. That happened at the level of Secretary of State. I know there are engagements across the nations of the UK; I am thinking, for instance, of the operation for the JBC.

Q119 **Elliot Colburn:** Minister Vicky Ford, could I turn to you for a set of questions about SEN and EHCP provision? That would be really helpful. As with the last segment, if any other Minister would like to chip in, then please do draw my attention. Minister Ford, I will begin by asking about the level and quality of support that children and young people with special educational needs and disabilities have. We have heard evidence that this varied a very great deal between local authorities. Why, in your opinion, has provision been so patchy? What has the Department been doing to help local authorities comply with their statutory duties in this area?

Vicky Ford: First of all, thank you for your question. We know that the lockdown was particularly challenging for many of those with children and especially challenging for those with children with special educational needs and disabilities. There are just fewer than 300,000 children in the UK who have an education, health and care plan. About half of those attend mainstream schools, and about half of them attend special schools. Even before making the decision about school closures, we thought very hard about how to support vulnerable children, especially those with an education, health and care plan, because, by definition, those children had specialist and individual needs. Whether those needs were therapies, support, speech and language training or sometimes even more medical or clinical-type support, that type of support is normally given in their educational setting. With schools closed and with many health-service staff going to work on the front line of the Covid response, it was clear that there was going to be a challenge.

We were one of the very few countries in the world that asked schools to stay open for children with EHC plans whilst recognising that it would not be appropriate for all children to do so and that you needed to risk-assess each child on an individual basis, especially if they had other underlying vulnerabilities that may make them more at risk from Covid. Of course, at the very beginning of the pandemic we really did not know as much as we know now about the risk to children from Covid.

As I said earlier, there were just over 90,000 children—90,337—who were on the shielding list. Many of them were of course shielding, so they were not coming into schools to get their normal therapies, but others did attend. The attendance of vulnerable children grew during the pandemic so that, by the end of the summer term, we had more children back and we had more vulnerable children back by the end of the summer term as well. It did grow over the period.

We had to make some changes to the legal regulations, because of course schools are closed. It is not possible in some cases to give them the normal access to those treatments and care that they are entitled to, so we did need to make some amendments to the law to say that local authorities should use all their "reasonable endeavours" to make those entitlements. That change was made on 1 May, which was the earliest we could do the legal process. We wrote to all parents affected through the different support networks just before that came out, to explain what was going on.

Some schools have been fantastic; others have found it more challenging. Some schools, for example, have had staffing issues, if they have had coronavirus cases themselves. We have constantly stayed in touch with both our special schools and our residential special schools. Obviously, residential special schools are caring for enormously vulnerable children very often. We constantly stayed in touch with them and gave them the best guidance and support. We made sure the vast majority of them could stay open to those children while also recognising that each child's case at that stage needed to be considered on a risk-assessed basis.

Q120 **Elliot Colburn:** On the issue of those reasonable endeavours, would you say there is a certain level of inevitability that there was going to be a disparity in terms of what was offered to children who had EHC plans? Just to give you an example from my own borough, the London Borough of Sutton, I was receiving cases ranging from a slightly reduced one-to-one schedule to a complete refusal to provide any education facilities whatsoever during the pandemic. Would you say that is therefore an inevitability because of that risk-assessed nature?

Vicky Ford: I would not say it was an inevitability. Some 86% of special schools were open. London felt the peak of the pandemic very acutely; we all saw that. Some schools will have had more challenges, depending on the individual cases and the types of children they are caring for. For example, if more of their staff were also medically trained and were involved in going to support the NHS on the front line, that might have affected one situation more than others. As I said, the vast majority of special schools stayed open. There was a legal responsibility on local authorities to use reasonable endeavours. They did not lose all responsibility; they had to make their reasonable endeavours. That had to be done on a case-by-case basis. We have always encouraged everyone to work with parents. We have this word "co-production". It is about working with parents as far as possible. We know it has been difficult, but it has not been inevitable. As I said, 86% of special schools stayed open.

Q121 **Elliot Colburn:** Thank you, Minister. That is very helpful. Could we now move to focus on the return to school? Now, local authorities are expected to fulfil their obligations as set out in the Children and Families Act. What steps has the Department been taking to ensure local authorities have the resources they need, now we are returning all of our children to school?

Vicky Ford: It is absolutely vital to get all of our children back to school. It is important not just for their education but also for their mental health and wellbeing, and also for those children who have extra needs, to get them the support they need at school. I have been very clear with the team here at DfE that we want to make sure all children are coming back to school and we are not leaving children with SEND behind.

On the return to school, we have had specialist guidance from the very beginning to those special schools. Within our mainstream school guidance, there is also specialist guidance on supporting SEND pupils. We have put particular work into supporting mental health and wellbeing throughout the pandemic, especially as children come back into school. That is not just for special needs but for all children. For example, very early on we worked with mental health charities, led by Mind, and put extra resources into mental health. We published early our guidance on the PSHE curriculum modules on mental health, which have had over 17,000 downloads. We have done webinars, and over 10,000 teachers and staff have registered for our webinar on mental health support. We now have a new package on wellbeing for the education return; that is an £8 million package, which is going to give teachers across the country specialist training on how to support young people with mental health as they return.

I just mentioned that issue of mental health, because clearly those young people with SEMH are a particular group. About 14% of people with SEND are on the SEMH spectrum. That is an area that is very important. The autism spectrum is about 30% of those with SEND, so again we are really focusing on wellbeing and support for those young people as they return.

