

Witness Name: Samantha Fothergill

Dated: 16 February 2023

UK COVID 19 INQUIRY

WITNESS STATEMENT OF SAMANTHA FOTHERGILL

I, SAMANTHA FOTHERGILL, of Tavistock House, 4th floor,
Tavistock Square, London WC1H 9JP will say as follows:

Introduction

1. I am a Senior Legal Adviser at the Royal National Institute of Blind People ("**RNIB**") a post I have held since January 2008. I am duly authorised by RNIB to make this statement.
2. I make this statement to provide information to the Inquiry on the experience of people with sight loss during the pandemic and in particular the impact of political and administrative decision making on blind and partially sighted people's ability to keep themselves and others safe during this period.

Summary

3. In November 2022, the Office for National Statistics published data which showed that people with a vision impairment were forty per cent (40%) more likely to die from Covid-19 than a

comparison group without sight loss. That was even when adjusted for things like age, socio-demographic status, and overall health.

4. Blind and partially sighted people experienced a range of additional challenges during the pandemic, from inaccessible communications about shielding and vaccination, social distancing requirements which were impossible to comply with and difficulty accessing food which led to rationing for some.
5. Throughout the pandemic, RNIB experienced a dramatic increase in the use of our services driven by people with sight loss reaching out for support. In response, we immediately scaled up our services where they were needed most and lobbied the Government at every opportunity to consider people with sight loss in their thinking and decision making, with variable levels of success.
6. In RNIB's view, the Government must urgently improve its understanding not only of the effects of sensory loss but its understanding and implementation of the law. It must ensure that this is taken into account in policymaking across the board not only, but perhaps most importantly, in relation to pandemic planning and response, given the devastating impact these decisions may have.

About RNIB

7. RNIB is the UK's leading sight loss charity and the largest community of blind and partially sighted people in the UK. We

provide a wealth of services including practical and emotional support through our RNIB Connect community and our Sight Loss Advice Service, guide business and public services on accessibility, campaign for change, and have a library of over 60,000 accessible reading materials, including daily newspapers.

8. Every day 250 people begin to lose their sight. We want society, communities and individuals to see differently about sight loss. In our 150th year, RNIB renewed our focus on creating a world where there are no barriers to people with sight loss. As a campaigning organisation of blind and partially sighted people, RNIB promotes the rights of people with sight loss in each of the UK's countries.

9. Our priorities include creating a society that is inclusive of blind and partially sighted people's interests and needs. One of our particular campaigning priorities is the provision of accessible information in all its various forms, from accessible health information to ensuring that account is taken of the relatively high levels of digital exclusion amongst blind and partially sighted people in the provision of public services. We also campaign to ensure that all street design is inclusive facilitating blind and partially sighted people's ability to access their work, community, and key services such as healthcare.

10. RNIB also provides expert knowledge to business and the public sector through consultancy on improving the accessibility of products and services. We also have an extensive transcription service.

About sight loss in the UK

11. Almost two million people in the UK are living with sight loss that has a serious impact on their daily lives and activities. This equates to almost one person in thirty, whose ability to access written information, services and the built environment (amongst other things) is potentially limited or compromised by their visual impairment. It is predicted that by 2050 the number of people with sight loss in the UK will double to nearly four million.
12. Although sight loss affects people of all ages, as we get older we are increasingly likely to experience sight loss and in the UK one in five people aged 75 and over are living with sight loss. This rises to one in two people over the age of 90.
13. People from certain ethnic communities are also at greater risk of some of the leading causes of sight loss. Black African and Caribbean people are four to eight times more at risk of developing certain forms of glaucoma compared to white people. The risk of diabetic eye disease is around three times greater in South Asian people compared to white people. Black African and Caribbean people are also at a higher risk of diabetic eye disease.
14. There are 3.5 million people in the UK who have been diagnosed with diabetes, and a further 500,000 people living with undiagnosed diabetes. People with diabetes are at increased risk of diabetic eye disease as well as glaucoma and cataracts. Within 20 years of being diagnosed, nearly all people with type 1 diabetes and almost two thirds of people with type 2

diabetes will have developed some form of diabetic retinopathy.

15. There are estimated to be more than one million adults in the UK with a learning disability. Adults with learning disabilities are 10 times more likely to experience sight loss than the general population.
16. We understand that all the above groups have proved to be at more risk to Covid 19 than the general population. In addition, and as referred to above, more recent data from ONS for the period between 4 January 2020 and 20 July 2022 showed that the risk of death involving COVID-19 was 8 times greater for people with a visual impairment aged between 30 and 69 (12 times for those with both a hearing and visual impairment).
17. Around 340,000 people are registered as severely sight impaired (blind) or sight impaired (partially sighted) in the UK.

