



House of Commons  
Women and Equalities  
Committee

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# Unequal impact? Coronavirus, disability and access to services: full Report

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**Fourth Report of Session 2019–21**

*Report, together with formal minutes relating  
to the report*

*Ordered by the House of Commons  
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## Women and Equalities Committee

The Women and Equalities Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Government Equalities Office (GEO).

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## Summary

Disabled people who already faced substantial barriers to full participation in society, for example because services were inaccessible or they had additional health, care and support or special educational needs, have suffered a range of profoundly adverse effects from the pandemic, including starkly disproportionate and tragic deaths. There must be a discrete independent inquiry into the causes of adverse outcomes for disabled people, including the decisions and policies of the Government and public authorities. This should take place as soon as the pandemic is more clearly under control, which we all hope will be in the first half of 2021.

The Government's focus on people defined as "clinically extremely vulnerable" (CEV) to the virus, while rational from a medical perspective, was an inappropriate proxy for the need for support with access to food and had unintended consequences. The Government must better promote the Equality and Human Rights Commission's new guidance to retailers and the vital importance of reasonable adjustments required under the Equality Act to allow disabled people equal access to food, including in emergency situations. The Government must use consultation with disabled people on its proposed National Strategy for Disabled People as an opportunity to more effectively adopt a social model of disability in relation to maintaining disabled people's access to food in this and future crises.

When the Government advises disabled people to shield, we believe it has a duty to ensure that local support arrangements that have replaced the national shielding programme, and the funding in place to support them, are adequate to meet the level of need. It must justify its assertion that "we need to get away from the food parcel model" by publishing an ongoing assessment of disabled people's needs for help accessing food.

Potentially discriminatory critical care guidelines and doctors' blanket use of do not attempt resuscitation (DNAR) notices caused disabled people great distress and anxiety and left them feeling their lives were less valued than others'. A robust response is required to restore disabled people's confidence that their needs are given equal consideration. The Government should consent to the Equality and Human Rights Commission issuing a statutory Code of Practice on the Public Sector Equality Duty.

Pre-existing health inequalities and poor outcomes for people with learning disabilities have been exacerbated by the pandemic. It is vital that their annual NHS health checks are reinstated. The Government should work with the NHS, British Medical Association and people with learning disabilities to ensure full reintroduction of annual health checks across the NHS and increase take up.

The much more widespread adoption of continuous mask wearing has made effective communication impossible for people who lip-read and much more difficult for British Sign Language users and disabled people who are more reliant on facial expressions for communication. The Government's procurement of 250,000 clear facemasks for health and social care providers is therefore very welcome, but we are not aware of any analysis of the adequacy of 250,000 clear masks to meet current or ongoing needs.

The Government should update us about the distribution of the first 250,000 clear facemasks; its assessment of the level of need across health and social care; and plans for further procurement and distribution.

The 2020 Spending Review's settlement of £300 million in additional grant funding for local authorities' social care in 2021/22 was disappointing. We agree with the Health and Social Care Committee that an increase in funding for social care, worth around £4 billion per year by 2023/24, will be a necessary first step towards fixing systemic problems in the sector. The Government must bring forward a social care reform package, which includes the whole sector, in this financial year. It must be wide-ranging, including actions to improve the quality and personalisation of care and support for working age disabled people across all social care settings. The vital importance of the whole social care sector and its workforce has never been so apparent; it must now be valued accordingly.

The pandemic has demonstrated and exacerbated a widely acknowledged pre-existing crisis in provision for children and young people with special educational needs and disabilities (SEND). The Government must now prioritise its SEND review and bring forward as a matter of urgency reforms which address fundamental problems of funding, consistency of support, accountability and integration of education, health and care provision. While the Government's funding for pupils to catch up on education lost to the pandemic is welcome, the lack of ring-fenced catch-up funding for pupils with SEND in mainstream schools is unacceptable. These pupils have often borne the brunt of the dysfunctional SEND system. Funding should be increased to allow for pupils with SEND in mainstream schools to receive £240 each, ring-fenced for their catch-up support in this academic year. The Government should also procure additional tailored support for pupils with SEND through the National Tutoring Programme.

While Ministers described their engagement with disabled stakeholders during the pandemic as very positive, open and effective, some disabled people and their organisations felt excluded and ignored. The Government must consult widely with disabled people and their organisations on ways to embed in the forthcoming National Strategy for Disabled People genuinely effective mechanisms by which disabled people can influence policies and practices which directly affect them.

The way the Government has communicated with disabled people during the pandemic has, on occasions, caused confusion and compounded already keenly felt anxiety. Communications have sometimes been poorly thought out, with insufficient consideration given to the psychological effects on recipients and their families. Ministers and officials involved in communicating public health messages to disabled people should undergo training in psychologically informed communications which take fully into account and empathise with disabled people's lived experiences.

The Government has been far too slow to address concerns about inaccessible communications during the pandemic, notably about the lack of British Sign Language (BSL) interpretation of government television briefings. Accessibility should have been baked in from the start. The Government should fully implement the accessible

communications “shopping list” put forward by disability charities. The Accessible Information Standard should be extended to cover public health messages from government departments.

The accessibility of our own proceedings fell short of the good example we should set. The Liaison Committee of the House of Commons should review the adequacy of funding, technical capabilities and expertise available to support live BSL interpretation and subtitles of Select Committee oral evidence sessions. The House of Commons Commission should make it an objective to ensure that a greater proportion of the coverage of the House is fully accessible to Deaf people via the provision of live BSL interpretation and subtitles.

# 1 Introduction

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1. The coronavirus pandemic continues to affect everyone; however, as data on the effects emerge, it has become increasingly clear that different groups of people, particularly those who already faced disadvantage, are being affected unequally. In June, we launched three sub-inquiries to look in more detail at key issues arising from our broader inquiry into the emerging unequal effects of the pandemic on people with protected characteristics under the Equality Act.<sup>1</sup>

## This sub-inquiry and Reports

2. Disabled people who already faced substantial barriers to full participation in society, for example because services were inaccessible or they had additional health, care and support or special educational needs, have suffered a range of profoundly adverse effects, including disproportionate deaths with covid-19, and have had hard-won rights restricted or curtailed by emergency legislation.<sup>2</sup> Our sub-inquiry, *Unequal impact? Coronavirus, disability and access to services*, examined the effects of the pandemic on disabled people's access to food, health and social care and education for children and young people with special educational needs and disabilities (SEND). We also considered the effectiveness and accessibility of the Government's engagement and communications with disabled people during the pandemic.<sup>3</sup>

3. We received written evidence from disabled people and their representative organisations, specialist lawyers and academics, and heard oral evidence from the national, pan-disability charity Disability Rights UK, Mencap, Action on Hearing Loss (now RNID), the Centre for Mental Health, the NHS, the National Institute for Health and Care Excellence, the Care Quality Commission, the Local Government Association, the Independent Provider of Special Education Advice, the Association of Directors of Children's Services and Ministers and officials from the Department of Health and Social Care, the Department for Education, the Department for the Environment, Food and Rural Affairs and the Minister for Disabled People, Health and Work in the Department for Work and Pensions. Witnesses are listed in full at the end of this Report. We thank everyone who contributed. We are also very grateful for the insightful advice of our Specialist Adviser for this sub-inquiry, Catherine Casserley, equality and discrimination barrister at Cloisters Chambers.<sup>4</sup>

4. On 25 September, we published an interim Report on temporary provisions in the Coronavirus Act, particularly its Care Act, Mental Health Act and some of its Children and Families Act provisions, which restricted or temporarily curtailed disabled people's rights. The primary aim of our interim Report was to inform Members of Parliament ahead of the first six-monthly debate and vote on the continuation of the Act's temporary

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1 ['Unequal impact of coronavirus: three new inquiries launched'](#), Women and Equalities Committee, 10 June 2020

2 ['Coronavirus \(COVID-19\) related deaths by disability status, England and Wales: 2 March to 14 July 2020'](#), ONS, accessed 19 November 2020; Women and Equalities Committee, First Report of Session 2019–21, ['Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act'](#), HC 386

3 For full terms of reference, see ['Unequal impact of coronavirus: three new inquiries launched'](#), Women and Equalities Committee, 10 June 2020

4 ['Catherine Casserley'](#), Cloister Chambers, accessed 3 November 2020

provisions, which took place on 30 September.<sup>5</sup> **We welcome the Government’s decision to discontinue the Coronavirus Act’s Mental Health Act provisions, which potentially relaxed requirements for sectioning, against the grain of overdue and much-needed reforms, and which thankfully proved to be unnecessary in England. We will continue to push for progress towards implementation of our recommendations on Care Act and Children and Families Act provisions and guidance.**

5. This is our full Report, in which we consider disabled people’s broader experience of the pandemic. It considers efforts by the Government and the food retail sector to ensure disabled people maintain access to food (chapter 2); disabled people’s experiences of health and social care services (chapter 3); and access to education, focusing on meeting the needs of children and young people with SEND (chapter 4). We examine the effectiveness and accessibility of the Government’s engagement and communications with disabled people in chapter 5. We conclude in chapter 6 by setting out data showing the tragic and starkly disproportionate effects of covid-19 on disabled people, and make the case for a discrete, independent inquiry into the causes, including the decisions and policies of the Government and public authorities.

6. We fully acknowledge that decision makers and service providers continue to operate in extremely challenging circumstances. Misjudgements may have been inevitable as the full implications of an unprecedented crisis unfolded. We do not question the intentions of those making difficult decisions, nor seek to apportion blame. Whilst this Report looks back at the lived experiences of disabled people since March, its conclusions and recommendations look forward in a spirit of learning and improving.

7. To date we have been disappointed, across each of our sub-inquiries into the unequal effects of the pandemic, with the Government’s attention to equality issues. The Coronavirus Act, which was fast-tracked into statute in March, had clear and obvious adverse effects on disabled people’s rights. Yet the Equality Impact Assessment of that legislation was not published until 28 July (despite repeated calls from this Committee and the Equality and Human Rights Commission), nor was it comprehensive.<sup>6</sup> Our primary intention is to find ways to improve the experiences and outcomes of disabled people by more effectively embedding disability equality considerations, and the active voices of disabled people, into decisions and policymaking during the remainder of this pandemic, and as we return to more normal times.

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5 Women and Equalities Committee, First Report of Session 2019–21, *Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act*, HC 386; for a verbatim record of the debate, see HC Deb, 30 September 2020, [cols 388–412](#)

6 ‘Coronavirus Act 2020: the public sector equalities duty impact assessment’, Gov.uk, accessed 18 November 2020; Letter dated 30 September 2020 from Rebecca Hilsenrath, Chief Executive of the Equality and Human Rights Commission (hereafter EHRC), to the Chair of the Women and Equalities Committee

## 2 Access to food

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8. Access to food was an immediate concern for many disabled people as the implications of the pandemic unfolded and lockdown restrictions were first introduced. Survey data show that 60% of disabled people struggled to access essential supplies, including food, in the early months of the pandemic.<sup>7</sup> Nearly 90% of disabled people were concerned to some extent about access to food, with more than one in five “extremely concerned”.<sup>8</sup> Below we consider the Government’s and food retailers’ approaches to maintaining disabled people’s access to food and compliance with equality law in fast-moving, emergency circumstances.

### Barriers to food shopping facing disabled people during lockdown

9. There is a wealth of evidence on the effects of the pandemic on disabled people’s access to food. Disabled people who relied on friends, family or carers to shop for and deliver food to them faced considerable food insecurity in the first national lockdown, as did those who relied on, or now needed, online shopping delivery slots, demand for which substantially increased. Some supermarket websites and telephone helplines were inaccessible to people with sensory impairments. Disabled people faced increased barriers to physical shopping because of difficulties complying with social distancing measures and changes to the physical layout of shops. Increased demand for food caused long queues outside supermarkets and consequential difficulties for disabled people who struggled to stand for long periods.<sup>9</sup>

### The Clinically Extremely Vulnerable group and national shielding

10. The Government’s approach to providing food for those in need focused on a group of around 2.2 million people identified by the NHS as being clinically extremely vulnerable (CEV) to the virus. This group included solid organ transplant recipients and people with specific cancers, severe respiratory conditions, including cystic fibrosis, severe asthma and severe chronic obstructive pulmonary disease, some rare diseases that significantly increase the risk of infections, such as homozygous sickle cell, and people undergoing immunosuppression therapies. In March, the Government’s advice to people in this CEV group was not to leave their homes, including to shop for food, for a period of 12 weeks.<sup>10</sup>

11. The Government worked with national food distributors, local authorities and local voluntary groups to establish a national service, which delivered free, weekly, standardised food boxes to people in the CEV group who were in need and had requested help via

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7 Inclusion London, [Abandoned, forgotten and ignored: The impact of the coronavirus pandemic on Disabled people \(interim report\)](#), June 2020

8 Research Institute for Disabled Consumers, [Covid-19 Survey Release 1](#), 8 April 2020

9 See, for example, M Mudhar (CVD0004); Equality and Human Rights Commission (hereafter EHRC) (CVD0023); see also [letter dated 21 April 2020 from the Chief Executive of the EHRC to the British Retail Consortium](#); Written evidence to Coronavirus (Covid-19) and the impact on people with protected characteristics inquiry, Disability Rights UK (hereafter DRUK) (Mrs0200); Written evidence to Coronavirus (Covid-19) and the impact on people with protected characteristics inquiry, Fry Law (Mrs0223)

10 [‘Guidance on shielding and protecting people who are clinically extremely vulnerable from COVID-19’](#), Gov.uk, accessed 3 November 2020

the Gov.uk website.<sup>11</sup> The first food boxes were delivered over the weekend of 28 and 29 March, via bulk deliveries to local authority hubs. Subsequent deliveries were made direct to people's homes each week.<sup>12</sup> A month later, more than 500,000 boxes had been delivered.<sup>13</sup> By late June, when the Government announced plans to “pause” the national shielding programme from 1 August (see below), it had delivered over three million food boxes.<sup>14</sup>

### ***A medical model of disability***

12. Disabled people, their organisations, academics and lawyers pointed out that many disabled people outside of the CEV group also “desperately needed” help to access food.<sup>15</sup> Fazilet Hadi of Disability Rights UK (DRUK) reported that:

[...] tens of thousands of other [non-CEV] disabled people felt that, for various reasons, maybe not medical, they could not go out either. It may have been that they were blind or had learning disabilities and felt social distancing would have been difficult. [...] it might have been because they could not stand in queues for a long time. There are a whole host of reasons.<sup>16</sup>

13. Fry Law, a specialist legal firm, noted that the CEV list was entirely medicalised and therefore argued that the Government's approach failed to “embed social and human rights models” of disability.<sup>17</sup> The social model of disability is a conceptual framework in which “people with impairments are disabled by the barriers operating in society that exclude and discriminate against them”, as opposed to a medical model, in which people are understood as being disabled by their impairments. The social model was developed by disabled people as a way of recognising, highlighting, and campaigning to remove, the social barriers they face.<sup>18</sup> It is widely accepted, including by the Government Equalities Office, and its use has been encouraged by the Government since at least 2015.<sup>19</sup>

### ***Unintended consequences***

#### ***Access to online delivery slots for the broader disabled population***

14. The Government Digital Service shared data on people in the CEV group who had requested food boxes with supermarkets, so that people on the list could be prioritised for click and collect services and online delivery slots if they needed them.<sup>20</sup>

11 The standardised boxes included coffee, tea bags, biscuits, bread, cereal, tinned vegetables, potatoes, long life milk, tinned protein (fish, meat exc. pork), fresh fruit, pasta sauce, pasta, rice, toilet tissue, hand soap or shower gel.