We have also increased the high-needs budget this year. We increased it by £780 million last year; we have increased it by a further £730 million this year. It is a phenomenal investment going into the high-needs budget, which is a very significant increase. You will have heard about the £1 billion of catch-up premium. That is £1 billion of catch-up funding to go and help children who have missed out on their education; £650 million of that is going directly to schools. While we have been focusing on how to allocate that within schools, we have tipped it towards supporting special schools. For mainstream schools it is £80 a pupil; for specialist schools it is £240 a pupil. That is because we know that the one-on-one therapy and one-on-one support you often need in a special school is that bit more expensive. That is funding and money for catching up.

There is also continual guidance. The guidance is constantly being discussed with stakeholders; we are constantly picking up very bespoke issues for different types of children and adjusting that guidance as we learn more about the needs for it. It is still a work in progress, and we will continue doing that.

Q122 **Elliot Colburn:** Could I ask about the potential for a very large backlog in EHCP assessments and consequently arranging those that are successful? The Association of Directors of Children's Services has said that it believes that this will lead to an inevitable trade-off between timeliness and quality. The obvious question there is whether you agree. Do you expect to see a large number of EHCP tribunal appeals as a result of this? Therefore, what plans are in place to deal with that increased workload?

Vicky Ford: If I can start with the back end of that and talk about the tribunals, the tribunals have actually carried on throughout this period. Many of them have happened virtually, and that has been very successful in many cases at reducing the backlog, if you want to call it that.

Let me just mention one of the legal changes that we needed to make. Incidentally, these legal changes are now dropping away. They were only temporary, but because children are going back to school they are dropping away. One of the legal changes was to give more flexibility on some of those timescales about, for example, putting together an EHC plan, because we know that, with the pressure on health services, for example, some of the individuals' cases take time, and they need to have those expert people involved. We are collecting data from local authorities on the level of new demand for EHC needs assessments. We are collecting data on what they are experiencing and what the capacity of their caseworkers and ed-psych team is. We are going to be collecting that data over this month as we watch the return to school as well in order to be able to have that fuller picture.

Of course, this all feeds into the fuller SEND review, which continues to be a priority of the Government and which we have continued working on. There are lessons to be learned from the pandemic about people wanting to think slightly different about some of the SEND provision for their children, for example wanting to keep children slightly closer to home, which is feedback that we have had from some stakeholders during the period. We will want to make sure those lessons from the pandemic are also brought into our SEND review as well, but we are continuing to welcome that.

Q123 **Elliot Colburn:** Thank you, Minister. I would like to come back to the SEND review in a minute, but I want to pick up on something you said in your previous answer about the catch-up premium. I think I am right in saying that there is no specific ring-fenced funding for SEND provision in the catch-up premium. I appreciate the figures that you gave regarding the weighting towards special educational needs schools rather than mainstream schools. Is there a reason why there was no specific ring-fenced funding in the catch-up premium? On top of those figures, I wondered whether you had the figure for the per-pupil amount of catch-up premium for children with EHCPs in mainstream schools.

Vicky Ford: As I said, the £1 billion catch-up programme has two elements to it. It is the £650 million that goes to all schools, and then the £350 million that goes on disadvantaged children, which will be spent on small-group or one-on-one tutoring.

Of the £650 million, that is £80 a pupil in a mainstream school and £240 a pupil in a special school, because we know that often it is the children who have even more specialist needs who are in the special school by definition, and therefore they need more specialist treatments. That is why we are weighting it towards special schools.

In terms of children from disadvantaged backgrounds, there is a higher proportion of SEND within those cohorts. By targeting that £350 million on those who are in the free school meals cohort, there is a higher proportion of SEND within FSM. It will mean that more of that money is going towards SEND than if you had said that that money is going equally across all children.

Q124 **Chair:** Can I just jump in on that, please? You have given us the figure on how the £650 million is broken down. Of the £350 million that is for disadvantaged groups, which is for small-group or one-on-one tuition, can you let us know what the breakdown per people on that is?

Vicky Ford: We do not break it down per pupil. As I said, we have broken it down in terms of the amount you get for schools. For one-on-one, I do not have that number at the moment. It has not been allocated in that way, because it is not given to all schools on a per-pupil number. It is going towards children from disadvantaged backgrounds.

Q125 **Chair:** Can you give us any idea about how many hours of one-to-one tuition or small-group tuition those disadvantaged children will get? If you have to follow that up in writing, that is absolutely fine. I understand that this is drilling down.

Vicky Ford: We can follow that up.

Q126 **Chair:** We heard yesterday that boys are more likely to be further behind than girls. Is there going to be any differential between genders? That will do for now, but you might have to follow that up in writing.

Vicky Ford: Yes, I will, because it has been primarily within Minister Gibb’s brief, but I can get you that.

Q127 **Elliot Colburn:** To finish up my set of questions, we have heard from witnesses that the pandemic was set against a background of what they considered already to be a crisis—that was the word used—within SEND provision. Again to draw on an example from my own borough, the London Borough of Sutton, there is a group there that was set up by parents called Sutton EHCP Crisis, which has strongly condemned the way the council has been performing. In terms of the SEND review, Covid has obviously put a delay on a lot, but when can we start to expect to see some results from that review?

Vicky Ford: First of all, the SEND review remains a completely top priority. Even though we are doing the SEND review, that does not mean we are not doing other things. We have put a massive investment into the high-needs budget this year. As I said, last year we increased it by £780 million; this year we are increasing it by £730 million. That takes the whole budget to over £7 billion, so it is a 10% increase that is going on. That is a very significant increase that is going on in that budget of funding.

We have seen for the past few years more children with EHC plans for different reasons. Last year, for example, there was a 3.1% rise. About

12% of pupils have SEND support but do not have an EHC plan. In terms of SEND support without an EHC plan, obviously the very significant increase in funding that is going into the mainstream school budget is a huge benefit there as well. That is the £14.4 billion going into increasing the mainstream school budget over the next three years. That is a big support.