The legislative/regulatory context

18. In 2010 the Government enacted the Equality Act. There are nine protected characteristics under the Act including age, race, sex and disability. Individuals who have been certified by an ophthalmologist as being sight impaired (partially sighted) or severely sight impaired (blind) are automatically considered to be disabled for the purposes of the Act.
19. The Act makes it unlawful for a service provider or those exercising public functions to treat a disabled person less favourably on the basis of their disability. In addition, and most importantly from a sight loss perspective, service providers and those exercising a public function are required to make

reasonable adjustments. This includes the provision of information in alternative formats.

20. The duty to make reasonable adjustments is anticipatory.

This means an organisation cannot wait until a disabled person wants to use its services, but must think in advance (and on an ongoing basis) about what disabled people with a range of impairments might reasonably need (in order to access a service), such as people who have a visual impairment, a hearing impairment, a mobility impairment or a learning disability.

21. In addition to the substantive provisions of the Equality Act.

Those exercising public functions are also subject to the Public Sector Equality Duty. This requires them to have “due regard” to the need to eliminate discrimination, advance equality of opportunity and foster good relations (between persons who share a relevant protected characteristic and persons who do not share it). In order to comply with the duty, organisations are expected to impact assess policies and practices before implementing them and on an ongoing basis in order to understand the impact and to identify potential mitigating steps to reduce or remove adverse impacts.

22. Although the Equality Act was introduced in 2010, the duties outlined above in respect of disability are much more longstanding and were previously contained in other legislation. The Disability Discrimination Act (DDA) was introduced in 1995. The reasonable adjustments provisions came into force in 1999. The DDA is still in force in Northern Ireland. The Disability Equality Duty (the forerunner of the PSED in respect of

disability) was introduced in 2006.

23. Despite the longstanding nature of these obligations, and an expectation that they would, by this time, have been firmly embedded in decision making, the experience of blind and partially sighted people during the pandemic was that little, if any regard, was given to the impact that measures were likely to have on disabled people or the need to make any necessary adjustments. The response frequently given when a discriminatory impact was raised was that decisions were being made at speed and there was simply not time to give consideration to equality issues. However, this simply shows that equality obligations/considerations had long been neglected and were not embedded in decision making. This meant decision makers were therefore going from a standing start. In addition, decision makers often didn't understand that building equality considerations into the decision making process was vital in order to keep people safe and would potentially save time in the future. And even when RNIB had specifically alerted decision makers to equality considerations, the same mistakes were made time and again.

24. In addition to the requirements of the Equality Act, the Department for Health and Social Care and the NHS in England are also subject to the NHS Accessible Information Standard DCB1605 ("the Standard"). The Standard sets out a specific, consistent approach to identifying, recording, flagging, sharing and meeting the information and communication support needs of patients, service users, carers and parents with a disability, impairment or sensory loss. It has been in force since August

2016. As with requirements of the Equality Act, little if any regard was given to the need to ensure that health communication were accessible. It was not apparent that NHS England and the Department understood that the Standard also applied to them and not just hospitals and GPs.

The accessibility of Covid information

25. Covid is not the first pandemic in which blind and partially sighted people's ability to access health communications was raised as a potential issue. Around 2009, colleagues from RNIB along with other disability charities, had met with NHS England on a regular basis to discuss contingency planning for another potential pandemic, that of "swine flu". This included discussions around the accessibility of information being provided to individuals in situations where anyone who came into contact with the virus would be immediately required to self isolate and would not be able to rely on other people to read information for them. In the event, the outbreak turned out to be less serious than initially thought and the envisaged communications were not necessary. However, this episode should certainly have put the Government on notice of the need for accessible communications during a pandemic.

INQ000119411

26. From the beginning of the pandemic, RNIB raised concerns regarding the accessibility of Covid 19 related public health information provided to blind and partially sighted people; from the accessibility of the Prime Minister's letter, the shielding letters, social media posts, test and trace and arrangements for vaccination. In April 2020 RNIB wrote to the Government along

with RNID, Sense, SignHealth, National Autistic Society, Thomas Pocklington Trust, Visionary, Royal Association for Deaf People, Macular Society and SeeAbility expressing our concerns regarding the accessibility of Covid related information being put out by the Government.

