

## Written evidence submitted by the Equality and Human Rights Commission (CVD0023)

### Introduction

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1. The Equality and Human Rights Commission has been given powers by Parliament to advise Government on the equality and human rights implications of laws and proposed laws, and to publish information or provide advice, including to Parliament, on any matter related to equality, diversity and human rights.

### Summary and recommendations

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2. We welcome the opportunity to respond to this inquiry. In our submission we focus on how the coronavirus pandemic has impacted the lives of disabled people in the areas of adult social care, mental health services and detention, education, transport, access to food, accessible information, and access to healthcare services. This submission updates and supplements evidence we submitted in May to the Committee's inquiry on coronavirus and the impact on people with protected characteristics.<sup>1</sup> Recommendations in our submissions to the Committee's other sub-inquiries (on coronavirus and BAME people, and coronavirus and the gendered economic impact) will also be relevant to disabled people.
3. Recommendations:

#### Changes to the provision of adult social care

- (1) Provisions for Care Act Easements in the Coronavirus Act should be repealed at the earliest opportunity.
- (2) In line with its obligations under the Public Sector Equality Duty, the Department of Health and Social Care<sup>2</sup> should increase its oversight of changes to social care provision across local areas and ensure that recovery planning and national policy decisions are informed by accurate and up-to-date data.
- (3) Local authorities must engage with service users and disabled people's organisations to ensure there is transparency and meaningful consultation about decisions relating to the allocation of care provision and the rights of

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<sup>1</sup> Equality and Human Rights Commission (1 May 2020), [evidence to the Women and Equalities Committee \(WEC\) inquiry on coronavirus \(COVID-19\) and the impact on people with protected characteristics](#).

<sup>2</sup> References to Government and Departments throughout this submission refer to the UK Government and Departments, except where otherwise specified.

those with care and support needs, in line with provisions of the Equality Act 2010 and the UN Convention on the Rights of Persons with Disabilities.

- (4) Local authorities should carry out and publish equality impact assessments to demonstrate that they have considered and minimised any negative impact for people sharing protected characteristics when changing social care provision under the pre-amendment Care Act.
- (5) Government should consider all possible means to ensure that local authorities and care providers are able to meet increased care and support needs during and resulting from the pandemic.

#### Mental health services and detention

- (6) The Government should commit to sustained resourcing of mental health services during and after the pandemic, including provision of sufficient community-based support to prevent crisis and unnecessary detentions.
- (7) Provisions that would relax safeguards under the Mental Health Act in the Coronavirus Act should be repealed at the earliest opportunity.
- (8) The Department of Health and Social Care should amend the legal guidance allowing for departures from the Mental Health Act Code of Practice as soon as possible in order to guarantee all pre-pandemic methods of challenging detention under the Mental Health Act.
- (9) Government should closely monitor, and publish, the current rates of detention under the Mental Health Act, disaggregated by protected characteristic and geographic location, and take action to address any disproportionate use of detention.
- (10) Government should ensure data is collected and published on COVID-19 cases and deaths among those detained under the Mental Health Act, disaggregated by all protected characteristics, types of impairments, institutional settings, and cause of death.

#### Education

- (11) Government should commission the Office for Standards in Education, Children's Services and Skills and the Care Quality Commission to conduct targeted joint assessments of local area special educational needs and disabilities provision, with a focus on local areas where modifications of legal duties have been granted.

- (12) Government should include specific, ring-fenced support for special educational needs and disabilities provision.
- (13) The Office of Qualifications and Examinations Regulation should produce specific guidance on reasonable adjustments in relation to the autumn exam series. Guidance should set out a clear process for learners and centres to be informed and updated about any learner's change in circumstances affecting the reasonable adjustments needed.

#### Transport

- (14) The Department for Transport should produce a single, accessible document on how legal obligations in respect of rail passenger assistance will be met.
- (15) The Department for Transport should more widely publicise the exemptions to face coverings, including through a variety of formats (including Easy-read Versions), and ensure staff are aware of these exemptions.
- (16) The Department for Transport should publish a review, after appropriate consultation with stakeholders, into the effect of coronavirus on the substantive commitments and timescales within the Department's Inclusive Transport Strategy, with a focus on how to continue to secure disabled people's safe access to transport services.

#### Access to Food

- (17) Government should continue to work with the British Retail Consortium and supermarkets to ensure that social distancing measures do not disadvantage disabled people. Policies related to access to shops should be flexible to accommodate the needs of carers and personal assistants, and reasonable adjustments should be made to ensure disabled people have access to food, taking into account both visible and hidden impairments.

#### Accessible Information

- (18) Government must ensure that all information related to the pandemic, either in printed form or published online, is accessible to disabled people, including by providing British Sign Language interpreters during televised press announcements, publishing materials in alternative formats, and proactively reaching out to people affected. This includes all major

announcements on the recovery process, as well any announcements that may be made in preparation for a potential second wave of COVID-19.

#### Access to healthcare services

- (19) Government should undertake or commission a review into the disproportionate deaths of disabled people, including an assessment of the excess deaths of people with recognised physical or mental impairments, deaths in care homes, and deaths of people with learning disabilities and/or autism. Government should work with disabled people and their representative organisations in this review, and use the findings to identify the policy and practice changes needed to mitigate any further negative disproportionate impact on disabled people now and in the future.
- (20) Government should urgently review its track and trace programme to ensure it is accessible to disabled people across impairment types, particularly as it prepares for a potential 'second wave' of COVID-19.
- (21) Government must ensure all policy decisions about care and treatment for both COVID-19 and routine care are made in collaboration and consultation with disabled people and their representative organisations, underpinned by clear, accessible and consistent guidance that fully complies with equality and human rights laws and standards, including the principles of individual autonomy and non-discrimination.

#### Independent Living

- (22) Government should incorporate the right to independent living in domestic law to protect the human rights of disabled people during and in the aftermath of the pandemic.

## Changes to the provision of adult social care<sup>3</sup>

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4. Pressures on the adult social care system in England, already under severe strain prior to the outbreak of COVID-19,<sup>4</sup> have worsened because of the impact of the pandemic, with increased demand for services and reductions in workforce capacity.<sup>5</sup> In these challenging circumstances, compliance with equality and human rights laws will help ensure that essential standards are maintained.<sup>6</sup>
5. The provisions of the Coronavirus Act 2020 allow scope for services to deteriorate by permitting local authorities in England to suspend their duties under the Care Act 2014 ('Care Act easements').<sup>7</sup> While our concerns that these easements would be widely triggered have to date not materialised,<sup>8</sup> we are concerned by reports that social care provision has nonetheless significantly reduced.<sup>9</sup>

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<sup>3</sup> We are submitting detailed evidence (currently unpublished) to the Joint Committee on Human Rights concerning the impact of the pandemic and responses to it on adult social care and the right to independent living.

