

[Department
of Health &
Social Care](#)

Impact assessment

Coronavirus Act 2020: the public sector equalities duty impact assessment

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Contents

[Introduction](#)

[Section 1: DHSC provisions](#)

[Enhanced capacity and flexible deployment](#)

[Easing of legislative and regulatory requirements](#)

[Containing/slowing the virus](#)

[Section 2: non-DHSC provisions](#)

[Enhanced capacity and flexible deployment](#)

[Easing of legislative and regulatory requirements](#)

[Containing/slowing the virus](#)

[Managing the deceased](#)

[Other](#)

[Annex A: The Public Sector Equalities Duty Impact Assessment](#)

[Annex B: Guide to clauses and sections](#)



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Introduction

The purpose of the Coronavirus Bill is to enable the government to respond to an emergency situation and manage the effects of a coronavirus pandemic. A severe pandemic could infect up to 80% of the population leading to a potential workforce absence of 21% in peak weeks, as well as increased pressure on public services and death management processes. The Bill contains temporary measures designed at mitigating these impacts, including the spread of infection, and increasing the capacity of the public service system.

This document records the equality analysis undertaken for the Coronavirus Bill to enable Ministers to fulfil the requirements placed on them by the Public Sector Equality Duty ("PSED") as set out in section 149 of the Equality Act 2010. The PSED is an ongoing duty which will continue to be monitored and reviewed.

Summary

The PSED requires the minister to have due regard to the need to:

1) Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act.

We have considered whether the provisions could constitute conduct prohibited by the Equality Act. In many cases, the provisions will apply to all persons irrespective of protected characteristic and will therefore not constitute direct discrimination on that basis.

We have also considered whether the provisions could constitute indirect discrimination. In some cases, the provisions could give rise to more significant impacts on certain protected groups. Where this has been identified, we consider the impacts are justified and a proportionate means of achieving the legitimate aim of protecting the general public from a coronavirus pandemic by increasing the capacity of public service systems and mitigating the spread of infection.

We believe that the provisions will have a positive impact on those with the protected characteristics of age or disability, compared with not introducing the provisions. This is because the fatality rate of coronavirus is believed to be higher in the elderly and in those with pre-existing medical conditions, which could include some forms of disability. In a variety of different ways, the measures provided for under these provisions are aimed at protecting the general public from a coronavirus pandemic and ensuring that public authorities have the flexibility they need to respond to a public health emergency as effective as possible. This positive impact is a consistent theme for the individual measures in the Bill and the measures taken as a whole.

Most impacts will be temporary, spanning the duration of coronavirus pandemic and emergency situation, and many of the provisions where possible contain

safeguards and mitigation measures to lessen the extent of any negative actual or perceived impacts.

2) Advance equality of opportunity between people who share a protected characteristic and people who do not share it.

Throughout our analysis we have had due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by people who share a protected characteristic that are connected to that
- take steps to meet the needs of people who share a protected characteristic that are different to those who do not. The steps involved in meeting the needs of disabled people that are different from the needs of people who are not disabled include, in particular, steps to take account of their disabilities; and
- encourage people who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

3) Foster good relations between people who share a protected characteristic and those who do not.

Generally, the provisions represent a fairness and equality of treatment and we do not expect any positive or negative impact on the relations between those who share a protected characteristic and those who don't. It is conceivable that there may be instances where those who have a protected characteristic are more significantly affected by the provisions, which could lead to a negative impact on relations. In these instances, the provisions include safeguards and mitigation measures where possible, and we believe the policy is a justified and proportionate means of delivering the legitimate aim of protecting the general public, including the most vulnerable, from a coronavirus pandemic by increasing the capacity of public service systems and mitigating the spread of infection.

Structure

The first section of this analysis considers the provisions specific to the Department of Health and Social Care's remit. You need to actively consider the analysis, identified impacts and conclusions before you decide to proceed with these provisions.

The second section refers to provisions within the remit of other government departments. These provisions will be considered by the relevant Ministerial lead. However, considering your role in the Bill, it is important that you have also considered the equality implications of these provisions.

The provisions are grouped where relevant and divided into the following sub-headings:

- capacity and flexible deployment
- easing of legislative and regulatory requirements

- containing/slowing the virus
- managing the deceased
- other

Section 1: DHSC provisions

Enhanced capacity and flexible deployment

Clause 2: Emergency Registration (England and Wales)

Explanation of the policy and the provision

4) The provisions will introduce emergency registration powers for the registrars of the Nursing and Midwifery Council and the Health and Care Professions Council. On notification from the Secretary of State of Health and Social Care of an emergency, the registrars will be able to temporarily register fit, proper and suitably experienced persons with regard to an emergency, as regulated healthcare professionals.

5) The Nursing and Midwifery Council registration will cover nurses, midwives, and nursing associates, and the Health and Care Professions Board registration will cover physiotherapists, paramedics, biomedical scientists, clinical scientists, operating department practitioners, practitioner psychologists and any other of the 'relevant professions' it regulates, required during the emergency period.

6) These provisions will provide for a fast-tracked and streamlined process by which healthcare professionals can be registered more swiftly, therefore available to be deployed across the health service as needed. Their entry on the register will be denoted as "emergency registrant" and they can be removed from the register at the discretion of the Registrar without recourse to the standard fitness to practise process or appeal rights that apply to standard registrants.

Consideration of any equality impact and mitigating measure

7) The policy reflected in these provisions will not exclude any individual based on their protected characteristics.

8) Enabling a faster process to register these professionals is not considered to have a negative impact upon those who receive care. The measures will support the provision of additional staff to enable continued healthcare services. The additional workers will be able to take up work roles in services hit by high levels of absenteeism or increased demand because of the virus, ensuring vital continuity of healthcare for vulnerable people. In this way, the provisions are expected to positively impact on the elderly and those with underlying health conditions, which includes disability, who are thought to be at particular risk because of the virus. Ensuring more workforce resource will have a positive impact on healthcare for

individuals which might otherwise suffer because of sickness in the workforce or diversion to treatment of coronavirus. This is likely to have a positive impact on those who are elderly and/or disabled.

9) We do not consider that the provisions will have a negative impact upon those who receive care, which is also expected to include a higher proportion of elderly people and people with disabilities. The provisions allow the registrars of the Nursing and Midwifery Council and Health and Care Professions Council to react to fluctuations with regard to the emergency, and to support the delivery of care by the workforce.

10) The majority of the Nursing and Midwifery Council registrant base are female (89%). The Health and Care Professions Council also has a higher number of female registrants. The Nursing and Midwifery Council registrant base has higher numbers of younger registrants than other health professional regulators such as the General Medical Council and the General Dental Council. These proportions are likely to be similar in the group of potential emergency registrants. Enabling a faster process to register these professionals is not considered to have a negative impact upon the existing workforce because their registration will support the delivery of care by the existing workforce. Registration is on a temporary basis and these emergency registrants will not continue to be eligible to practise at the end of the emergency period. It is unlikely, therefore, to reduce or jeopardise the position of existing healthcare workers.