27. In response to this, the Cabinet Office established an accessible communications working group, appointed an accessibility lead (Director, of National Resilience Communications, COVID-19 Communications Hub) and issued revised guidance to Government departments. Although this led to some improvements (eg around the accessibility of social media posts) problems remained particularly around the accessibility of shielding information (see below) and test and trace.

28. One of the particular concerns that we raised repeatedly was about the accessibility of the shielding letters. In RNIB's view, communications relating to shielding were covered by the Accessible Information Standard (and the Equality Act) and as such NHS England was required to take steps to ensure that they were providing accessible versions of the letters from the beginning where data regarding preferred format was held by GPs and hospitals.

INQ000119410

29. At the beginning of June 2020, in response to a request from the new accessibility lead, RNIB together with Sense, RNID etc provided a "shopping list" of our requests in relation to the provision of accessible information during the pandemic. This

included “a reliable system to be put in place to ensure blind and partially sighted people get letters in their preferred format across the country (E.g. Local Authority Registers or NHS Information Standard data).” In a meeting with NHS England in June 2020, RNIB asked if they would be using NHS data on preferred formats when sending out the second shielding letter and suggested that this was something they should be doing. NHS England responded that this was not a problem they could sort out at this time. We also asked for the same approach in a subsequent meeting with the accessibility lead, to no avail.

30. However, some progress was made in terms of providing accessible formats in that it was agreed that the next shielding letter that went out would include RNIB's details on it. A letter, which included our telephone number in a larger font at the top and instructed people to call in order to receive letters in their preferred format, went out on 22 June.
31. Clearly this was not our preferred approach because many blind or partially sighted people would find it difficult if not impossible to read the original letter independently. When a letter arrives through the door, a blind or partially sighted person has no way of instantly identifying whether it contains important information or whether it is simply junk mail. They would need to treat every piece of correspondence as if it is vital and/or sensitive and struggle to read it with magnifiers, CCTV (digital magnifiers) etc or they need to wait until someone can read it for them thereby disclosing the unknown, potentially sensitive contents, to a third party. This could be several days or weeks

later. Many blind or partially sighted live alone with little formal support and even where they have informal networks access to these would have been restricted during the pandemic. Even where they have someone to read it for them they may struggle to retain the information provided and would not have a copy that they could refer to if necessary. And even if a person does not live alone, an expectation that a partner or relative etc will always be available to read any information that arrives is likely to place significant strain on a relationship. These are among the many reasons why, where possible, communication should always be provided in the right format from the start.

32. Despite the limitations of the Government's approach, the June (2020) letter with RNIB's information on it still elicited 230 requests for information in a different format large print - 192 (83%), Audio - 32 (14%) and Braille - 6 (3%). This was probably a reflection of people wanting the information in the letter to refer to.
33. Unfortunately, the next shielding letter, sent out to Leicester residents who were shielding, in July (2020) did not go out with RNIB's details on.
34. The following national shielding letter, which was issued via the Department of Health and Social Care around 4 November (2020), and provided guidance on the second lockdown also did not include our details on it. However we were subsequently asked by the Department to provide alternative formats and in any event still received calls from people who had requested

transcription of the previous letter. A further shielding letter, which had detailed information relating to the tiers and arrangements for Christmas, was sent out from 30 November (2020), and did include our details for transcription. I would reiterate, however, that while this signified some progress, this was not RNIB's preferred approach for the reasons set out above.

35. Without an accessible and timely version of the information provided in the shielding letter, blind and partially sighted people were left without an essential source of information providing advice on keeping safe and well as well as other practical issues eg how to register for additional care and support, accessing medication and priority shopping, mental health support, and the letter also acted as evidence for not attending work.

36. Given the particular risks to older people and other sections of the population where there is a higher prevalence of sight loss, it is even more critical that information about changes in policy, procedures or advice, were accessible to blind and partially sighted people. It has been reported that one reason for the higher mortality rates for people with learning disabilities could be due to difficulties in following Government advice about self-isolation, social distancing and infection control and I have referred to the mortality statistics above in relation to those with sight loss.

37. The country's response to the pandemic, as well as an individual's need to change their behaviour particularly if they

are more vulnerable to Covid 19, relied on everyone being able to access the right information at the right time so that we could all keep ourselves and others safe. The failure to provide information in the right format, at the same time as everyone else, made it more difficult for blind and partially sighted people to do this.

38. As a result of legal proceedings initiated against the Department for Health and Social Care (DHSC) by a blind woman, the Department undertook to take steps to improve the accessibility of shielding communications and the recording of information on patients communication needs. However, RNIB has been very disappointed with the progress that has been made on this latter issue in the past two years (the former shielding requirements having come to an end). We have had the occasional meeting with NHS England to discuss the issues raised (in the context of vaccination correspondence), mainly around the recording of format requirements in GP IT systems.