<sup>4</sup> Before the pandemic, only those with severe needs were receiving support, due to an ageing population, rising demand and substantial reductions in government funding to local authorities since 2010-11. See The King's Fund (April 2019), ['More people asking for social care support but fewer getting it as demand leaves social care system at crisis point'](#); CQC (14 Oct 2019), ['The state of health care and adult social care in England 2018/19'](#); The Health Foundation (29 May 2019), ['£4.4bn funding gap projected for social care in England as spending per person falls further behind other UK countries'](#).

<sup>5</sup> Association of Directors of Adult Social Services (11 June 2020), ['Budget Survey 2020'](#).

<sup>6</sup> Including the right to life, the prohibition on inhuman and degrading treatment, the right to liberty and security, and respect for private and family life, without discrimination. See Articles 2, 3, 5, 8, in conjunction with Article 14, of the European Convention on Human Rights, which is enacted into UK law through the Human Rights Act (1998).

<sup>7</sup> Coronavirus Act 2020 replaces the previous duty on local authorities in England to assess and meet a person's needs for care and support (as provided for by the Care Act 2014) with a power to do so, thereby downgrading the level of care to which an individual is entitled. The Coronavirus Act also allows local authorities to suspend their duties to review care plans and carry out financial assessments. See [Coronavirus Act 2020](#), Clause 15 and Schedule 12, and [Coronavirus Bill Explanatory Notes](#), paras 232-237.

<sup>8</sup> The Government's two-month-on report on the use of powers under the Coronavirus Act 2020 reported that seven local authorities had triggered the Care Act easements. DHSC (29 May 2020), ['Two-monthly report on the non-devolved provisions of the Coronavirus Act: May 2020'](#). As of 9 July 2020, the CQC reported that there were currently no local authorities in England that are operating under the easements. CQC (3 July 2020), ['The Care Act and the "easements" to it'](#).

<sup>9</sup> A survey by the Research Institute for Disabled Consumers (RIDC) found that 54.6 per cent of respondents with care support needs are no longer receiving health or personal care visits to their homes. RIDC (8 June 2020), ['Covid-19: our third survey into the impact on disabled and older people'](#) (due to a small sample size, the results of the RIDC Survey should be viewed as an indication of a possible trends only); see also Disabled Children's Partnership (June 2020), ['Left in Lockdown'](#) (noting that 76 per cent of parents of disabled children who had previously received support no longer did); Lisney, E. et al. (April 2020), ['The Impact of COVID 19 on Disabled Women from Sisters of Frida: Voices of Disabled women in the pandemic'](#), Sisters of Frida; Inclusion London (June 2020), ['Abandoned, forgotten and ignored: the impact of the coronavirus on disabled people: interim report'](#).

6. Under the Coronavirus Act 2020 and associated guidance, local authorities must report any decision to operate under the Care Act easements to the Department of Health and Social Care ('DHSC'), together with the reasons for doing so. However, the Coronavirus Act guidance makes clear that local authorities can reduce short-term service provision due to COVID-19-related absence by 'applying flexibilities' under the pre-amendment Care Act, without having to formally trigger easements or notify the DHSC.<sup>10</sup>
7. Reductions in adult social care provision risk leaving disabled people without vital care and support, or placing a higher burden on family members or unpaid carers,<sup>11</sup> who are disproportionately likely to be women<sup>12</sup> or living in poverty.<sup>13</sup> Furthermore, there have been reports of disabled and older people foregoing vital home care and support after determining that the risks of catching COVID-19 are too high due to the lack of adequate PPE for carers.<sup>14</sup> A reduction in care provision could also place disabled adults and older people with care needs at risk of having their essential needs neglected, such as access to food and water, medicines, clothing, hygiene and exercise.<sup>15</sup>
8. We are concerned that there is a lack of central oversight of how social care provision has been affected during the pandemic.<sup>16</sup> We also share concerns raised by disabled people's organisations about the lack of information and transparency regarding decisions taken by local authorities to reduce or change care provision under the pre-amendment Care Act.<sup>17</sup>

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<sup>10</sup> DHSC (20 May 2020), '[Care Act Easements: Guidance for local authorities](#)'. Appendix A sets out that local authorities can prioritise short term allocation of care and support using current flexibilities within the Care Act 'where COVID-19 related absence means service types need to be changed, delayed or cancelled'.

<sup>11</sup> Research estimates 4.5 million people have been forced to become unpaid carers during the pandemic. Hill, A. (19 June 2020), '[Coronavirus: 4.5m people in UK forced to become unpaid carers](#)', The Guardian.

<sup>12</sup> Women's Budget Group (16 April 2020), '[Social care and Covid-19](#)'.

<sup>13</sup> Hill, A. (17 June 2020), '[More than 100, 000 carers 'forced to use food banks in UK lockdown](#)', The Guardian.

<sup>14</sup> See, for example, Inclusion London (June 2020), '[Abandoned, forgotten and ignored: the impact of the coronavirus on disabled people: interim report](#)'; Lean, E. (8 June 2020), '[Making care visible](#)', Age UK.

<sup>15</sup> Samuel, M. (22 March 2020), '[Coronavirus legislation becomes law, allowing ministers to suspend key Care Act duties](#)', Community Care; CASCAIDr (20 March 2020), '[The Coronavirus Act and its impact on the Care Act](#)'; Inclusion London (June 2020), '[Abandoned, forgotten and ignored: the impact of the coronavirus on disabled people: interim report](#)'.

<sup>16</sup> There is no requirement on local authorities to inform the DHSC or the CQC if they change or reduce provision by applying flexibilities under the pre-amendment Care Act. Moreover, there is no requirement on local authorities to publish data on any changes to the number of care recipients or care hours funded or provided by the local authority during the pandemic.