12 ‘First food parcels delivered to clinically vulnerable people’, Gov.uk, accessed 9 November 2020; ‘Shielding Package FAQs Pack: Local Authorities’, accessed 9 November 2020

13 ‘Over half a million food packages delivered to those at risk’, Gov.uk, accessed 9 November 2020

14 “Plans to ease guidance for over 2 million shielding”, DHSC/MHCLG press release, 22 June 2020

15 DRUK ([Mrs0200](#)); see also Fry Law ([Mrs0223](#)); A Benetton ([CVD0002](#))

16 [Q13](#)

17 Fry Law ([Mrs0223](#)); see also, Oxford University Disability Law and Policy Project ([CVD0008](#))

18 Inclusion London, [Factsheet: The Social Model of Disability](#), accessed 9 November 2020

19 See, for example, Office for Disability Issues, ‘[About us](#)’, accessed 9 November 2020; see also, Fry Law ([Mrs0223](#)), para 23

20 Ministry of Housing, Communities and Local Government, [Shielding clinically vulnerable people from COVID-19: Guidance for councils, LRFs and other local delivery partners](#), 24 April 2020

15. Witnesses drew attention to an obvious adverse effect of this approach for the broader population of disabled people. Prioritising people on the CEV list for a limited number of delivery slots meant that many disabled people who were not on the list but needed slots, for the range of reasons set out above, could not access them.<sup>21</sup> Fazilet Hadi argued that:

If we had joined up our thinking about who might need supermarket deliveries and not just prioritised one group over another group without thinking it through, we could have avoided that. Government acted with good intentions, but in a siloed thinking approach, which then caused knock-on problems for tens of thousands of disabled people.<sup>22</sup>

### *Reasonable adjustments for disabled people*

16. Witnesses reported that supermarkets were not making reasonable adjustments, required by the Equality Act, to allow disabled people access to both online and physical shopping.<sup>23</sup> Fry Law wrote that “supermarkets are confusing the legally recognised definition of disability, as set out in Section 6 of the Equality Act, with the very limited qualification for access as set out in [the CEV list].”<sup>24</sup>

17. These issues were raised by the Equality and Human Rights Commission (EHRC) in April. Its Chief Executive wrote to the British Retail Consortium (BRC), setting out the problems the broader population of disabled people were experiencing in accessing food shopping and urging supermarkets to act.<sup>25</sup>

18. The BRC’s reply emphasised the limited capacity of the online food delivery market, noting that it makes up only around 8% of all sales. Its, and the Government’s, focus was on providing delivery slots for the CEV group. While accepting there was demand for slots from a wider range of disabled people, it had:

[...] long argued that a community response is essential, and we have urged people consider picking up food for vulnerable, disabled or self-isolating neighbours. The primary aim for retailers was to help to ensure clinically shielded groups identified by Government could easily access food without added risks to their health.<sup>26</sup>

The BRC believed that “the only way” to ensure everyone’s needs were met was to “supplement priority online deliveries with neighbours, relatives and volunteers who can shop on behalf of others.”<sup>27</sup>

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21 See for example, A Bennetton ([CVD0002](#)); Disability Law and Policy Project ([CVD0008](#)); DRUK ([Mrs0200](#)); Fry Law ([Mrs0223](#))

22 [Q13](#) [Fazilet Hadi]

23 A Bennetton ([CVD0002](#)); DRUK ([Mrs0200](#)); Fry Law ([Mrs0223](#))

24 Fry Law ([Mrs0223](#))

25 [Letter dated 21 April 2020 from the Chief Executive of the EHRC to the British Retail Consortium](#)

26 [Letter dated 28 April from the Chief Executive of the BRC to the EHRC](#); see also [British Retail Consortium \(CVD0041\)](#)

27 [Letter dated 28 April from the Chief Executive of the BRC to the EHRC](#)

19. In oral evidence, DRUK's Fazilet Hadi, who is blind, gave us her reaction to the BRC's response to disabled people's concerns:

I want to express my dismay and astonishment that someone from the British Retail Consortium should be telling disabled people to go and use friends, family and volunteers. If I want to use friends, family or volunteers, that is my decision. [...] [it] is a bit like telling me that, rather than my bank giving me a braille bank statement, I should go and get someone else to read it for me. I feel absolutely outraged about this because the Equality Act applies to supermarkets. I do not know if they know that, but they act like they do not.<sup>28</sup>

20. The EHRC was also dissatisfied with the initial response and published an open letter expressing concern that the BRC's letter:

[...] fails to acknowledge the legal obligations on retailers to make adjustments for disabled people under the Equality Act 2010 and the rights of disabled people to live independently.<sup>29</sup>

The Commission warned that it was reviewing over 300 individual claims against the major supermarkets for "failure to consider the needs of disabled people and make adjustments to allow people to shop for essentials."<sup>30</sup>

21. On 20 May, Melanie Field, Executive Director at the EHRC, told us that "some of the initial issues" had "eased slightly". Supermarkets had been able to create some additional online delivery slots, for example. She told us that the Commission was in "constructive discussions" with the food retail sector and Ministers about disabled people's remaining concerns. She also emphasised that the broader problems with disabled people's access to food were set in the "general context of strong support for the shielded group", which had been "rapid and generally effective".<sup>31</sup>

22. The BRC's written evidence, submitted in July, stated that it had "been clear from the start that there was insufficient capacity to supply all vulnerable consumers through online delivery" and had "pressed Government to ensure other facilities were available". It believed that "the Government could have been quicker to appreciate this and set up alternative arrangements to help vulnerable consumers." It made clear that it had been "directed by the Government" to prioritise the CEV group. It argued that food retailers had "prioritised disabled consumers" for online deliveries but reiterated that there was limited capacity to do so.<sup>32</sup> Later, concerns emerged about some supermarkets increasing the price of priority online delivery slots or raising the minimum value of free deliveries, disproportionately affecting disabled people, for whom online food deliveries continued to be vital.<sup>33</sup>

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28 [Q14](#)

29 '[Equality body calls on retailers to do more for disabled customers during corona crisis](#)', EHRC, accessed 11 November 2020

30 '[Equality body calls on retailers to do more for disabled customers during corona crisis](#)', EHRC, accessed 11 November 2020

31 [Q188](#)

32 British Retail Consortium ([CVD0041](#))

33 See, for example, "[Tesco axes cheap grocery delivery and collection slots](#)", *Money Saving Expert*, 7 August 2020; "[UNHAPPY SHOPPER Asda and Sainsbury's anger customers by hiking delivery costs in shake-up of charges](#)", *The Sun*, 17 November 2020

23. In response to disabled people’s ongoing concerns, the EHRC published new guidance to food retailers on 3 September. The guidance sets out retailers’ legal obligations in relation to the needs of their disabled customers. The guidance includes four steps that retailers should take to meet these obligations:

- Provide a service that meets the needs of all customers: anticipate, prepare and make reasonable adjustments for disabled customers;
- Plan ahead to think about the needs of your disabled customers: consider and make changes to policies and procedures, as well as provide extra support and equipment, where necessary;
- Communicate with your customers: inform customers about how they will be supported through a variety of ways such as easy to read signs and spoken announcements; and
- Train your staff: ensure that staff are supported with the right tools to help disabled customers, in line with the latest government guidelines on coronavirus (covid-19).

The new guidance was accompanied by a letter to the Chief Executives of supermarkets and retail consortia, in which the Chief Executive of the EHRC stated that:

No matter what decisions and actions are made [in response to the pandemic], all retailers have a legal duty to abide by equality law. It is essential that disabled people are not left behind as retailers continue to meet the challenges of the ongoing pandemic.<sup>34</sup>

24. In the light of these issues, we wanted to know what assessment the Government had made of the effectiveness of using CEV status as the proxy for disabled people’s need for help accessing food. Ministers defended the effectiveness of their approach but were unable to confirm whether the Government had undertaken, or planned to undertake, any assessment.<sup>35</sup> Ministers were clear that the CEV list was based on guidance from the Chief Medical Officer and was “very much a clinically led process”.<sup>36</sup>

25. We wanted to know what efforts the Government had made to emphasise to food retailers the importance of their compliance with equality law, to ensure equal access to food for disabled people through reasonable adjustments. Victoria Prentis MP, Minister in the Department for the Environment, Food and Rural Affairs (Defra), said she was aware of the correspondence between the EHRC and the BRC, and had “asked whether I could politely bang heads together a little bit and facilitate communication”.<sup>37</sup> She was wary of being drawn into legal arguments around reasonable adjustments during the pandemic but her broad view was that the supermarkets had gone “above and beyond”. She believed they were “really trying hard to meet the needs of their communities” and that everyone ought to be grateful for the efforts they had made. She told us she hoped that “we need not get too legalistic about this.”<sup>38</sup>

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34 [‘New guidance calls for retailers to do more to help disabled customers’](#), EHRC, accessed 11 November 2020; [‘Retailers’ legal responsibility to disabled customers’](#), EHRC, accessed 11 November 2020

35 [Qq106-7](#)

36 [Q106](#) [Helen Whately]

37 [Q108](#)

38 [Q110](#)

26. The Government's focus on people defined as "clinically extremely vulnerable" (CEV) to the virus, while rational from a medical perspective, was an inappropriate proxy for the need for support with access to food and had unintended consequences. It was rapidly established and broadly effective for those on the CEV list, for which everyone involved should be congratulated, but it also set one group of people with clinical needs against others with social barriers to food shopping during the pandemic. The Government's predominant focus on supporting CEV people, and its clear direction to the food sector to prioritise them, may have contributed to some supermarkets overlooking their legal obligations to make reasonable adjustments for the broader population of disabled people, which has led to legal challenges.

27. We welcome the steps the Equality and Human Rights Commission (EHRC) has taken to emphasise that food retailers' legal obligations to make reasonable adjustments for disabled people have remained in place throughout the pandemic. We fully endorse its new guidance to food retailers on the steps required to continue to meet their obligations, including in emergency situations. *The Government should also publicly state the vital importance of reasonable adjustments to allow disabled people equal access to food during the pandemic. We recommend the Government better promote the EHRC's new guidance to food retailers, including in its ongoing discussions with the food retail sector on maintaining disabled people's access to food during the remainder of the pandemic.*

28. *We further recommend the Government consider, with disabled people, as part of its consultation on the proposed National Strategy for Disabled People, the steps needed to more effectively adopt a social model of disability in relation to maintaining disabled people's access to food for the remainder of this pandemic and in future crises. This consultation should consider the actions required to eliminate barriers to physical and online food shopping. The Government should consider with disabled people how, in crisis situations, to identify and reach a single category of people, including disabled people who may not have clinical needs and people with medical conditions who may not be disabled, who need food deliveries. It should consider not only the steps required by retailers to meet obligations under the Equality Act but also steps required by the Government to meet its obligation under the UN Convention on the Rights of Persons with Disabilities to respond to emergency situations in a way which includes consideration of the needs of disabled people.*

## Local shielding arrangements: assessment of need and funding

29. When we heard oral evidence from Ministers on 2 September, the national shielding programme, including free food boxes, had been "paused" since 1 August. This followed the publication of less restrictive guidance on 6 July, in which people in the CEV group were "no longer advised to shield", as coronavirus infection rates continued to fall across most of the country. People who had been shielding and continued to need support could arrange for deliveries of food, medicines and other essentials they had purchased via NHS Volunteer Responders or local authorities, and anyone registered with the national programme by 17 July continued to be eligible for priority supermarket slots.<sup>39</sup>

39 ["Plans to ease guidance for over 2 million shielding"](#), DHSC/MHCLG press release, 22 June 2020, accessed 16 November 2020

30. By early September, several parts of the country, including Greater Manchester, East Lancashire, Preston, and West Yorkshire had already returned to stricter coronavirus measures in response to now rapidly rising infection rates. The guidance for people in the CEV group in these “local lockdown areas” was to “resume shielding” if they received a letter from the Government advising them to do so.<sup>40</sup>

31. There were calls from local politicians in some areas that had returned to stricter measures for the Government to reinstate the full national shielding service in those places. A joint statement from Andy Burnham, Greater Manchester metro mayor, and all ten Greater Manchester local authorities, argued that central Government’s advice to people to resume shielding, while not simultaneously reinstating the national shielding programme would:

[...] cause considerable uncertainty and risks sending mixed messages to those shielding in Greater Manchester. We therefore call on the Government to extend the shielding arrangements in the areas that are subject to intervention until these restrictions are lifted. Our councils will need additional financial support to help us deliver that additional support.<sup>41</sup>

We consider the clarity of the Government’s messaging around shielding, and other communications, in chapter 5.

