[COR0061]

Written evidence submitted by Medact, Migrants Organise, and Kanlungan (COR0061)

Executive Summary

This submission evidences the impact of current Government health and immigration policy on migrants during the Coronavirus crisis, specifically in limiting the provision of free NHS treatment through the NHS Charging Regulations 2015 and 2017. Our response is based on the work of Migrants Organise, Kanlungan, and Medact with migrant organisations, charities, and healthcare workers, monitoring the impact of these regulations since they were introduced. We specifically draw on research we are currently conducting into migrants' access to healthcare during the COVID-19 pandemic, and on other case studies.

- Prior to the COVID-19 pandemic, **the NHS charging regulations were deterring migrants from seeking healthcare**, including instances when the condition, like COVID-19, was exempt from charging.
- Over the last week, initial survey responses from 28 migrant charities and organisations across the UK indicate that **NHS charging and data sharing with the Home Office is having a deterrent impact during the coronavirus crisis, such that migrants are not seeking healthcare when they have coronavirus symptoms**.
- Further, early survey responses suggest that **Government information on migrants' entitlements to healthcare during the pandemic is not reaching migrant communities**.
- **There have been instances of undocumented migrants dying alone at home with symptoms of Coronavirus**, having not sought any treatment from the NHS or advice from 111, due to fear of being reported to immigration authorities and/or of accruing debt to the NHS.

Our Recommendations

In light of the evidence summarised in this briefing, we recommend that the Government:

1. **Suspend all NHS charging for migrants during the coronavirus crisis**. It is clear that charging exemptions are not well understood and are poorly implemented by healthcare workers; that migrants report any risk of charging as a deterrent, and that even when conditions are exempt, charging still acts as a deterrent - delaying diagnosis and access to treatment. This exclusion of migrant communities is wholly at odds with the principles of an effective public health management and creates serious and unnecessary barriers during a time of national emergency.
2. **Stop all data-sharing between the NHS and the Home Office.** The Government has not provided reassurance that patient data will not be shared with the Home Office. Although immigration status checks will not be carried out, this only applies for those undergoing COVID-19 treatment, leaving those who receive a negative test result at risk of having their data shared. Migrants report fears due to the data sharing policy, and will need more concrete assurance to assuage legitimate concerns.
3. **Launch a public information campaign to ensure that all NHS staff and the public are aware of these changes.** Years of NHS charging and hostile publicity have created a climate of fear around the NHS for migrants. Policy reversals, therefore, must be accompanied by attempts to repair trust and reassure people that it is safe for them to access the NHS. This is especially needed as knowledge of charging policy among NHS staff is low, and migrant communities have a general fear of charging and data-sharing that is not always aligned with the detail of charging policy. The Government must ensure everyone is aware of their rights to access the NHS during the crisis.

While these recommendations are a matter for the Health Minister, the Home Office has always been the driving force behind the NHS Charging Regulations[1] and the Home Office has an important role to play in the management of health policy for migrants during the coronavirus crisis. This will ensure that people in the UK are not deterred from seeking care because of the threat of being charged or falling into debt.

Evidence of Deterrence During COVID-19

Ongoing Qualitative Research into Migrant Access to Healthcare During COVID-19

1. Medact, Migrants Organise, and the New Economics Foundation, are in the process of conducting qualitative research into the experiences of migrants' access to healthcare during the coronavirus pandemic. A survey has been sent to migrant and refugee support organisations, self-organised migrant and refugee community groups, and other frontline organisations in the UK. For the purposes of this submission, we have collected early responses to give an indication of the data.

2. The findings shared in the submitted evidence have been redacted for the public version, pending release of the full research. The original evidence can be provided to members of the committee on request.

3. It is worth nothing that gathering information on the experiences of migrants trying to access healthcare at this time is incredibly difficult. Many organisations offering support services for migrants have closed their client facing services, and many of Medact's healthcare worker members are unable to provide insight from the frontline of the NHS due to their redeployment to critical care, and are therefore not in contact with their regular patient group. However, the information presented here, and the established body of evidence about the deterrent impact of the charging regulations and accompanied data sharing before the coronavirus crisis, provide sufficient grounds for our call for urgent action to be taken by the Government. The Government must not wait for further evidence at the expense of the health and lives of the people who are currently too afraid to access healthcare.

