

Written evidence from Amnesty International UK (COV0252)

1. Amnesty International UK (AIUK) is a national section of a global movement of over seven million people who campaign for every person to enjoy all rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We represent more than 670,000 supporters in the United Kingdom. We are independent of any government, political ideology, economic interest, or religion.
2. AIUK warmly welcomes this opportunity to contribute to the work of the Joint Committee on Human Rights through its inquiry into *The Government's response to COVID-19: human rights implications*.

What steps need to be taken to ensure that measures taken by the government to address the COVID-19 pandemic are human rights compliant?

3. AIUK remains troubled by the government's response to COVID-19. The high¹ number of deaths in the UK is deeply concerning, and there are serious questions that need answering as to what happened here, and what needs to happen differently in the months and years ahead. A full independent public inquiry is necessary, and, as called for by the COVID-19 Bereaved Families for Justice Group², one with an urgent element. That is not only required to ensure that the government meets its obligations under international human rights law to protect the lives and health of everyone in its jurisdiction, but also to ensure that lessons are learned and future measures to address the pandemic are human rights compliant. In that respect, the specific recommendations made below should also be implemented immediately³.
4. **The government should:**
 - **Immediately establish a full independent public inquiry, with an urgent element, into government handling of the pandemic, including decision making and its approach to controlling the infection both prior to and during its peak, as well as in its aftermath.**
 - **As part of this or alongside it, there should be comprehensive independent reviews into the preparedness and responses of public bodies and other actors to the pandemic. Where there is cause to believe that government agencies or private sector businesses did not adequately protect human rights – including the rights of health and essential workers - the UK should provide effective and accessible remedies, including through credible, transparent, independent and impartial investigations into these allegations.**

¹ Between 43,000 and 65,000 people had died in the UK as a result of Coronavirus by the end of July. The figure represents one of the highest death rates from COVID-19 in Europe, and the second largest number of absolute excess deaths in the world. See figures estimated by the Office of National Statistics, the UK's largest independent producer of official statistics and is the UK's recognised national statistical institute. Excess deaths is the current number of deaths compared to the average number of deaths per time of year over the last five years. This is the 'the key metric' according to Chris Whitty, England's chief medical officer: <https://youtu.be/pfRuVqKjg1A>. The estimated number of excess deaths was 65,700 as of 23 June 2020: <https://twitter.com/ChrisGiles/status/1275371427336683520?s=20>

² See <https://www.covidfamiliesforjustice.org/wp-content/uploads/2020/07/BCF4J-Petition-for-Public-Inquiry.pdf>

³ AIUK has also [submitted a response](#) in partnership with Migrant Voice and does not seek to repeat that information here.

What will the impact of specific measures taken by the government to address the COVID-19 pandemic be on human rights in the UK?

Policing

5. At the height of the pandemic, the restrictions on individual rights of assembly, privacy, family life and similar, and the police powers introduced to enforce them, represented some of the most severe interferences with people's freedom in recent times. Those were, of course, the result of an unprecedented risk to public health. However, given the serious human rights implications of the police powers bestowed and their extraordinary breadth, it remains vital to ensure any such powers are used proportionately, only when strictly necessary. Extraordinary powers must remain in force for a strictly limited period and be under constant review. Further, enforcement must be consistent. To date, the differing approaches taken by different police forces are a sign that the current legislative provisions are too broadly drawn, and insufficiently clear, as is the accompanying Guidance⁴.
6. Of further and fundamental concern is evidence of racial disproportionality in policing the lockdown. Significantly more fines appear to have been issued to BAME people⁵. For example, on 3rd June, the Metropolitan Police disclosed that, up to 15th May, 26% of its fixed penalty notices (FPNs) issued were to black people, who make up 12% of London's population, and 23% were to Asian people, who are 18% of London's population⁶.
7. Police use of force during the crisis is also of serious concern. There are clear increased risks to officers and to individuals who may be affected by the virus, suggesting the use of force (particularly in straining the respiratory system) should be reduced and that Tasers should not be used⁷. Nor should devices such as spit and bite guards. New evidence demonstrates that they are unable to prevent COVID-19 transmission, and their use could further compromise officer safety in any struggle to apply them.
8. **The government should:**
 - **Ensure that the National Police Chiefs Council undertake a formal review of all fines issued under public health coronavirus legislation, with a particular focus on racial disproportionality.**
 - **Establish a full review of all national guidance issued to police forces on enforcement action.**
 - **Establish an Independent Human Rights Advisory Group to monitor and review police action taken under emergency powers.**

⁴ Amnesty, alongside many other civil society groups, signed an open letter to the National Police Chiefs Council asking for a review of all fines issued under the Coronavirus public health legislation

⁵ in Northern Ireland, for example, Amnesty wrote to the PSNI over the large number of fines issued to individuals on 6th June 2020 attending Black Lives Matter demonstrations in Belfast and Derry and Londonderry. This is stark contrast to a large gathering of at least 100 people in Ballymena on 9th June 2020 where no fines were issued by the PSNI

⁶ <http://news.met.police.uk/documents/final-fpn-arrest-analysis-report-96756>

⁷ There is well established evidence of the impact of Taser use on those with compromised respiratory systems.