32. Similar concerns were expressed when the Government reintroduced national restrictions on 5 November, with CEV people once again advised not to visit shops and instead shop online or rely on the support of friends, family, volunteers, including NHS Volunteer Responders, or seek help from their local authority.<sup>42</sup>

33. Victoria Prentis MP told us the Government’s view was that “we need to get away from the food-parcel model.” She said the Government’s approach was to enable local authorities to meet local needs and it was providing funding for them to do so.<sup>43</sup> The Government launched a new Gov.uk webpage with links to the range of local support available, including help to get food.<sup>44</sup>

34. The Government has so far provided around £4.1 billion of additional grant funding, to cover additional costs across all services and support local authorities during the pandemic but concerns remain that many councils are over-stretched.<sup>45</sup>

35. On 2 November, as England prepared for the reintroduction of national restrictions, the *Local Government Chronicle* reported that the Government had indicated to council leaders and Chief Executives that local authorities would receive “£14 per clinically

40 [‘Guidance on shielding and protecting people who are clinically extremely vulnerable from COVID-19’](#), Gov.uk, accessed 20 August 2020

41 [“Calls for shielding to be extended for local residents”](#), *Rochdale Online*, 6 August 2020

42 See, for example, [“Disabled people ‘treated as afterthought again’, as England heads into second lockdown”](#), *Disability News Service*, 5 November 2020; [Coronavirus: UK councils fear bankruptcy amid Covid-19 costs](#), *BBC News*, 25 June 2020

43 [Q112](#)

44 [‘Find out what support you can get if you’re affected by coronavirus’](#), Gov.uk, accessed 18 November 2020

45 [‘Coronavirus \(COVID-19\): emergency funding for local government’](#), Gov.uk, accessed 19 November 2020; see also, [“Eight out of 10 English councils at risk of bankruptcy, says study”](#), *The Guardian*, 23 June 2020; [“Local government: Councils warn of insolvency risk without big cuts”](#), *BBC News*, 12 November

extremely vulnerable person in their area to ensure they have access to essential supplies.”<sup>46</sup> We were, and remain, unaware of any central government assessment of the level of disabled people’s needs for help accessing food, including free food box deliveries, before or since the decision was made to “pause” the national programme in August.

**36. Ministers paused the national shielding programme in August and in September asserted that “we need to get away from the food parcel model”, without offering any evidence of the Government’s assessment of the level of disabled people’s needs for help accessing food, including free food deliveries. Since then, there have been local lockdowns and a return to national measures, with clinically extremely vulnerable people once again advised by the Government to avoid leaving their homes, including to shop for food. People must now rely on friends, family, carers, volunteers and local authorities, which have been provided with additional funding but whose resources are over-stretched. In circumstances in which the Government is asking people to shield, we believe it has a duty to ensure that the local support arrangements that have replaced the national shielding programme, and the funding in place to support them, are adequate to meet the level of need. *The Government must immediately publish its assessment of disabled people’s needs for support accessing food, including provision of free food box deliveries. It must also publish a plan to review the adequacy of local arrangements and central government funding to support disabled people who need help getting food while coronavirus restrictions remain in place. We expect such a plan to be published within two months of publication of this Report, and be both updated and re-published regularly during the remainder of the pandemic.***

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46 [“New shielding framework and cash support for lockdown unveiled”](#), *Local Government Chronicle*, 2 November 2020

### 3 Health and social care

37. As set out in our interim Report, the Coronavirus Act restricted disabled people's important, hard-won rights, including by substantially raising the threshold at which their care and support needs must be assessed and met. **We will continue to push for greater accountability and transparency while Care Act easements remain available to local authorities and for their swift repeal should the pandemic become more clearly under control before or at the next six-monthly parliamentary review, due in spring 2021.**<sup>47</sup> Disabled people's concerns about health and social care, however, go beyond the temporary provisions of the emergency legislation. Below we examine potentially discriminatory policies and practices in health and social care during the pandemic and consider some key equality issues for disabled people as NHS services reopen. We also examine the Government's record in protecting disabled people in social care settings and return to look at pre-existing, systemic problems in the sector that were identified in our interim Report, and which have been exacerbated by the pandemic.

#### Potentially discriminatory policies and practices

##### *NICE guidelines for critical care*

38. Some deeply concerning equality issues affecting disabled people emerged at the beginning of pandemic. In March, when there were fears that the NHS may become overwhelmed by coronavirus patients, the National Institute for Health and Care Excellence (NICE) issued guidelines for the delivery of critical care in circumstances where resources became over-stretched to the extent that difficult decisions might be needed about who to prioritise for treatment.<sup>48</sup>

39. The NICE guidelines, first published on 21 March, included use of the Clinical Frailty Scale (CFS) as part of a holistic assessment of patients for critical care treatment. The CFS assesses people's clinical frailty largely based on relative fitness and level of dependence on the care of others, on a scale of one (very fit) to nine (terminally ill, with life expectancy of less than six months). The NICE guidelines suggested that those scoring seven (severely frail, completely dependent on care "from whatever cause, physical or cognitive") and above would be "unlikely to survive even with medical intervention".<sup>49</sup>

40. This caused profound concerns amongst disabled people and their families, who feared they or their loved ones may be denied treatment. There was particular anxiety among parents of children with learning disabilities and people with stable, long-term disabilities such as cerebral palsy.<sup>50</sup> Mencap, the national charity supporting people with a learning disability, described the guidelines as "deeply troubling" because they:

47 Women and Equalities Committee, First Report of Session 2019–21, *Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act*, HC 386

48 'COVID-19 rapid guideline: critical care in adults', NICE, accessed 19 November

49 'COVID-19: NICE clarifies use of frailty score in new rapid guidance', GM, accessed 16 June 2020; "Coronavirus: 'Frailty score' plan angers special needs parents", *BBC News*, 26 March 2020

50 "Coronavirus: 'Frailty score' plan angers special needs parents", *BBC News*, 26 March 2020

[...] suggest that those who can't do everyday tasks like cooking, managing money and personal care independently—all things that people with a learning disability often need support with—might not get intensive care treatment.<sup>51</sup>

41. Professor Gillian Leng, Chief Executive of NICE, explained that the guidelines had been developed in “just over a week” at the beginning of the pandemic. The normal process for consulting on, developing and publishing NICE guidelines takes around two years. Professor Leng described the very truncated consultation process:

Normally, our guideline consultation is six weeks; we ran the consultation in six hours. We got 178 comments in those six hours. We had 26 organisations that contributed. We had comments back from the NICU [neo-natal intensive care unit] charity and intensive care charity, from the British Heart Foundation and from the Richmond Group of Charities. We heard from the lead for learning disabilities across the national directorate.<sup>52</sup>

42. Despite the extremely compressed timescale, Professor Leng believed NICE had gathered a “comprehensive set of comments”, which were broadly supportive of the use of the CFS in the circumstances. She also noted that the CFS had already been widely in use in the NHS prior to the pandemic and she had not previously been aware of any disability discrimination concerns.<sup>53</sup>

43. On 25 March, NICE issued revised guidelines, acknowledging the concerns that:

[...] applying the score to people with learning disabilities, autism and other stable long-term disabilities, would put them at a disadvantage when decisions were made about admission to critical care in this time of intense pressure.<sup>54</sup>

The revised guidelines made explicit that the CFS should not be used “in isolation” by clinicians making decisions about access to critical care and included a clarification that “the tool should not be used in certain groups, including those with learning disabilities or with stable long-term disabilities such as cerebral palsy.”<sup>55</sup>

44. While acknowledging the rapid revision of the guidelines, disability charities emphasised the effects the original publication had on disabled people. Edel Harris, Chief Executive of Mencap, told us they had caused “huge upset and anxiety” and feelings amongst disabled people that “their lives were less valued” than others.<sup>56</sup> Fazilet Hadi of DRUK said that “the fact that [use of the CFS] was in someone’s head and that it was produced” made her feel “very uncomfortable”. She told us the whole episode had “left a bad taste”.<sup>57</sup>

45. We wanted to know what action NICE had taken to prevent the same response in future emergency situations. Professor Leng confirmed that:

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51 [‘Mencap responds to “deeply troubling” new NICE COVID-19 guidance’](#), accessed 18 November 2020

52 [Q37](#)

53 [Q37](#)

54 [‘NICE updates rapid COVID-19 guideline on critical care’](#), NICE, accessed 19 November 2020

55 [‘COVID-19 rapid guideline: critical care in adults’](#), NICE, accessed 19 November

56 [Q24](#)

57 [Q24](#)

We have reviewed our approach to developing these rapid guidelines. [...] We have just published an updated process for developing rapid guidelines for things like public health emergencies for the future. We will make sure that we have a wider consultation period in the future and that we engage with [...] the NHS England equalities team, to make sure we are being really rigorous about picking up any potential risks of inequalities.<sup>58</sup>

### Evidence of inappropriate use of DNAR notices

46. In the early part of the pandemic, concerns were also raised about inappropriate use of “do not attempt resuscitation” (DNAR, or DNACPR) notices, potentially waiving access to life-saving treatment for covid-19, particularly for elderly people and people with learning disabilities in social care settings and hospitals. It was reported that some NHS primary care services were inappropriately encouraging disabled individuals to consent to a DNAR notice and that some GPs had applied blanket DNARs to groups of elderly or disabled people in residential care homes.<sup>59</sup>

47. On 3 April, the social care regulator, the Care Quality Commission, issued a joint statement with the British Medical Association, Care Provider Alliance and the Royal College of General Practitioners, emphasising the *increased importance* of personalised care plans for care home residents during the pandemic. While noting that advance care plans “may result in the consideration and completion of a DNAR form”, it emphasised that this should always be after discussion with the person receiving care themselves or, where someone lacked the mental capacity to take the decision, in line with established guidelines and “with the involvement of family members or other appropriate individuals.” The statement went on to clarify that, while GPs “have a central role in the consideration, completion and signing of DNAR forms for people in community settings”, they must not be applied to “groups of people of any description”.<sup>60</sup> On 7 April, NHS England’s Chief Nursing Officer and its National Medical Director wrote to NHS Trusts, Clinical Commissioning Groups, GP practices and community health services to endorse the care sector’s joint statement and reinforce the principle that “blanket policies are inappropriate”.<sup>61</sup>

48. While acknowledging that swift action was taken, witnesses from disability charities believed that misuse of DNARs demonstrated a deeply concerning lack of regard for disabled people. Edel Harris of Mencap described this as “a serious matter, with serious implications”.<sup>62</sup> Fazilet Hadi, speaking about the combined effects of NICE’s original critical care guidelines and the reported misuse of DNARs, said it left her:

58 [Q38](#)

59 See, for example, “UK healthcare regulator brands resuscitation strategy unacceptable”, *The Guardian*, 1 April 2020; “Coronavirus: Unlawful do not resuscitate orders imposed on people with learning disabilities”, *Independent*, 13 June 2020

60 ‘Joint statement on advance care planning’, Care Quality Commission, 2 April 2020, accessed 19 November 2020

61 Letter dated 7 April 2020 from Ruth May, Chief Nursing Officer, England, and Professor Stephen Powis, National Medical Director, NHS England

62 [Q7](#)

[...] thinking that the NHS does not fully understand and respect disabled people. Those incidents, while they were put right on the face of things, have left me with concerns about what happens on the ground, what training medical people get and what is in the NHS plan around supporting millions of disabled patients to get an equal right to healthcare.<sup>63</sup>

49. We wanted to understand why potentially discriminatory practice had surfaced in the first place; whether action was being taken to review and remove inappropriate DNARs from people’s medical records; and how the NHS would ensure this issue would not emerge again.

50. In oral evidence in July, Celia Ingham Clark, Medical Director for Clinical Excellence at NHS England, said she suspected that some people in the NHS, working under huge stress at the outset of the pandemic, had “taken their eye off the ball”, which was “really regrettable”. She told us that several messages had gone out to GP practices, and to the whole NHS system, before and after the issue emerged, making clear “the importance of the individual approach” and the inappropriateness of any blanket use of DNARs for any groups of people.<sup>64</sup> She was not aware of any plans to for an internal review.<sup>65</sup>

51. In August, Celia Ingham Clark wrote to update us that NHS England and NHS Improvement’s Palliative and End of Life Care team were currently developing “public facing information” about how all patients or their representatives can raise concerns about DNARs placed on records without their knowledge or with which they disagree. She also confirmed that GPs’ new Quality Improvement requirements for 2020/21 had been agreed with the British Medical Association’s General Practitioners Committee, to the effect that:

“[GP] practices will be required to review the records of patients on their learning disability register to identify those recorded as DNAR and confirm that this decision remains appropriate or to amend as clinically indicated.<sup>66</sup>

52. The Minister for Care, Helen Whately MP, insisted that the Government had supported the NHS’s “very rapid action” and its “very strong communications” about the DNAR issue. She said the Department was keeping the situation under review and would take further actions if necessary.<sup>67</sup>

53. In October, after we had finished hearing evidence, the Department of Health and Social Care asked the Care Quality Commission (CQC) to review how DNAR decisions had been taken during the pandemic, including people’s experiences in care homes, primary care and hospitals.<sup>68</sup> On 3 December, after a period of consultation with people affected, it published an interim report, which confirmed that it had heard evidence of “unacceptable and inappropriate DNACPRs being made at the start of the pandemic.” There was also evidence of blanket use. The CQC announced plans to carry out further fieldwork in seven Clinical Commissioning Groups in December and January. Its final report, which will

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63 [Q24](#)

64 [Q64](#)

65 [Q63](#)

66 [Letter dated 27 August 2020 to from Celia Ingham Clark, Medical Director for Professional Leadership and Clinical Effectiveness, NHS England and Improvement, to the Chair of the Women and Equalities Committee](#)

67 [Q133](#)

68 [‘CQC to review use of DNACPR during pandemic’, CQC, accessed 20 November 2020](#)

“aim to establish the scale of national concern” and consider DNARs as part of advance care planning, including for people “most at risk of neglect and discrimination”, is due to be published in February 2021.<sup>69</sup>

54. Early in the pandemic, the National Institute for Health and Care Excellence’s (NICE) critical care guidelines and doctors’ inappropriate or blanket use of “Do not attempt resuscitation” (DNAR) notices were potentially discriminatory. While we welcome actions taken swiftly to address disabled people’s concerns, and steps subsequently taken by NICE and the NHS to review their practices and try to put things right, the fact that potentially discriminatory practices emerged in the first place is deeply concerning. These issues caused disabled people great distress and anxiety and left them feeling their lives were less valued than others’. A robust response is required to restore disabled people’s confidence that their needs are given equal consideration across government and public services, should we be faced with a similar public health emergency in the future.