11) We are of the view that standards of practice will be suitably protected and maintained. The registrars of Nursing and Midwifery Council and Health and Care Professions Council will only be able to register people who are fit, proper and suitably experienced with regard to the emergency. The registrars will be able to apply conditions to an individual's registration. The registrars will also be able to revoke registration at any point during the period specified in the Act, and must revoke on expiry of that period.

Clause 5: Emergency Registration of Social Workers (England and Wales)

Explanation of the policy and the provision

12) The provision introduces temporary emergency registration powers for the Registrar of Social Work England and the Registrar of Social Care Wales.

13) During the emergency period, the registrars of Social Work England and Social Care Wales will be able to temporarily register fit, proper and suitably experienced persons with regard to an emergency, as social workers. The addition of emergency registrants to the registers held by Social Work England and Social Care Wales will help to deal with any shortage of social workers in the children's and adult social care sectors as a result of increased staff absenteeism during a coronavirus pandemic.

Consideration of any equality impact and mitigating measure

14) We repeat our analysis of clause 2 above which has equal or similar equalities considerations.

Clauses 7, 8: Employment Rights and Compensation for Volunteers (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

15) These provisions aim to ensure that people who volunteer to assist with coronavirus are not detrimentally affected as a result. The provisions will allow volunteers to retain the benefits of their terms and conditions or employment during the period they are volunteering. The provisions also provide volunteers with rights to return to their original job and with protections in relation to pensions, unfair dismissal and other employment detriment.

16) The provisions will also require compensation arrangements to be made for the making of payments to emergency volunteers for loss of earnings, travelling and subsistence.

Consideration of any equality impact and mitigating measure

17) It is not possible to specify the exact sectors of society that will take up this opportunity, and in any event, it will not be mandatory. Everyone will have the opportunity to take up volunteering and benefit from the protections afforded by this provision, with the exception of those in an excluded role. Similarly, everyone who volunteers are entitled to compensation in accordance with the arrangements made under these provisions. The policy will not exclude any individual based on their protected characteristics.

18) The National Council of Voluntary Organisations indicates that the rates of volunteering at least once a year is very similar across age groups, although it is less overall with regard to 25 to 34 year olds. Women are also slightly more likely to volunteer than men at least once a year (40% to 35%). However, we do not assess there being a negative impact due to the positive role that these individuals will play during a time of national crisis. By maximising the ability to volunteer, we are providing a platform to bolster community support networks that will bring people together in a collective effort, and provide opportunities to harness new skills and experiences that can be deployed in other areas of life.

19) There are several categories of workers who will not be entitled to emergency volunteering leave. This includes workers in certain small-to-medium enterprises and the public service sector (such as police, health and social care, fire services, military, crown servants, etc). There will be a power in the Bill for regulations to be made for other workers who are not entitled to volunteering leave. These groups are excluded on the basis that the workers participate in delivery of core public services, and to protect the operation and viability of small-to-medium enterprises.

20) We do not have data on the composition of these sectors to ascertain whether the restriction placed on them would affect a protected group. However, the expectation at this stage is that the provisions will not have a significant impact on a protected group. To the extent there is a perceived impact on a protected group, we believe it is a proportionate means of ensuring that core public services continue to function effectively, as well as protecting small-to-medium enterprises which are particularly susceptible to the effects of a reduced workforce.

21) As PSED is an ongoing duty, the impacts will continue to be monitored and prior to decisions being made.

Clause 10: Indemnity for Health Service Activity (England and Wales)

Explanation of the policy and the provision

22) These indemnity clauses will allow the Secretary of State for Health and Social Care to provide emergency indemnity coverage for health care workers in a coronavirus pandemic, as necessary. This indemnity scheme will not provide indemnity for those already covered by state-backed schemes (the Clinical Negligence Scheme for Trusts (CNST) the Clinical Negligence Scheme for General Practice (CNSGP)). It will also not cover healthcare workers who have indemnity cover through a private Medical Defence Organisation (MDO) or commercial insurance.

23) The intention behind this clause is to ensure that, in exceptional circumstances that might arise in a coronavirus pandemic, sufficient indemnity arrangements are in place to cover:

24) all activities of staff that relate to the diagnosis, care and treatment of patients with coronavirus; and

25) other roles that have arisen as a result of a coronavirus pandemic, where such activities fall outside the scope of pre-existing indemnity cover arrangements (both in the state-backed schemes and privately provided cover).

26) The approach therefore taken complements existing indemnity arrangements.

Consideration of any equality impact and mitigating measure

27) The policy reflected in these provisions will not exclude any individual based on their protected characteristics.

28) We have considered the position of staff who will be covered by the indemnity clause (staff who perform NHS services in relation to the care, treatment and diagnosis of coronavirus, or staff performing other activities that they have been asked or are required to carry out as a consequence of the pandemic, where existing indemnity arrangements do not apply). We have also accounted for the fact that the proposed measures enacted by the clause are designed to be

temporary in nature and would not be a permanent change to the provision of indemnity for staff providing NHS services.

29) We consider that the impact on persons with a protected characteristic because of these provisions will be limited. To the extent that if there is any impact in terms of the protected characteristics that may not have been identified, this would only be for a temporary period of time.

30) There is no insight or evidence to suggest that there will be a negative differential impact on any of the protected groups. Instead, the creation of the state-backed 'safety net' to indemnify the actions and omissions of all staffs in relation to a coronavirus pandemic is seen to positively impact the healthcare sector, as all staff carrying out the relevant services are reassured that they have the correct indemnity arrangements to do their job.

31) The PSED is an ongoing duty and we will continue to monitor and review the impacts of these provisions.

Clauses 43, 44, 45: Pension Clause (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

32) The aim of suspending the regulations in the NHS Pension Scheme for the duration of the emergency period plus an additional 6 months will be to remove barriers which would prevent retired members from returning to work while continuing to receive their pension.

33) There are a number of affected groups of people with pensions interests which warrant specific analysis:

34) 16 Hour Rule:

Members of the 1995 Section of the NHS Pensions scheme ("1995 Section") must take a 24-hour break before returning to employment. This break can take place over a weekend meaning members could retire on Friday and return to work on Monday. However, a pension will be suspended if the member returns to work after that 24-hour period and commits to more than 16 hours per week within the first 4 weeks.

Suspension of the 16-hour rule will allow staff to return immediately after retirement and continue their existing working commitments, or increase them, whilst they are in receipt of their full pension benefits. This would remove the financial disincentive of members having their pension benefits suspended if they return immediately to a working pattern in excess of 16 hours per week following retirement.

35) Special Class Holders:

The clauses will suspend the abatement provisions that apply to special class holders.

The normal pension age for members of the 1995 Section is 60. However, certain members such as nurses and mental health officers hold “special class status” if they were in post on or before 6 March 1995. This allows such members to access their pension benefits at age 55, earlier than the normal pension age of 60, without the actuarial reduction that would normally apply if benefits are claimed early.

If a special class holder returns to work before age 60, their pension benefits will be abated if their post-retirement pay plus pension exceeds their pre-retirement income. This protects the public purse from the member receiving an enhanced pension from age 55 and continuing to draw their pre-retirement salary.