In terms of the SEND review, the work has been continuing. The pandemic has made a very significant change to the way that public services are being delivered. I do want to publish the review later on this year, and we will continue to be working with children, young people, families, experts and colleagues across Departments, especially in the Department of Health, on the elements of that. The absolute common goal is to improve the SEND system for all children with special educational needs, not just those who need EHC plans but for all children with special educational needs. That is crucial to levelling up and closing that attainment gap, which is again a top priority of the Government.

Q128 **Elliot Colburn:** I am very pleased to hear that it is still a top priority. I am pleased to hear that you are aiming for later this year. Is there any chance of narrowing that down any further? Are we talking the next month or so, or closer to Christmas?

Vicky Ford: It is really important to recognise that everyone at the Department for Education has been working flat out on caring for vulnerable children in the pandemic, communicating extraordinarily closely with those on the frontline, their parents and their families as much as possible in exceptional circumstances. I want to get this out soon, but I want to get it out well. That means I want to make sure that the engagement will continue, as we look at a wide array of really complex issues. Every single child with special educational needs has different needs, by definition, and we need to get this right for them. Fundamentally, the aim here is to make sure they get the same opportunities as others. This is about the opportunity to have an independent life as well, which is why working with the Department for Work and Pensions on supported internship has been a key priority on the education side. We are continually working on improvements in opportunities and life chances for those young people.

Q129 **Elliot Colburn:** Whilst we are awaiting the result of that review, we will also be seeing the result from the Education Committee's report from October last year as well. I believe they are still waiting for a reply to that too.

Vicky Ford: We will be seeing responses to that. I have had regular communication with them. There is another issue here that I touched on earlier. Part of the feedback we have had from the pandemic is a slightly changing view on, "What is best for my child?" Some families have wanted to keep their children closer to them. One of the issues you have seen over the past few years, for different reasons, is more children moving further away from home for their education, and the pandemic has made some of us think again about whether or not that was the best way to care for those children. We are making sure that we can reflect that in these reviews and in the questions that we are getting.

Chair: I am sorry. I am going to have to interrupt you, Minister. There is a Division in the House, so I will have no choice but to suspend the meeting. Ministers, you are off the hook—it is a 10-minute rule Bill; you do not have to vote.

Sitting suspended for a Division in the House.

On resuming—

Chair: Thank you for coming back so promptly, members. Elliot has finished his questions.

Vicky Ford: Can I just add a couple more things?

Chair: Yes, briefly.

Vicky Ford: Elliot, I have responded to the Education Select Committee inquiry and the PAC inquiry in July. I have given them the first response and promised them further information later on in the year.

I just wanted to quickly reflect on the conversation you had about links with devolved Governments and communication with other Government Ministers. I have been representing children, especially vulnerable children, on a number of the cross-Government ministerial groups, including on the health group, which was chaired by the Health Secretary. It is at that interface where there has been interaction between the devolved Ministers and the Ministers for England throughout. That has happened on the task force and in other places as well.

Q130 **Kim Johnson:** Hello, panel. Minister Ford, I just wanted to pick up on some issues that you raised about mental health. I know for a fact that young people in my constituency, prior to the pandemic, struggled to find adequate services to meet their needs. I am aware that, as a result of this pandemic, the number of young people requiring mental health services has increased. You tended to paint a kind of rosy picture, and I just have to dispute that and talk about how much funding we will be putting in to ensure that young people have access to adequate mental health services going forward. Thank you.

Vicky Ford: The mental health Minister is Nadine Dorries, but I have been working very closely with her during this process. I completely understand your concerns for young people's mental health and wellbeing. We know that mental health concerns and concerns about wellbeing have grown during this period. Indeed, I have spoken to many different young people and young people's organisations during this period as well.

On the positive news during the pandemic, the NHS expanded its mental health services by bringing forward its plans for 24/7 telephone hotlines for those in crisis. Those hotlines have now been put in place across all of England, and they are available for young people as well as others. I understand from my conversations with Nadine that CAMHS has also been operating in a way that has been very helpful for many young people in terms of offering digital consultations, which have been beneficial for some young people. Some do need face-to-face consultation, but that has actually meant that the issue with CAMHS deadlines has not increased during this period.

We know it is going to be really important for very many of those young people to get them back into school and education. That is why it is also important that they are supported when they get back into education, which is why we have recently announced this £8 million project to give that training support to teachers on mental health. There is a long-term commitment we have through the original commitment of the Green Paper on this for delivering training and mental health support in schools, and this helps us to start delivering that very quickly this term as well.

Much more support is going into mental health than had been going previously through a number of different initiatives. We then also, of course, have our long-term commitments. Delivering on those long-term commitments is a long-term plan, because it involves training so many more specialist staff in the NHS as well. It has very much been my priority, working with Nadine and indeed other Government Ministers, to make sure we give that support to children and their teachers when they return this term.

Q131 **Kim Johnson:** Thank you for answering that question, Minister Ford. My questions are about protecting disabled people in hospitals and social care, and they are directed towards Minister Whately and Minister Tomlinson. NICE published potentially discriminatory guidelines on access to critical care for Covid-19 using the clinical frailty scale, with those scoring 7 on that scale seen as unlikely to survive and only being offered palliative care. This has had to be revised due to the fear and anxiety caused to both patients and disability rights charities. How would you describe NICE's handling of this issue? What do the Government have to do to ensure these concerns do not arise again and that the voices of all disabled people are heard? Thank you. I will pass it over to you, Minister Whately.