39. In July 2022, we received an email from NHS England confirming that they were planning to send out vaccine communications to anyone who had not had their first dose and that where a person had a requirement for Braille recorded in the relevant box on their GP record this letter would be provided in Braille. Whilst this was a welcome development, it came over 18 months after the vaccine had been made available and over a year since Judicial Review had settled. And it only included those specifying Braille. At the end of January 2023 we were told by the Department that they were intending to send out

invitations for covid, flu and other vaccines in audio. Whilst there has been some progress, it is not clear to RNIB that if there were to be another pandemic in the near future, the accessibility of public health communications would be significantly improved.

Digital by Default

40. We understand that one of the arguments made by the Government in terms of not needing to provide public health and other Covid 19 information in alternative formats to blind and partially sighted people was the availability of this information online.
41. RNIB is increasingly concerned about the assumption, by various Government departments, that everyone is online and so it is acceptable to rely on online provision and not make alternative arrangements for those who are not. We have raised this issue with a number of Government Departments in particular the Department for Work and Pension in relation to the online nature of the Universal Credit system.
42. Over the course of the pandemic we had extensive discussions with DHSC about the inaccessibility of the covid testing process and in particular the need to have an email address in order to undertake a test. We supported DHSC to 'end to end' test the process of getting a test. During these trials blind and partially sight people highlighted the challenge of even obtaining a home testing kit where a person was not online and

didn't have an email address. As a result of this testing, the email requirement was eventually removed for anyone taking the test but this was only after a considerable amount of work on our part to demonstrate the negative impact.

43. During the pandemic, the Government and local authorities also issued a number of consultations which were entirely online (but often not fully accessible) and made no alternative arrangements for obtaining the document or the provision of responses etc over the phone or in hard copy (large print, Braille or audio). People were also unable to obtain accessible hard copies of documents that only appeared online for example blue badge information.

44. Although "digital by default" was a policy objective before Covid 19, we believe that the impact of the pandemic has accelerated its take up with insufficient consideration given to the needs of those who are not online

45. The Labour Force Survey for the first quarter of 2020 included an additional question about internet usage. Data from this question is used by the Office for National Statistics to track trends on the number of internet users in the UK. It found that 91% of people aged 16 and over in the UK had used the internet in the last three months. For people who were blind or partially sighted the figure was 60% and 23% of blind and partially sighted people said they never use the internet.

46. Age is a key factor in internet usage, with older people in the

general population less likely to use the internet than younger people. People with sight loss are less likely still to use the internet if we compare specific age groups. Data on internet access from the Office for National Statistics (ONS, 2015) showed that usage of the internet amongst blind and partially sighted people was lower than that amongst the general population: 96 per cent of people aged 16–64 in the general population had used the internet, compared to 78 per cent of blind and partially sighted people. The proportion of people of pension age in the general population who had used the internet was 56 per cent, compared to 30 per cent of blind and partially sighted people.

47. RNIB's My Voice Survey in 2015 found that usage of the internet was heavily linked to age: 98 per cent of 18–29 year olds, 82 per cent of 30–49 year olds, 68 per cent of 50–64 year olds, 54 per cent of 65–74 year olds and 26 per cent of those aged 75 years or over used the internet.

48. In 2012 RNIB published a research report entitled Tackling Digital Exclusion - RNIB research into older people and access to the internet. Most of the respondents in the survey (82 per cent) reported that their sight loss was a reason why they were not using the internet. Combined with low awareness of assistive technologies, many older people with sight loss did not regard the use of the internet as an activity that was open to them.

49. Around half (51 per cent) of the respondents to the survey

who were currently not online said that they were not online because they did not want to be. Reluctance towards getting online may to some extent be explained by low levels of awareness about the internet but there was a feeling that the internet could increase isolation. Health issues including memory problems and dexterity problems also deterred people from using the internet.

50. Many of the older people encountered in the interviews and discussion groups did not have the necessary computer skills required to get online. It is clear that the provision of training would have to include basic computer skills, in addition to learning how to use assistive technology.
51. The standard computer interface is daunting for many people and this is even more off-putting when used with a complicated screen reader. Internet users and non internet users commented on the high cost of equipment and the lack of financial assistance that is available. Whilst the set up costs associated with purchasing computers and internet connection are not unique to blind and partially sighted people, the additional costs associated with purchasing assistive technology solutions, without which many are unable to get online, was noted to be a key barrier.
52. It is undoubtedly the case that older people are more at risk of Covid 19 and were likely to be over represented in the shielding population and yet they were likely to have the least access to online information. In RNIB's view, the above issues

need to be tackled before the Government can confidently rely on online methods for its public health and other messaging/processes.