<sup>17</sup> See for example, concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), Ayla Ozmen (Head of Research and Policy, Action on Hearing Loss), Edel Harris (Chief Executive, Mencap) and Sarah Hughes (Chief Executive, Centre for Mental Health), [oral evidence to Women and Equalities Committee, 'Unequal impact? Coronavirus, disability and access to services'](#) (24 June

9. In light of the limited use of the Care Act easements to date and the weak safeguards associated with them,<sup>18</sup> together with the widespread use of pre-amendment Care Act flexibilities and lack of information on this, **we recommend:**

- **Provisions for Care Act Easements in the Coronavirus Act are repealed at the earliest opportunity.**
- **In line with its obligations under the Public Sector Equality Duty, the DHSC should increase its oversight of changes to social care provision across local areas and ensure that recovery planning and national policy decisions are informed by accurate and up-to-date data.**
- **Local authorities must engage with service users and disabled people’s organisations<sup>19</sup> to ensure there is transparency and meaningful consultation about decisions relating to the allocation of care provision and the rights of those with care and support needs, in line with provisions of the Equality Act 2010 and the UN Convention on the Rights of Persons with Disabilities (‘UN CRPD’).<sup>20</sup>**
- **We further encourage local authorities to carry out and publish equality impact assessments to demonstrate that they have considered and minimised any negative impact for people sharing**

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2020).

<sup>18</sup> The Coronavirus Act 2020, Schedule 12, paragraph 4 makes clear that the provision of social care should remain compliant with the European Convention on Human Rights (ECHR). However, we are concerned this relies on local authority staff having sufficiently sophisticated knowledge of the law to make a determination about whether care and support is required to avoid a breach of an individual’s Convention rights. Further, even if a correct determination is made, the threshold for a breach of the ECHR is particularly high in relation to social care and many people with significant needs may fall through the net.

<sup>19</sup> UN CRPD Articles 3, 4 and 33, and [General Comment No. 7 ‘Article 4.3 and 33.3: Participation with persons with disabilities in the implementation and monitoring of the Convention’](#) (Adopted 21 September 2018) make clear the importance of disabled people and their representative organisations being involved in all decisions affecting their lives.

<sup>20</sup> All public authorities have a duty to ensure that the equality impacts of any changes or reduction to services are considered in the context of the public sector equality duty (PSED). Having due regard to the aims of the PSED requires public authorities to have an adequate evidence base for their decision-making; engagement with people with protected characteristics is vital to this process. See Equality and Human Rights Commission (2014), [‘The Essential Guide to the Public Sector Equality Duty: England and Non-Devolved Public Authorities in Scotland and Wales’](#). The UN CRPD further requires that states closely consult with and actively involve persons with disabilities through their representative organisations when developing and implementing policy and decisions relating to disabled people. UN CRPD Articles 3, 4 and 33, and [General Comment No. 7 ‘Article 4.3 and 33.3: Participation with persons with disabilities in the implementation and monitoring of the Convention’](#) (Adopted 21 September 2018).

## **protected characteristics when changing social care provision under the pre-amendment Care Act.**

10. Evidence suggests the pandemic has driven increased demand and mounting unmet need due to providers not accepting referrals, service closures and people declining services.<sup>21</sup> Local authorities and care providers face significant additional costs due to the pandemic,<sup>22</sup> and there is a risk that more disabled adults would be left without vital care and support if state-funded care providers become insolvent.<sup>23</sup> **Government should consider all possible means to ensure that local authorities and care providers are able to meet increased care and support needs during and resulting from the pandemic.**

### **Mental health services and detention<sup>24</sup>**

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11. The pandemic has caused a substantial worsening of disabled people's mental health,<sup>25</sup> particularly for those with pre-existing mental health issues<sup>26</sup> and disabled children.<sup>27</sup> At the same time, access to mental health services has been drastically reduced.<sup>28</sup> We share stakeholder concerns that the focus on digital

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<sup>21</sup> Association of Directors of Adult Social Services (11 June 2020), '[Budget Survey 2020](#)'.

<sup>22</sup> The Local Government Association estimates that providers of adult social care services may face more than £6.6 billion in extra costs due to the coronavirus crisis by the end of September this year, with maintaining safe staffing levels and providing PPE identified as the biggest drivers of these extra financial pressures. LGA (4 June 2020), '[Social care providers face more than £6bn in extra Covid-19 costs](#)'.

<sup>23</sup> Townson, J. (26 April 2020), '[Homecare in the time of coronavirus](#)', United Kingdom Home Care Association.

<sup>24</sup> We have submitted [detailed evidence and recommendations to the Health and Social Care Select Committee's inquiry on delivering core NHS and care services during the pandemic and beyond](#), some of which is summarised in this section of this submission.

<sup>25</sup> Nearly two-thirds of disabled adults said coronavirus-related concerns were affecting their wellbeing, from loneliness and problems at work, to worsening mental health. ONS (24 April 2020), '[Coronavirus and the social impacts on disabled people in Great Britain](#)'.

<sup>26</sup> 79 per cent of people with pre-existing mental illnesses reported declining mental health as a result of the pandemic. Rethink Mental Illness (June 2020), '[Access to NHS mental health services for people living with severe mental illness](#)'.

<sup>27</sup> 78 per cent of parents of disabled children reported that the lockdown was having a negative impact on their disabled child's mental health. Disabled Children's Partnership (June 2020), '[Left in Lockdown](#)'. 83 per cent of young people with a history of mental health needs agreed that the pandemic had made their mental health worse. YoungMinds (30 March 2020), '[Coronavirus having major impact on young people with mental health needs – new survey](#)'.

<sup>28</sup> For example, 42 per cent of people with pre-existing mental illnesses reported that their mental health had declined during the pandemic due to reduced support from mental health services. Rethink Mental Illness (June 2020), '[Access to NHS mental health services for people living with severe mental illness](#)'. See also Rethink Mental Illness (7 July 2020), '[How Covid-19 limited my access to mental health support](#)' (describing a patient's experiences, including her inability to receive medication for 12 weeks); see also concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), Ayla Ozmen (Head of Research and Policy, Action on Hearing Loss), Edel Harris (Chief Executive, Mencap) and Sarah Hughes (Chief Executive, Centre for Mental Health), [oral evidence to Women and Equalities Committee, 'Unequal impact? Coronavirus, disability and access to services'](#) (24 June 2020).

technology in mental healthcare services<sup>29</sup> may not be accessible to disabled people with certain impairments<sup>30</sup> and who might face higher levels of digital exclusion.<sup>31</sup> We are concerned that these trends, along with reduced oversight of places of detention and reductions in social care support, could lead to increased and prolonged rates of detention.<sup>32</sup> **The Government should commit to sustained resourcing of mental health services during and after the pandemic, including provision of sufficient community-based support to prevent crisis and unnecessary detentions.**

12. We are pleased that the Government has not yet triggered the provisions in the Coronavirus Act that would relax crucial safeguards under the Mental Health Act ('MHA'). However, significant changes have been made in the operation of mental health detention. Specifically, changes to the mental health tribunals in England and Wales are already in force which could reduce people's ability to challenge detention and treatment.<sup>33</sup> Additionally, DHSC and NHS England published legal guidance on the operation of mental health services which allows 'temporary departures from the [MHA] Code of Practice'.<sup>34</sup> We have serious concerns that this legal guidance relaxes important safeguards against unnecessary detention for an undefined period of time.<sup>35</sup>

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<sup>29</sup> NHS England (25 March 2020), '[Responding to COVID-19: Mental health, learning disabilities and autism](#)'.