55. The Equality Act 2010’s Public Sector Equality Duty is intended to ensure public authorities have due regard, including in their decision making, policies and service delivery, to achieving the Act’s objectives, which include the elimination of discrimination against groups of people who share a protected characteristic. The Equality and Human Rights Commission has published non-statutory technical guidance on the Duty. This provides public authorities with a detailed and comprehensive guide to the law, but, while it can be admissible as evidence in the courts, it does not have its own legal authority. We believe disabled people’s experiences of public services during the pandemic make the case for a strengthening of the Public Sector Equality Duty, outweighing any concerns about additional burdens on authorities. *The Government should consent to the Equality and Human Rights Commission issuing a statutory Code of Practice on the Public Sector Equality Duty.*

## Key equality considerations in reopening the NHS

56. The NHS is facing an extraordinary challenge in safely reopening non-covid health services while the pandemic is ongoing and dealing with large backlogs of cancelled appointments and treatments.<sup>70</sup> Witnesses from disability charities emphasised the importance of equal treatment for disabled people in this process.<sup>71</sup> Fazilet Hadi told us:

I would like to see the NHS consider not just medical priority but also the impact that being on a waiting list is having on your ability to function. If you are waiting with an existing impairment [...], it is going to make life much more difficult for you, potentially, than for someone else.<sup>72</sup>

69 Care Quality Commission, *Review of Do Not Attempt Cardiopulmonary Resuscitation decisions during the COVID-19 pandemic: Interim report*, December 2020

70 See, for example, “Coronavirus: Year-long waits for hospital care in England worst since 2008”, *BBC News*, 12 November 2020

71 [Q26](#) [Fazilet Hadi; Ayla Ozmen; Edel Harris]

72 [Q26](#)

57. She acknowledged the huge challenge involved in balancing the needs of different groups of people waiting for appointments and treatments but hoped the process could be handled with “sensitivity, personalisation and a real understanding of people’s lives, not just through a medical lens.”<sup>73</sup>

58. Two key equality issues emerged in evidence to our sub-inquiry: the vital importance of access to healthcare for people with learning disabilities;<sup>74</sup> and barriers to communication faced by many Deaf, hard of hearing and other disabled people since the introduction of much more widespread use of facemasks in healthcare services.<sup>75</sup>

### **Learning disabilities**

59. Mencap argued strongly that healthcare for people with learning disabilities should be prioritised, to address well-understood pre-existing health inequalities and poor health outcomes. It noted several reasons why people with learning disabilities often missed out on the healthcare they needed, including misdiagnoses due to communication difficulties or “diagnostic overshadowing”, in which healthcare professionals assume that “the behaviour of a person with learning disabilities is part of their disability without exploring other factors”.<sup>76</sup>

60. Edel Harris, Mencap’s Chief Executive, noted the vital importance of annual NHS health checks for disabled people, so that previously unrecognised health needs can be identified and addressed. These health checks, like many other NHS services, had been suspended in most places. Mencap argued for them to be resumed as soon as possible.<sup>77</sup>

61. Celia Ingham Clark of the NHS told us that annual health checks for people with learning disabilities had been placed in the “carry on if you can” category during the pandemic, and that some providers had managed to continue them, though many had not. She told us that, since April, there had been a push from the top and centre of the NHS to “get things going again”. There had been a message to this effect to the whole NHS system from Sir Simon Stevens, Chief Executive of NHS England, then later, in May, to GP practices through primary care bulletins. More recently, the NHS had established seven “exemplar sites”, which were “promoting new ways of working to try to restore these services”. The aim was to ensure that more than 75% of people with learning disabilities attend an annual health check.<sup>78</sup>

62. Celia Ingham Clark emphasised that:

The reason this is particularly important is that people with learning disabilities have an increased risk of dying from physical causes and, in particular, respiratory infections and sepsis. It is absolutely key that we improve their physical health in order to protect them.<sup>79</sup>

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73 [Q26](#)

74 Mencap ([Mrs0294](#)); [Q26](#) [Edel Harris]

75 See, for example, Action on Hearing Loss (now RNID) ([Mrs0062](#)); Action on Hearing Loss (now RNID) ([CVD0018](#)); [Q14](#) [Ayla Ozmen]; for a discussion about diagnostic overshadowing, see for example, ‘[Intellectual Disability and Health](#)’, University of Hertfordshire, accessed 25 November 2020

76 Mencap ([Mrs0294](#))

77 [Q26](#)

78 [Q71](#)

79 [Q71](#)

As the pandemic progressed, distressing data on covid-19 death rates suggested that people with learning disabilities of all ages were particularly susceptible to the disease (see chapter 6).

63. In August, Celia Ingham Clark wrote to update us that NHS England had agreed with the British Medical Association's General Practitioners Committee that restoration of services would be a quality improvement requirement for GP practices for the remainder of this financial year and that "improving the care of people with a learning disability" would be a "quality improvement topic".<sup>80</sup>

**64. Prior to the pandemic, people with learning disabilities experienced health inequalities and faced difficulties accessing healthcare and receiving accurate diagnoses and effective treatments. They had increased risks of dying from a range of illnesses, including respiratory infections. These problems have been exacerbated by coronavirus, to which, emerging data suggest, people with learning disabilities may be disproportionately susceptible. It is therefore vital that annual health checks for people with learning disabilities, designed to identify previously unrecognised health needs, are fully reinstated across the NHS as soon as possible. We welcome the British Medical Association's (BMA) and NHS England's recognition of the importance of improving care for people with learning disabilities, and their agreement that restoration of services is a quality improvement requirement for GP practices for the remainder of this financial year. We recommend the Department of Health and Social Care work with the BMA, NHS and organisations representing people with learning disabilities, including user-led groups, to set stretching but achievable longer-term targets for the full reintroduction of annual health checks across the NHS and for the percentage of disabled people who attend them.**

### **Facemasks: barriers to effective communication**

65. Ayla Ozmen, Head of Research and Policy at Action on Hearing Loss (now RNID) emphasised that for many people with hearing loss who rely on lip-reading "it is absolutely impossible to communicate with someone who is wearing a face covering."<sup>81</sup> Subsequent written evidence explained further that:

[...] people who are deaf or have hearing loss rely heavily on visual cues for effective communication. This includes body language, gestures, facial expressions and lip reading. Being able to see lip patterns and facial expressions is also vital for those who communicate through British Sign Language. People who are deaf or have hearing loss have told us that they are struggling to communicate with health and social care professionals during face to face consultations and interactions as a result of visual cues being masked by Personal Protective Equipment (PPE).<sup>82</sup>

Healthcare professionals with hearing loss were experiencing the same difficulties communicating with their patients.<sup>83</sup> The charity noted recent World Health Organisation advice that, where continuous use of medical face masks is adopted, the effects on people

80 [Letter dated 27 August 2020 to from Celia Ingham Clark, Medical Director for Professional Leadership and Clinical Effectiveness, NHS England and Improvement, to the Chair of the Women and Equalities Committee](#)

81 [Q14](#)

82 Action on Hearing Loss (now RNID) ([CVD0018](#))

83 Action on Hearing Loss (now RNID) ([CVD0018](#))

with hearing loss should be “carefully taken into account.”<sup>84</sup> Ayla Ozmen believed it was impossible for healthcare services to meet their obligations under the Accessible Information Standard in these circumstances.<sup>85</sup> We discuss the Accessible Information Standard further in chapter 5.

66. In July, Action on Hearing Loss (now RNID) noted the approval of transparent facemasks for use in health and social care and welcomed new guidance issued to NHS Trusts, which included use of clear masks “where possible”.<sup>86</sup> In oral evidence on 15 July, Jo Churchill MP, Parliamentary Under Secretary of State in the Department of Health and Social Care, told us that the Government was working towards making clear facemasks available and had “signed a contract” that week.<sup>87</sup>

67. In oral evidence on 2 September, Helen Whately MP, the Minister for Care, told us that the transparent facemasks were being trialled in the NHS and would imminently be trialled in social care settings.<sup>88</sup> On 5 September, the Department announced that it had procured 250,000 clear masks, which would be distributed to NHS Trusts “over the next few weeks”. It stated that social care providers “will also have access to the masks through a new pilot system with Local Resilience Forums.” The Department and the NHS would “work closely with suppliers on future orders based on demand.”<sup>89</sup>

**68. The widespread adoption of continuous facemask wearing in health and social care settings has made effective communication impossible for patients and healthcare professionals who lip-read, and much more difficult for Deaf people who use British Sign Language and people with disabilities which mean they are more reliant on facial expressions for communication. We therefore strongly welcome the development of medically approved transparent facemasks and the Government’s procurement of 250,000 pieces for distribution in the NHS and to social care providers. This is a good first step towards fully meeting the Equality Act’s Public Sector Equality Duty and reasonable adjustment obligations to disabled people, by ensuring that clear facemasks are readily accessible across the whole health and social care system, based on need. We are not, however, aware of any analysis of the adequacy of 250,000 masks to meet current or ongoing needs. We ask that the Department of Health and Social Care update us, in its response to this Report, on: progress in distributing clear face masks to NHS Trusts; the effectiveness of the pilot system to distribute the masks to social care providers through Local Resilience Forums; its assessment of the level of need for clear facemasks across health and social care services; and its plans for further procurement and distribution.**

84 Action on Hearing Loss (now RNID) (CVD0018); [World Health Organisation, Advice on the use of masks in the context of COVID-19: interim guidance](#), June 2020

85 [Q25](#)

86 Action on Hearing Loss (now RNID) (CVD0018)

87 Q108, oral evidence taken on *Unequal impact? Coronavirus and BAME people*, [HC 384](#)

88 [Q149](#)

89 [Government delivers 250,000 clear face masks to support people with hearing loss](#), DHSC press release, 5 September 2020

## Slow response to protecting people in social care settings

69. Protecting the NHS has been one of the Government's consistent aims and central messages from the outset and throughout this crisis. Disabled people and their organisations pointed to a slower response to protecting the social care sector as evidence of a relative lack of regard for services on which many disabled people rely.<sup>90</sup>

70. Initial government guidance to care homes focused on isolating people with the virus, hygiene and waste disposal. DRUK described it as “pretty inadequate”.<sup>91</sup> Witnesses noted that the Department of Health and Social Care first published its Adult Social Care Action Plan, containing more comprehensive guidance for providers, on 15 April, more than three weeks after the first national lockdown was announced on 23 March.<sup>92</sup>

71. The first allocations from the Government's £600 million Adult Social Care Infection Control Grant to local authorities were made on 22 May.<sup>93</sup> Witnesses noted with dismay the early policy of discharging people from hospitals into care homes.<sup>94</sup> The National Audit Office confirmed that this policy had been in place from 17 March until 15 April and applied to anyone medically fit to be discharged. In line with government policy at the time, not all of those discharged were tested for coronavirus.<sup>95</sup>

72. We heard that care homes faced extreme difficulties accessing personal protective equipment (PPE) and coronavirus testing for residents and staff. Edel Harris of Mencap described the experience of social care providers trying to access the PPE they needed as:

[...] a roller coaster right the way from the start. It is a daily challenge, not helped by, in the first few weeks, the guidance changing all the time. I think that was often because the fear was that the social care sector would use up all the PPE that, at the beginning, people felt should go to the NHS.<sup>96</sup>

73. Coronavirus testing in residential care homes was initially prioritised for the elderly and people with dementia, raising concerns about other groups in residential care that may be at risk. This included people of all ages with learning disabilities, for whom a spike in covid-19 deaths was reported in early June.<sup>97</sup>

74. When we heard oral evidence from disability charities in June, all social care workers and care home residents had been eligible for coronavirus testing since 28 April, but the Department of Health and Social Care had initially capped the daily number of care home tests at 30,000.<sup>98</sup>

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90 See, for example, [Q25](#) [Edel Harris]; [Q27](#) [Fazilet Hadi]

91 [Q27](#)

92 [Q27](#)

93 'About the Adult Social Care Infection Control Fund', Gov.uk, accessed 23 November 2020

94 [Q27](#) [Fazilet Hadi]

95 National Audit Office, *Readying the NHS and adult social care in England for COVID-19*, HC 367 Session 2019–2021, June 2020

96 [Q30](#)