The clauses will suspend the abatement provisions that apply to special class holders in the event of a medical emergency. This will remove a barrier which currently prevents special class holders aged 55 to 60 who have claimed their pension benefits from returning to work without having their pension suspended.

36) Draw Down:

Members of the 2008 Section of the NHS Pensions scheme (“2008 Section”) and 2015 Section of the NHS Pensions scheme (“2015 Section”) have access to increased retirement flexibilities, including the ability to ‘draw down’ a portion of their pension. From the age of 55, members can elect to draw down between 20% and 80% of their pension whilst continuing to work. Members also have the option to build further pension after drawing down, until they complete 45 calendar years of service (2008 Section) or they reach age 75. However, members must reduce their pensionable pay by at least 10% in order to draw down. This is usually achieved by a member reducing their working commitments or stepping down to a role with a lower salary.

37) Retirement on Ill-Health Grounds:

Members of the 1995/2008 Scheme and the 2015 are eligible to apply for ill-health retirement should they be unable to work due to illness. The scheme provides two levels of ill-health benefits, which are dependent on the severity of a member’s condition and the likelihood of them being able to return to work. The scheme provides the following tiers of ill-health retirement.

- Tier 1: Be permanently incapable of efficiently carrying out the duties of previous employment because of illness or injury.
- Tier 2: Be permanently incapable of engaging in regular employment of like duration because of the illness or injury.

Members who retire on Tier 1 may be able to return to work in a reduced capacity so are not subject to abatement or suspension of benefits. However, Tier 2 retirees are considered to be unable to work again and restrictions are placed on those who return to work. Members in receipt of a Tier 2 pension cannot work for more than 12 months in the NHS and retain their pension. If such a member works for longer than 12 months their Tier 2 pension will be replaced by a Tier 1 pension and they will be unable to regain Tier 2 status.

The provisions will not lift ill-health abatement for ill-health retirees returning to work.

38) Retirement in the Interests of the Efficiency of the Service (IES):

Scheme members may also be retired in the IES, if the staff member is no longer able to capably carry out their role. This may be because of new or expanded duties, or a decline in the ability to perform existing duties efficiently but not so as to qualify them for ill-health retirement. If retired on these terms, a member is able to take their pension before normal pension age without an actuarial reduction. Members who subsequently return to NHS employment will have their benefits abated.

The provisions will not suspend the abatement of benefits for staff returning to work from IES retirement.

39) Retirement on Redundancy Grounds:

Members in receipt of redundancy benefits who retired from the 1995 Section before 1 October 2011 may also be subject to pension abatement if they return to NHS employment. Abatement applies until the member reaches the age of 60. The minimum pension age for entitlement to redundancy benefits at that time was age 50.

The provisions will not apply pension abatement to members retired on redundancy grounds who return to work.

40) The provisions will make similar amendments in respect of the Pensions schemes in Scotland and Northern Ireland.

Consideration of any equality impact and mitigating measure

41) Suspending the above rules will have a direct impact on staff over the age of 50, but predominantly staff over the age of 55. Fifty is the minimum pension age in the 1995 Section and the lowest age at which a member could be subject to the 16-hour rule upon returning to work. Fifty-five is the age at which special class status holders in the 1995 Section can retire with an unreduced pension, and special class holders who return between age 55 and 60 are currently subject to abatement. Fifty-five is also the minimum age at which a member of the 2008 Section or 2015 Scheme could elect to draw down a portion of their scheme benefits.

42) Suspending these rules can only impact members above age 50. The impact on members who have already retired will be neutral, as they will have the ability to increase their existing working commitments or return to work with increased commitments if they wish, but the decision is still theirs. The suspensions remove current barriers to reemployment in receipt of pension benefits and are seen to positively impact staff, who wish to contribute increased work, and employers, who may need increased capacity in the event of a coronavirus pandemic.

43) There is no new or increased risk of discrimination for younger members as they are not currently at the minimum pension age and therefore cannot claim their benefits. The relevant abatement and suspension regulations do not apply to members under the minimum pension age in the context of the 16-hour rule, special class status and draw down. This is in keeping with the existing rules of the NHS Pension Scheme to provide benefits based on age which we consider is justified and proportionate.

44) Retirement on Ill-Health Grounds: We accept that ill-health retirees are more likely to have a disability and therefore not extending the power to them will potentially have an indirectly discriminatory effect. However, we consider that the policy is justified because these individuals were deemed to have permanent incapacities which prevented them from carrying out their previous NHS duties or engaging in regular employment of like duration because of illness or injury. On this basis, they are much less likely to be fit and able to partake in emergency work. Further, the numbers of people previously retired on ill-health grounds who would now be in a position to return to work to assist with the emergency are expected to be extremely low.

45) Retirement in the Interests of the Efficiency of the Service: IES retirees are less likely to have a disability as they would otherwise have qualified for ill-health benefits. However, to the extent that they do have a disability, we believe the policy is justified in not suspending the abatement of benefits for people returning to work for similar reasons above. In particular, their retirement was on the basis that they have previously been unable to fulfil their NHS duties, and the numbers of IES retirees now in a position to return to work are expected to be extremely low.

46) Retirement on Redundancy Grounds: Members in receipt of redundancy benefits who retired from the 1995 Section before 1 October 2011 may also be subject to pension abatement if they return to NHS employment. Abatement applies until the member reaches the age of 60. The minimum pension age for entitlement to redundancy benefits at that time was age 50 and, consequently, we consider the number of members that might be affected by abatement in NHS re-employment to be low. Members retiring in these circumstances are, therefore, also currently outside the scope of the policy aim.

47) Equal or similar equalities considerations apply in relation to the Scotland and Northern Ireland amendments.

Easing of legislative and regulatory requirements

Clause 9: Mental Health (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

48) During a coronavirus pandemic, it is anticipated that there will be a surge in demand for healthcare services, including mental health services. There will also likely be higher staff absence rates than usual, particularly during the peak weeks. It is thought likely that organisations will find it very difficult to comply with a number of procedural requirements set out in the Mental Health Act 1983. The consequences of this would include meaning that patients needing mental health treatment in an inpatient setting would be less likely to receive it, particularly in those cases where a person is so unwell, he or she is not able or willing to consent formally to treatment. It would also mean that people would have to wait for an extended period before receiving mental health assessments, and be unwell and untreated for longer. These waits would include those for assessments following detentions made by the police under the Mental Health Act, which would be a burden on police time, and could result in an increase of the number of people being assessed within police stations.

49) In order to support these services and give them the flexibility they will need to continue treating patients during a coronavirus pandemic, a number of temporary amendments to the Mental Health Act are proposed. These include allowing fewer health care professionals needed to undertake certain functions; and extension or removal of time limits relating to detention and transfer of patients. The sole intention of these temporary amendments is to ensure that services are maintained for patients.

50) For example, the amendments would mean that an approved mental health professional may decide to detain a person on the advice of one doctor approved under section 12 of the Mental Health Act. The Mental Health Act currently requires the advice of two doctors, the second having acquaintance with the patient.