<sup>30</sup> See Moore, J. (17 June 2020), '[Severe Mental Illness & Covid 19: Service support and digital solutions](#)', Rethink Mental Illness; see [submitted evidence to the Health and Social Care Select Committee by Alzheimer's Society \(DEL0115\)'s inquiry into delivering core NHS and care services during the pandemic and beyond](#); see also concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), and Sarah Hughes (Chief Executive, Centre for Mental Health), [oral evidence to Women and Equalities Committee, 'Unequal impact? Coronavirus, disability and access to services'](#) (24 June 2020).

<sup>31</sup> In 2017, 56 per cent of adult internet non-users were disabled, more than double the estimated proportion of disabled adults in the UK population as a whole at that time (22 per cent). See Office for National Statistics (4 March 2019), '[Exploring the UK's digital divide](#)'.

<sup>32</sup> We have heard from stakeholders that diminished community support has already led to an increase in detention rates, and that in some areas, there has been a rapid increase of detention of minority ethnic patients since the outbreak of the pandemic. Additionally, we are concerned that the reductions in SEND support could result in an increased number of disabled children reaching crisis point and being admitted to inpatient units or held in restrictive settings.

<sup>33</sup> See paragraph 59 in our [submitted evidence to the Women and Equalities Committee \(WEC\) inquiry on coronavirus \(COVID-19\) and the impact on people with protected characteristics](#).

<sup>34</sup> NHS England (19 May 2020), '[Legal guidance for mental health, learning disability and autism, and specialised commissioning services supporting people of all ages during the coronavirus pandemic](#)'.

<sup>35</sup> For example, under certain conditions, a patient detained under the MHA can challenge their detention through a hospital managers' panel. However, the guidance allows hospitals to depart from the MHA Code of Practice and suspend hospital managers' hearings 'temporarily, for the duration of the pandemic period' if holding a panel would be 'unfeasible due to reasons relating to the current pandemic'. Ibid, p.42. The guidance does not define 'pandemic period'. This represents a significant potential erosion of a pathway to challenge detention. Any postponement or suspension of rights should be limited in duration as much as possible.

13. It has not been possible to clearly track the impact of these changes, as no centralised data on detention rates is available. We have consistently recommended that the Government must ensure any restrictions on people's rights in response to the pandemic must be necessary, proportionate, time-bound and are properly scrutinised. Accordingly, **we recommend:**

- **Provisions that would relax safeguards under the MHA in the Coronavirus Act are repealed at the earliest opportunity.**
- **The DHSC amend the legal guidance allowing for departures from the MHA Code of Practice as soon as possible in order to guarantee all pre-pandemic methods of challenging detention under the MHA.**
- **The Government closely monitor, and publish, the current rates of detention under the MHA, disaggregated by protected characteristic and geographic location, and take action to address any disproportionate use of detention.**

14. We are also concerned about the recent data showing that the rate of deaths of those detained under the MHA (either in hospital or in the community) has doubled from the past year.<sup>36</sup> However, as this data is not disaggregated, it does not provide any insight into deaths in particular settings or among particular groups, nor any information on type of death. **The Government should ensure data is collected and published on COVID-19 cases and deaths among those detained under the MHA, disaggregated by all protected characteristics, types of impairments, institutional settings, and cause of death.**

## Education<sup>37</sup>

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15. Families with children with special educational needs and disabilities ('SEND') have faced particular difficulties accessing educational and other support during the period of school closures.<sup>38</sup> We have concerns about the long-term impact of this period on the wellbeing and attainment of these children.

16. We are concerned by the Government's decision to temporarily modify the legal obligations on local authorities and health commissioning bodies to provide

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<sup>36</sup> CQC (7 May 2020), '[Our concerns about mental health, learning disability and autism services](#)'.

<sup>37</sup> We have submitted [detailed evidence and recommendations to the Education Select Committee's inquiry on the impact of coronavirus \(COVID-19\) on children's services and education](#), some of which is summarised in this section of this submission.

<sup>38</sup> 45 per cent of surveyed parents of disabled children said that their child's physical health had deteriorated during the period of lockdown, and just over 70 per cent said their child's emotional or mental health was worse. Disabled Children's Partnership (June 2020), '[Left in Lockdown](#)'.

the support listed in a child's Education, Health and Care Plan ('EHCP'). Following this decision, local authorities and health bodies ('local areas') are now only required to make 'reasonable endeavours' to discharge their duties.<sup>39</sup>

17. We therefore welcome the announcement that unless the evidence changes, the notice modifying the EHCP requirements expiring on the 31 July will be the final one covering the whole of England.<sup>40</sup> The Department for Education's guidance on re-opening special schools, however, continues to allow more targeted modifications in local areas.<sup>41</sup> Moreover, the Coronavirus Act-related amendments to the EHCP timetables continue to run until 25 September, with no indication that these will be repealed sooner.<sup>42</sup>
18. We support greater levels of independent scrutiny to ensure decisions taken by local areas to modify provision are necessary, proportionate and time-limited. Stakeholders report that some local areas have used the change in the law to effectively cease SEND provision, despite the requirement to make 'reasonable endeavours'.<sup>43</sup> **We recommend that the Government commission the Office for Standards in Education, Children's Services and Skills ('Ofsted') and the Care Quality Commission ('CQC') to conduct targeted joint assessments of local area SEND provision, with a focus on local areas where modifications of legal duties have been granted.**<sup>44</sup>
19. In light of the current financial pressures on local authorities, further support for work supporting children with SEND is required, particularly as children return to school. **We recommend that the Government include specific, ring-fenced support for SEND provision.**

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<sup>39</sup> Department for Education (29 June 2020), '[Decision: Modification notice: EHC plans legislation changes](#)'.

<sup>40</sup> Department for Education (2 July 2020), '[Guidance for full opening: special schools and other specialist settings](#)'.