97 See, for example, “Coronavirus: Pandemic sees spike in learning disabled deaths”, *BBC News*, 2 June 2020

98 National Audit Office, *Readying the NHS and adult social care in England for COVID-19*, HC 367 Session 2019–2021, June 2020; for context, the latest version of the [Adult Social Care Activity and Finance Report](#) shows that there were 841,850 adults in England receiving social care in care and nursing homes, or in their own homes, in 2018/19

75. Disability charities emphasised a lack of government guidance on infection control for providers and users of the range of Supported Living services, typically provided in disabled people's own, or shared, homes.<sup>99</sup> Edel Harris described a “void” of information, including in relation to testing in Supported Living settings.<sup>100</sup> The Government's guidance for Supported Living was not published until 6 August.<sup>101</sup>

76. Fazilet Hadi described how the apparently slow response to protect the social care sector made her feel as a disabled person:

The whole way social care was treated in the first month of the crisis showed a disregard for the lives of disabled people. Whether people meant that or not, that is what it felt like. Government knew where we were. We were in care homes, in Supported Living and receiving care in the community, and we were ignored for quite a long time. The death rates are a testament to that.<sup>102</sup>

77. Edel Harris believed there was “a whole education piece to do here” to convey the fact that “Social care does not just equal older people, as important as that is.”<sup>103</sup> She emphasised that around half of public expenditure on social care is on working age adults.<sup>104</sup>

78. Anecdotal evidence to our sub-inquiry suggested that many working age disabled people had seen cuts to their care packages before and during the pandemic.<sup>105</sup> Closures of day centres, vital to many disabled people and their carers, were a major concern.<sup>106</sup> Many residential care homes were reportedly under threat of closure.<sup>107</sup>

79. In October, Think Local Act Personal (TLAP) published its rapid evidence review report on the effects of coronavirus on people's experience of social care, which Ministers told us would inform their ongoing approach.<sup>108</sup> While pockets of good practice were identified, TLAP noted that many of its findings made for “uncomfortable reading.” It found “general confusion and anxiety” about support packages and “loneliness and isolation” brought on by social distancing measures. People who accessed care and support services also experienced anxiety from financial pressures and practical concerns about accessing food, as discussed in chapter 2.<sup>109</sup>

99 [‘Supported living services’](#), NHS, accessed 23 November 2020; [Q25](#) [Edel Harris and Fazilet Hadi]; [Q29](#) [Sarah Hughes]

100 [Q27](#)

101 [‘Supported living services during coronavirus \(COVID-19\)’](#), Gov.uk, accessed 23 November 2020

102 [Q27](#)

103 [Q27](#)

104 [Q27](#); see also, [‘Key facts and figures about adult social care’](#), The King's Fund, accessed 23 November 2020

105 See, for example, Disability Rights UK ([Mrs0200](#)); [Q27](#) [Fazilet Hadi]

106 [Q25](#) [Edel Harris]; [Q28](#) [Fazilet Hadi]; [Q29](#) [Sarah Hughes]; see also surveys of disabled people, for example, Inclusion London, [Abandoned, forgotten and ignored: The impact of the coronavirus pandemic on Disabled people: Interim Report](#), June 2020

107 See, for example, [‘Care homes facing closure crisis as empty beds double amid Covid pandemic’](#), ITV News, 1 October 2020

108 [Q151](#) [Helen Whately]

109 Think Local Act Personal, [A Telling Experience: Understanding the impact of Covid-19 on people who access care and support – a rapid evidence review with recommendations](#), October 2020

80. Ministers defended their approach to protecting social care, noting that guidance documents such as the Adult Social Care Action Plan and the guidance for Supported Living were “huge” and “substantial” pieces of work.<sup>110</sup> The Minister for Care, Helen Whately MP, also emphasised the extreme demands placed on the Department of Health and Social Care by coronavirus:

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.<sup>111</sup>

### Systemic problems in the social care sector and the need for urgent reform

81. Our interim Report concluded that the pandemic had “highlighted and exacerbated pre-existing systemic problems in the social care system”, in particular the lack of a long-term sustainable funding model; workforce issues, including low pay, poor career progression and high staff turnover; and often poor integration with NHS services. Broadly, the response to coronavirus had “demonstrated the need to place a much greater value on social care and its workforce.”<sup>112</sup>

82. The House of Commons Health and Social Care Committee considered these problems in detail in its recent inquiry into social care funding and workforce issues. Its Report, published in October, echoed our interim Report in concluding that:

The Covid-19 pandemic has had devastating consequences both for vulnerable people using social care, and for the committed professional workforce that provide that care. These challenges have been exacerbated by long-standing funding and workforce issues which need to be recognised by the government in a social care reform package that must be brought forward before the end of this financial year.<sup>113</sup>

It recommended an immediate funding increase to avert the risk of a market collapse or providers retreating from publicly funded care to private fee-paying care only. The Committee recommended the “starting point” for funding increases be an additional £3.9 billion annually by 2023/24.<sup>114</sup>

83. In his single year Spending Review on 25 November, the Chancellor of the Exchequer announced an additional £300 million of grant funding for local authorities’ social care services in 2021/22. Local authorities will also be able to raise council tax bills by up to 3% to raise extra funds for social care (increasing the existing 2% “adult social care precept”).

110 [Qq141-2](#) [Helen Whately]

111 [Q142](#)

112 Women and Equalities Committee, First Report of Session 2019–21, [Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act](#), HC 386, paras 27–29

113 Health and Social Care Committee, Third Report of Session 2019–21, [Social care: funding and workforce](#), HC 206, para 103

114 Health and Social Care Committee, Third Report of Session 2019–21, [Social care: funding and workforce](#), HC 206, para 36

The Government estimates that this will “enable local authorities to access over £1 billion of [additional] spending” for social care in 2021/22.<sup>115</sup> This was alongside an additional £6.3 billion of cash funding announced for the NHS for the same period.<sup>116</sup>

**84. We were disappointed with the 2020 Spending Review’s financial settlement of £300 million in additional grant funding for local authorities’ social care in 2021/22. We believe it falls considerably short of what is required. We agree with the Health and Social Care Committee that an increase in funding for social care, worth around £4 billion per year by 2023/24, will be a necessary first step towards fixing systemic problems in the sector.**

**85. The Government must bring forward a social care reform package, which includes the whole sector, in this financial year. There has been a tendency by successive governments to focus on the problem of rising costs of caring for elderly people, particularly in care homes, and the unfairness of being forced to sell family homes to pay for care in later life. While these are key problems for which solutions must be found, the Government’s reform package must be more wide-ranging, and include actions to improve the quality and personalisation of care and support for working age disabled people across all social care settings. It must address workforce issues across the sector, including low pay, poor career progression and high turnover. Its reforms must include a plan to more effectively integrate services and achieve parity of esteem across health and social care as a single system. The vital importance of the whole social care sector and its workforce has never been so apparent; it must now be valued accordingly.**

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115 HM Treasury, [Spending Review 2020](#), November 2020, para 4.10

116 HM Treasury, [Spending Review 2020](#), November 2020, para 4.4

## 4 Provision for children and young people with special educational needs and disabilities (SEND)

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86. Our interim Report considered the effects of the Coronavirus Act’s temporary provisions. A key focus was on the power of the Secretary of State to modify local authorities’ duties under the Children and Families Act 2014 to assess and provide for the educational, health and care needs of children and young people with special educational needs and disabilities (SEND). In May, June and July, the Secretary of State used this power to relax the duty on local authorities, modifying it from an absolute duty to one of reasonable endeavours.<sup>117</sup> Regulations relaxed the time limits for assessments and provision to be put in place, meaning that local authorities needed only to meet the requirements “as soon as reasonably practicable”.<sup>118</sup>

87. The absolute duty on local authorities to assess and provide for children and young people’s needs resumed from August, and the Regulations on time limits expired on 25 September. The rights of children and young people with SEND have therefore been fully restored; however, the temporary powers of the Secretary of State remain available should they be needed again during the two-year sunset provision of the Act, unless repealed. **Our interim Report made several recommendations about how the Secretary of State should use his powers in relation to duties towards children and young people’s educational, health and care needs, if they are required again during the pandemic. We also made recommendations about the Government’s guidance to local authorities on how to interpret and apply reasonable endeavours. We will continue to push for implementation of our recommendations while the temporary powers remain available.**

88. Evidence to our sub-inquiry suggested that the restoration of children’s and young people’s rights in this area would not, of itself, enable consistently good quality provision. It was clear that the pandemic had “brought into focus and exacerbated widely acknowledged pre-existing systemic issues in the wider SEND system”, which was far from operating as the 2014 Children and Families Act reforms had intended before the pandemic struck.<sup>119</sup>

89. Below we briefly summarise these systemic problems and add our voice to calls for urgent action to address them. We also consider the adequacy of funding the Government has made available to help children and young people with SEND catch up on education lost to the pandemic earlier this year.

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117 Women and Equalities Committee, First Report of Session 2019–21, *Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act*, HC 386, paras 48–50

118 Women and Equalities Committee, First Report of Session 2019–21, *Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act*, HC 386, paras 55–60; see also *Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020*

119 Women and Equalities Committee, First Report of Session 2019–21, *Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act*, HC 386, para 47

## Addressing systemic problems in SEND provision

90. Ali Fiddy, Chief Executive of the Independent Provider of Special Education Advice (IPSEA), described how many children and young people with SEND received little or no support in the early months of the pandemic. This was in part because of local authorities' very varied interpretation of reasonable endeavours, as discussed in our interim Report.<sup>120</sup>

91. She also reported that the patchiness of support during the pandemic was “a reflection of what things are like in normal times too.”<sup>121</sup> Three weeks earlier she had told the House of Commons Education Committee that lack of support for children and young people with SEND during the pandemic had to be seen in the context of a “deepening crisis in SEND provision”.<sup>122</sup> Charlotte Ramsden, Vice President of the Association of Directors of Children's Services told us that the pandemic had both exacerbated some of the problems in the system and delayed much needed improvements.<sup>123</sup>

92. The reforms under the Children and Families Act 2014 were intended to ensure children and young people's needs were identified earlier and, where necessary, supported through integrated education, health and social care services. They were intended to more effectively involve families in decision-making. They also extended provision, raising the upper age limit for support from 16 to 25 years.<sup>124</sup>

93. In September 2019, the National Audit Office assessed the effectiveness of the whole system, including for children and young people receiving lower level SEN Support in schools and those with more substantial needs requiring integrated education, health and care (EHC) plans. It found several systemic problems, including that increased funding in recent years for “high needs”, i.e. support for children attending special schools and those with EHC plans in mainstream schools, had not kept pace with a rising number of pupils. It concluded that the system was “not, on current trends, financially sustainable”; that the inspection regime provided “limited assurance about the quality of support for pupils with SEND in mainstream schools”; and found “substantial unexplained local variation” in provision.<sup>125</sup>

94. The Education Committee completed an in-depth, 18-month long inquiry in October 2019. It found that the 2014 reforms were the right ones but had been hampered by poor administration and inadequate funding. Contrary to the intention to involve families in decision-making, parents had to “wade through a treacle of bureaucracy, full of conflict, missed appointments and despair”. The Committee identified a lack of accountability in the system, which left young people's needs unidentified and unmet. It concluded that the integration of education with health and social care had simply “not worked”.

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120 Women and Equalities Committee, First Report of Session 2019–21, *Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act*, HC 386, para paras 51–4

121 [Q80](#)

122 Oral evidence taken before the Education Committee on 1 July 2020, HC 254 (Session 2019–21), [Q692](#)

123 [Q80](#)

124 National Audit Office, *Support for pupils with special educational needs and disabilities in England*, HC 2636, September 2019, p 5

125 National Audit Office, *Support for pupils with special educational needs and disabilities in England*, HC 2636, September 2019

95. The Education Committee concluded that the Department for Education’s approach to these problems was:

[...] piecemeal, creating reactive, sticking-plaster policies, when what is needed is serious effort to ensure that issues are fully grappled with, and the 2014 Act works properly, as was intended.<sup>126</sup>

96. Acknowledging many of the problems in the system, the Government launched its own SEND review in September 2019, setting out to “boost outcomes and improve value for money”.<sup>127</sup> The Department for Education has not yet published any outcome of this review. In July, it responded to the Education Committee’s 2019 report, emphasising a 12% increase (£780 million) in high needs funding in 2020/21; ongoing work to improve inspection regimes and “improvement and intervention support” from the Department’s SEND Advisers; and work, and £28 million of funding, to improve information, advice and support for children and young people and their parents.<sup>128</sup>

97. In early September, Vicky Ford MP, Parliamentary Under Secretary of State in the Department for Education told us that work on the SEND review was ongoing and taking into account learning from the pandemic. She insisted it remained a “completely top priority”. She hoped that the Department could publish the outcome by the end of 2020.<sup>129</sup> The Secretary of State for Education later told the Education Committee that the outcome would not be published until “the early part of next year.”<sup>130</sup>

***98. Delivering effective support for children and young people with SEND during a public health crisis was inevitably a massive challenge, to which some local authorities were unable to rise. The pandemic demonstrated and exacerbated a widely acknowledged pre-existing crisis in SEND provision. As set out in our interim Report, many children and young people received little or no support for three months. The Government must now prioritise its SEND review, launched over a year ago, and bring forward as a matter of urgency reforms which address fundamental problems of funding, consistency of support, accountability and integration of services, identified by the Education Committee and the National Audit Office in 2019. The outcome of the SEND review must be published no later than the first quarter of 2021 and set out the Government’s plan to reach a sustainable funding model while achieving the core aims of the 2014 reforms.***

## Catch-up funding for students with SEND

99. On 19 June, the Department for Education announced a £1 billion coronavirus catch up fund to “directly tackle the impact of lost teaching time” on children in England. The fund comprised £650 million to be shared across all primary and secondary schools,