- **Ensure future Coronavirus legislation is more tightly drawn and that each and every police power therein is lawful, necessary and proportionate.**
- **End the use of Taser, Spit and Bite guards in policing the pandemic and ensure that guidance recommends a reduction in the use of force.**

Contact Tracing

9. Another area where specific measures taken have the potential to impact negatively on human rights in the UK is in the government's approach to any contact tracing application. Such technology could potentially be of use as part of a comprehensive public health strategy which includes widespread testing and full access to healthcare. However, there is an obvious risk of human rights breach and mission creep in respect of such technologies, as widely acknowledged⁸. Any app must have complete transparency around its functionality and pass the key tests of lawfulness, necessity, and proportionality⁹. Meeting those tests requires – as a starting point – demonstrating the efficacy of the proposed approach in meeting the stated aim, on the basis of robust scientific evidence. Further, the principle of data protection by design, and choosing at all junctures the most privacy-preserving options for the identified purpose, should underpin all app development and operation. Critically, it must take a decentralised approach to storage of the data concerned.

10. **The government should:**

- **Ensure that any contact tracing app is decentralised, puts privacy first and meets the seven principles Amnesty set out in May 2020.**

Which groups will be disproportionately affected by measures taken by the government to address the COVID-19 pandemic?

11. AIUK is concerned that so far there has been inadequate consideration of equality and non-discrimination in the government response. For example, no equality impact assessments (EIA) of measures taken have been published. **The government should therefore publish any and all EIAs that have been carried out in its COVID-19 measures to-date, and ensure they are carried out in respect of future measures.**

Workers, including healthcare and other essential roles

12. Health and other essential workers have played a pivotal role in the UK's response to the pandemic. The severe shortages of vital personal protective equipment (PPE) for those workers have been deeply concerning, often resulting in them performing their jobs without adequate protection and in unsafe environments, increasing the risks to all. Adequate and good-quality PPE, information, training and psychological support is critical for nurses, doctors and other essential workers. This must be urgently resolved and prioritised going forwards.

⁸ See, for example, the Joint Statement on Contact Tracing by scientists and academics of 19 April 2020 Accessible at <https://giuper.github.io/JointStatement.pdf>

⁹ Amnesty has set out seven key principles and safeguards to guide the national roll out of any contact tracing app. They are available at <https://www.amnesty.org.uk/coronavirus/7-principles-contact-tracing-app-rollout>

13. Amnesty International recently published a global report exposing failures to protect frontline workers during the COVID-19 pandemic¹⁰. For health workers in the UK, the findings included a number of troubling elements, including 268 deaths involving COVID-19 registered among social care workers, and 272 deaths amongst health workers, in England and Wales, by late June 2020¹¹, with the UK said to have the third highest number of known health worker deaths, exceeded only by the US and Russia¹². BAME health workers are significantly over-represented in the total number of COVID-19 related health worker deaths¹³. Studies also indicate that, in general, people who identify as BAME have been more severely affected by COVID-19¹⁴. This was the subject of an official investigation which confirmed this trend¹⁵.
14. Further, the relative lack of public discussion around non-health workers on the frontline needing PPE may have led to a relative disadvantage for those who have been providing other essential services, such as public transport, postal and grocery workers. The Amnesty report sets out evidence in this respect, including that porters, cleaners, and social care staff were initially left out of a scheme under which families of health workers who died of COVID-19 were granted indefinite leave to remain in the UK free of charge¹⁶.
15. Separately, some groups of workers who continued to provide public services during the pandemic, such as couriers and minicab drivers, are self-employed independent contractors, which means they have been unable to benefit from the key protections afforded to workers, including paid holiday and the payment of at least the minimum wage¹⁷. Furthermore, the allegations about factories in Leicester continuing to operate during the lockdown while breaching the rights of their workers should not have come as a surprise. In March 2017, the JCHR visited Leicester in response to research findings and media reports of serious labour rights abuses in the Leicester garment industry¹⁸.
16. **The government should:**
- **Collect and publish data by occupation (including categories of health and other essential workers) of those who have been infected by COVID-19, and the number**

¹⁰ <https://www.amnesty.org/en/documents/pol40/2572/2020/en/>

¹¹ <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/causesofdeath/bulletins/coronaviruscovid19relateddeathsbyoccupationenglandandwales/deathsregisteredbetween9marchand25may2020#deaths-involving-covid-19-among-men-and-women-health-and-social-care-workers>

¹² <https://public.flourish.studio/visualisation/3015800/>

¹³ <https://www.hsj.co.uk/exclusive-deaths-of-nhs-staff-from-covid-19-analysed/7027471.article>

¹⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892376/COVID_stakeholder_engagement_synthesis_beyond_the_data.pdf

¹⁵ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/892085/disparities_review.pdf

¹⁶ <https://www.independent.co.uk/news/uk/politics/coronavirus-nhs-cleaners-leave-to-remain-scheme-home-office-a9523111.html#gsc.tab=0>

¹⁷ Legal action has been brought by Uber drivers, who argue that Uber should provide its drivers with these entitlements. The Supreme Court will hear this case towards the end of July 2020, see <https://www.supremecourt.uk/cases/uksc-2019-0029.html>

¹⁸ <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/443/443.pdf>

who have died as a result. This data should be disaggregated, wherever possible, on protected characteristics, including gender, race, age, and disability.