51) For prisoners, the provisions would help to ensure that defendants and prisoners with a mental health condition can be admitted to hospital for treatment during a time of staff shortages and disruption to services. The flexibilities will change the number of doctors' opinions and time limits required for detention and movement between court, prison and hospital.

Consideration of any equality impact and mitigating measure

52) The measures decrease the immediate safeguards around a number of processes under the Mental Health Act for persons with mental health conditions. There is a risk that the reduction of staff required for admission, and increasing the length of time patients can be detained, could have a negative impact on this protected group.

53) The softening of immediate safeguards has to be balanced against the interests of patients being able to access treatment if needed. The policy aim is to ensure that patients receive the mental health treatment they require in a timely and effective manner during a coronavirus pandemic. We consider that the policy is justified and proportionate in seeking this aim.

54) The available evidence also shows that the Mental Health Act already has a disproportionate impact on people from Black and Ethnic Minority backgrounds, in

particular for Black or Black British people. NHS Digital's statistics on the use of sections 2 and 3 of the Mental Health Act showed that rates of detention for Black or Black British people were over four times higher than that of the White group in 2018/19, which is similar to previous years.

55) Turning to the other protected characteristics, NHS Digital statistics for 2018/19 show that, in terms of gender, men were marginally more likely than women to be detained under the Act (91.4 per 100,000 people vs 83.2 for women). In terms of age, people aged 18 to 34 had the highest rate of detention (128.9 detentions per 100,000 people), one third higher than those aged 50 to 64 (89 per 100,000), but detentions rose again for people aged 65 and over (98.1 per 100,000).

56) Therefore, there is also a risk that the negative effects of the policy may be disproportionately felt by Black and Black British people, men and young adults. Again, we consider the fundamental interests in ensuring the mental health service is accessible in a timely and effective manner during a coronavirus pandemic justifies any added impacts which might be felt by these protected groups.

57) In terms of mitigation measures, the provisions include a clear entitlement for a person to request a review of their detention after the emergency period.

58) PSED is an ongoing duty and so due regard will continue to be had and steps taken under these provisions will need to be kept under review. Clear communication of these amendments and how they should impact on provision will be key to their successful implementation. There is likely to be local variation in the impact of the emergency across the country and a clear understanding of when to utilise these flexibilities will be important.

Other options were considered but ruled out

59) Because Mental Health Trusts are expected to plan for and respond to emergency and business continuity incidents and there is specific guidance available to the NHS and Social Care, including Mental Health providers, to support the development of plans to deal with increased demand and staff absence, a "do nothing" option was considered. This was not seen as the preferred option as modelling of a severe influenza pandemic suggests that there would be a 17 to 20% staff absence rate during the peak weeks for most organisations. This will compound the impact of the increase in demand for health care services, including mental health services.

60) The government also considered changing the requirements around Community Treatment Orders, to temporarily reduce the number of professionals approved under Mental Health Act to make these orders in order to facilitate release from hospital settings. This measure would not affect the primary issue of ensuring that people in need, particularly those who are not consenting, get access to mental health treatment of a type that requires their detention in psychiatric hospital.

Clause 13: NHS Continuing Healthcare Assessments (England)

Explanation of the policy and the provision

61) The provisions will allow NHS providers to delay undertaking the assessment process for NHS continuing health care ("CHC") until after the coronavirus pandemic period has ended.

62) CHC is a fully funded package of ongoing care arranged and funded solely by the NHS where an individual has been found to have a primary health need as set out in the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care. Such care is provided to an individual, aged 18 or over, to meet needs that have arisen as a result of a disability, accident or illness.

63) Currently, patients with a primary health need go through a number of stages before they are discharged from hospital. For some patients, one of these stages is a CHC assessment, a process that can take a number of weeks.

Consideration of any equality impact and mitigating measure

64) Under this provision, the Clinical Commissioning Group (CCG) would not be required to undertake the CHC assessment until after the end of the emergency period. This may increase uncertainty for individuals who would otherwise have had their future funding and care arrangements agreed sooner. It will disproportionately affect older individuals and individuals with disabilities, as these people make up a significant proportion of CHC recipients.

65) In order to mitigate the effects of this uncertainty, and associated impacts, individuals who the CCG considers may be eligible for CHC funding will be directed towards NHS funded discharge routes and assessed for CHC following the conclusion of the emergency period. Further, the individuals will continue to receive NHS care during the period in which they await a CHC assessment.

66) With these mitigations in place, we consider the policy is justified and proportionate in achieving the legitimate aim of ensuring that acute care resources are used as effectively as possible during a coronavirus pandemic.

Clause 14: Care Act Easements (England and Wales)

Explanation of the policy and the provision

67) There are duties on Local Authorities in Part 1 of the Care Act 2014 to assess needs for care and support, and to meet those needs (subject to their financial circumstances). An individual has eligible needs if they have care and support needs as a result of a physical or mental condition, which means that they cannot achieve two or more of the outcomes specified in the regulations and, as a result, there is a significant impact on their wellbeing. The outcomes specified in the

regulations include things like dressing, maintaining personal relationships and going to school.

68) The provisions will replace these duties with a duty on Local Authorities to meet needs for care and support where not to do so would be a breach of an individual's human rights. Subject to these requirements, Local Authorities may lawfully prioritise who and what type of needs it will meet, rather than being required to meet all eligible assessed needs as currently specified under the Care Act.

69) The provisions will also include a power for the Secretary of State for Health and Social Care to direct Local Authorities in relation to the prioritisation of services to meet care and support needs.

Consideration of any equality impact and mitigating measure

70) The policy reflected in these provisions is not based on any protected characteristic. However, it will principally affect older people and people with a disability. Based on the data available, it is understood that those over the age of 70, and/or those who have pre-existing medical conditions are likely to be most affected by coronavirus. Similarly, it is that demographic, along with those with a disability, who ordinarily rely on the social services provided by local authorities.

71) Reducing or withdrawing the levels of care and support from some, during this temporary period, could mean that these people suffer new or increased impacts on their wellbeing (physical, financial, social and psychological). For example, an individual is not washed as regularly as they might previously have been, or is not supported to attend work during the emergency period. The impacts on the levels of service received will be especially felt by certain protected groups such as the elderly, those with physical and mental disabilities and potentially some ethnic backgrounds.

72) The policy may potentially have an indirect impact on the protected characteristic of gender, as the majority of carers (both unpaid and paid) are female.

73) It is also possible that some important needs are missed during the emergency period because Local Authorities are not undertaking full Care Act assessments. It is understood that people from Black and Ethnic Minority backgrounds face a number of potential barriers to effective assessment of their needs.

74) It is envisaged that these negative consequences may be counterbalanced by positive impacts on the affected protected groups. This is because the measures are aimed at ensuring that those in most urgent need of support from the Local Authority receive that care without delay during a public health emergency.

75) These provisions will not be triggered unless Secretary of State for Health and Social Care considers there to be an imminent risk of Local Authorities failing to fulfil their duties under the Care Act as a result of a coronavirus pandemic. The power is temporary and confined to public health risk emergencies.