126 Education Committee, *Special educational needs and disabilities*, First Report of Session 2019, HC 20

127 “Major review into support for children with special educational needs”, DfE press release, 6 September

128 Education Committee, First Special Report of Session 2019–21, *Special Educational Needs and Disabilities: Government Response to the Committee’s First Report of Session 2019*, HC 668

129 [Q127–8](#)

130 Oral evidence taken before the Education Committee on 16 September 2020, HC (2019–21) 262, [Qq996–8](#)

to support children who have fallen behind during the pandemic, and £350 million for a National Tutoring Programme to provide “access to high-quality tuition for the most disadvantaged young people over the 2020/21 academic year.”<sup>131</sup>

100. Charlotte Ramsden of the ADCS and Ali Fiddy of IPSEA were concerned that an apparent lack of ring-fenced catch up funding for pupils with SEND would exacerbate existing disparities in funding and outcomes between them and other pupils.<sup>132</sup> Children with SEND consistently make less progress than other pupils with the same starting points.<sup>133</sup>

101. When we heard evidence, the Government had not published detailed guidance about allocation of the catch-up funding. Vicky Ford told us that the £650 million to be shared across all schools would be allocated on a per pupil basis, at £80 per pupil at mainstream schools and £240 per pupil at special schools. The Minister did not confirm the per pupil funding for pupils with EHC plans or receiving SEN Support in mainstream schools.<sup>134</sup> Department for Education guidance later made clear that the higher per pupil amount was only being allocated to special schools.<sup>135</sup> Three allocations would be made, in autumn 2020, early 2021 and in the summer term, 2021.<sup>136</sup>

102. The Minister explained that the £350 million for the National Tutoring Programme (NTP) would be allocated to schools on the basis of their “free school meals cohorts”, which she believed was a good proxy for disadvantage and would include a high proportion of pupils with SEND.<sup>137</sup> The Department later wrote to us stating that the NTP was intended to “provide targeted support for children and young people who have been hardest hit from disruption to their education”. From November 2020, all schools would be able to use their NTP allocation to access “heavily subsidised tuition” from an approved list of providers and “the most disadvantaged schools” would be able to apply for funding to employ “in-house academic mentors to provide small group tuition”. A further strand of the NTP funding, allocated using the Department’s existing proxy measure for disadvantage based on attainment levels in English and Maths, would be available for “small group tuition for 16–19 years olds in English, maths, and other courses where learning has been disrupted”. It would be for schools to decide “which pupils require tutoring support, for how long and which model of tutoring to use.”<sup>138</sup>

103. Ali Fiddy was concerned that catch up funding allocated in this way would risk:

[...] exactly the same problem we see with SEN Support, where that funding is not ring fenced and it does not get used in the place that it is needed the most.<sup>139</sup>

131 [“Billion pound Covid catch-up plan to tackle impact of lost teaching time”](#), DfE/Prime Minister’s Office press release, 19 June 2020

132 [Q92–3](#)

133 National Audit Office, [Support for pupils with special educational needs and disabilities in England](#), HC 2636, September 2019, para 1.18

134 [Q123](#)

135 [‘Coronavirus \(COVID-19\) catch-up premium: provisional allocations’](#), Gov.uk, accessed 26 November 2020

136 [‘Catch up premium’](#), Gov.uk, accessed 26 November

137 [Q123](#)

138 Department for Education ([CVD0042](#))

139 [Q93](#)

104. We welcome the Government's educational catch up fund made up of £650 million to be allocated across all schools and £350 million for pupils in more disadvantaged schools to access subsidised small group tutoring and mentoring.

105. We agree that catch up funding should be weighted towards children who have been "hardest hit" by disruption to their education. We know that many children with special educational needs and disabilities (SEND) will be in the hardest hit group; many received little or no support earlier this year. We know that pupils with SEND are likely to fall further behind without commensurate help. Pupils with SEND in mainstream schools have often borne the brunt of the dysfunctional SEND system, missing out on support for their needs through a lack of ring-fenced funding. We are very concerned that catch up funding allocations do not adequately reflect this. In the light of experiences earlier this year, it is unacceptable that the £1 billion catch up premium does not include ring-fenced funding for pupils with SEND in mainstream schools. *We recommend that funding for the remaining tranches of the universal catch up allocation be increased by around £211 million, to allow mainstream schools to receive £240 per pupil with an EHC plan or receiving SEN Support, ring-fenced for their catch-up support in this academic year. We further recommend the Department procure an additional strand of specialist provision in the National Tutoring Programme, designed to support pupils with EHC plans and those receiving SEN Support, across all schools.*

## 5 Engagement and communications with disabled people

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106. As we have set out, the pandemic has profoundly affected disabled people’s daily lives and their ability to access services on which they rely. While some of the effects were entirely predictable, others could only be understood by engaging with disabled people and understanding their lived experiences. Below we examine the effectiveness of the Government’s engagement with disabled people to address their concerns as they emerged through the pandemic. We consider the clarity, sensitivity and accessibility of the Government’s communications with disabled people. We also address criticism of the accessibility of our sub-inquiry.

### Stakeholder engagement

107. There was a very clear divergence of opinion about the effectiveness of the Government’s engagement with disabled people about their concerns during the pandemic. Ministers described a very positive, inclusive approach with open lines of communication. Justin Tomlinson MP, Minister for Disabled People, Health and Work told us that, despite the unprecedented emergency circumstances, “There were examples during Covid-19 [...] where things were done at pace and it was actually very easy for stakeholders to flag up concerns.”<sup>140</sup>

108. He believed that his, and the Disability Unit’s, cross-government role had enabled them to “match [disabled people’s concerns] to the relevant Department and utilise their expertise”. He told us that:

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 processes. They have become a really valuable resource.<sup>141</sup>

109. The Minister pointed to examples of changes being made to policy and practice in response to stakeholder engagement, for example additions to the CEV group,<sup>142</sup> and improvements to the design and accessibility of communications.<sup>143</sup>

110. Most witnesses had a very different perspective. A disabled individual told us he had seen “no evidence” of the Government listening to disabled people’s concerns during the pandemic.<sup>144</sup> A group of disability law academics believed that “the voices of disabled people have been largely excluded”.<sup>145</sup> Edel Harris of Mencap said “we have not seen too much of the Disability Minister”.<sup>146</sup> Fazilet Hadi of DRUK noted that disabled people’s

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140 [Q94](#)

141 [Q94](#)

142 [Q107](#)

143 [Q95](#)

144 A Benetton ([CVD0002](#))

145 Oxford University Disability Law and Policy Project ([CVD0008](#))

146 [Q10](#)

stakeholder events had been postponed and not rearranged. She told us that, while the Government had later made efforts to engage via online video calls during lockdown, she believed Ministers had been in “broadcast code” rather than listening mode:

It was not dialogue. [...] We all accept that the speed of change was great, and that digital had to be the main mode of communication. We all understood the limitations of that, but we feel that, despite those limitations, a lot more could have been done [...] to show that willingness to engage, listen and respond.<sup>147</sup>

111. Justin Tomlinson wrote to us in November in response to a media article challenging his positive description of engagement with disabled people during the pandemic. He set out a wide range of engagement events he had attended with disability charities and user-led Disabled People’s Organisations (DPOs):

I have personally met a wide range of stakeholders throughout this year; including the Disability Charities Consortium, the DPO Forum, the Regional Stakeholder Network and a large number of other organisations and individuals. Since I appeared before your Committee, I have hosted six engagement sessions with national disability stakeholders including RNIB and Macmillan Cancer Support, to discuss my Department’s upcoming Green Paper and the National Strategy for Disabled People. And on 23 September, I hosted a Green Paper workshop with 21 disability organisations including 4 DPOs. On 29 September I held a similar event for Scottish disability stakeholders.<sup>148</sup>

He emphasised that he was “personally committed to listening to the views and experiences of disabled people from across this country, and we will continue to do so.”<sup>149</sup>

112. **There was a clear divergence of opinion between some disabled people and their organisations, who felt excluded and ignored by the Government, and Ministers, who described their engagement with disabled stakeholders during the pandemic as very positive, open and effective. *Addressing perceived weaknesses in the Government’s consultation and engagement with disabled people must form a key strand of the proposed National Strategy for Disabled People. The Government must consult widely with disabled people and their organisations on ways to embed in the Strategy genuinely effective mechanisms by which disabled people can influence policies and practices which directly affect them.***

## Effects of poor communication on disabled people

113. The pandemic has left many people feeling uncertain about how best to protect themselves and their loved ones from the virus, worried about the future, and generally

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147 [Q5](#)

148 [Letter dated 5 November 2020 from Justin Tomlinson MP, Minister for Disabled People Health and Work to the Chair of the Women and Equalities Committee](#)

149 [Letter dated 5 November 2020 from Justin Tomlinson MP, Minister for Disabled People Health and Work to the Chair of the Women and Equalities Committee](#)

anxious. Disabled people have consistently been more worried about the pandemic than the non-disabled population. Data show they have been more worried about the virus itself and the effects of restrictions.<sup>150</sup>

114. Witnesses believed the way the Government had communicated with disabled people, particularly its messages about who may be “vulnerable” or “extremely vulnerable” had unintentionally increased disabled people’s worries.<sup>151</sup> Adding to the anxiety, there was initially considerable confusion about who should be in the CEV group and about shielding guidance, particularly as changes were made from the summer onwards, as discussed in chapter 2. Fazilet Hadi picked out the change to shielding guidance issued on 1 June, in which restrictions were relaxed slightly, as an example of a change which had “not been properly thought through” or effectively communicated. She explained that:

People were seeing press releases on the Saturday night, getting text messages, and the guidance was then published on Monday 1 June. That was a very insensitive way of delivering the communication and information to 2.2 million people with health conditions and disabilities.<sup>152</sup>

115. The media reported that disabled people, who had originally been advised to shield for 12 weeks until 30 June, were confused and anxious about the sudden change. For example, a mother of two children, whose household had not left their home for 10 weeks because her son had a rare genetic disease, said the changed guidance had come as a “total shock” and reported that:

When you talk to your own healthcare professionals, they are specifically telling you to shield until June 30. Our critical healthcare appointments are being cancelled, those such as cardiology and respiratory, yet we are now being told it’s safe to go outside.<sup>153</sup>

116. Sarah Hughes, Chief Executive of the Centre for Mental Health told us that she had been struck by a lack of “psychologically informed” communication with disabled people, including those with mental ill-health. She said poorly informed communications, such as text messages about shielding guidance, could have “a massive impact on families”. From a mental wellbeing perspective, she told us that this kind of communication with people who were likely to be under very considerable stress should not only be about “behaviour and instruction”, but also needed to “embody a sense of compassion and empathy”.<sup>154</sup>

**117. The way the Government has communicated with disabled people has, on occasions, caused confusion and compounded already keenly felt anxiety. The chosen method and timing of communications with people categorised as clinically extremely vulnerable, and therefore likely to be living under very considerable stress, has sometimes been poorly thought out, with insufficient consideration given to the psychological effects on recipients and their families. We recommend Ministers and officials involved in**

150 See, for example, [‘Coronavirus and the social impacts on disabled people in Great Britain: September 2020](#), ONS, accessed 26 November 2020

151 See, for example, [Q229](#) [Emma Boswell and Ali Harris], oral evidence taken on *Unequal impact: Coronavirus (Covid-19) and the impact on people with protected characteristics*, HC 276

152 [Q1](#)

153 [“People Shielding From Coronavirus Question ‘Confusing And Contradictory’ Government Message”](#), *Huffington Post*, 1 June 2020

154 [Q4](#)

*communicating public health messages to disabled people should undergo training in psychologically informed communications which take fully into account and empathise with disabled people's lived experience.*

## Accessibility of communications

118. Disabled people's concerns about inaccessible communications from the Government emerged at the very outset of the pandemic. The Prime Minister's letter of 23 March to every household in the UK, explaining the gravity of the situation and the need for the first national lockdown, was not initially available in any accessible formats. A large print version was published on 3 April and an Easy Read version, for people with learning disabilities and others who have difficulty reading, on 8 April.<sup>155</sup>

119. The Prime Minister's television address on 23 March had no British Sign Language (BSL) interpretation. Ayla Ozmen of Action on Hearing Loss (now RNID) tried to convey what that might have been like for a Deaf BSL user:

Imagine if you are put in front of a screen that you know is vital public health information, but you cannot understand a word that is being said. That is what a lot of people felt like [...]<sup>156</sup>

She told us there were "whole families" of Deaf people who were unaware of the full implications of the pandemic for weeks.<sup>157</sup>

120. There was also no BSL interpretation of the daily television briefings by Ministers. When we heard evidence in June, Fazilet Hadi told us the issue had been raised with the Government for 13 weeks, but no solution had been found. She emphasised that the devolved governments had provided BSL interpretation of their television briefings and "no one can quite understand why" the UK Government could not.<sup>158</sup>

121. Ayla Ozmen told us a group of charities had approached the Government with a "shopping list" of "accessible communication asks".<sup>159</sup> This set out the accessibility needs of Deaf and disabled people in relation to broadcast and social media, websites and mailings. It described the most accessible contact methods for people with different impairments.<sup>160</sup> She told us "these things are really simple to do".<sup>161</sup> The charities were in discussions with the Government's Senior Lead on Accessible Information in the Cabinet Office about implementation of the shopping list.<sup>162</sup>

122. Ayla Ozmen updated us in December. There had been regular meetings with the Cabinet Office National Resilience External Affairs team and "some small bits of progress", such as consultation about the accessibility of the Government's coronavirus campaign over the summer. Work had begun, but was not yet completed, on an "accessibility checklist for local lockdown areas"; however, this was now months after local lockdowns had begun. There remained significant gaps in the accessibility of the Government's coronavirus

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155 ['PM letter to nation on coronavirus'](#), Gov.uk, accessed 26 November 2020