Use of the registers

53. Given the level of digital exclusion amongst blind and partially sighted people, another important way of communicating with this hard to reach group was via the use of Local Authority Sight Loss Registers.
54. It is a legal requirement under the Care Act (section 77) for each local authority to maintain a register of people who have been certified as being severely sight impaired (blind) and sight impaired (partially sighted). These registers have been used to good effect in the past. For example, when the Government rolled out the digital switchover it used the registers in order to target blind and partially sighted people for assistance.
55. RNIB has long advocated that these registers could be used for ensuring that public information was provided in an accessible format. For example, in the Brexit referendum in 2016, a leaflet was sent to every household in Britain. RNIB received numerous complaints about the accessibility of the information in the leaflet which were passed to the Cabinet Office. The Government could have used the registers to ensure that, at the very least, a large print version of the leaflet was made available to any household containing a person registered as sight impaired.

56. Given the requirement of the Accessible Information Standard, the registers should also now include details of a person's preferred format and this is certainly information that is now included in the certification document that local authorities receive as part of this process. However, even where this data has not been collected (in contravention of the Standard) the registers still provide an indication that standard print information is not appropriate and alternative arrangements need to be made.

57. Although registration is voluntary in practice, it is our understanding that, when compared with sight loss prevalence figures, they are generally considered to be reasonably accurate.

58. In 2017 the Care Act guidance was amended by Government, in response to a request from RNIB, to include the following statement at para 22.4

“The registers can also be used by the local authority to ensure that information about services is made accessible to that person for example to ask if support could be given to assist them to participate in electoral events.”

59. If LAs are being encouraged to use the registers to improve the accessibility of their correspondence, it is not clear why the Government could not also use this data for the same purposes.

Social distancing

60. Social distancing was near-impossible for many blind and partially sighted people, who not only were often unable to tell how far away other people were, but whose vision impairment may not have been obvious, leading to challenges by staff or members of the public.
61. Additionally, purely visual warnings or cues, such as queue markers, one-way systems, areas marked off with floor tape and posters stating the precautions that need to be taken in a particular building, would be inaccessible for many.
62. Only occasional reference to planning for reasonable adjustments was made in BEIS/DCMS Coronavirus guidance for businesses. In the main, this consisted of a generic and apparently standard reminder to service providers that Equality Act obligations still applied to employees and customers but without, for example, giving practical examples of the adjustments which may be necessary. The result was that many organisations simply failed to make adjustments and we received numerous complaints from blind and partially sighted people who had been challenged.
63. As a result of this newly unfamiliar, more visual, environment, many once-confident blind and partially sighted people simply didn't leave their homes (and were slow to reemerge after we opened up). The effect on confidence and wellbeing was significant, with two in three blind and partially sighted people reporting that they felt less independent than before lockdown:

“I’m normally a truly strong and resilient person and can tackle so many things in my life, but lockdown is really tough; it has taken away so much from me. Going out has become another area of life to negotiate... If people could just keep a wide berth, I’d feel a lot more comfortable. The possibility of people getting too close makes me fearful going out. All I ask is for people to just take that little extra care to look around them, and we can all be safe together.”

64. The Coronavirus rules also caused confusion. There was a lack of clarity about whether blind and partially sighted people could use a sighted guide from outside the household. This made it particularly difficult for blind and partially sighted people to exercise, or access goods and services in person.
65. RNIB worked with the Cabinet Office to create the “Please Give Me Space” logo (a figure in a circle with two arrows) which could be worn by those who found social distancing difficult or were particularly anxious about catching coronavirus – like those in the extremely clinically vulnerable group – to ask others to keep their distance. However, not all blind and partially sighted people were comfortable drawing attention to their sight loss.
66. More could have been done to educate the general public that there are people with visible and hidden disabilities who find social distancing difficult, and the need to be empathetic and generous in giving space to those around you.

Access to Food and essentials

67. At the start of the pandemic supermarkets were instructed by the Department for the Environment, Food and Rural Affairs (Defra) to prioritise the 1.5m people classed as extremely clinically vulnerable to coronavirus for online shopping slots. In the days following, we heard from blind and partially sighted people used to relying on supermarket deliveries that this service had been withdrawn. One person with sight loss told us:-

“Government adverts say ‘stay home, save lives’ but blind people who rely on online food shopping are being forced to go [out] shopping.”