<sup>41</sup> Ibid.

<sup>42</sup> The Special Educational Needs and Disability (Coronavirus) (Amendment) Regulations 2020.

<sup>43</sup> Jackson, A. and Wright, E. (May 2020), '[Education: recent developments](#)', Legal Action Group; Weale, S. (1 July 2020), '[English schools "using coronavirus as excuse" not to teach special needs pupils](#)'. This view is also supported by anecdotal evidence provided to us by Just for Kids Law in May 2020, and evidence given by the Special Educational Consortium in [oral evidence to the Education Select Committee, 'The impact of Covid-19 on education and children's services'](#) (1 July 2020). We also raised concerns about this issue, including the lack of online support for children with SEND through the Government's National Oak Academy in [our submitted evidence to the Education Select Committee's inquiry on the impact of COVID-19 on education and children's services](#).

<sup>44</sup> These inspections should be focussed on those local areas where Ofsted/CQC have already identified significant weaknesses in SEND provision through their existing project of joint SEND inspections, which is currently on pause. In line with the recent recommendation from the Public Accounts Committee, these inspections should utilise intelligence from a broad range of stakeholders, including parent carer forums, school forums and head teachers. House of Commons Committee of Public Accounts (6 May 2020), '[Support for children with special educational needs and disabilities](#)'.

20. We have also expressed concerns about the potential adverse effects for children with SEND of the decision to replace exams this summer with a system of calculated grades.<sup>45</sup> Children who are home-schooled may be particularly affected since they will only be able to receive a calculated grade if a school has sufficient information about their performance upon which to predict a grade.<sup>46</sup> This group of pupils may include a disproportionate number of children with SEND.<sup>47</sup>
21. The Office of Qualifications and Examinations Regulation ('Ofqual') has addressed some of our concerns by providing guidance to schools on avoiding bias,<sup>48</sup> and clarifying the obligation of schools to take into account reasonable adjustments in the grade predictions they make.<sup>49</sup> An autumn exam series is available for students who cannot receive a calculated grade, but questions remain about the ability of schools to assess and meet the needs of disabled learners in the context of these exams, given the disruption caused by the school closures.<sup>50</sup>
- 22. Ofqual should produce specific guidance on reasonable adjustments in relation to the autumn exam series. Guidance should set out a clear process for learners and centres to be informed and updated about any learner's change in circumstances affecting the reasonable adjustments needed.**

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<sup>45</sup> In particular, we have been concerned that predicted grades, which Ofqual will use to work out calculated grades for each pupil, can be influenced by conscious or unconscious bias. Equality and Human Rights Commission (10 April 2020), ['Predicted grading during COVID-19 could limit young people's futures'](#).

<sup>46</sup> Ofqual recognises that a disproportionate effect on children with SEND is possible. Ofqual (April 2020), ['Equality impact assessment: literature review'](#); Ofqual (May 2020), ['Consultation decisions: Exceptional arrangements for assessment and grading in 2020'](#); and Ofqual (2020), ['Consultation: Exceptional arrangements for assessment and grading in 2020'](#).

<sup>47</sup> Although there is no robust data in relation to the number of children with SEND in elective home education, analysis shows a 52 per cent increase in the number of pupils with EHCP plans taken out of school to be home educated between 2014 and 2018. Foster, D. and Danechi, S. (24 July 2019), ['Home education in England: Briefing Paper Number 5108'](#), House of Commons Library.

<sup>48</sup> Ofqual (May 2020), ['Guidance for Heads of Centre, Heads of Department and teachers on objectivity in grading and ranking'](#).

<sup>49</sup> Ofqual has also confirmed that a route will be available for pupils to challenge the results they receive on grounds of suspected disability discrimination. Ofqual (June 2020), ['Consultation: Extraordinary regulatory framework, General Qualifications COVID-19: Guidance'](#).

<sup>50</sup> Further details of our concerns about these exams can be found in [our response to Ofqual's consultation on an additional GCSE, AS and A level exam series in autumn 2020](#).

## Transport<sup>51</sup>

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23. Disabled people were already less likely to use public transport prior to the pandemic<sup>52</sup> in part due to long-standing accessibility and assistance issues, including a lack of effective and accessible communications.<sup>53</sup> Similarly, post-pandemic outbreak data suggests that disabled passengers are less confident about returning to public transport than non-disabled passengers,<sup>54</sup> and stakeholders have informed us that disabled rail passengers have found it harder to access information, particularly around rail passenger assistance.

24. There has been a particular problem during this crisis for disabled people in accessing digital communications.<sup>55</sup> Despite a legal obligation to make reasonable adjustments,<sup>56</sup> websites are often not accessible; the lack of large-print and other appropriate solutions for disabled people has been cited as a barrier to accessing information about transport.<sup>57</sup> The exemptions to the requirement to wear face coverings in England on public transport have been particularly poorly communicated.<sup>58</sup>

25. Without concerted effort to reassure disabled passengers, we are concerned that the existing inequalities in this area will only increase. **We recommend that the Department for Transport ('DfT'), in conjunction with transport operators:**

- **Produce a single, accessible document on how legal obligations in respect of rail passenger assistance will be met; and**
- **More widely publicise the exemptions to face coverings, including through a variety of formats (including Easy-read Versions), and ensure staff are aware of these exemptions.**

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<sup>51</sup> We have submitted [detailed evidence and recommendations to the Transport Select Committee's inquiry on the implications of coronavirus for transport](#), some of which is summarised in this section of this submission.

<sup>52</sup> Department for Transport (2019), '[Transport Statistics Great Britain 2019](#)'.

<sup>53</sup> Smith, C. and Symonds, C. (September 2019), '[Travel fair](#)', Scope.

<sup>54</sup> The latest statistics from Transport Focus's tracking survey show that 21 per cent of disabled passengers said that they would be happy to use public transport when restrictions are relaxed, compared to 26 per cent of non-disabled passengers. Transport Focus (3 July 2020), '[Travel during Covid-19: tracking research – week 9](#)'.

<sup>55</sup> Concerns summarised by Andy Burnham (Metro Mayor, Greater Manchester Combined Authority), [oral evidence to Transport Select Committee, 'Coronavirus: implications for transport'](#) (17 June 2020).

<sup>56</sup> Equality Act 2010, s29. The duty to make reasonable adjustments applies to all operators' websites, even though the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018 only applies to websites of public sector bodies.

<sup>57</sup> Concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), [oral evidence to Women and Equalities Committee, 'Unequal impact? Coronavirus, disability and access to services'](#) (24 June 2020).