156 [Q7](#)

157 [Q7](#)

158 [Q1](#)

159 [Q10](#)

160 Action on Hearing Loss (now RNID) ([CVD0033](#))

161 [Q4](#)

162 [Q12](#)

communications, notably no BSL interpretation, on any channels, of television briefings by senior officials such as the Chief Medical Officer, “regardless of the importance of content”.<sup>163</sup> On 9 November, disability charities issued a press release drawing attention to a lack of accessible versions of the latest letters to people advised to shield. They described this as the Government’s “latest blunder”, which meant that a population of 4.5 million people were missing out on vital public health information.<sup>164</sup>

123. When we asked Justin Tomlinson why communications in accessible formats had not been more comprehensively built in from the start of the pandemic, the Minister described this as a “really fair challenge”. He believed that engagement with disabled people’s representative organisations had led to “significant improvement as we have navigated through Covid-19”, but he was keen to ensure accessibility of communications became embedded across all government departments.<sup>165</sup>

**124. The accessibility of the Government’s communications to disabled people during the pandemic has been poor from the outset of lockdown in March. The Government has been far too slow to address concerns, notably about the lack of British Sign Language interpretation of government television briefings. Accessibility should have been baked in from the start. Much of what is being asked for could be simply achieved, often at low cost, and bring considerate benefit to disabled people. We recommend the Cabinet Office implement in full the list of accessible communications asks from RNID and other charities. We expect real progress to have been made towards this by the time the government responds to this Report and urge full implementation no later than the end of the first quarter of 2021.**

**125. NHS health and publicly funded social care services are legally required, by the Accessible Information Standard, published under section 250 of the Health and Social Care Act 2012, to provide health and care information to patients and service users in a way they can understand. The aim is to ensure a consistent approach to identifying and meeting the information and communication needs of patients and service users, their carers and families. Disabled people’s experiences of inaccessible public health information from the Government during this pandemic have been unacceptable. Disabled people have been put at risk through lack of access to vital information. Their communication needs should have been anticipated as a matter of course. Everyone should have the right to receive public health information in a format they can understand. We recommend the Accessible Information Standard be extended to apply to all public health messages from government departments.**

## Accessibility of our sub-inquiry

126. Action on Hearing Loss (now RNID) and Sense submitted evidence expressing disappointment that we had not arranged for our oral evidence sessions in this sub-inquiry to be accessible to BSL users who wanted to watch live online at [www.parliamentlive.tv](http://www.parliamentlive.tv). The charities had received feedback from BSL users expressing their anger at the inaccessibility of the sessions, particularly as part of the sub-inquiry was scrutinising the accessibility of the Government’s communications. They called on us to consider how

163 Further supplementary written evidence from RNID ([CVD0043](#))

164 “Not accessible, not acceptable!”, RNID press release, 9 November 2020

165 [Q95](#)

we can make our public proceedings more accessible. Their view was that “when the Committee is scrutinising policy which directly relates to the BSL community it would be proportionate to provide live subtitles and BSL interpretation.”<sup>166</sup>

**127. We agree with organisations representing Deaf British Sign Language users that we should set a good example in the accessibility of our public oral evidence sessions. It is regrettable that we did not provide live BSL interpretation and subtitles via [www.parliamentlive.tv](http://www.parliamentlive.tv), particularly as we were scrutinising the accessibility of the Government’s communications during the pandemic. It is reasonable and proportionate for BSL users to request that interpretation and subtitles are provided in these circumstances. There are technical difficulties, which are beyond this Committee’s control, to overcome before this can be achieved. *We recommend the Liaison Committee of the House of Commons review the adequacy of funding, technical capabilities and expertise available to support live BSL interpretation and subtitles of select committee proceedings on [www.parliamentlive.tv](http://www.parliamentlive.tv). We further recommend that the House of Commons Commission make it an objective to ensure that a greater proportion of the coverage of the House is fully accessible to Deaf people via the provision of live BSL interpretation and subtitles of debates.***

## 6 A future independent inquiry

128. The Prime Minister has said there will be an independent inquiry into the UK's response to the coronavirus pandemic at the right point in the future.<sup>167</sup> Below we set out recent data on the disproportionate and tragic death rates of disabled people with coronavirus in England and Wales, and make the case for a discrete independent inquiry into the causes.

### ONS data

129. On 18 September, after we had finished taking evidence to our sub-inquiry, the Office for National Statistics (ONS) published the first release in its series *Coronavirus (Covid-19) related deaths by disability status, England and Wales*, covering the period 2 March to 14 July. It looked at death rates of disabled people compared to the rest of the population. People were defined as disabled if they had recorded in the 2011 census that their daily activities were “limited” or “limited a lot” by a health condition or long-term disability.<sup>168</sup>

130. The ONS found that almost 60% of deaths with coronavirus were of disabled people, while they made up only 16% of the study's population. The death rate of disabled men was 240.8 per 100,000, compared to a rate of 84.2 for non-disabled men. The death rate for disabled women was 169.9 per 100,000, compared to 44.4 per 100,000 among non-disabled women. After adjusting for region, population density, socio-demographic and household characteristics it found that the death rate for disabled women was 2.4 times higher than for non-disabled women; the rate for disabled men was exactly twice as high as that for non-disabled men.<sup>169</sup>

### Public Health England review of deaths of people with learning disabilities

131. On 12 November, Public Health England (PHE) published the results of a review commissioned by the Department of Health and Social Care into deaths from coronavirus of people with learning disabilities in England. This used data from the Learning Disabilities Mortality Review (LeDer); hospital death records; and notifications to the Care Quality Commission of deaths in social care.<sup>170</sup>

132. The review estimated that the death rate with coronavirus of people with learning disabilities was 451 per 100,000, a rate 4.1 times higher than the general population.<sup>171</sup> Adjusting for known gaps in the data, it estimated that the rate may be as high as 692 per 100,000, some 6.3 times higher than in the general population.<sup>172</sup> Among people with

167 See, for example, “Johnson commits to independent inquiry into handling of coronavirus”, *FT.com*, 15 July 2020

168 ‘Coronavirus (COVID-19) related deaths by disability status, England and Wales: 2 March to 14 July 2020’, ONS, accessed 26 November 2020

169 ‘Coronavirus (COVID-19) related deaths by disability status, England and Wales: 2 March to 14 July 2020’, ONS, section 1, accessed 26 November 2020

170 Public Health England, *Deaths of people identified as having learning disabilities with COVID-19 in England in the spring of 2020*, November 2020

171 Public Health England, *Deaths of people identified as having learning disabilities with COVID-19 in England in the spring of 2020*, November 2020, p 34

172 Public Health England, *Deaths of people identified as having learning disabilities with COVID-19 in England in the spring of 2020*, November 2020, p 34

learning disabilities, far more young people died with coronavirus than in the general population; the death rate among people with learning disabilities aged 18–34 was a shocking 30 times higher.<sup>173</sup>

133. A third of people with learning disabilities who died were living in residential care. Helen Whately MP, Minister for Care, emphasised that:

There is now regular testing of staff and residents in care homes, and testing has also been rolled out to Supported Living settings in high risk areas. We're also offering free PPE, and the Joint committee on vaccines and immunisation has proposed those living and working in care homes should be top of the list for vaccination.

She confirmed she had asked the Scientific Advisory Group for Emergencies (SAGE) to “review the findings and give advice on what more we can do to keep people safe.”<sup>174</sup>

***134. In the light of starkly disproportionate and tragic data on death rates from coronavirus of disabled people, including shocking figures for deaths of people, including young people, with learning disabilities, there must be a discrete independent inquiry into the causes. It must be a wide-ranging inquiry, including consideration of the role of the Government's and public authorities' policies and decisions in adverse outcomes for disabled people. The independent inquiry must be established as soon as we have gained control of the pandemic, which we all hope will be in the first half of 2021.***

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173 Public Health England, [Deaths of people identified as having learning disabilities with COVID-19 in England in the spring of 2020](#), November 2020, p 34

174 [“People with learning disabilities had higher death rate from COVID-19”](#), DHSC press release, 12 November 2020

# Conclusions and recommendations

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## Introduction

1. We welcome the Government's decision to discontinue the Coronavirus Act's Mental Health Act provisions, which potentially relaxed requirements for sectioning, against the grain of overdue and much-needed reforms, and which thankfully proved to be unnecessary in England. We will continue to push for progress towards implementation of our recommendations on Care Act and Children and Families Act provisions and guidance. (Paragraph 4)

## Access to food

2. The Government's focus on people defined as "clinically extremely vulnerable" (CEV) to the virus, while rational from a medical perspective, was an inappropriate proxy for the need for support with access to food and had unintended consequences. It was rapidly established and broadly effective for those on the CEV list, for which everyone involved should be congratulated, but it also set one group of people with clinical needs against others with social barriers to food shopping during the pandemic. The Government's predominant focus on supporting CEV people, and its clear direction to the food sector to prioritise them, may have contributed to some supermarkets overlooking their legal obligations to make reasonable adjustments for the broader population of disabled people, which has led to legal challenges. (Paragraph 26)
3. We welcome the steps the Equality and Human Rights Commission (EHRC) has taken to emphasise that food retailers' legal obligations to make reasonable adjustments for disabled people have remained in place throughout the pandemic. We fully endorse its new guidance to food retailers on the steps required to continue to meet their obligations, including in emergency situations. The Government should also publicly state the vital importance of reasonable adjustments to allow disabled people equal access to food during the pandemic. *The Government should also publicly state the vital importance of reasonable adjustments to allow disabled people equal access to food during the pandemic. We recommend the Government better promote the EHRC's new guidance to food retailers, including in its ongoing discussions with the food retail sector on maintaining disabled people's access to food during the remainder of the pandemic.* (Paragraph 27)
4. *We further recommend the Government consider, with disabled people, as part of its consultation on the proposed National Strategy for Disabled People, the steps needed to more effectively adopt a social model of disability in relation to maintaining disabled people's access to food for the remainder of this pandemic and in future crises. This consultation should consider the actions required to eliminate barriers to physical and online food shopping. The Government should consider with disabled people how, in crisis situations, to identify and reach a single category of people, including disabled people who may not have clinical needs and people with medical conditions who may not be disabled, who need food deliveries. It should consider not only the steps required by retailers to meet obligations under the Equality Act but also steps required*

*by the Government to meet its obligation under the UN Convention on the Rights of Persons with Disabilities to respond to emergency situations in a way which includes consideration of the needs of disabled people. (Paragraph 28)*

5. Ministers paused the national shielding programme in August and in September asserted that “we need to get away from the food parcel model”, without offering any evidence of the Government’s assessment of the level of disabled people’s needs for help accessing food, including free food deliveries. Since then, there have been local lockdowns and a return to national measures, with clinically extremely vulnerable people once again advised by the Government to avoid leaving their homes, including to shop for food. People must now rely on friends, family, carers, volunteers and local authorities, which have been provided with additional funding but whose resources are over-stretched. In circumstances in which the Government is asking people to shield, we believe it has a duty to ensure that the local support arrangements that have replaced the national shielding programme, and the funding in place to support them, are adequate to meet the level of need. *The Government must immediately publish its assessment of disabled people’s needs for support accessing food, including provision of free food box deliveries. It must also publish a plan to review the adequacy of local arrangements and central government funding to support disabled people who need help getting food while coronavirus restrictions remain in place. We expect such a plan to be published within two months of publication of this Report, and be both updated and re-published regularly during the remainder of the pandemic. (Paragraph 36)*

## Health and social care

6. We will continue to push for greater accountability and transparency while Care Act easements remain available to local authorities and for their swift repeal should the pandemic become more clearly under control before or at the next six-monthly parliamentary review, due in spring 2021. (Paragraph 37)
7. Early in the pandemic, the National Institute for Health and Care Excellence’s (NICE) critical care guidelines and doctors’ inappropriate or blanket use of “Do not attempt resuscitation” (DNAR) notices were potentially discriminatory. While we welcome actions taken swiftly to address disabled people’s concerns, and steps subsequently taken by NICE and the NHS to review their practices and try to put things right, the fact that potentially discriminatory practices emerged in the first place is deeply concerning. These issues caused disabled people great distress and anxiety and left them feeling their lives were less valued than others’. A robust response is required to restore disabled people’s confidence that their needs are given equal consideration across government and public services, should we be faced with a similar public health emergency in the future. (Paragraph 54)
8. The Equality Act 2010’s Public Sector Equality Duty is intended to ensure public authorities have due regard, including in their decision making, policies and service delivery, to achieving the Act’s objectives, which include the elimination of discrimination against groups of people who share a protected characteristic. The Equality and Human Rights Commission has published non-statutory technical guidance on the Duty. This provides public authorities with a detailed

and comprehensive guide to the law, but, while it can be admissible as evidence in the courts, it does not have its own legal authority. We believe disabled people's experiences of public services during the pandemic make the case for a strengthening of the Public Sector Equality Duty, outweighing any concerns about additional burdens on authorities. *The Government should consent to the Equality and Human Rights Commission issuing a statutory Code of Practice on the Public Sector Equality Duty.* (Paragraph 55)