Helen Whately: First, the entire effort of the Government and the Department of Health and Social Care throughout this has been to protect and save people's lives. Coming specifically to your question about the clinical frailty scale, as soon as we heard about the concerns, for instance, from disability groups about how those guidelines might be interpreted, or rather misinterpreted, as you in fact said in your question, NICE updated and clarified how that frailty scale should be used to make it clear, for instance, that it should not be used for assessing younger people or people with stable long-term disabilities. That is an example of a very quick response to where a concern was raised and then rapid action was taken to address the concern.

Q132 **Kim Johnson:** Thank you for that. You mentioned that Government's concern was to protect those, but would you agree that the Government failed to do that in the early stages of the pandemic, particularly in terms of supporting residential care and residential homes?

Helen Whately: I would not agree with that. I would say, going back to the early stages of the pandemic, every step of the way we took all the actions we could take to protect people. The whole way through, we were learning about Covid and learning about how it might be transmitted. For instance, I remember that early on there was not an understanding of asymptomatic transmission. It was thought that people would only be a transmission risk if they were symptomatic.

We have taken a variety of steps, including the early guidance, the support for emergency access to PPE, the funding and the priority access to testing that has gone to care workers and the care sector. Every step of the way, we have been doing our utmost to protect and support those who receive social care.

Q133 **Kim Johnson:** Moving on to my next question, again to both Minister Whately and Minister Tomlinson, in April, the NHS had to clarify that it was inappropriate and discriminatory to encourage a blanket approach to adding DNR notices to the medical records of people with learning disabilities receiving social care services. What does it say about the attitude of the NHS to disabled people that such a clarification was necessary? Will there be a review of how the potentially discriminatory NICE guidelines and DNR practices in the NHS came about? Thank you, Minister Whately.

Helen Whately: What I can say is that as soon as we heard about the inappropriate use of DNACPRs and, for instance, concerns that they might be being applied on a blanket basis to some groups of people, communications went out very rapidly, including from senior levels of the NHS, to make it clear that blanket application of DNACPRs is completely inappropriate and absolutely should not take place. Those sorts of very important decisions should be made on an individual basis following the appropriate consultation with the individual. Very strong communications were put out about that. We of course keep that under review. Should there still be a problem, further action should of course be taken.

Justin Tomlinson: That was flagged to us in our stakeholder engagement, and it is a credit to DHSC that they were exceptionally quick to clarify that.

Q134 **Kim Johnson:** To both of you again, with hindsight, did the Government's key early message of "Protect the NHS to ensure it is not overwhelmed by Covid-19 cases" risk overriding the fundamental rights of disabled people?

Helen Whately: I would not say that. If you think back to the early days and the peak of the pandemic, I remember very well talking to, for instance, clinicians who were extremely worried that we might be like other countries—Italy was the example at the time—where the health service was really overwhelmed and they pretty much had to turn people away. There was a real worry that clinicians in our health service would have to do that. So much effort was made across the system, from expanding the capacity of the NHS to the lockdown and the shielding measures, on the other end of the scale, to make sure that our NHS did not get overwhelmed and in fact has been able to treat everybody who needed treatment for Covid.

Q135 **Kim Johnson:** You just mentioned that you have had discussions with various stakeholder groups. Could I ask, then, in terms of those discussions, what positive changes have been made to the way of dealing with disabled people during the Covid-19 pandemic?

Helen Whately: I had, particularly through the peak period, fortnightly engagement and conversations with a range of stakeholders for disabled groups, including those with lived experiences. I found them really valuable, because it absolutely brought to life people's experiences and people's worries.

I should also say that some of the stories I heard during those conversations were inspiring in terms of the support people were finding in their communities and how they said neighbours and people in their streets who they had never known before were stepping up and helping. That was one of the positive things that came through in clearly extremely challenging and difficult times for disabled people and their carers.

As I mentioned briefly earlier on, there were changes to guidance in response to some of the feedback and engagement with stakeholders. For instance, on the introduction of the wearing of face coverings on public transport and in shops, in engagement with stakeholders we set out a clear list of exemptions for people who should not be expected to wear face coverings. We have been communicating to many channels that there are people who will have really good reasons for not covering their faces. Another example would be the guidance in the period of the strongest lockdown, when exercise was very limited. We updated the guidance to enable those with autism to exercise more, recognising the needs of that group of people.

Q136 **Kim Johnson:** Could I also ask and clarify what level of engagement you had with young disabled people? Often, their voices go unheard.

Helen Whately: I do know that in some of the groups I have engaged with we have had contributions from young carers, for instance, and younger people in those groups.

Justin Tomlinson: That was a very important point to flag, because in our engagement not only do we need to make sure it is not the London-based larger charities; we need to make sure it is charities of all sizes and all ages. I have had many visits, meetings and engagements with young people who do not have any preconceptions, and often they are the ones who come up with some of the best ideas that we can then take forward.

I had a particularly good one where we had been contacted by a group of young people who thought that Access to Work could be improved. They were somewhat surprised that their letter resulted in a meeting with myself. One of them worked for WHSmith up in Bolton, and WHSmith's head office is in my constituency. She was brilliant with her proactive ideas about how employers can make often very small changes to unlock additional potential within their workforce, so we were able to link her up with the chief executive of WHSmith to feed into their training programmes. Often, those young voices are really crucial.

Kim Johnson: I asked the question specifically about young disabled people.

Justin Tomlinson: That was what I was talking about.

Vicky Ford: Can I also give a little shout-out to the organisation, FLARE? It brought together an exceptional group of young disabled people to talk to me about the return to school and the issues they had faced during lockdown. It was really helpful to have direct feedback from young people.