<sup>58</sup> Disability Rights UK (18 June 2020), '[40% fear challenge without face masks – DR UK survey](#)'.

26. The extent of the challenges faced by disabled people, and the transport industry as a whole, requires careful reflection. **The DfT should publish a review, after appropriate consultation with stakeholders, into the effect of coronavirus on the substantive commitments and timescales within the Department's Inclusive Transport Strategy, with a focus on how to continue to secure disabled people's safe access to transport services.**

## Access to food

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27. Despite some progress, access to food for disabled people continues to be a concern.<sup>59</sup> For example, a recent survey found that 60 per cent of disabled people have struggled to access food, medicine and necessities during the pandemic.<sup>60</sup> The Food Foundation reports levels of food insecurity are almost 250 per cent higher than pre-pandemic levels, and that rates of food insecurity are much higher in households with disabled adults or households with disabled children than in households with non-disabled people.<sup>61</sup>

28. Following the Government's announcement that shielding will be paused at the end of July,<sup>62</sup> we are concerned that the removal of food and medicine boxes provided by the National Shielding Service will create food insecurity for individuals who choose to continue to shield,<sup>63</sup> particularly given the continuing issues with accessing essential groceries.<sup>64</sup>

29. We welcome the Referral Scheme established by the Department for Environment, Food and Rural Affairs which enables local authorities and disabled people's organisations to directly allocate delivery slots for some supermarkets.<sup>65</sup>

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<sup>59</sup> RIDC has issued three surveys into the impact of pandemic-related restrictions on disabled and older people. Its most recent survey found that though supermarket deliveries have improved since the initial lockdown period, delivery slots remain difficult for disabled people. RIDC (8 June 2020), '[Covid-19: our third survey into the impact on disabled and older people](#)' (due to a small sample size, the results of the RIDC Survey should be viewed as an indication of a possible trends only); see also Equality and Human Rights Commission (7 May 2020), '[Equality body calls on retailers to do more for disabled customers during corona crisis](#)'.

<sup>60</sup> Inclusion London (June 2020), '[Abandoned, forgotten and ignored: the impact of the coronavirus on disabled people: interim report](#)'.

<sup>61</sup> See Food Foundation (May 2020), '[New Food Foundation Data: food insecurity and debt are the new reality under lockdown](#)' (finding that 24 per cent of adults whose daily activities were 'limited a lot' by a health problem or disability, and 14 per cent of adults whose activities were 'limited a little', faced food insecurity, compared to just over 6 per cent of non-disabled adults who faced food insecurity); see also Food Foundation (May 2020), '[Food Foundation Polling: third survey – five weeks into lockdown](#)' (finding higher rates of food insecurity among households with disabled children).

<sup>62</sup> UK Government (6 July 2020), '[Guidance on shielding and protecting people who are clinically extremely vulnerable from COVID-19: Updated 6 July 2020](#)'.

<sup>63</sup> Ryan, F. (1 July 2020), '[Boris Johnson is gambling with shielders' lives by ending support on 1 August](#)', The Guardian.

<sup>64</sup> See Walsh, H. (2 July 2020), '[Which? calls for urgent action as vulnerable people still struggle to get food](#)', Which.co.uk.

However, we share recent concerns from stakeholders that some disabled people (particularly those with hidden disabilities such as dementia) or their carers are unable to access delivery slots.<sup>66</sup> Supermarkets have a legal responsibility to provide reasonable adjustments as required for all potential disabled customers, not just those who are on a shielded list.<sup>67</sup> Supermarkets must ensure that systems are in place (both now and for any potential future wave of the virus) so that all disabled and older people who rely on delivery slots can be confident that they will be able to access food.

30. Disabled people's organisations have also reported concerns around the failure of supermarkets to provide accessible services, both in store and online.<sup>68</sup> These include: failing to take into account the requirement to provide accessible information in a range of formats; poor staff behaviour, including asking for 'proof' of disability; complaints being ignored; limited provision for those who cannot use telephone services; design of in-store social distancing measures that do not take into account the needs of those with visual or perceptual impairments; refusal to allow personal assistants or carers to enter stores with disabled customers; and a lack of communication around what adjustments disabled people can expect when they visit a store.

**31. Government should continue to work with the British Retail Consortium and supermarkets to ensure that social distancing measures do not disadvantage disabled people. Policies related to access to shops should be flexible to accommodate the needs of carers and personal assistants, and reasonable adjustments should be made to ensure disabled people have access to food, taking into account both visible and hidden impairments.**

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<sup>65</sup> Department for Environment Food & Rural Affairs (11 June 2020), '[Access to Supermarket Delivery Slots for Non-shielded Vulnerable People](#)'.

<sup>66</sup> See, for example, Alzheimer's Society (2 June 2020), '[Life during lockdown: "Shopping for food has been critically difficult"](#)'.

<sup>67</sup> See Equality and Human Rights Commission (19 Feb 2019), '[Equality law - Businesses selling products, such as shops and petrol stations](#)'; Equality and Human Rights Commission (19 Feb 2019), '[Delivering services and the law](#)'; Equality and Human Rights Commission (1 Jan 2011), '[Services, Public functions and Associations: Statutory Code of Practice](#)'.

<sup>68</sup> Legal cases have also been launched by individuals alleging direct discrimination. See Pring, J. (16 April 2020), '[Coronavirus: Supermarkets face mass legal action over "discrimination"](#)', Disability News Service; see also concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), Ayla Ozmen (Head of Research and Policy, Action on Hearing Loss), Edel Harris (Chief Executive, Mencap) and Sarah Hughes (Chief Executive, Centre for Mental Health), [oral evidence to Women and Equalities Committee, 'Unequal impact? Coronavirus, disability and access to services'](#) (24 June 2020).

