

Written evidence from Stonewall (COV0249)

Introduction

1. Stonewall welcomes the opportunity to respond to this inquiry. COVID-19 is presenting our society with unprecedented challenges, many of which are disproportionately impacting the most marginalised. This includes many lesbian, gay, bi and trans (LGBT) people, particularly those facing discrimination on multiple fronts (such as Black LGBT people and LGBT people of colour, LGBT disabled people, working class LGBT people and more). The Government's response to the crisis must have the needs of the most marginalised at its heart, including LGBT communities.
2. Stonewall is Britain's largest LGBT organisation. Over the past thirty years, we have helped secure significant advances in the rights afforded to LGBT people, including protections from discrimination and equal marriage.
3. The [OHCHR](#) have declared that state measures taken to respond to COVID-19 have disproportionately impacted LGBT communities, and have called on member states to address this urgently.
4. While we understand the need for Government measures to address the spread of COVID-19 and protect life, we believe that several aspects of the Government's response have disproportionately impinged upon human rights. These measures have exacerbated inequalities, and disproportionately impacted LGBT people, particularly those facing discrimination on multiple fronts.
5. This response will draw upon as-yet unpublished findings from original data collected by Stonewall and the LGBT Foundation on the experiences of 775 LGBT people across Britain during the pandemic; this includes all testimonies in red.

Health and social care

6. Evidence suggests the Government's measures to address the spread of COVID-19 and protect life have had several negative impacts on the health and wellbeing of LGBT communities, undermining the state's responsibility to protect the health and wellbeing of those deprived of liberty (**Articles 2 and 5**).
7. **Overall recommendation:** The DHSC, NHS England and PHE must centre the specific needs of LGBT communities (particularly those experiencing multiple forms of discrimination, including Black LGBT people and LGBT people of colour, LGBT disabled people, trans communities and LBT women) in their short, medium and long-term response to the crisis, including through a cross-Government strategy for reducing health inequalities that should form part of the Government's recovery plans.

Mental health

8. Prior to the crisis, LGBT communities already experienced particularly high rates of poor mental health ([LGBT in Britain: Health Report \(2018\)](#)).
9. As a result, LGBT communities (including LGBT young people, trans people, bi people, LGBT people of colour, LBT women, LGBT disabled people, older LGBT people and LGBT people from socio-economically disadvantaged backgrounds) are likely to have acutely felt the mental health impacts of the Government's COVID-19 response, including:
 - Weakened safeguards under mental health legislation (including the Mental Health Act), which have enabled sectioning decisions to be made by fewer health professionals, and some detention time limits extended ([Mind](#)). These changes are likely to disproportionately impact Black communities, including

Black LGBT people, given that black people are [four times more likely than white people to be detained under this legislation](#). No data is currently collected on the number of LGBT people detained under the Mental Health Act (despite the [EHRC](#) recommending the Government do so).

- Heightened loneliness, isolation and risk of domestic abuse (see below) resulting from the Government's isolation and social distancing policies. Our survey demonstrates these impacts clearly – respondents listed the top three areas of concern related to the pandemic as: being unable to see family and friends (62 per cent), worrying about the health of friends and family (50 per cent) and decreased mental wellbeing (37 per cent).

'My parents do not know I am gay and even before lockdown I thought about their reactions to it but it was exacerbated when I was forced to live with them and now I think about it so much more and get anxious and stressed about it.'

- Reduced access to in-person community, mental health and wellbeing support, including LGBT-specific support, due to changes in service delivery, reduced funding for LGBT charities and venues, and barriers to leaving home. **One in four** survey respondents (23 per cent) indicated that they had not been able to access their usual medication, or worried about not being able to access it.

'Needed to go to crisis mental health team as came close to committing suicide, but felt like I wasn't allowed to access help. All community mental health services have been stopped, and they've told me I've been taken off their list.'

Recommendations

10. We welcome the Government's announcement that £5 million will be made available to mental health charities to expand support services during the crisis. While we also welcome recognition of those vulnerable groups at higher risk of poor mental health (including older people), we recommend that DHSC and PHE also consider the specific mental health needs of LGBT communities. Increased funding for LGBT charities offering mental health support services is essential, given that **73 per cent** of survey respondents said they would prefer to use an LGBT-specific service over a mainstream one.
11. The Government should adopt the EHRC's recommendation to collect data relating to Mental Health Act detentions across all protected characteristics – particularly relating to its use during the COVID-19 pandemic.

Transition-related healthcare

12. The redistribution and rationing of healthcare provision (particularly that deemed 'non-essential') in the Government's pandemic response is likely to have disproportionately impacted trans communities (particularly those accessing Gender Identity Services), raising concerns as to the proportionality and non-discriminatory nature of the Government's response (**Articles 3 and 8**).
13. Prior to the crisis, waiting lists for Gender Identity Services (GIS) were estimated at two to four years, constituting a profound breach of trans people's rights under the [NHS constitution](#).
14. Due to social distancing measures and healthcare rationing, Gender Identity Development Services (GIDS) and GIS are now operating a limited service, including suspending face-to-face appointments, not sending any new appointments (as of [April 2020](#)), and diverting staff to support the COVID-19 response. This is significantly impacting the quality of care provided (including preventing these services from prescribing

hormones, or in adult services referring patients to surgery), and further lengthening waiting lists – which is profoundly impacting trans communities’ mental health and wellbeing.