68. Many blind and partially sighted people had relied on this service for access to groceries for years, with some supermarkets like Sainsbury’s already having a priority customer list for disabled people. This instruction from the Government, at a stroke, left many blind and partially sighted people unable to access an online delivery slot, and without access to food.

69. The decision appears to have been made without consideration of the needs of existing disabled customers for online shopping potentially in breach of the PSED. The implementation by supermarkets also potentially breached the substantive provisions of the Equality Act including the anticipatory duty and there has been a substantial amount of

litigation as a result. This could have been avoided if disabled people or their organisations, who understood many blind and partially sighted peoples' reliance on food delivery, had been consulted as part of any impact assessment process.

70. At the same time, those blind and partially sighted people who had previously shopped in person found it difficult or impossible to navigate supermarkets with inaccessible social distancing measures – new queuing rules, layout changes, markings on the floor indicating where to stand, instructions not to pick up goods to check, one-way systems, increased signage, or the addition of difficult-to-see Perspex screens. Some supermarkets only allowed one adult from a household inside at once, so preventing the use of a guide. And those who had relied on a guide from outside of their household to take them shopping were no longer allowed within 2m of that person. Customers who would previously have relied on support from supermarket staff to shop in store were told that assistance was no longer available.

71. At one stage the RNIB helpline was getting over 100 calls a day about access to food – something we never usually hear about. Our research in early May 2020 found 74% of respondents were concerned about getting access to food while 21% of people had had to ration food, impacting both their physical and mental health.

72. RNIB, Visionary, Thomas Pocklington Trust, Vision UK and Guide Dogs wrote to Defra raising this issue on 27 March 2020

and submitted our joint petition with 22,653 signatures in April, calling for priority delivery slots to be given to those blind and partially sighted people that needed them. This eventually resulted in a discussion between our Chief Executive Officer and Defra officials and ultimately RNIB's helpline was authorised to refer blind and partially sighted people who needed them for priority online delivery slots.

73. RNIB also engaged with supermarkets, to share best practice on how best to embed accessibility considerations into any operational guidelines, and ensure that the welfare of customers with sight loss was not put at risk. These guidelines included advice on visual indicators, social distancing and accessing payment.

74. Whilst the above steps were welcome, if appropriate steps had been taken at the outset to impact assess the policies including consulting with supermarkets and disabled people and providing more specific guidance on supermarkets obligations, much of the difficulties blind and partially sighted people faced could have been avoided.

Streets and exercise

75. As part of the measures to facilitate social distancing and avoid the use of public transport, LAs were instructed by the Government to carry out rapid street changes with the intention of enabling more cycling/social distancing. This led to wholesale changes to the streetscape which often had the effect of making

streets less accessible for previously confident and independent blind and partially sighted people.

76. In order to facilitate this process, the Government issued guidance, Traffic Management Act 2004: network management in response to COVID-19. The guidance advocated the use of the Temporary Traffic Management Order (TMO) process which only seemed to require LAs to put an announcement in the local paper 7 days before the order was due to be made. There was no consultation and no equality impact assessment as part of this process. Although the guidance did include mention of the PSED, this appeared to be a standard paragraph with no attempt to reconcile the use of the TMO procedure with the obligation to equality impact assess the scheme. The reality was that equality impact assessments were rarely undertaken.

77. The guidance also suggested that implementation of these schemes should be done with a view to making them permanent, the result being that many schemes that were not subject to any sort of equality impact assessment have become permanent by default.

Pavement Dining

78. On 16 May 2020 an article appeared in the Sunday Telegraph indicating that the Government was proposing to make radical changes to the pavement dining licensing process in order to make it easier for restaurants, cafes and bars to put tables and chairs and related items onto the pavement in order

to enable social distancing.

79. Following the article, RNIB immediately wrote to Robert Jenrick, Minister of State at the Department for Levelling up, Housing and Communities (DLUHC) who would be responsible for these matters, expressing our concern. We explained that the negative impact of pavement obstructions on blind and partially sighted people was well documented and could cause injury and loss of confidence. We also explained that the impact of these proposed measure, coupled with social distancing requirements would make getting out and about almost impossible for blind or partially sighted people leaving many isolated and alone. We also raised our concerns with Ministers at the Department for Transport (as any proposed legislation would, in effect be amending the Highways Act). We never received a response to any of these approaches.

80. Eventually we were contacted by the DLUHC at the beginning of July 2020 after the legislation had passed its Commons stage. We were shown a copy of the draft guidance and asked to suggest any changes. In the meeting, and subsequently, we expressed our severe reservations about the impact that this legislation would have on blind and partially sighted people's access to the street environment.