## Accessible information

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32. We share stakeholders' concerns about inaccessible Government communications relating to public health and critical changes in support, including a lack of guidance in 'Easy-Read' or alternative formats.<sup>69</sup> Many disabled people, particularly those who are shielding, self-isolating or in care, report difficulty accessing information and advice online.<sup>70</sup> **The Government must ensure that all information related to the pandemic, either in printed form or published online, is accessible to disabled people, including by providing British Sign Language ('BSL') interpreters during televised press announcements, publishing materials in alternative formats, and proactively reaching out to people affected. This includes all major announcements on the recovery process, as well any announcements that may be made in preparation for a potential second wave of COVID-19.**

33. On 30 April, we wrote to the Prime Minister expressing concerns about the lack of live BSL interpretation at the daily coronavirus briefings.<sup>71</sup> In response to a petition calling for regular BSL interpretation,<sup>72</sup> the Government stated that it 'cannot safely include a BSL interpreter in the room for daily briefings without potentially putting them and others at risk' and committed to provide BSL interpretation of the briefings via BBC News channel and iPlayer.<sup>73</sup> We received a response to our letter to the Prime Minister on 23 June largely expressing a similar message. After 23 June, televised briefings changed from daily occurrences to 'ad hoc' briefings 'to coincide with significant announcements'.<sup>74</sup>

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<sup>69</sup> See Walawalkar, A. (25 June 2020), '[Disabled People "Struggle To Access Food And Medicine Amid Pandemic"](#)', Each Other; Inclusion London (June 2020), '[Abandoned, forgotten and ignored: the impact of the coronavirus on disabled people: interim report](#)' (noting that nearly half of survey respondents discussed 'inaccessible information, confusing guidance and lack of advice'); concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), Ayla Ozmen (Head of Research and Policy, Action on Hearing Loss), Edel Harris (Chief Executive, Mencap) and Sarah Hughes (Chief Executive, Centre for Mental Health), [oral evidence to Women and Equalities Committee, 'Unequal impact? Coronavirus, disability and access to services'](#) (24 June 2020); Casserly, C. and Fry, C. (2 July 2020), '[The Coronavirus Act 2020 and its impact on disabled people](#)', Fry Law, Discrimination Law Association Briefings Vol 70 935.

<sup>70</sup> See Inclusion London (June 2020), '[Abandoned, forgotten and ignored: the impact of the coronavirus on disabled people: interim report](#)'; concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), Ayla Ozmen (Head of Research and Policy, Action on Hearing Loss), Edel Harris (Chief Executive, Mencap) and Sarah Hughes (Chief Executive, Centre for Mental Health), [oral evidence to Women and Equalities Committee, 'Unequal impact? Coronavirus, disability and access to services'](#) (24 June 2020).

<sup>71</sup> Equality and Human Rights Commission (30 April 2020), '[Letter to Prime Minister: Lack of British Sign Language \(BSL\) interpretation at UK Government daily Coronavirus briefings](#)'.

<sup>72</sup> UK Government: Petitions (2020), '[Require British Sign Language Interpreters for emergency announcements on TV](#)' (accessed 3 July 2020).

<sup>73</sup> Ibid.

<sup>74</sup> BBC News (23 June 2020), '[Coronavirus: Daily Downing Street press conference scrapped](#)'.

34. As of 9 July, the Government has given almost 100 televised briefings on the pandemic,<sup>75</sup> which often contained critical information about the spread of the virus and social distancing requirements—none of which hosted any live BSL interpretation.<sup>76</sup> In contrast, BSL interpreters are present at Scottish and Welsh Government briefings, and BSL and Irish Sign Language interpreters are shown in Northern Ireland on a small screen.<sup>77</sup>
35. The lack of a live BSL interpreter considerably disadvantages disabled people, as some people are still unable to access vital health information,<sup>78</sup> and potentially represents a failure by the Government to meet its legal obligations.<sup>79</sup> In addition to its ‘ad hoc’ coronavirus briefings, the Government has announced plans to hold daily televised press briefings by October 2020.<sup>80</sup> Thus far, no announcement has been made regarding the availability of BSL at these briefings. The Government must ensure that live BSL interpretation is provided at all Government coronavirus briefings moving forward, as well as at the planned televised press briefings beginning in autumn 2020.

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<sup>75</sup> YouTube, BBC News, ‘[Coronavirus \(Covid-19\): UK Daily Government Briefings – BBC News](#)’ (accessed 9 July 2020). The Government has televised three of the ‘ad hoc’ briefings containing ‘significant announcements’ (one on mandatory school plan starts, one on lockdown easements, and one on gyms, pools and outdoor performances).

<sup>76</sup> Ibid.

<sup>77</sup> Dawson, B. (8 June 2020), ‘[How Deaf People Are Fighting To Be Heard Amid Covid-19 And Beyond](#)’, Each Other.

<sup>78</sup> Inclusion London (June 2020), ‘[Abandoned, forgotten and ignored: the impact of the coronavirus on disabled people: interim report](#)’; concerns summarised by Fazilet Hadi (Policy Manager, Disability Rights UK), Ayla Ozmen (Head of Research and Policy, Action on Hearing Loss), Edel Harris (Chief Executive, Mencap) and Sarah Hughes (Chief Executive, Centre for Mental Health), [oral evidence to Women and Equalities Committee, ‘Unequal impact? Coronavirus, disability and access to services’](#) (24 June 2020).

<sup>79</sup> Including the obligation to make reasonable adjustments under the Equality Act 2010, obligations under the UN CRPD, and under the Human Rights Act.

<sup>80</sup> BBC News (3 July 2020), ‘[UK government plans to hold daily White House-style televised press briefings](#)’.

## Access to healthcare services

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36. Between 2 March and 15 May, over 22,000 disabled people died from COVID-19 in England and Wales – representing almost two-thirds of all deaths from COVID-19 in England in Wales during this period.<sup>81</sup> For certain disabled groups, including disabled women,<sup>82</sup> those with dementia,<sup>83</sup> and those with learning disabilities and/or autism,<sup>84</sup> the risk of harm from COVID-19 may be particularly high. These patterns are especially troubling given that 63 per cent of disabled people are concerned they would not be able to access hospital treatment for COVID-19.<sup>85</sup> **We recommend the Government undertake or commission a review into the disproportionate deaths of disabled people, including an assessment of the excess deaths of people with recognised physical or mental impairments, deaths in care homes, and deaths of people with learning disabilities and/or autism. Government should work with disabled people and their representative organisations in this review,<sup>86</sup> and use the findings to identify the policy and practice changes needed to mitigate any further negative disproportionate impact on disabled people now and in the future.**

37. Disabled campaigners have also raised concerns around the accessibility of the Government's trace and testing system, including issues with a potential test and trace app, communications, information and testing implementation.<sup>87</sup> **We recommend the Government urgently review its track and trace programme**

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<sup>81</sup> 30.3 per cent of all deaths involving COVID-19 in this period were among people who said their daily activities were 'limited a lot' by a health problem or disability, and 28.9 per cent of all deaths were among people who said activities were 'limited a little'. Office for National Statistics (19 June 2020), '[Coronavirus \(COVID-19\) related deaths by disability status, England and Wales: 2 March to 15 May 2020](#)'.