Q137 **Peter Gibson:** I just want to follow up on the DNR issue. Can I ask what steps are being taken to review medical notes and care notes with respect to any DNRs that were put in place at that time? What guidance has been issued to institutions to have those removed if they were put in place at that time?

Helen Whately: I could not hear all of that, but I can pick up on the point about whether DNACPRs were inappropriately in people's records, which I think was the question.

Chair: The question was about what steps are being taken to make sure they are no longer inappropriately in people's records. Is that right, Peter?

Peter Gibson: That is correct, yes.

Helen Whately: The NHS has messaged out, and I would message out again today, to all clinicians that DNACPRs simply should not be in the records of any individual if an appropriate process has not been followed to put that DNACPR in place.

Q138 **Peter Gibson:** Just to follow up on this further, if the DNR should not have been put there in the first place and it is there, and that communication did not correctly reach the institutions that put them there, what steps are actually being taken to review whether any DNR notices are there? What steps are being taken? I have asked the same question of the chief executive when she attended, and there was no plan to do a review in respect of this. That greatly concerns me.

Helen Whately: This should be absolutely monitored. If it appears to be the case that patients have DNACPRs on their records that should not be there, then a process should take place to address that. We would absolutely respond to that if that were the case. This is an area where we absolutely listen to our stakeholders and respond where there are issues. For instance, when we initially heard from stakeholders about what appeared to be inappropriate application of DNACPRs—I particularly remember conversations with Turning Point and Mencap about this—we took very rapid action to say that this should not be the case. If there is an ongoing problem, we will of course take further action.

Q139 **Chair:** Can I ask a follow-up to that? What risk assessment have you done as to how many inappropriate DNACPRs there might be out there? Aside from messaging out, are there any more solid steps that should be taken to make sure that inappropriate notices are no longer on people's records?

Helen Whately: When I say "messaging out", three very strong communications were put out, first by a combination of the BMA, CQC and the Royal College of GPs, then by the NHS, and then in further guidance on Covid. In fact, this was also in the social care action plan. It has not been informal messaging; it has been very formal communications. It was also messaged out in one of the press conferences by the Secretary of State for Health and Social Care, so substantial communications have gone out. As I say, if there does appear to be an ongoing problem, then we will absolutely take further action.

Q140 **Chair:** Do you have any idea of how many inappropriate notifications there might have been, to give you an idea of the scale of the problem that you are tackling?

Helen Whately: I do not have that data.

Q141 **Kate Osborne:** My questions continue with protecting disabled people in hospitals and social care. My first question is directed towards Minister Whately, but I welcome any other helpful contributions. The question is this. The Government's response to social care seemed to come relatively late. Social care workers were only eligible for testing from 28 April and guidance regarding PPE seemed to be ever-changing. Your social care action plan was not published until 15 April, a month after the start of the crisis. As the Minister responsible, can you understand why disabled people in social care felt ignored at the beginning of the pandemic? Can you tell us why the response took so long?

Helen Whately: Actually, the response began in February and initial guidance was issued then. We were communicating regularly with the sector, for instance by setting up stakeholder-engagement groups as a way of getting initial communications out to social care providers particularly, working closely with local authorities, which, in the main, have the relationships with social care providers in any event, and also working with CQC as a point of contact with the vast majority of social care providers.

We were working with Public Health England, the Chief Medical Officer and the deputy Chief Medical Officer on guidance on the use of PPE, which was something that the sector was asking for from early on in the pandemic, particularly because I was hearing at the time that those working in social care were less familiar with using some kinds of PPE. For instance, face masks are not used on a widespread basis in social care normally, before the pandemic.

Coming to the publication of the social care action plan in April, to which you referred, that was a huge piece of work that brought together a lot of the actions that were already being taken. Some of the things that were in that plan were already policies that were in pace, but we brought them together in one document, because what we heard from the sector was that it would be helpful to have it all in one place.

Q142 **Kate Osborne:** You say the response was quite quick, but the guidance for supported living providers, including the advice on risk assessment and reduction, infection control and visitors and support bubbles for people in supported living, was not published until 6 August. How can you justify taking so long to publish this crucial guidance?

Helen Whately: I recognise and acknowledge that I would have liked the supported living guidance in August to have gone out earlier. What I will say is that putting together this guidance is a substantial piece of work. It involves bringing together various inputs, including, for instance, from the public health side. One of the things that we heard from stakeholders was that they very much wanted to be involved in the production of guidance and have a co-production model. Rather than having guidance rushed out that then actually was not as helpful as it might be, we worked very much with the stakeholders to try to produce really good-quality guidance.

I would also say that we are coping with and responding to a pandemic that is placing completely new demands on a Government Department, requiring the creation of an organisation that can put out this scale and complexity of guidance. A huge amount of resource was redirected, for instance, into the social care part of the Department of Health and Social Care. People worked incredibly hard. I should say, in the face of criticism and suggestions that everything should have been faster and sooner, that those involved in this, including the civil servants, worked incredibly hard to produce robust and helpful guidance as quickly as possible.

Q143 **Kate Osborne:** I certainly would not doubt that the civil servants, et cetera, worked extremely hard. You would not want it to be rushed out; 6 August certainly could not be classed as rushing it; that is for sure.

I will move on to my next question. This, again, is to you, Minister Whately and Minister Tomlinson. We know that disabled people have died with Covid at a much greater rate than the non-disabled population. Will there be an independent review of the causes, including the decisions and policies of the Government, separate from the broader Public Health England review of disparities in death rates?