81. As a result of the legislation, many of our towns and cities have become, and continue to be obstacle courses, for blind and partially sighted people as businesses initially keen to mitigate the requirements of social distancing, placed tables and

chairs as well as other obstacles on the pavements.

82. Although the legislation was expressed to be a temporary measure, to combat the effects of social distancing, the Government have since extended the legislation and have signalled their intention to make it permanent. This appears to have been with very little scrutiny or consultation on the impact of the measures on disabled people and in particular blind and partially sighted people.

83. In our experience, LAs are often licensing tables and chairs without appropriate barriers which would enable them to be detectable by blind people. Pavement dining is licensed for the entire opening hours of the establishment even though at certain times of day and during certain seasons there is no call for it. In one city, the LA licensed tables and chairs to be placed across the width of the pavement, necessitating blind and partially sighted people stepping into the road (and wheelchair users being stranded on the footway), which in many instances still contained live traffic, to avoid them. Local disability organisations objected to the practice but the licensing policy was only amended relatively recently when RNIB pointed out that it was likely to be unlawful.

84. Another concern is that the process is completely inaccessible to blind people, they are not notified of the applications and the notices placed on the premises are completely inaccessible.

85. We have made recommendations to the Government as to what improvements can be made to the Guidance in light of experience following implementation of the legislation but so far no changes have been made. One particular improvement we have asked for is that Local Authorities are reminded of their duties under the Equality Act to impact assess their policies in relation to pavement licensing as well as implementation in practice. We have also asked that LAs are reminded of their obligations in exercising their (public) highways functions not to discriminate.

Escooters

86. On 16 March 2020 (before lockdown) the Government announced its intention to run trials of rental escooters in 4 areas across England starting in 2021. However, in May 2020 they announced that they would accelerate and significantly expand implementation of the trials to the whole of England beginning at the end of June.

87. RNIB immediately wrote to the Secretary of State for Transport expressing our concerns. We explained that existing dockless bike schemes already caused significant street clutter and that many blind and partially sighted people had reported collisions and even injuries as a result of stationary vehicles being left on pavements. We also explained that experience from other countries showed that e-scooters were similarly left on the pavement, creating even more trip hazards for the public, and that disabled people in other countries have raised

concerns about this with local administrations.

88. On 18 May 2020 the Government launched a consultation on the proposed trials. The consultation closed on 2 June, just over two weeks later. Around the same time, the Transport Select Committee also launched an investigation. RNIB responded to both. In our responses we set out our concerns in some detail. These included issues around detectability and the danger of collision, use of e-scooters on the pavement and the impact of dockless hire parking arrangements. In relation to the latter we asked that all Local Authorities equality impact assess parking arrangements. This stemmed from our experience with the proliferation and impact of dockless bike schemes.

89. The rental e-scooter trials were launched in July 2020 in 32 areas across England. Starting, as it did, in a time of upheaval from lockdowns, the e-scooter trials simply added to the potential hazards facing blind and partially sighted people in getting around, at a time when they were being discouraged from using public transport and with options to drive and cycle not open to them. Adding e-scooters to the street environment would have been stressful for people with sight loss at any time, but this timing was particularly unfortunate. Here's how one survey participant described their experience with e-scooters during the pandemic:-

"I can't see the scooters coming until they've practically crashed into me. It's a constant threat because they're everywhere and nobody respects that they're not

supposed to ride on the pavement. I experience at least one hazardous near-miss with them on the pavement every day. This has also included the riders being abusive and shouting at me for taking up too much space on the pavement. It makes me scared to go out and like I'm not safe walking around my own city anymore. It must be making the city unsafe for all kinds of other disabled pedestrians too.”

90. In addition to the impact of the trials themselves, blind and partially sighted people had to contend with an increasing number of illegal private e-scooters (potentially far greater in number than were involved in the trial). Although these were less likely to obstruct the pavement, they were silent vehicles, often driven at speed, and often on the pavement.
91. Although these trials, like the pavement dining arrangements, were originally temporary in nature and a particular response to Covid-19 they have been repeatedly extended most recently (in July 2022) to May 2024. There was no evaluation at the end of the first year as had been expected and there has been very little in the way of consultation or equality impact assessment by either the Government in introducing and extending the trials or by Local Authorities in implementing them. As with pavement dining, local authorities have also failed to consider the potential for discrimination in the exercise of their highways functions.
92. The Government did commission research at the start of the trials, however, this appears to have mainly looked at how well

the trials delivered the schemes stated objectives of, amongst other things, increasing sustainable transport options for the general public. Whilst the report does acknowledge the concerns of “vulnerable” users, it contains little in the way of suggested improvements (mitigations) to address the issues raised. In any event the research was not published until December 2022 and so has not impacted the extension of the trials. It is also worth noting that the platform used by one of the research organisations in conducting surveys of the general public for the research was not accessible to blind and partially sighted people (potentially in breach of the Equality Act and web accessibility regulations) necessitating considerable discussion as to how best to obtain their views.