76) The Secretary of State for Health and Social Care has the power to direct Local Authorities in relation to the prioritisation of services to meet care and support needs. In addition, the provisions require that Local Authorities meet the needs for care and support of an individual under the Care Act if it is necessary to do so for the purpose of avoiding a breach of the individual's Convention rights. These measures safeguard fundamental rights and protections and offer important mitigation outcomes.

77) We consider the policy is justified and a proportionate means of achieving the legitimate aim of ensuring that Local Authorities have flexibility in prioritising social care and support services to those in most need at a time where Local Authorities are managing pressure on demand for care and support during a coronavirus pandemic. There is no alternative way of dealing with these risks as urgently and effectively.

78) Authorities will continue to be guided by their existing public sector equality duties in their approach to prioritisation. Authorities will need to develop and undertake some new processes, including the organisation of urgent evaluations of basic care needs and the ethical and consistent prioritisation of care down to the level of the basic requirements as provided for in the Bill.

79) Clear communication of these amendments and how they should impact on provision will be key to their successful implementation. There is likely to be local variation in the impact of the emergency across the country and a clear understanding of when to utilise these flexibilities will be important.

Containing/slowing the virus

Clause 49: Quarantine Powers (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

80) The Health Protection (Coronavirus) Regulations 2020 were made and came into force on 10th February 2020 ("Coronavirus Regulations"). The Coronavirus Regulations provide for the detention, isolation and screening of, and other appropriate restrictions to be imposed upon, persons suspected to have coronavirus, or who have arrived in England from an area in which the virus is prevalent.

81) The Regulations apply only in relation to England, and where the Secretary of State for Health and Social Care has made a declaration that the incidence or transmission of coronavirus constitutes a serious and imminent threat to public health, and the measures outlined in the regulations are considered as an effective means of delaying or preventing further transmission of the virus.

82) The quarantine provisions in the Bill will come into effect by force of a similar declaration by the Secretary of State for Health and Social Care. The quarantine

provisions include similar powers for the detention, screening and isolation of potentially infectious persons, including powers to impose other directions, restrictions and requirements, and will revoke the Coronavirus Regulations.

83) The powers are exercisable by the Secretary of State for Health and Social Care, as well as immigration officers and constables.

Consideration of any equality impact and mitigating measure

84) It is considered that the impact on persons with a protected characteristic due to the policy aims of these quarantine provisions will be limited. If, and to the extent, there is any differential impact, the public health reasons justify the approach, and there is no alternative way of dealing with the public health risks as urgently and effectively.

85) The policy reflected in the quarantine provisions is not based on nationality or race in any way. The provisions will apply equally to any individual who has arrived in the UK and has left an infected area within the preceding 14 days prior to arrival in the UK, or to persons (of any nationality) if there are reasonable grounds to believe the person is or may be infected or contaminated with the novel coronavirus and there is a risk that the person might infect or contaminate others. Therefore, there will be no direct discrimination on the grounds of any protected characteristic.

86) Given that the coronavirus originated in Wuhan, China and the prevalence of confirmed cases in China and other countries in Asia, as well as an increasing number of cases in countries in other continents (for example, in Iran and Italy), there may be a greater impact on persons who are nationals of these countries and those with other reasons to travel from those regions. This indicates there is a likelihood that ethnic groups or nationalities which are connected to infected areas are more likely to be affected by these measures than others. This is particularly the case for individuals who may be detained on point of entry to the UK by a border force officer. This may change as there is increasing amount of in-country transmission.

87) A proportion of such people may also have difficulty understanding English. There may, in some instances, be a need for an official translator (rather than a fellow passenger or family member) to assist in communicating with an individual. It is important for public health reasons that any person identified clearly understands the public health requirements imposed on them using the powers under the Bill.

88) Coronavirus is thought to have a greater impact on older people and people with health problems, which might include a form of disability. This may render these protected groups more liable to be symptomatic and therefore more likely to be identified as being infectious and thus liable to quarantine measures such as detention.

89) Measures such as detention (even for a short period of time) may be more detrimental to those with a disability than to others. For example, those with mental

health disabilities may experience more distress and anxiety when subject to measures such as detention and quarantine.

90) There is also potential for reduction in the level of care and independent living because the support may be limited due to the need for disabled people who contract coronavirus to limit interactions with others, as well as because of the need for their carers or health and support staff to isolate.

91) The quarantine provisions will include a duty to have due regard to whether the particular quarantine measure is necessary and proportionate in the interests of the potentially infectious person, for the protection of other people or for the maintenance of public safety. For example, a particular measure is likely to be necessary and proportionate if an individual is deemed unlikely to comply with a direction to voluntarily attend a hospital or other suitable place for assessment. Each measure will be considered on a case-by-case basis.

92) When imposing restrictions or requirements on persons where the screening confirms they are infected with coronavirus, the screening is inconclusive or the Secretary of State for Health and Social Care has reasonable grounds to suspect they are potentially infectious, regard must be had to the individual's well-being and personal circumstances. These safeguards are more likely to secure the individual's cooperation and make it easier to achieve the public health objective.

93) Travellers from infected areas may include a broad spectrum of ages, including children. Children may be affected by the quarantine provisions in a different way to adults. The screening process itself, and the prospect of isolation or quarantine if this is mentioned, could be quite frightening depending on the child, their age and level of understanding. A responsible adult will be required to help children – particularly younger children – going through screening, by explaining what they need to do and why, comforting them if they are worried, and ensuring their basic needs are met. The responsible adult is a person with parental responsibility for the child (within the meaning of the Children Act 1989) or a person who has custody or charge of the child for the time being, and therefore might be a parent, family member, or an official from the airline.

94) The provisions require that a responsible adult, so far as reasonably practicable, ensures the child complies with any direction, instruction, requirement or restriction. This might include allowing the official to take a sample of a child's saliva or other material by means of swabbing the inside of a child's mouth or nasal cavity, or provide such a sample and ensure they answer any questions if the child is unable, or cannot be relied upon, to do so. There will be full regard to safeguarding the wellbeing of any child affected by such procedures. There may also be health and care needs for older persons, such as wheelchair access or easy access to toilets which will also be catered for accordingly.

95) Staff carrying out screening will need to be aware of cultural sensitivities, and will consider that individuals of certain religions or beliefs may have slightly different needs. We will advise staff to do their utmost to gain compliance from these individuals through negotiating with them in a sensitive, sympathetic way. Regardless of religion or belief, it is important for public health reasons that people

comply with screening requirements and that they understand the public health requirements imposed on them.

96) Overall, we consider that any indirect discrimination will be negligible and a justified and proportionate means of delivering the legitimate aim of preventing the spread of the virus and protecting vulnerable groups.

Section 2: non-DHSC provisions

97) The following analysis is provided for information purposes. The Ministers who lead on the policy in these areas will have considered this analysis, together with their equality duties. However, considering your role in the Bill and your decision as to what measures will be included in the Bill, it is important that you have also had due regard to the equality implications of the non-DHSC provisions.