- Ensure that employers – whether in the public or private sector - provide all health and essential workers with adequate PPE, in line with international standards.
- Ensure that workers who contract COVID-19 because of work-related activities are entitled to compensation and medical and other necessary care. This should include all frontline essential workers irrespective of the nature of their contract.
- Listen to and address workers’ safety concerns in an appropriate manner, while not retaliating against those who raise concerns or lodge a complaint related to health and safety. Where health and essential workers have faced reprisals or disciplinary action at their workplace for raising health and safety concerns, or have lost their jobs as a result, the action against them should be properly investigated by competent authorities, and where relevant, they should be granted adequate reparations, including the possibility of being reinstated.
- Strengthen the powers and resources of regulatory bodies, such as the Gangmasters and Labour Abuse Authority, the Health & Safety Executive, and the Independent Anti-Slavery Commissioner to ensure a more effective response in future to such a crisis.

Women, survivors of domestic abuse and sex workers¹⁹

Domestic Abuse

17. With the spread of the pandemic, there has been an increase in reported cases of domestic violence. During lockdown victims have had to stay at home with perpetrators and have lost their face-to-face support networks. In the UK, 78% of survivors interviewed by Women’s Aid reported that the virus has made it harder for them to leave their abuser²⁰. The UK government response overall has been slow and has not addressed the fact that refuges are already oversubscribed in the country. For example, the government has declined to fund additional emergency accommodation for women fleeing domestic abuse to alleviate existing pressures²¹.
18. For migrant women experiencing or at risk of domestic abuse, the additional challenges of the immigration system have been exacerbated by the impact of COVID-19. Many migrant women with no recourse to public funds (‘NRPF’) are not able to secure a place in a refuge or access to other public funds that might support them in alleviating the impact of domestic abuse. The challenges posed by NRPF during the pandemic have been highlighted by the Domestic Abuse Commissioner, the Victim Commissioner and by the Home Affairs Select Committee²².

19. The UK government should:

¹⁹ For more detailed analysis and a full list of recommendations, please see AIUK’s [submission](#) to the Women and Equalities Select Committee’s inquiry into *COVID-19 and the impact on people with protected characteristics*.

²⁰ <https://www.womensaid.org.uk/survivors-say-domestic-abuse-is-escalating-under-lockdown/>

²¹ This is a measure the sector asked for and that has been adopted in other countries, for example in France.

²² <https://publications.parliament.uk/pa/cm5801/cmselect/cmhaff/321/321.pdf>

- **Immediately suspend the NRP rule, which compounds the discrimination experienced by those with protected characteristics and/or living in poverty and deters access to healthcare.**

Access to Abortion

20. Northern Ireland (NI) is the only part of the UK and Ireland without measures in place to enable both abortion pills to be taken at home during COVID-19. Travel is unsafe and has been against Government advice during the pandemic. For women and girls in vulnerable situations such as domestic abuse, travel has never been an option.
21. The Northern Ireland Department of Health has not yet commissioned abortion services as provided for in new regulations from the Northern Ireland Office (NIO) which took effect on 31 March 2020. These regulations followed legislative reform in 2019 which decriminalised abortion and made it lawful.
22. An interim early medical abortion service is now in place through a new central access point via Informing Choices NI (ICNI). This is an initiative between ICNI and the various health trusts in NI and ensured some form of access during COVID-19.
23. **The government should:**
 - **Ensure full-service abortion provision commissioned and accessible to all who need it.**
 - **Urgently implement measures to enable both abortion pills to be taken at home in NI- the NIO can amend the new abortion regulations to provide for this.**

Sex workers

24. Sex workers are one of the groups most affected by the impact of COVID-19 and measures taken to limit its spread. People with protected characteristics are disproportionately represented in sex work.
25. The most marginalised amongst sex workers are likely to continue to try to work during this time, to be able to pay rent, bills and eat. The government should immediately decriminalise sex work and ensure no one is arrested or detained due to prostitution offences at this time.
26. The government must ensure sex workers are able to swiftly access economic support by applying to Universal Credit (UC) and removing the five weeks wait to access funding, which has already been found likely to contribute to resort to sex work to make ends meet.
27. **The government should:**
 - **Immediately decriminalise sex work and ensure no one is arrested or detained due to prostitution offences at this time.**
 - **Ensure sex workers are able to swiftly access economic support by applying to Universal Credit (UC) and removing the five weeks wait to access funding.**

22/07/2020