93. Blind and partially sighted people continue to raise concerns with RNIB about the impact of e-scooters on their lives. They report avoiding areas of their cities and towns with e-scooter trials or where illegal but common privately-owned e-scooters are often found. This removes them from areas where they might otherwise be shopping, working, accessing health care, or engaging with their community.

Employment

94. There are almost 80,000 registered blind and partially sighted people of working age in the UK, however, only one in four are in employment. Over three-quarters of those in employment receive some type of support with over half (51%) receive support through the Access to Work (AtW) programme.

95. For a number of years we have been raising concerns regarding the accessibility of the Access to work scheme, notably the requirement to complete and sign print version of forms. However, during the pandemic “easements” were introduced which allowed for electronic submissions of forms without wet signatures (although communication of these changes was not consistent). This was one of the few unexpected benefits of the pandemic.
96. However, for around the last 18 months, administration of the AtW scheme seems to have stalled. Claims for payment against existing awards and applications for new awards are now subject to significant delay. This severely compromises the ability of blind and partially sighted people, along with other disabled people, to secure and maintain employment. In some cases, individuals are having to subsidise their own support and in other cases RNIB is providing interim support.
97. From the statistics we have been able to obtain, we understand that in February 2020 there were about 8,500 disabled people waiting for a decision. In March 2021 there were 4,980 however by August 2021 that figure had reached 9,280. In December 2021 there were 15,000 and by March 2022 there were 20,909. In June 2022 there were 23,805. A parliamentary question showed a further increase in the number of outstanding applications, with 25,101 outstanding applications on 5 September 2022. As noted above the latest figures, published in response to a parliamentary question in December

2022, still put the number of outstanding applications at 25,103.

98. Delays of five to six months are now commonplace and a recent parliamentary question put the longest wait for approval at almost a year. Job offers are routinely being withdrawn for those who rely on the scheme but cannot access the support they need for their job. Likewise, RNIB now receives daily calls from individuals facing performance management issues or where their jobs are at risk because they do not have appropriate support in place.
99. We have met with the Department on a number of occasions to discuss the delays, and although steps are being taken to address the issues little significant progress appears to have been made.
- 100.** Although the Government has not confirmed the precise cause of the delays, statistics do not appear to show an increased number of applications from pre-pandemic levels. It would appear that many of the problems have been caused by staffing difficulties resulting from Access to Work staff being redeployed onto covid related projects which the service has been unable to recover from. It is not clear to us that this is an isolated example and it is clear that in addition to pandemic planning, the Government also needs “post pandemic” planning in order that services are able to bounce back as quickly as possible.

Conclusions

101. It is a matter of deep concern that communications relating to Covid 19 were not accessible to blind and partially sighted people from the start and that NHS England and the Government had not learned lessons from concerns raised by RNIB previously or even during the course of the pandemic. In RNIB's view many of the problems that blind and partially sighted people have experienced regarding the accessibility of information were likely to have been known risks and should have been addressed in contingency planning around a pandemic response. Instead we had to address each issue that arose as if starting from scratch with varying levels of success. This is undoubtedly symptomatic of a wider problem regarding the accessibility of public health information and other Government communications.

102. As noted above providing health and other information in the right formats for blind and partially sighted people is already a legal requirement and has been since 1999 (under the Disability Discrimination Act and Equality Act from 2010). The AIS has been in force in England since 2016. In RNIB's view, the Government had no excuse for continuing to provide public health information and other Government communications in an inaccessible format.

103. Similarly, the other issues raised within this witness statement, the impact of social distancing, access to food and changes to streets would all have been mitigated somewhat if

they had been impact assessed through an equality, and specifically disability, lens. This would have avoided some of the worst impacts and also enabled guidance to be produced that provided practical assistance in addressing other issues.

104. We hope that the Inquiry will be able to make recommendations to ensure that blind and partially sighted people are never faced with the same situation again.

I believe that the facts set out in this statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Signed

Personal Data

SAMANTHA FOTHERGILL

Date 16 February 2023