9. Prior to the pandemic, people with learning disabilities experienced health inequalities and faced difficulties accessing healthcare and receiving accurate diagnoses and effective treatments. They had increased risks of dying from a range of illnesses, including respiratory infections. These problems have been exacerbated by coronavirus, to which, emerging data suggest, people with learning disabilities may be disproportionately susceptible. It is therefore vital that annual health checks for people with learning disabilities, designed to identify previously unrecognised health needs, are fully reinstated across the NHS as soon as possible. We welcome the British Medical Association's (BMA) and NHS England's recognition of the importance of improving care for people with learning disabilities, and their agreement that restoration of services is a quality improvement requirement for GP practices for the remainder of this financial year. *We recommend the Department of Health and Social Care work with the BMA, NHS and organisations representing people with learning disabilities, including user-led groups, to set stretching but achievable longer-term targets for the full reintroduction of annual health checks across the NHS and for the percentage of disabled people who attend them.* (Paragraph 64)
10. The widespread adoption of continuous facemask wearing in health and social care settings has made effective communication impossible for patients and healthcare professionals who lip-read, and much more difficult for Deaf people who use British Sign Language and people with disabilities which mean they are more reliant on facial expressions for communication. We therefore strongly welcome the development of medically approved transparent facemasks and the Government's procurement of 250,000 pieces for distribution in the NHS and to social care providers. This is a good first step towards fully meeting the Equality Act's Public Sector Equality Duty and reasonable adjustment obligations to disabled people, by ensuring that clear facemasks are readily accessible across the whole health and social care system, based on need. We are not, however, aware of any analysis of the adequacy of 250,000 masks to meet current or ongoing needs. *We ask that the Department of Health and Social Care update us, in its response to this Report, on: progress in distributing clear face masks to NHS Trusts; the effectiveness of the pilot system to distribute the masks to social care providers through Local Resilience Forums; its assessment of the level of need for clear facemasks across health and social care services; and its plans for further procurement and distribution.* (Paragraph 68)
11. *We were disappointed with the 2020 Spending Review's financial settlement of £300 million in additional grant funding for local authorities' social care in 2021/22. We believe it falls considerably short of what is required. We agree with the Health and Social Care Committee that an increase in funding for social care, worth around £4 billion per year by 2023/24, will be a necessary first step towards fixing systemic problems in the sector.* (Paragraph 84)

12. *The Government must bring forward a social care reform package, which includes the whole sector, in this financial year. There has been a tendency by successive governments to focus on the problem of rising costs of caring for elderly people, particularly in care homes, and the unfairness of being forced to sell family homes to pay for care in later life. While these are key problems for which solutions must be found, the Government's reform package must be more wide-ranging, and include actions to improve the quality and personalisation of care and support for working age disabled people across all social care settings. It must address workforce issues across the sector, including low pay, poor career progression and high turnover. Its reforms must include a plan to more effectively integrate services and achieve parity of esteem across health and social care as a single system. The vital importance of the whole social care sector and its workforce has never been so apparent; it must now be valued accordingly. (Paragraph 85)*

### Provision for children and young people with special educational needs and disabilities (SEND)

13. Our interim Report made several recommendations about how the Secretary of State should use his powers in relation to duties towards children and young people's educational, health and care needs, if they are required again during the pandemic. We also made recommendations about the Government's guidance to local authorities on how to interpret and apply reasonable endeavours. We will continue to push for implementation of our recommendations while the temporary powers remain available. (Paragraph 87)
14. *Delivering effective support for children and young people with SEND during a public health crisis was inevitably a massive challenge, to which some local authorities were unable to rise. The pandemic demonstrated and exacerbated a widely acknowledged pre-existing crisis in SEND provision. As set out in our interim Report, many children and young people received little or no support for three months. The Government must now prioritise its SEND review, launched over a year ago, and bring forward as a matter of urgency reforms which address fundamental problems of funding, consistency of support, accountability and integration of services, identified by the Education Committee and the National Audit Office in 2019. The outcome of the SEND review must be published no later than the first quarter of 2021 and set out the Government's plan to reach a sustainable funding model while achieving the core aims of the 2014 reforms. (Paragraph 98)*
15. We welcome the Government's educational catch up fund made up of £650 million to be allocated across all schools and £350 million for pupils in more disadvantaged schools to access subsidised small group tutoring and mentoring. (Paragraph 104)
16. We agree that catch up funding should be weighted towards children who have been "hardest hit" by disruption to their education. We know that many children with special educational needs and disabilities (SEND) will be in the hardest hit group; many received little or no support earlier this year. We know that pupils with SEND are likely to fall further behind without commensurate help. Pupils with SEND in mainstream schools have often borne the brunt of the dysfunctional SEND system, missing out on support for their needs through a lack of ring-fenced funding. We

are very concerned that catch up funding allocations do not adequately reflect this. In the light of experiences earlier this year, it is unacceptable that the £1 billion catch up premium does not include ring-fenced funding for pupils with SEND in mainstream schools. *We recommend that funding for the remaining tranches of the universal catch up allocation be increased by around £211 million, to allow mainstream schools to receive £240 per pupil with an EHC plan or receiving SEN Support, ring-fenced for their catch-up support in this academic year. We further recommend the Department procure an additional strand of specialist provision in the National Tutoring Programme, designed to support pupils with EHC plans and those receiving SEN Support, across all schools.* (Paragraph 105)

## Engagement and communications with disabled people

17. There was a clear divergence of opinion between some disabled people and their organisations, who felt excluded and ignored by the Government, and Ministers, who described their engagement with disabled stakeholders during the pandemic as very positive, open and effective. *Addressing perceived weaknesses in the Government's consultation and engagement with disabled people must form a key strand of the proposed National Strategy for Disabled People. The Government must consult widely with disabled people and their organisations on ways to embed in the Strategy genuinely effective mechanisms by which disabled people can influence policies and practices which directly affect them.* (Paragraph 112)
18. The way the Government has communicated with disabled people has, on occasions, caused confusion and compounded already keenly felt anxiety. The chosen method and timing of communications with people categorised as clinically extremely vulnerable, and therefore likely to be living under very considerable stress, has sometimes been poorly thought out, with insufficient consideration given to the psychological effects on recipients and their families. *We recommend Ministers and officials involved in communicating public health messages to disabled people should undergo training in psychologically informed communications which take fully into account and empathise with disabled people's lived experience.* (Paragraph 117)
19. The accessibility of the Government's communications to disabled people during the pandemic has been poor from the outset of lockdown in March. The Government has been far too slow to address concerns, notably about the lack of British Sign Language interpretation of government television briefings. Accessibility should have been baked in from the start. Much of what is being asked for could be simply achieved, often at low cost, and bring considerable benefit to disabled people. *We recommend the Cabinet Office implement in full the list of accessible communications asks from RNID and other charities. We expect real progress to have been made towards this by the time the government responds to this Report and urge full implementation no later than the end of the first quarter of 2021.* (Paragraph 124)
20. NHS health and publicly funded social care services are legally required, by the Accessible Information Standard, published under section 250 of the Health and Social Care Act 2012, to provide health and care information to patients and service users in a way they can understand. The aim is to ensure a consistent approach to identifying and meeting the information and communication needs of patients and

service users, their carers and families. Disabled people's experiences of inaccessible public health information from the Government during this pandemic have been unacceptable. Disabled people have been put at risk through lack of access to vital information. Their communication needs should have been anticipated as a matter of course. Everyone should have the right to receive public health information in a format they can understand. We recommend the Accessible Information Standard be extended to apply to all public health messages from government departments. (Paragraph 125)

21. We agree with organisations representing Deaf British Sign Language users that we should set a good example in the accessibility of our public oral evidence sessions. It is regrettable that we did not provide live BSL interpretation and subtitles via [www.parliamentlive.tv](http://www.parliamentlive.tv), particularly as we were scrutinising the accessibility of the Government's communications during the pandemic. It is reasonable and proportionate for BSL users to request that interpretation and subtitles are provided in these circumstances. There are technical difficulties, which are beyond this Committee's control, to overcome before this can be achieved. *We recommend the Liaison Committee of the House of Commons review the adequacy of funding, technical capabilities and expertise available to support live BSL interpretation and subtitles of select committee proceedings on [www.parliamentlive.tv](http://www.parliamentlive.tv). We further recommend that the House of Commons Commission make it an objective to ensure that a greater proportion of the coverage of the House is fully accessible to Deaf people via the provision of live BSL interpretation and subtitles of debates.* (Paragraph 127)

### A future independent inquiry

22. *In the light of starkly disproportionate and tragic data on death rates from coronavirus of disabled people, including shocking figures for deaths of people, including young people, with learning disabilities, there must be a discrete independent inquiry into the causes. It must be a wide-ranging inquiry, including consideration of the role of the Government's and public authorities' policies and decisions in adverse outcomes for disabled people. The independent inquiry must be established as soon as we have gained control of the pandemic, which we all hope will be in the first half of 2021.* (Paragraph 134)

# Formal minutes

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**Tuesday 15 December 2020**

Virtual meeting

Members present:

Caroline Nokes, in the Chair

Theo Clarke

Kim Johnson

Elliot Colborn

Kate Osbourne

Angela Crawley

Bell Ribeiro-Addy

Peter Gibson

Draft Report (*Unequal Impact? Coronavirus, disability and access to services: full Report*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 134 read and agreed to.

Summary agreed to.

*Resolved*, That the Report be the Fourth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

[Adjourned until Wednesday 16 December at 2.30 p.m.]

## Witnesses

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The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

### Wednesday 24 June 2020

**Fazilet Hadi**, Policy Manager, Disability Rights UK; **Ms Ayla Ozmen**, Head of Research and Policy, Action on Hearing Loss (now RNID); **Edel Harris**, Chief Executive, Mencap; **Sarah Hughes**, Chief Executive, Centre for Mental Health

[Q1–36](#)

### Wednesday 22 July 2020

**Professor Gillian Leng CBE**, Chief Executive, NICE (National Institute for Health and Care Excellence); **Kate Terroni**, Chief Inspector of Adult Social Care, Care Quality Commission; **Simon Williams**, Director of Social Care Improvement, Local Government Association; **Celia Ingham-Clark MBE**, Medical Director for Clinical Effectiveness, NHS England

[Q37–76](#)

**Ali Fiddy**, Chief Executive, Independent Provider of Special Education Advice; **Charlotte Ramsden**, Vice President, Association of Directors of Children's Services

[Q77–93](#)

### Wednesday 2 September 2020

**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 of State (Minister for Care), Department of Health and Social Care; **Justin Tomlinson MP**, Minister of State (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 Unit

[Q94–165](#)

## Published written evidence

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The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

CVD numbers are generated by the evidence processing system and so may not be complete.

- 1 Action on Hearing Loss ([CVD0033](#))
- 2 Action on Hearing Loss ([CVD0018](#))
- 3 Action on Hearing Loss; and Sense ([CVD0017](#))
- 4 Alliance for Inclusive Education ([CVD0040](#))
- 5 A member of the public ([CVD0007](#))
- 6 A member of the public ([CVD0032](#))
- 7 A member of the public ([CVD0005](#))
- 8 Aspis, Ms Simone (Policy and Campaigns Coordinator , Alliance for Inclusive Education) ([CVD0025](#))
- 9 Bennetton, A ([CVD0002](#))
- 10 Bevan, Jane (Strategic Lead, Greater Manchester Disabled People's Panel ( a Panel of 14 Disabled People's Organisations advising the GM Mayor)) ([CVD0034](#))
- 11 British Retail Consortium ([CVD0041](#))
- 12 Carpenter, Mr Neil (Volunteer Advocate, Cornwall Advocacy) ([CVD0014](#))
- 13 Clayton, R; C Clayton; and M Potter ([CVD0001](#))
- 14 Department for Education ([CVD0042](#))
- 15 Diabetes UK ([CVD0021](#))
- 16 Disability Law Service ([CVD0015](#))
- 17 End Violence Against Women Coalition ([CVD0031](#))
- 18 Equality and Human Rights Commission ([CVD0023](#))
- 19 Fawcett Society; UK Women's Budget Group; London School of Economics Department of Health Policy; and Mile End Institute, Queen Mary University of London ([CVD0010](#))
- 20 Fawcett Society; UK Women's Budget Group; London School of Economics Department of Health Policy; and Mile End Institute, Queen Mary University of London ([CVD0009](#))
- 21 Forsyth, Mrs Catherine ([CVD0006](#))
- 22 Guide dogs ([CVD0035](#))
- 23 Inclusion London ([CVD0036](#))
- 24 Mental Health Foundation ([CVD0020](#))
- 25 Motor Neurone Disease Association ([CVD0026](#))
- 26 Mudhar, M ([CVD0004](#))
- 27 NAHT ([CVD0022](#))
- 28 NHS England ([CVD0038](#))
- 29 Northern Ireland Women's European Platform ([CVD0013](#))

- 30 Parkinson's UK ([CVD0027](#))
- 31 Power, Dr Andrew (Associate Professor in Human Geography, University of Southampton); and Ms Laura Kerr (Manager, People First Dorset) ([CVD0030](#))
- 32 RNID ([CVD0043](#))
- 33 Inclusion London ([CVD0037](#))
- 34 Royal National Institute of Blind People ([CVD0029](#))
- 35 Scope ([CVD0039](#))
- 36 The British Pregnancy Advisory Service, BPAS ([CVD0024](#))
- 37 The Law Society of England and Wales ([CVD0028](#))
- 38 The Oxford University Disability Law and Policy Project ([CVD0008](#))
- 39 Turning Point ([CVD0016](#))
- 40 UN CRPD Independent Mechanism in Northern Ireland (NIHRC and ECNI) ([CVD0011](#))
- 41 UNISON ([CVD0019](#))
- 42 Wetwheels Foundation; and Rose Road Association ([CVD0003](#))
- 43 Wheels for Wellbeing ([CVD0012](#))

## List of Reports from the Committee during the current Parliament

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All publications from the Committee are available on the [publications page](#) of the Committee's website.

### Session 2019–21

Number	Title	Reference
1st	Unequal impact? Coronavirus, disability and access to services: interim Report on temporary provisions in the Coronavirus Act	HC 386
2nd	Appointment of the Chair of the Equality and Human Rights Commission	HC 966
3rd	Unequal impact? Coronavirus and BAME people	HC 384
1st Special	Body Image Survey Results	HC 805
Easy Read	The Coronavirus law, treating disabled people unfairly? Interim Report on temporary provisions in the Coronavirus Act	HC 386