‘With the gender clinics closed, no services such as electrolysis, no referrals for transition related care, I feel like everything is in limbo and all my social support is unavailable. It’s been devastating for my mental health’.

‘I was supposed to have top surgery in June after a 5-year wait, the hospital have said it’s postponed not cancelled but realistically I now have no idea if it’s going to happen or not’.

Recommendations

15. As part of the Government’s recovery plans, DHSC and NHS England should create a clear plan for reducing waiting lists for Gender Identity Services (including GIDS), developed through consultation with trans communities, and trans-led and LGBT organisations.
16. In the immediate term, NHS England should ensure that trans and non-binary people are supported to access prescribed hormones. Where possible, they should also work with GIS to provide digital or telephone-based support for patients who need it.

The Right to Life and BAME Communities

17. Clear evidence demonstrates that COVID-19 morbidity and mortality is elevated among many communities of colour, with Black Caribbean, Black African, Indian, Pakistani and Bangladeshi communities, and health and social care staff of colour, at particular risk ([PHE and NHS England data, 2020](#)). The likely reasons for this are set out by [Haque, Harman and Wenham](#) (BMJ, 2020). As many communities of colour have been disproportionately impacted by the virus, this has highlighted racist structural inequalities in health and social care, and wider society, in a manner that has engaged the right to life (**Article 2**).

‘Being a PoC [person of colour], I’m used to racism. [A family member] is a [health professional] and is routinely asked to put themselves at risk without adequate PPE where white colleagues aren’t being asked the same. My reality as a PoC who is LGBT, disabled and Muslim is so different to many other LGBT people. The intersections of my identity mean that I’m fighting battles on many fronts. I wish other queer people truly understood the depth of it, including those in LGBT organisations, as well as the government, so they could actually create change and services with us in mind. Why do we have to be on the margins and grassroots - why can’t we be mainstream?’.

Recommendations

18. We support Runnemedede Trust’s [call for a Government-wide race equality](#) strategy to address systemic inequality, as well as the [call](#) for an analysis of health inequalities with race equity at its core, accompanied by NHS targets. Both of these measures should be developed and delivered through consultation with race equity organisations (particularly Black-led organisations) and communities of colour, including Black LGBT people and LGBT people of colour (and organisations specifically advocating for those communities).
19. The Government must hold a public inquiry into the disproportionate impact of Covid-10 on BAME communities, particularly those working in health and social care.

Impact on LGBT disabled communities

20. The Government's pandemic response – notably the legal easements of the Care Act facilitated by Schedule 12 of the Coronavirus Act, and the wider rationing and redistribution of health and social care – has disproportionately impacted disabled communities, including LGBT people with disabilities.
21. This reduction of social care duties has significantly reduced the standard of care received by disabled communities. Research shows that before the pandemic, many LGBT disabled people did not receive care that met their specific needs ([SCIE, Stonewall and Regard, 2018](#)), and so the impacts of the Government's response are likely to have been felt particularly acutely by LGBT communities.
22. This has not only resulted in a significant decrease in the mental and physical wellbeing of disabled people, but engages the right to life for these communities (**Article 2**). For example, data by the [Care Quality Commission](#) has shown a 134 per cent increase in deaths of those with a learning disability who were receiving care services. [Data from the ONS](#) has shown that working-age disabled women were 11 times more likely to die from coronavirus than their non-disabled counterparts, with his figure sitting at 6.5 times higher for disabled men compared with non-disabled men.

'Being black, disabled and queer means I know that if I get sick and need to be hospitalised, I am more likely to be left to die.'

'I am afraid my existing care package may be reduced because of COVID-19 which would increase the isolation that I currently feel, and disregard my human and disability rights.'

Recommendations

23. The Government must repeal the legal easements to the Care Act currently facilitated by Schedule 12 of the Coronavirus Act 2020.

Domestic abuse and homelessness

Domestic abuse

24. LGBT people – particularly those who are young, trans, women, bi, disabled and/or colour – already experience disproportionately high rates of domestic abuse from partners and family members ([LGBT in Britain: Home and Communities, 2018](#)), and so are likely to be disproportionately impacted by the Government's social distancing and isolation measures.
25. Domestic abuse engages the Government's human rights obligations in various ways ([British Institute for Human Rights](#)). The increased proximity to abusive partners and family members prompted by the Government's response may engage their duty to take reasonable steps to protect people known to be at risk of degrading treatment (**Article 3**), as well as engaging LGBT people's **Article 8** rights in relation to protecting their 'physical and psychological integrity'.
26. While most respondents to our survey felt safe (93.9 per cent), where respondents indicated they did not feel safe, this was due to experiences of anti-LGBT abuse at home, while many were forced back 'into the closet' in order to protect their safety.