<sup>82</sup> The same ONS figures suggest that working-aged disabled women are 11 times more likely to die from COVID-19 than non-disabled women, while disabled men are more than 6.5 times more likely to die than non-disabled men. Webster, L. (4 July 2020), '[Coronavirus: Why disabled people are calling for a Covid-19 inquiry](#)', BBC News.

<sup>83</sup> 27.5 per cent of those who died from COVID-19 between 1 March and 30 May had dementia, and half of those who died from COVID-19 in care homes between 2 March and 12 June had dementia. See Alzheimer's Society (23 June 2020), '[ONS figures show almost 13,000 people who died from Covid-19 had dementia](#)'; Alzheimer's Society (3 July 2020), '[ONS figures show 50 per cent of all Covid-19 deaths in care homes also had dementia – Alzheimer's Society comment](#)'.

<sup>84</sup> The CQC reported a 134 per cent increase in deaths of those with learning disabilities and/or autism in adult social care, independent hospitals or in community care (half of these deaths were related to COVID-19). CQC (2 June 2020), '[CQC publishes data on deaths of people with a learning disability](#)'. Statistics from NHS England suggest that, up to 26 June, at least 620 people with learning disabilities have died of COVID-19 in England. NHS England (2 July 2020), '[COVID-19 deaths of patients with a learning disability notified to LeDeR](#)'.

<sup>85</sup> Scope (May 2020), '[The disability report: Disabled people and the coronavirus crisis](#)'.

<sup>86</sup> In line with requirements under the Equality Act and the UN CRPD, as noted in prior sections.

<sup>87</sup> Reasonable Access (11 June 2020), '[Open letter asking about accessibility of the entire COVID-19 Test and Trace system](#)'. See also Action on Hearing Loss (2020), '[Government's new NHS Test and Trace programme needs to be accessible to all](#)'.

**to ensure it is accessible to disabled people across impairment types, particularly as it prepares for a potential ‘second wave’ of COVID-19.<sup>88</sup>**

38. We are concerned that disabled people may face discrimination in access to routine healthcare as well as COVID-19 care. As a result of the pandemic, many disabled groups continue to report fears about being unable to access non-coronavirus health care if needed,<sup>89</sup> fears about missing out on critical medicines,<sup>90</sup> and delayed or cancelled NHS services for conditions unrelated to COVID-19.<sup>91</sup>
39. **The Government must ensure all policy decisions about care and treatment for both COVID-19 and routine care are made in collaboration and consultation with disabled people and their representative organisations, underpinned by clear, accessible and consistent guidance that fully complies with equality and human rights laws and standards, including the principles of individual autonomy and non-discrimination.<sup>92</sup>**

### **Right to independent living**

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40. A number of issues explored in this submission underscore our concern that the pandemic has created significant threats to the right to independent living for disabled people, including in relation to reductions in personal, residential and other community support services;<sup>93</sup> reductions in detention safeguards;<sup>94</sup> and barriers preventing equal access to services.<sup>95</sup>

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<sup>88</sup> This would include, for example, conducting and publishing an Equality Impact Assessment in order to identify how disabled people may be affected by or excluded from the Government’s track and trace programme.

<sup>89</sup> A recent study revealed that as a result of the pandemic, 69.1 per cent of disabled women, 66 per cent of disabled men and 64 per cent of non-disabled women were worried they might not be able to get NHS treatment unrelated to COVID-19 (compared to 48.4 per cent of non-disabled men). Women’s Budget Group, et al. (2020), [‘Disabled women and Covid-19 - Research evidence’](#); see also Disabled Children’s Partnership (June 2020), [‘Left in Lockdown’](#) (noting that 44 per cent of parents of disabled children reported that the lockdown has led to them not seeking necessary medical healthcare for their children).

<sup>90</sup> 60.6 of disabled women and 55.9 per cent of disabled men reported being afraid of missing out on medicines, compared with 43.2 per cent of non-disabled women and 36.5 per cent of non-disabled men. Women’s Budget Group, et al. (2020), [‘Disabled women and Covid-19 - Research evidence’](#).

<sup>91</sup> See, for example, waiting time patterns summarised by Sir Simon Stevens (Chief Executive Officer, NHS England and NHS Improvement) and Professor Andrew Goddard (President, Royal College of Physicians), [oral evidence to Health and Social Care Committee, ‘Delivering Core NHS and Care Services during the pandemic and beyond’](#) (30 June 2020); Centre for Aging Better (18 June 2020), [‘Lockdown could leave next generation of retirees poorer and sicker than the last’](#) (noting half of people in their 50s or 60s have had a medical or dental appointment delayed or cancelled); BBC News (6 July 2020), [‘Coronavirus could cause 35,000 extra UK cancer deaths, experts warn’](#).

<sup>92</sup> In particular, the rights to equality and non-discrimination, including in the enjoyment of the rights to life and health; and the principles of individual autonomy and participation in decision-making.

<sup>93</sup> See paragraphs 4-11 and 15-19 of this submission.

<sup>94</sup> See paragraphs 12-13 of this submission.

<sup>95</sup> See paragraphs 11, 23-30, 32-35, and 36-38 of this submission.

41. The Government has a UN treaty obligation to protect, respect and fulfil the right to independent living.<sup>96</sup> This is a fulcrum right about ensuring that disabled people are able to exercise freedom of choice and control over decisions affecting their lives on an equal basis with others.<sup>97</sup> In line with recommendations from the UN Committee on the Rights of Persons with Disabilities in 2017, **we have recommended the Government should incorporate the right to independent living in domestic law. We urge the Committee to consider endorsing this recommendation, to protect the human rights of disabled people during and in the aftermath of the pandemic.**<sup>98</sup>

### Further information

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The Equality and Human Rights Commission is a statutory body established under the Equality Act 2006. Find out more about the Commission's work on our [website](#).

*July 2020*

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<sup>96</sup> Article 19 of the UN CRPD.

<sup>97</sup> UN Committee on the Rights of Persons with Disabilities, '[General Comment No. 5: Right to independent living](#)' (adopted 31 August 2017).

<sup>98</sup> The right to independent living is not currently incorporated into domestic law in the UK. Following evidence of a regression on this right in England, and a recommendation from the UN Committee on the Rights of Persons with Disabilities in 2017, we have developed a proposed legal model for incorporation of this right. See our [supplementary evidence to the JCHR's inquiry into the detention of children and young people with learning disabilities and/or autism \(submission YDA0045\)](#) (May 2019).