Detail on the experience of undocumented migrants - case studies from Kanlungan

4. On Friday 17th April, the Independent published the story of a Filipino man, Elvis (a pseudonym), who died at home after displaying symptoms of coronavirus, including a cough and fever for over two weeks[2]. He had been too afraid to go to hospital because he thought he would incur debts that he could not repay, and that he would be reported to immigration officials. Elvis was an undocumented migrant who had lived in the UK for over 10 years, and had been working as a cleaner and sending money home to his family in the Philippines. His wife - who had been working as a domestic worker - is now also showing coronavirus symptoms and self-isolating, and will not seek help because she is fearful of the repercussions.

5. The family was supported by Kanlungan, a consortium of organisations that supports Filipino migrants in the UK. Many of their clients are experiencing extreme difficulties during the coronavirus crisis, due to work insecurity, lack of ability to access state support, and fear around accessing healthcare. In many cases people are living in overcrowded accommodation alongside healthcare workers, making it impossible for families to follow social distancing. Many of their members were care workers who are now out of work because their employers are self isolating. People are forced to live in high risk situations, exposed to coronavirus. They have stated that it is only a matter of time before another tragic death of someone like

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[1] Windrush Lessons Learned Review, para 2.3.5, https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874022/6.5577_HO_Windrush_Lessons_Learned_Review_WEB_v2.pdf

[2] https://www.independent.co.uk/news/uk/home-news/coronavirus-undocumented-migrants-deaths-cases-nhs-matt-hancock-a9470581.html

Elvis, who is too afraid to seek care. Please see Annex 1 for more detail on the situations Kanlungan members are facing.

The Government's Response to the Coronavirus Crisis

6. The Government's response to the coronavirus crisis has not ensured that everyone who needs to access healthcare can do so safely and without fear. On 10th February 2020, the Government added COVID-19 to the list of conditions exempt from NHS charging. They also added to the "NHS Entitlements: Migrant Health Guide" that no immigration status checks would be carried out for patients receiving treatment where that treatment was only for COVID-19[3]. The Government has not given any assurances that patient data will not be shared with the Home Office during this time. To date, the Department of Health and Social Care have not published translated information about NHS eligibility during coronavirus, though they say it will soon be published in 40 languages.

7. It is clear from the evidence presented above that adding COVID-19 to the list of exempt conditions has been insufficient. People's fear of charges and immigration checks has been instilled by years of Hostile Environment measures and threatening publicity used in many Trusts. The majority of people tested for coronavirus receive a negative result, and tests are known to have a relatively high false-negative rate. Following a negative result, migrants with symptoms who require hospital treatment would then become chargeable for any treatment given. As evidenced above, this is a significant deterrent to seek care at all, even if the person is experiencing coronavirus symptoms.

8. Similarly, data-sharing between the NHS and the Home Office also deters migrants from seeking care. To address the legitimate fear many people have about their data being shared with the Home Office, the Government must end all data sharing between the NHS and immigration authorities during the pandemic. The Government in Ireland have recognised the deterrent effect of data-sharing on people seeking care and have committed to stop all data sharing during the crisis[4].

COVID-19 response from MPs, healthcare institutions, and civil society organisations

9. A range of organisations and elected representatives have highlighted the harmful impact of the NHS charging policy on migrant communities, and the additional barrier it presents for people trying to access the NHS during the pandemic. They are calling on the DHSC to: suspensend all NHS charging during the pandemic, stop sharing patient data with the Home Office, and launch an information campaign to ensure both NHS staff and the public are aware of these changes. Currently supporting this call are:

- 60 cross-party MPs[5]
- 7 Royal Colleges and Healthcare Unions, including the BMA[6]
- Over 100 civil society organisations[7]

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[3] https://www.gov.uk/guidance/nhs-entitlements-migrant-health-guide

[4] Health (Preservation and Protection and other Emergency Measures in the Public Interest) Bill 2020: Committee and Remaining Stages – Seanad Éireann (25th Seanad) – Friday, 20 Mar 2020 – Houses of the Oireachtas