Helen Whately: What I would say first, when we come to questions of mortality and people losing their lives from Covid, is that we have to recognise that it is a cruel disease that clearly hits the most vulnerable in our society hardest. I think with great sadness about every life lost and what that means, whether people are losing fathers, mothers, grandparents, loved ones or other family members, and the gap that it has left. We should always think about the individuals before coming to the statistics, for instance.

What I would also say is that, as I said, we have been learning all the time to better protect people from the risks of Covid. We know, first, that, for instance, if you are a disabled person, you are more likely to have health conditions that may put you at greater risk from complications and, very sadly, death from Covid. That increases your risks.

On the other hand, some people's living circumstances expose them to greater risk. For instance, if you need care, and particularly if you need close-contact care, if you are receiving that in a residential setting like a nursing home, we know that the risks are greater. That is why we put in place policies particularly to protect people who are at greater risk, like, for instance, rolling out extra testing and the testing of the care workforce and then residents of greater risk, which are those of older age in care homes, particularly the larger care homes and nursing homes. We then made that testing available to care homes for working-age adults, based again on the level of the risk.

I would also say that we are always trying to understand better what the causes and reasons are for the raised levels of mortality for some people so that we can better protect people, particularly in the event that there is a second wave. The data has not always been at our fingertips, but we have worked really hard to make use of the data there is. There are a couple of areas of research that are going on particularly to fully understand mortality. One is a piece of work that we commissioned from Public Health England to better understand the causes of mortality, particularly for those with learning disabilities. There is also the deep dive into the LeDeR information on deaths of people with learning disabilities and autism. We really are working to try to understand this better so that we can take better decisions. While that research is ongoing, we are not waiting for the results of that research. Based on all the emerging evidence, we have already taken action to protect people.

Justin Tomlinson: We welcome that. As I said in an earlier answer, there needs to be more data broadly across Government, not just in the area of disability but in many other areas, because it helps inform our decisions. We cannot be precious. Any lessons we can learn are very valuable, so we support the work that DHSC and PHE are doing in this area.

Q144 **Kate Osborne:** Can I just direct you back to the question, which was about whether there will be an independent review of the causes, separate from the Public Health England review?

Helen Whately: The Prime Minister has indicated that there will be an independent inquiry in due course. At the moment we are in a process of understanding. We need to understand rapidly the lessons we can learn, the causes of mortality and the actions we can take, so that we can put in place the right interventions and the right policies, for instance in the event that there might be a second wave. Throughout all of this, I know I have been saying, "Can I have the data? Can I have the findings from research that is going on sooner rather than later?" because we have been wanting to make very quick decisions and take rapid action to help people, but we want to make sure that rapid action is based on data.

Q145 **Chair:** Minister Whately, can I take you back to one of your very early answers on communications, where you said that, in order to save lives, it was imperative that communications be got out as fast as possible—I think we would all agree with that—and then to your answer on the guidance for social care providers, by which time it had become more important that the guidance was robust than it was got out? Do you see any contradiction there?

Helen Whately: We are talking about different sorts of guidance. For instance, the initial conversation about things getting out quickly was for those who were shielding. As people will recall rightly, we saw the rates of Covid rising and wanted to take rapid action to protect those who were recommended to shield.

What I would say about the guidance to the social care sector is that we were in constant communication with the sector on advising and supporting them, but we got a very strong steer from the sector to ask that we work with them to make sure that, when we published things like the social care action plan and those kinds of substantial bits of guidance, it was worked through with them so that it really worked for the range of settings that we were talking about.

Q146 **Chair:** So it mattered that that worked for a range of settings, but it did not matter that the comms were suitable for a range of different disabilities.

Helen Whately: It not a comparison of like with like; it is a different scenario when you are communicating with all the people who were shielding from the institutions who are providing care to people, as we were with the social care action plan.

Q147 **Nicola Richards:** My questions are to both Minister Whately and Minister

Tomlinson. What role does the Government have in ensuring the NHS takes a fair and equal approach to the reopening of services so that no groups of disabled people miss out on healthcare any longer than is necessary?

Helen Whately: At the moment, one of the priorities for the NHS is to restart and restore services and to give people access to healthcare, particularly anything that might have been delayed due to the focus on Covid care in the peak of the pandemic. Communications have gone out from Simon Stevens to the NHS about that restart of services, including clear guidance on making sure that addressing health inequalities is prioritised and that appropriate decisions are made to give people access to the care that they need.

Justin Tomlinson: From our perspective, as we return to normality we want to make sure it is fully inclusive. We will continue to feed in anything that is flagged by our extensive stakeholder engagement.

Q148 **Nicola Richards:** The NHS chief executive Simon Stevens said recently that they are aiming to get the percentage of people with learning disabilities who get annual health checks to over 75%, which has not been possible to date. Do you know whether that has happened yet, when that will happen and what steps are being taken to get there?

Helen Whately: In those communications from Simon Stevens, he has made very clear, as you are alluding to, the importance of health checks for people with learning disabilities and that it should be a priority.

Q149 **Nicola Richards:** Can you update us on the availability of clear face masks? When are they going to be available? How widely will they be available?

Helen Whately: One of the things we heard from stakeholders was concerns about PPE and how difficult it makes it to communicate for some people with disabilities. Clear face masks have been developed. They are already being trialled in some NHS settings, and they will imminently be trialled in some social care settings.

Q150 **Bell Ribeiro-Addy:** I am going to ask some questions about the Government's guidance on the use of Care Act easements. These are all questions for Minister Whately, but, if anybody else would like to come in, that would be great.