Enhanced capacity and flexible deployment

Clause 3: Emergency Registration (Scotland)

Explanation of the policy and the provision

98) In addition to the UK-wide system of professional registration operated by the General Medical Council, the NHS in Scotland also operates “performers lists” with which a GP in Scotland must be registered before they can practise on behalf of the NHS. This acts as an additional layer of regulation and control. It allows the NHS in Scotland to suspend or bar a GP from practising in the NHS outside of the disciplinary powers of the General Medical Council to strike off the GP.

99) The additional requirement to be registered with a performers list may create a barrier to GPs responding quickly to assist with a coronavirus pandemic. The risk is that although many previously inactive GPs may find themselves suddenly registered as medical practitioners and general practitioners with the General Medical Council, they may still be ineligible to act as an NHS general practitioner because they are not registered on a performers list.

100) The provisions will create a limited exception to the requirement to be on a performers list in order to practise as GP in the NHS in Scotland.

Consideration of any equality impact and mitigating measure

101) We expect that these provisions will have limited impact on persons with protected characteristics. If, and to the extent, there is any differential impact, the public health reasons justify the approach, and there is no alternative way of dealing with the public health risks as effectively during an emergency pandemic. The provisions will support fast deployment of temporarily registered health care workers by the NHS in Scotland.

102) The policy reflected in the performers list provisions is not based on any protected characteristic. All persons who are registered with the General Medical Council will be eligible to practice. Therefore, there will be no direct discrimination on the grounds of any protected characteristic.

103) It is expected that most of the people affected by these provisions will be retired GPs and, as such, they will tend to be older but perhaps not elderly. However, registration will not be mandatory.

Clause 4: Emergency Registration (Northern Ireland)

Explanation of the policy and the provision

104) Under these provisions, the Registrar of the Pharmaceutical Society of Northern Ireland will have temporary emergency powers to register fit, proper and suitably experienced persons either individually or as a group, in the register of pharmaceutical chemists.

105) The Registrar will also have a temporary emergency power to record an annotation against a pharmacist's record or the record of a group of pharmacists in the register when advised by the Department of Health that an emergency has occurred, is occurring or is about to occur. The purpose of the annotation would be to extend authority to pharmacists who would not normally be authorised to prescribe certain drugs, medicines and appliances during the emergency period. The Registrar will be able to exercise discretion in registering such persons, and will be empowered to remove them from the register for any reason including concern about fitness to practise.

106) The measures will support the provision of additional staff to enable the continuing delivery of core pharmaceutical services, including supplementing the current workforce and providing support for those suffering from the effects coronavirus who will typically include older people and those with underlying health conditions, which might possibly include a form of disability.

Consideration of any equality impact and mitigating measure

107) The Pharmaceutical Society of Northern Ireland has a higher number of female registrants.

108) We repeat our analysis of clause 2 above which has equal or similar equalities considerations.

Clause 11: Indemnity for Health Service Activity (Scotland)

Explanation of the policy and the provision

109) The provisions will allow Scottish Ministers to make indemnity arrangements for personal injury liabilities and professional negligence liabilities to any person

involved in the treatment or diagnosis of coronavirus on behalf of the health service.

Consideration of any equality impact and mitigating measure

110) We repeat our analysis of clause 9 above which has equal or similar equalities considerations.

Clause 12: Indemnity for Health Service Activity (Northern Ireland)

Explanation of the policy and the provision

111) The provisions will allow the Northern Ireland Department of Health to make indemnity arrangements for personal injury liabilities and professional negligence liabilities to any person involved in the treatment or diagnosis of coronavirus on behalf of the health service.

Consideration of any equality impact and mitigating measure

112) We repeat our analysis of clause 9 above which has equal or similar equalities considerations.

Easing of legislative and regulatory requirements

Clause 15: Social Care Easements (Scotland)

Explanation of the policy and the provision

113) These provisions will increase flexibility for social care decision making during a coronavirus pandemic. The aim is to protect vulnerable people by allowing rapid prioritisation of urgent cases at a time when there is likely to be an influx of discharges from hospital, an influx of new cases from the community and a reduction in the social care staff available.

114) The core duty on Local Authorities to provide care and support to people in need of assistance will remain in place under section 12 of the Social Work (Scotland) Act 1968. The provisions will clarify that authorities can provide support without first conducting an assessment. The provisions will also change duties to carry out a number of social care assessments into powers to assess. This will allow authorities to deliver urgent support and decide if and when assessments are required. The provisions will cover all cases in which adults may be assessed for social care.

115) Similarly, the provisions will remove the duty to prepare adult carer support plans and young carer assessments under the Carers (Scotland) Act 2016, but retaining the power to do so. The duties and powers to provide support to carers under that Act will be retained.

116) The Bill will also include provision to increase flexibility for Local Authorities to meet the needs of young person's seeking after care assistance. The core duty in section 29(1) of the Children (Scotland) Act 1995 remains that a Local Authority has a duty to advise, guide and assist, for example, a formerly looked after young person (aged between 16 and 19) unless satisfied that the welfare of that person does not require it. The provision will remove the duty to carry out an assessment in section 29(5) of the Children (Scotland) Act, but retain a power to do so. This will allow Local Authorities to make provision of relevant services without the need to carry out assessments to the extent they may be impractical or lead to undesirable delay.

117) The provisions will increase flexibility for Local Authorities to prioritise social care decision making for children affected by disability in the event of a coronavirus pandemic. The core duty to safeguard and promote a child's welfare under section 22 of the Children (Scotland) Act will continue. The provisions will change the requirement to carry out an assessment in section 23(3) of the 1995 Act to a power to carry out an assessment. This will allow Local Authorities to make provision of relevant services in relation to a child without the need to carry out assessments to the extent they may be impractical or lead to undesirable delay.

Consideration of any equality impact and mitigating measure

118) In addition to the impacts on protected groups identified in our analysis of clause 13 above, these provisions will also impact on certain young persons, including those seeking after care assistance and those affected by disability.

119) In this regard, the provisions do not alter the core duties of Local Authorities under the Children (Scotland) Act including to safeguard and promote a child's welfare. The provisions are also expected to have a positive impact during a coronavirus pandemic, as it will ensure that Local Authorities have flexibility in prioritising support for children to those in most need.

120) We repeat our analysis of clause 13 above which has equal or similar equalities considerations.

121) The policy has a direct effect on young carers, and therefore will engage the protected characteristic of age. A carer is deemed a young carer if they are under the age of 18 (or 18 and still at school). The intention is that this will have a positive impact during a coronavirus pandemic, as it will ensure that Local Authorities have flexibility in prioritising support for young carers to those in most need.

Nevertheless, we do not believe this amounts to indirect discrimination as the policy is required to protect the greater public.

Clauses 20, 21: Judicial Commissioners (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

122) The Investigatory Powers Act 2016 is the one of the critical pieces of domestic legislation for national security. It creates the statutory basis for the use of the investigatory powers (intercept of communications, equipment interference, use of bulk powers, and communications data) by the intelligence and law enforcement agencies, using warrants issued under the Act. These warrants provide the agencies with the capability they need to protect national security and investigate serious crime, and by way of example are used in almost all MI5 and National Crime Agency investigations. These include urgent warrants where there is an imminent threat to life.