[5] https://www.theguardian.com/world/2020/apr/18/mps-urge-government-to-suspend-nhs-immigration-checks

[6] The BMA, The Royal College of Physicians, The Royal College of Paediatrics and Child Health, The Royal College of Obstetricians and Gynecologists, The Royal College of Emergency Medicine, The Royal College of Midwives, and the Faculty of Public Health - https://www.doctorsoftheworld.org.uk/letter-calling-for-suspension-of-nhs-charging-regulations/#

[7] Between 2 letters coordinated by Medact, JCWI, Liberty, and Doctors of the World - the above letter and https://www.jcwi.org.uk/protecting-migrants-from-covid-19

Evidence of Deterrence Prior to COVID-19

10. Prior to the coronavirus crisis, the deterrent effect of the NHS charging regulations was well evidenced and documented in research produced by the Equality and Human Rights Commission[8], Doctors of the World, and Maternity Action[9].

11. Two papers are due to be published this week that shed further light on the deterrent impact of NHS charging. One examines the impact of the 'NHS visitor and migrant cost recovery programme' on tuberculosis patients in East London. It found significant delays in time to diagnosis, and time to treatment for non-uk born patients following the introduction of the cost-recovery programme[10]. This is despite tuberculosis also being a communicable disease, and therefore exempt from charging.

12. The second paper reports findings from a survey of 200 healthcare practitioners' experiences of the impact of NHS charging on children. It reveals that as a result of the NHS charging regulations, children and families have delayed seeking care, life prolonging cancer treatment has been delayed due to charging, and avoidable harm has likely been caused by delays in treatment, including two intrauterine deaths. The full findings are not yet public, but can be shared with members of the committee on request.

Monitoring the Impact of the NHS Charging Regulations Prior to COVID-19

13. The NHS currently has no method to monitor or assess the impact of NHS charging regulations on patients. Research conducted by Medact and the Joint Council for the Welfare of Immigrants showed that no NHS Trusts had a monitoring system in place, that most (67%) provided no training for staff, and that only 3% had conducted an equalities impact assessment[11]. Clinicians and researchers in Medact Manchester surveyed over 500 healthcare workers and found that 80% were not able to define the immigration status' on which entitlement to NHS care rests. This shows that the NHS is unprepared to make the critical decisions about eligibility during that it needs to during this pandemic, that it is already unaware of the deterrent effect of charging policy on patients, and that simply adding COVID-19 to the list of exemptions will not mean people with coronavirus will be able to access care.

Pre-COVID-19 Response to NHS charging policy from Healthcare Institutions

14. The NHS charging policy has received widespread criticism from healthcare institutions, with calls for the policy to be suspended, for a full and independent investigation of the impact before any further changes are made, and for immediate end to data-sharing between the NHS and the Home Office.

British Medical Association
Published a report into the deterrent impact of the policy and recommended the Government carry out an independent review of the impact[12]. This was followed by BMA members overwhelmingly voting for a policy that called for all NHS charges to be scrapped[13].

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[8] https://www.equalityhumanrights.com/en/publication-download/lived-experiences-access-healthcare-people-seeking-and-refused-asylum

[9] https://maternityaction.org.uk/what-we-do/our-research/

[10] Potter, J.L., Burman, M., Tweed, C.D. *et al.* The NHS visitor and migrant cost recovery programme – a threat to health?. *BMC Public Health* **20,** 407 (2020). https://doi.org/10.1186/s12889-020-08524-9

[11] https://www.medact.org/wp-content/uploads/2019/04/Patients-Not-Passports-Challenging-healthcare-charging-in-the-NHS-Medact-2019.pdf

The Academy of Medical Royal Colleges
The Academy published a statement calling for the immediate suspension of the NHS charging regulations, an independent inquiry into the impact of charging, and a 'firewall' between the NHS and the Home Office to prevent data-sharing[14]. This organisation represents all 24 medical royal colleges.

Royal College of Midwives
The College called on the government to immediately suspend charges for NHS maternity care and to stop debt built up from such services from affecting immigration applications[15].