We saw eight councils trigger easements to the Care Act under the temporary legislation in the Coronavirus Act. In oral evidence on 22 July, this Committee asked the Local Government Association and the Care Quality Commission for information about the effects of Care Act easements, but neither organisation was collecting any data on this. I want to ask whether the Department of Health and Social Care has been collecting data on this. Could you tell us how many disabled people are actually affected by these easements?

Helen Whately: What may be helpful first is to give some context on the Care Act easements, the thinking behind them and their introduction. In the event that we had a very acute pandemic in this period, with, for instance, lots of care workers who were either sick or isolating and unable work, we did not want to have a situation where people who needed care for their day-to-day living were deprived of that care with clearly very high risks that might result. The purpose of the Care Act easements was to enable, in those scenarios, local authorities to prioritise care to make sure that people would, essentially, be safe and have the basic care they needed in the event of that level of pressure on the system. As you said, in practice we have only seen eight out of 151 authorities use the Care Act easements. At the moment, none are actually using them.

When they were then put in place, a combination of the chief social workers, the Association of Directors of Adult Social Services and Think Local Act Personal carried out work to assess and understand how those easements were being used and what impact they were having on people, which was then reported back to the Department.

Justin Tomlinson: This was a hot topic at the beginning. In probably the first couple of major pieces of engagement with the Disability Charities Consortium, this was an area of concern. Interestingly, quite a few of those disability charities are also, in another guise, providers themselves. They understood and supported the principle that, as a measure of last resort, the direct care of vulnerable people and people with disabilities within the community would be prioritised over, for example, doing an annual review paperwork exercise, which can be delayed, whereas urgent care cannot be.

However, the concern in those first few meetings was about their ability to be alerted to which areas would be using those changes of powers so that they could externally and independently audit that. We flagged that up with DHSC, and very quickly—from memory, it was within hours—that information was then provided. This was not brought up again in follow-up meetings, because they felt empowered to check that no local authority was abusing those powers and they were genuinely being used as a last resort to make sure frontline care was done. This is a good example of how, on a very serious issue, everybody was working together.

Q151 **Bell Ribeiro-Addy:** At the time that the Coronavirus Act was going through its passage through the House, there were lots of concerns raised by disabled stakeholders. One of the ways in which we could perhaps address those issues is through transparency, so finding out how disabled people will actually be affected and what types of services might be affected. Do you agree that the data should be made publicly available to ensure that there is transparency and accountability, which would no doubt ease people’s concerns? How many people were affected? Do you agree the data be publicly available? That is to Minister Whately, again.

Helen Whately: I could not hear.

Chair: It was about data. What data are you collecting? Should it be transparent and publicly available? How many people are affected? What types of people are affected? Basically, we have heard from Minister Tomlinson that we need more data; what have you collected?

Helen Whately: I completely agree on the need for more data. Something characteristic across almost everything that I have been involved in is wanting to have more data. We have established a whole raft of new data collections from social care providers, for instance, which we did not have before the pandemic but we now have. They tell us, for instance, where there are providers for whom care workers may be working in more than one care home, which is really important for infection control. We have instituted data collection.

Specifically on the Care Act easements, as I said, there is particular work going on led by TLAP to feed into us on the use of those. I am expecting to be able to publish revised guidance on the use of those and FAQs based on the lessons learned from the use of the Care Act easements. There will also be a six-month review of those easements in October, so next month. That is a point to review the impact and decide whether they should be continued or not.

Q152 **Chair:** Is the data going to be made publicly available?

Helen Whately: I would like us to make publicly available the information that we can share.

Q153 **Chair:** That is not a yes or a no. It is that you intend to as the Minister but something might prevent you.

Helen Whately: I would want to see what report we get and the implications, but my general approach on everything is, "Can we be as transparent as possible?" because that is to everybody's benefit.

Q154 **Chair:** You are going to look at the report when you get it and if you do not like what the report says you are not going to publish it.

Helen Whately: I said that we will shortly publish revised guidance and FAQs based on lessons learned.

Q155 **Chair:** No, you just said that you would look at the report and then decide whether you would publish it.

Helen Whately: I do not want to commit to something that I am not in a position to commit to at this point. I will absolutely say that we should be transparent as much as we possibly can. I am conscious that there have been moments when there have been implications, where you have to weigh up the pros and cons of things. That is my answer.

Q156 **Bell Ribeiro-Addy:** The guidance on temporary easements states that local authorities should keep a record of the decision and the evidence they used to enter these easements. It also says that the local authority should communicate the easement via the service user's carers and local

MPs and actually inform your Department, so we have the details from all the local authorities that trigger the easements, but we do not have the justification as to why they triggered these easements. How are we to know the councils that triggered the easements were justified in their decisions and were in line with the guidance? Would publishing these justifications actually allow for greater transparency and accountability? Will you be calling on local authorities to do this?

Helen Whately: Yes, I would encourage local authorities to be transparent with their electorate about the decisions they have made. I would say that throughout this process we have taken steps to increase transparency, so, for instance, to get the decisions on the use of Care Act easements to be published and for the authorities using them to be listed. As I said, the really important part of the process has been the role of chief social workers in working with local authorities to get assurance from them on their use of the Care Act easements and the decision-making process for the implementation.

I have also heard from the conversations I have had back that, while I do recognise that the pandemic clearly has had an impact on people who receive care, there is no evidence of a particularly detrimental impact specifically in those areas where the Care Act easements have been turned on.

Justin Tomlinson: I think that is an important point because, again, as I said with the engagement, the stakeholders were wanting to be reassured that they could independently check those powers were being used correctly. Remember they were underpinned by the Equality Act and the public sector duty where you should reflect on the potential impact. It is an unequivocal "yes" that they should publish why they took those decisions. It was always meant to be only as a last resort, so they should have nothing to hide.