123) Judicial Commissioners play a vital role in the warranty process by providing independent, judicial consideration of warrants after they have been signed by the Secretary of State – except in urgent cases where they must consider a warrant within three working days of it being issued. In these cases, the warrant ceases to have effect after five working unless it is renewed. Judicial Commissioners can only be appointed after a lengthy process. They must be, or have been, holders of high judicial office.

124) There are 15 Judicial Commissioners, working under the Investigatory Powers Commissioner. All but one of the current Judicial Commissioners are over 70 and therefore at particular risk from the virus itself or highly likely to be affected by other measures the government may take to mitigate the virus' impacts.

125) The provisions in the Bill create a regulation-making power to allow the Home Secretary, at the request of the Investigatory Powers Commissioner, to vary the appointment process for Judicial Commissioners to allow for the Investigatory Powers Commissioner to directly appoint temporary Judicial Commissioners. The temporary Judicial Commissioners will be appointed for terms not exceeding 6 months each and no more than 12 months in total.

126) The Bill will also create an order making power to allow the Home Secretary to vary the time periods of an urgent warrant at the request of the Investigatory Powers Commissioner. This would extend the timeline for ex post facto Judicial Commissioner authorisation and the lifespan of the warrant for up to 12 working days.

Consideration of any equality impact and mitigating measure

127) The policy reflected in these provisions will not exclude any individual based on their protected characteristics. However, Judicial Commissioners must be current or past holders of high judicial office, and this criterion will also extend to temporary Commissioners appointed under these provisions. Those appointed are unlikely to be less than around 45 years old, given the legal experience that is necessary to be appointed. Any perceived exclusion or disadvantage suffered by

younger people because of these provisions is considered to be justified and proportionate in achieving the legitimate aim of ensuring that Judicial Commissioners are suitably qualified given the vital role they play in the warranty process.

128) Enabling the appointment of temporary Judicial Commissioners is not considered to have a negative impact on existing Judicial Commissioners because their appointment will support and supplement the service provided. Appointment is time limited. It is unlikely, therefore, to reduce or jeopardise the position of Judicial Commissioners.

Clause 30: Disapplication of Disclosure Barring and Service (Wales)

Explanation of the policy and the provision

129) These provisions will allow Welsh Ministers to disapply or modify requirements under the Care Standards Act 2000 and Regulation and Inspection of Social Care (Wales) Act 2016 relating to:

130) persons who are fit to work in Wales or in a regulated service (including care homes, secure accommodation services, residential family centre services, adoption services, adult placement services, etc); and

131) obtaining in relation to such persons of certificates or information from the Disclosure and Barring Service.

132) The disapplication or modification of these requirements may be for a specified person, a description of persons, a specified area or some other matter. It must also be for a specified period, such as during a coronavirus pandemic.

133) The purpose of these provisions is to streamline recruitment requirements in core social care services in Wales during an emergency scenario such as a coronavirus pandemic.

Consideration of any equality impact and mitigating measure

134) Overall, we consider that the impact on persons with a protected characteristic due to the policy aims of these provisions will be minimal. Increased workforce will help support the delivery for social services in areas which might be under-resourced or under pressure during a coronavirus pandemic. We therefore believe that the policy will result in positive outcomes for those receiving care, including protected groups.

135) However, the disapplication or modification of these requirements might lead to less safe recruitment decisions. If so, we have identified possible impacts on the quality of service which may be felt more strongly by vulnerable groups receiving care such as certain people with protected characteristics (for example, the elderly, children and people with disabilities).

136) The PSED is an ongoing duty and we will continue to monitor and review the impacts of these provisions.

Clause 31: Disapplication of Disclosure Offences (Scotland)

Explanation of the policy and the provision

137) These provisions will allow Scottish Ministers to disapply or modify the offences in sections 35 and 36 of the Protection of Vulnerable Groups (Scotland) Act 2007. The offences apply where an organisation or personnel supplier employs or supplies a barred person for regulated work with children or vulnerable adults. The power is to be exercised by Ministers issuing a direction which must be a specified period of time, and will be revoked by a subsequent direction. The power allows the direction to be targeted at different types of regulated work, or for different purposes.

138) These provisions are designed not to criminalise healthcare providers during a time of mass recruitment during a coronavirus pandemic.

139) The current offences in relation to barred individuals attempting to do regulated work while barred will still apply.

Consideration of any equality impact and mitigating measure

140) We consider that the impact on persons with a protected characteristic due to the policy aims of these provisions will be minimal.

141) Employers may employ someone who is barred from working with vulnerable adults or children and that poses a risk to those vulnerable adults and children. However, this risk currently exists as the Protection of Vulnerable Groups scheme is not mandatory. The offence provisions in relation to barred individuals attempting to do regulated work while barred will still apply, which is considered to be appropriate mitigation of any increased risk or adverse impact on vulnerable groups.

142) The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the overall Bill.

Clause 32: Reclassification of Disclosure Checks (Scotland)

Explanation of the policy and the provision

143) These provisions will allow Scottish Ministers to treat applications for the Protection of Vulnerable Groups scheme record disclosure, and the Protection of Vulnerable Groups short scheme record disclosure, as a request for the disclosure of scheme membership. This would be a check of the barred lists only, and so no vetting information would be released.

144) These measures are designed to accelerate Protection of Vulnerable Groups checks for healthcare providers during a time of mass recruitment as occasioned by a coronavirus pandemic.

Consideration of any equality impact and mitigating measure

145) We consider that the impact on persons with a protected characteristic due to the policy aims of these provisions will be minimal.

146) The Protection of Vulnerable Groups scheme is currently not mandatory and may not be used by employers. The provisions allow employers the ability to quickly learn the barred status of a potential employee for a limited period such as a coronavirus pandemic, ensuring that they are not employing unsuitable people to work with children and vulnerable adults.

147) The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the overall Bill.

Clause 33: Provision of Vaccines by Health Boards (Scotland)

Explanation of the policy and the provision

148) These provisions will allow Scottish Territorial Health Boards to deliver vaccination programmes through healthcare professionals other than the GPs (and persons under their direction and control). This will primarily be any programme against the coronavirus itself, but may include any vaccination programme which is at risk of not being delivered due to the impact of the coronavirus.

149) This will allow a wider range of health professionals to administer such vaccinations in order to respond as flexibly as may be required to any pandemic.

Consideration of any equality impact and mitigating measure

150) The policy reflected in these provisions will not exclude any individual based on their protected characteristics. Any healthcare professional suitable to deliver a vaccination will be able to do so depending on local requirements. If there is a risk to healthcare professionals in delivering a coronavirus vaccination, a larger pool of healthcare professionals will allow older healthcare professionals who may more be at risk to take a less active role in delivery.