NHS Charging - Background

Policy and Operational Changes

15. Since 2015, the NHS has undergone a number of legislative and policy changes designed to expand the range of healthcare services that are chargeable for people considered to be not 'ordinarily resident' in the UK, to increase the amount of money people are asked to pay for these services; and to institute systems in which NHS staff are asked to check patients immigration status. These changes come under the 'NHS Visitor and Migrant Cost Recovery Programme' and are widely referred to as part of the Government's Hostile Environment. These changes were preceded in 2014 by a redefinition of 'ordinarily resident' to include anyone who does not have indefinite leave to remain in the UK.

16. Broadly these policies have led to three areas of significant change in the way the NHS operates:

1. The Immigration Health Surcharge
   This is an additional cost attached to visa application that requires people to pay for their use of the NHS during their stay. Currently it is £400 per person, per year. This will rise to £625 on 1st October 2020.

2. Upfront Charging & Immigration Checks
   Historically, charging for NHS care was applied retrospectively to patients deemed ineligible for free care, but from 23rd October 2017 the Government introduced a statutory duty on all NHS Trusts to charge patients upfront for care that was non-urgent or did not otherwise meet an exemption.

   This in effect imposed a requirement on NHS Trusts to formally determine a person's immigration status as a routine part of their treatment. An initial pilot scheme requiring patients to bring 2 forms of identification to appointments returned poor results and was later scrapped. Currently there is no uniform process for Trusts to identify patients that are not ordinarily resident, raising significant concerns about racial profiling, including this admission by an Overseas Visitor Manager that they target patients with 'foreign sounding names'[16].

3. Data-sharing with the Home Office
   Although the controversial Memorandum of Understanding between NHS Digital and the Home Office has been stopped[17], the NHS continues to share patient data with the Home Office in other ways.

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[12] https://www.patientlibrary.net/tempgen/194115.pdf
[13] https://www.theguardian.com/society/2019/jun/25/scrap-upfront-nhs-charges-for-migrants-says-bma
[14] http://www.aomrc.org.uk/statements/nhs-charges-for-overseas-visitors-regulations-academy-statement/
[15] https://www.theguardian.com/society/2019/sep/09/end-nhs-maternity-charges-for-vulnerable-migrants-say-midwives
[16] https://twitter.com/VictoriaLIVE/status/1148885141000843264
[17] https://www.theguardian.com/society/2018/nov/12/home-office-scraps-scheme-that-used-nhs-data-to-track-migrants

Patients with a debt to the NHS are reported to the Home Office on a monthly basis, the Home Office can then use the existence of NHS debt as a primary reason to refuse visa applications or deny entry to the country at the border. The patient's personal details, such as their address, are also used by immigration enforcement teams.

Overseas Visitor Managers in NHS Trusts are tasked with determining a patient's eligibility for free NHS care. They are able to request information about a person's immigration status from the Home Office, but in doing so they pass on personal information about that person, which the Home Office then uses for immigration enforcement.

Details of the Organisations

Medact
Medact is a public health charity that works to mobilise health professionals in the UK to effect progressive social change. We primarily conduct research and analysis of different social issues in the UK, use this research to inform and educate health professionals and the wider public, and lobby and campaign for change. We work with a membership base of thousands of healthcare workers, public health professionals, and global health academics.

Migrants Organise
Migrants Organise is a platform where refugees and migrants organise for power, dignity and justice. We believe migration is a fact of life, and instead of resisting it, we must organise it. Migrants Organise was established in 1993 by 14 migrant and refugee leaders in West London, our mission is to facilitate meaningful inclusion and integration. We now have staff in four regions of England and work with migrant and refugee communities on building their capacity to connect, build common ground, speak out and participate in their communities in an inclusive way. Our Community Programme provides ongoing, holistic support for vulnerable migrants and refugees through integrated mentoring, educational classes & social activities, as well as advice and casework support for immigration and various welfare issues.

Kanlungan
Kanlungan is a registered charity consisting of several Filipino community organisations working closely together for the welfare and interests of the Filipino and other migrant communities in Britain.