Helen Whately: Can I also just confirm, in response on the publication, that the report from the work by TLAP looking into the impact of the care assessments will be published this month?

Q157 **Bell Ribeiro-Addy:** The LGA actually told us that some councils had pre-emptively taken a decision to trigger a Care Act easement just in case it became necessary. Was this a reasonable approach and does it comply with your guidance on this?

Helen Whately: That is not a situation that has been advised to me. I am not aware of that taking place.

Q158 **Bell Ribeiro-Addy:** If it had taken place, would it be in line with your guidance?

Helen Whately: The guidance should be followed in turning on the Care Act easements and the local authorities clearly should follow the steps to turn them on when it is necessary and appropriate.

Justin Tomlinson: The guidance was last-resort so we are not aware that a local authority did it early, but, had they done so, no, that would not have been following the guidance.

Q159 **Bell Ribeiro-Addy:** Thank you. That is very helpful. This is my final question. Kate Terroni of the CQC and Simon Williams of the LGA have both expressed to this Committee that they believe the temporary Care Act provisions in the Coronavirus Act should have been repealed as soon as possible. You have mentioned that the six-month review of the Coronavirus Act is due to take place next month, in October. What assessment has the Department made into repealing the temporary Care Act provisions and will you yourselves be pushing for it to be repealed?

Helen Whately: As I said, we will soon be receiving a report on the impact. The work has been going on, with the chief social workers working with local authorities to understand the impact. That would, of course, feed into the review.

Justin Tomlinson: It is important to remember that the law had not changed in the sense that any decision taken was underpinned by the Human Rights Act, the Equality Act and public sector duty. It was not carte blanche and it is a balance. You are absolutely right that it should be reviewed, it should be used as a last resort and there should be transparency so there is independent checking that it is genuinely the last resort.

I also would not want, if—heaven forbid—there was a second spike, there ever to be a situation where people who could be delivering vital frontline care were in an office filling in a form that, frankly, whilst important in normal times, is not as important as delivering frontline care. It is a really tough balancing act. Those stakeholders, some of which are disability charities and household charities and are also social care providers in their own right, understood that. You just have to make sure that, as long as the safety checks are in place, you then get that right balance.

Q160 **Sara Britcliffe:** I just would like to follow on from Bell's questions. At this moment in time, do you think there is a case for suspending the Care Act easements immediately?

Helen Whately: There is the review next month, but, to reiterate, the purpose of the Care Act easements was to make sure that, in the event of a very serious peak level of cases that meant that you might struggle to give people the care that they need, care was prioritised so people would get it. It was about protecting lives. We need to bear in mind, and think of this in the review, that, as we head into the winter and with concerns that we might have a second surge, that will need to be one of the factors to bear in mind as we consider whether to keep them available or not.

Justin Tomlinson: The key is to remember that this was looking at if there had been a depleted workforce. Now, those key workers on the front line were amazing because not only did they keep going but they were turning up for work and at times where many of them would have had very serious concerns of their own about the risks that they were potentially putting themselves in, but they did and that is why so few had to do it. In an ideal world, we will get back to normality as quickly as possible and we will not need these. These are not a permanent feature; they are a matter of last resort, but I cannot say enough that we do not want to have a situation where somebody is having to fill in a form rather than delivering vital care on the front line to people who are desperately reliant on that.

Q161 **Sara Britcliffe:** We have heard from a range of witnesses that the pandemic shone a spotlight on systemic weaknesses in the social care system. When can we expect to see progress in tackling these systemic issues?

Helen Whately: The Government are absolutely committed to carrying out social care reform. As you said quite rightly, the pandemic did shine a spotlight on parts of our social care system that are fragile. We are determined to take forward reform. During the peak in the last few months, we did have to absolutely focus on the pandemic response. We are also still responding to that and preparing for winter, but, hand in hand with that, we are looking at social care reform.

Q162 **Sara Britcliffe:** To clarify, that is being looked at right now.

Helen Whately: Yes.

Q163 **Chair:** Can I just conclude by asking some questions under the relaxations of the requirements for sectioning under the Mental Health Act? Specifically, we know that the Coronavirus Act provided for temporary changes to sectioning, but the provisions have not been necessary in England; they have not been used. Do you think they are still justified?

Helen Whately: The Mental Health Act and mental health brief is covered by my colleague, Nadine Dorries, but, picking this question up, my understanding is that the approach to the Mental Health Act easements is similar to the Care Act easements that we were just talking about, so it is about having them available in the event that the system could come under such pressure. In practice, the mental health sector has not had that kind of crisis so they have not needed to be switched on, but the approach is to continue to monitor that and review whether they should need to be switched on. At the moment, they have not been because we have not seen the need.

Q164 **Chair:** Do you think it comes across that the Government are clinging on to powers that they did not need and have not used, with a just-in-case mentality?

Helen Whately: I would not say that. We are dealing with an unprecedented situation and we have had to think about what scenarios we might encounter and prepare for them. For instance, you have seen that in the investment in additional capacity in the NHS and the Nightingale hospitals. We are taking an approach in the procurement of PPE to be ready for whatever scenarios. In general, we are planning ahead for the scenarios that might happen, some of which you need in practice and some of which it turns out you do not, but you clearly need to continually review. As you see with this, when you do not need it, it has not been turned on.

Q165 **Chair:** You do not need it. It has not been turned on. Do you think when these powers are reviewed next month that they will be turned off?

Helen Whately: I would not want to pre-empt the decision of that review.

Chair: Can I conclude by thanking all of our four witnesses? I thank our witnesses for taking part this afternoon. It has been incredibly helpful. If there are any issues that need following up in writing, please feel free to do so.