'My father is transphobic and has threatened me on a daily basis, refuses to use my name and always refers to me via my dead name and always misgenders or just refers to me as an it, thing or faggot in a dress.'

Homelessness

27. LGBT communities already experience disproportionately high rates of homelessness. LGBT in Britain: Home and Communities (2018), found that **nearly on in five** LGBT people (18 per cent) – including **28 per cent** of LGBT disabled people and **25 per cent** of trans people – have experienced homelessness at some point. 2015 [research](#) by AKT found that **24 per cent** of the British youth homeless population is LGBT.
28. People who are homeless or experiencing housing insecurity are likely to be at increased risk of contracting and becoming more ill with COVID-19 due to an absence of appropriate accommodation, support and income. This means that LGBT communities (particularly LGBT people who are young, disabled, trans and/or with no recourse to public funds) are likely to be disproportionately impacted by the crisis.
29. [AKT](#) have reported that due to the pandemic, demand for their domestic abuse and homelessness services have been particularly high. Liberty Investigates [found](#) that not everyone has been sheltered under the Government's 'Everyone In' scheme.

'I live in sheltered housing, most are vulnerable because of age and health conditions.'

Recommendations

30. The Government must ensure that domestic abuse and homelessness support services receive the funding they need to cope with rising demand during this crisis. This should include support for LGBT-specific services, so they can continue to meet the needs of their service users.

Migration and detention

Hostile environment

31. Stonewall is particularly concerned about the combined impacts of the Government's 'hostile environment' policy and the pandemic on migrants, among whom Black people and people of colour are disproportionately represented, and which include LGBT people.

No recourse to public funds

32. Specifically, people with no recourse to public funds (NRPF) – including those who are LGBT – can't access local authority support, Universal Credit and Statutory Sick Pay, making it harder for them to survive, and putting these individuals at greater risk of contracting – and becoming more ill with – COVID-19.
33. [Liberty](#) state that this has forced many migrants into a position whereby they have no choice but to work (often in low income and precarious professions) and therefore increased their risk of infection. NHS surcharges and data-sharing with the Home Office have also interfered with the ability of migrants to access adequate healthcare during the pandemic.
34. We know that LGBT people who have emigrated to the UK have been impacted by these policies. The LGBT Foundation's helpline saw 260 per cent increase in the number of calls about asylum in April 2020.

'Was WFH now furloughed. Possibilities of being made redundant are high but I can't get a new job because my right to work in the UK are tied to my current role. Scared and feel like I am being set back 10 years'.

Detention

35. Many migrants, including those who are LGBT, are currently being held in immigration detention, many indefinitely. LGBT people face significant threats to their safety in these settings ([Stonewall & UKLGIG, 2016](#)).
36. There is a risk of COVID-19 spreading in detention centres that are unequipped to deal with this, making an already unsafe environment for LGBT individuals even less safe. Data has emerged showing that COVID-19 measures have not been implemented adequately in detention centres ([Women for Refugee Women](#)).
37. Given the state's duty to protect the health and wellbeing of those it places in detention (**Articles 2 and 5**), we are extremely concerned about the safety and health of those being held in these settings (including those who are LGBT).

Recommendations

38. Hostile environment measures must come to an end to ensure that migrants of all status can access safe housing, welfare support and NHS services equally.
39. The Government should reinstate the link between asylum support and mainstream benefits by setting asylum support at 70 per cent of Universal Credit, to ensure people seeking asylum are able to meet their needs both during, and outside of, a public health pandemic. Due to the urgency of the current situation, the Home Office should increase the support available to those in the asylum system by providing the same £20 COVID-related uplift as other mainstream benefits.
40. Everyone currently held in immigration detention should be released given the COVID-19 circumstances and that individuals no longer meet the criteria for detention as their removal is no longer imminent.
41. The Home Office must urgently assess the adequacy of asylum accommodation provision in light of the COVID-19 pandemic to ensure it complies with public health requirements. As a matter of urgency, accommodation providers must put in place measures to allow for greater social distancing, including ending the practice of enforced bedroom sharing between unrelated adults.

Police Powers

42. The Coronavirus Act 2020 and Health Protection Regulations 2020 offer police unprecedented powers, including those relating to forced detention, forced questioning and forced quarantine – with accompanying powers to implement fines and criminal records.
43. These sanctions have disproportionately impacted on people of colour – particularly Black communities – with emerging data showing that police were seven times more likely to fine black people for lockdown breaches than their white counterparts ([Liberty Investigates](#)).
44. This is directly related to the racialised process of stop and search, which the Courts have ruled as engaging Article 8 of the ECHR in conjunction with Article 14. [EHRC guidance](#) notes that Article 8 can be engaged during 'any interference with a person's body or psychological integrity or the way they live their life', including body searches and surveillance. Given the disproportionate impact of this on people of colour (particularly Black communities) – including those who are LGBT – this raises questions around this legislation's proportionality.

Recommendations

45. We echo [Liberty's recommendation](#) that police must release disaggregated data in relation to the powers invoked by each force, and that the Government must take steps to address the disproportionality of the use of power powers under legislation.

22/07/2020