It is established to:

1. Advance education and training of Filipinos to enhance their welfare and improve their social conditions;
2. Promote their economic welfare and help alleviate hardship and distress amongst Filipinos;
3. Raise awareness of Filipinos on socio-economic, political and cultural conditions within the Philippines which engender forced migration, in the United Kingdom and Europe, especially in those areas of public life that directly affect them;
4. Build solidarity with migrant organisations of other nationalities and peoples who have similar aims and objectives.

Annex 1 - Kanlungan Member Experiences

Cases of Undocumented migrants (real names not being used)

Elena came to the UK in 2010, to work in a care home, which sponsored her visa. She acquired an NVQ Level 3 in Health and Social Care. When the time came for her employer to apply for her visa extension, the UK government had changed the rules for migrant care workers, and she lost both her right to stay and her job. However, one of the elderly people she had been taking care of asked her to look after him once he returned to his own home, even though he knew she no longer had a visa. She looked after this man for several years until he died. Now Elena is looking after his wife who is 82 years old, for a few hours a week, cleaning her house: helping her with groceries, meals and some general housework. Elena is also looking after another elderly person, who is 86 years old and lives on her own. Elena herself sleeps on a sofa, in a small two bedroom flat with four other Filipinos. During the COVID-19 crisis she fears for their health because they are crammed together in the flat. She does not want to go to the elderly people she cares for because they are vulnerable to the virus. This means she has lost all her income. Elena has two children in the Philippines who she has not seen for ten years. They live with her mother who is diabetic and has to receive regular dialysis treatment. She is constantly anxious for their safety, in their poor living conditions in the Philippines. At the present time Elena can no longer send the money home they desperately need.

Irene came to the UK in 2013, brought here as his maid by her Saudi employer. Her pay was only £200 per month, working long hours every day, seven days a week. She looked after five children, as well as doing housework. She escaped from her employer one day and has stayed in the UK without documentation. She got a job as a carer for a couple who were both severely ill - the man had a brain tumour and the woman had breast cancer. Irene looked after them for many years until the man died from the tumour.

She now looks after an elderly man who is 90 years old and who has to use a wheelchair. The lockdown rules have meant an alternate carer could not come to relieve her, and she has had to live in and work all day, seven days a week for the last three weeks. The family members of the elderly man are also unable to visit him. Irene has six children in the Philippines whom she has to support. She fears for their safety considering the much worse virus situation in the Philippines. She is also afraid because if something happens to the elderly man she is looking after, she will be left destitute as she has no papers.

Allaine came to the UK, on a domestic worker visa in 2017. She looked after a two-year-old twin and two other children for a couple from Qatar. They had been badly abusing her both when they were in Qatar, and in the UK. They continued to beat her and verbally abuse her, and often only gave her leftovers to eat. They also kept her passport from her. One day she managed to escape her employers with the help of a neighbour, and she was referred to the National Referral Mechanism for trafficked people. Allaine was traumatised by the persistent physical and verbal abuse of her employers. The NRM recognised her as a trafficked person but she still has no decision from the Home Office about her status. She is currently working as a live-in nanny to two young children in a well off British family. Allaine has 4 children of her own in the Philippines who she has not seen for three years, and elderly parents whom she supports. Allaine's mental health has suffered from the abuse she has experienced and is now exacerbated by worrying about the health of her family back home. She worries about her health and that of her children and family but she has to continue to work to be able to support them

Carla and her husband Cedic, who have been in the UK since 2013, and have a six-month-old child. They live in a room in a seven bedroom house with at least 13 other undocumented workers. One of the rooms is occupied by another family with two children and other residents are health care workers in the NHS. They work as domestic workers in two different private households. Cedic looks after an elderly man. Because of the lockdown, they were told by their employers not to report to work anymore and they will not receive any pay. They are very worried because of living with their baby in their cramped accommodation, and some of their housemates are exposed to the virus in the hospital.

They are worried about having money for their food and rent. They are also anxious about their families back home in the Philippines, as they are no longer able to send financial support to them. Carla and Cedic each have children in the Philippines from earlier marriages. They are also both sup- porting their elderly parents. They fear that if the lockdown lasts a long time they are going to go hungry and their families in the Philippines will also go hungry.

May 2020