151) The measures provided for under these provisions are aimed at protecting the general public from coronavirus and therefore are considered to have a positive impact on protected groups, in particular the elderly and people with underlying health conditions, which include a form of disability, who are considered to be more at risk.

152) Vaccination programmes include the pertussis programme for pregnant women. These provisions are aimed at improving the continuation of this service

during a coronavirus pandemic, thereby directly benefitting pregnant women.

153) Overall, we consider that the negative impact on persons with a protected characteristic due to these provisions will be limited. If, and to the extent, there is any differential impact, we believe that the public health reasons justify the approach, and there is no alternative way of dealing with the public health risks as urgently and effectively.

Clauses 51, 52, 53, 54, 55: Expansion of Video and Audio Hearings in the Magistrates and Criminal Courts (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

154) These provisions generally expand the Courts' powers to use technology across a wider range of hearings, and participants. For example, these provisions will enable appeals against decisions by the Secretary of State for Health and Social Care or an authorised public health official to impose isolation or detention restrictions to be heard by telephone or video. They will also enable certain matters in the criminal courts to be dealt with either by a video/audio enabled hearing.

155) Members of the public will be able to see and hear proceedings which are held virtually. This enables criminal and civil courts and tribunals to make directions to live stream a hearing which is taking place 'virtually'. The intention is that it will be possible for these to be viewed by members of the public and media using an in-court screen.

156) These measures will be in place for a time-limited period during a coronavirus pandemic to protect public health.

Consideration of any equality impact and mitigating measure

157) The policy reflected in these provisions will not exclude any individual based on their protected characteristics.

158) There will be no expected equality impacts on criminal courts measures, which extend the circumstances in which live links can be used in criminal proceedings and allow public participation in court and tribunal proceedings.

159) The measures could be used more in relation to some protected groups than the general population because of that group's over-representation within the court system. However, we have no reason to believe that the measures being put in place will have a greater impact on people with a protected characteristic, compared to those who do not share it. In any case, there will be safeguards in place to ensure that digital channels are only used in appropriate circumstances.

160) Certain protected groups, in particular those with a disability, children and the elderly may find the expanded use of technology difficult or uncomfortable. We will mitigate against any adverse effect on persons with a disability, children or the

elderly that may arise from expanded use of technology in the courts through safeguards in the legislation. The court will always have the final say on whether it is appropriate for a live link to be used, and will have to be satisfied that it is in the interests of justice to do so.

161) In making its decision, the court provides all parties with an opportunity to make representations. The Court will be required to consider all the circumstances of the case, including the views of the person who would be using the live link, the suitability of the facilities at the place where they would be taking part and whether they will be able to take part effectively.

162) To make HM Courts and Tribunal Service digital services as accessible as possible, systems are tested on both desktop and mobile devices across a range of operating systems, browser types and assistive technology types with users with the following impairments:

- blind
- mobility
- deaf
- colour blind
- dyslexia
- low vision
- autism spectrum disorder, and
- cognitive impaired/panic/anxiety

Containing/slowing the virus

Clauses 34, 35: Schools, Further Education and Childcare Settings (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

163) These measures introduced are intended to:

- limit the spread of coronavirus, either through requiring the temporary closure of institutions to avoid any harmful congregation of those attending the institution who have the virus with those without it, or alternatively through requiring institutions stay open, for education and childcare purposes, as well as support the continued functioning of the economy by enabling parents to work, and
- enable the Secretary of State for Education to ensure that education and childcare provision continue to be available, so far as possible, to children and students in the safest way possible, and that examinations and tests may still be taken and qualifications achieved where possible, through the issuing of directions, and the disapplication of certain legislative requirements.

164) These provisions will include the following powers:

- Continuation power: A power to make directions in connection with the running of educational institutions and registered childcare providers. For example, for educational institutions to stay open or re-open, staff, pupils or students to attend different premise and to control or restrict attendance where there is a risk of spreading disease to others.
- Disapplication power: A power to disapply existing requirements in education and childcare legislation. For example, staff ratios, qualifications of staff, teaching of the curriculum, timings of tests, specialist requirements in respect of children with special education needs and disabilities and school food regulation requirements.
- Power to take on additional functions: A power to require educational institutions and registered childcare providers to take on additional functions. For example, extended opening or childcare where education or the full range of education normally offered cannot be provided.
- Power to close: A power to require educational institutions and registered childcare providers to close, either partially or fully.

Consideration of any equality impact and mitigating measure

165) The policy reflected in these provisions will not exclude any individual based on their protected characteristics. However, the impacts of these provisions will be principally felt by children and young people, and perhaps even disproportionately so more of the more vulnerable cohorts such as children with special education needs and disabilities. Where there are differential impacts, we believe the public health reasons justify the approach, and there is no alternative way of dealing with the public health risks as urgently and effectively.

166) In particular, we have identified the following potential impacts:

As with schools, the closure of early years and childcare providers, and any relocation of provision is likely to lead to a more significant effect on children with special education needs and disabilities. This may be because specialist support is not provided in the place of relocation, but also because disruptions of surroundings, staffing and peer groups.

A fall in the quality of services, or progression, may disproportionately affect certain groups, such as disadvantaged children, where certain protected characteristics, for example race, are disproportionately represented. This is particularly true with regard to additional curricular support under the pupil premium, Free School Meals and Universal Infant Free School Meals.

The closure of schools will mean that some children will not be able to access education. In some cases alternative places to study will be put in place but we consider that children with special education needs and disabilities, especially those with high needs, are likely to be disproportionately impacted as their educational needs would be more difficult to meet if their school closed, and their transportation to other schools would be more difficult to provide.

Under the power to direct, should candidates be redirected from a closed exam centre, any necessary adjustments for candidates eligible for access arrangements (for example, pupils who may need a scribe, a reader or have other reasonable adjustments made to their exam setting on the day) will have to be made at the receiving exam centre. If candidates are required to relocate at short notice, this is likely to lead to a disproportionate impact on these children.

If higher education providers are not required, or are less able, to provide student services such as counselling and reasonable adjustments, this could negatively affect students with a disability, especially those with mental health conditions.

It may not be possible in emergency circumstances to fulfil all the requirements of an education, health and care plan, which will affect children with special education needs and disabilities and pupils.

There may also be other considerations, such as in provision of school food, where steps taken may cause issues with religion or belief.

167) Overall, we consider that the provisions strike a careful and fair balance between the competing interests of mitigating the spread of coronavirus and ensuring that education and childcare provision continue to be available, so far as possible. The disproportionate impacts on protected groups that we have identified are justified and a proportionate means of protecting public health during a coronavirus pandemic.

168) The PSED is an ongoing duty. We will continue to monitor and review the impacts of these provisions on protected groups.

Clause 46: Powers to Act for the Protection of Public Health (Northern Ireland)

Explanation of the policy and the provision

169) The primary public health legislation in Northern Ireland is the Public Health Act (Northern Ireland) 1967. The Public Health Act does not provide regulation making powers equivalent to the main provisions of Part 2A of the Public Health (Control of Disease) Act 1984 for England and Wales, or similar legislation in Scotland.

170) These provisions would allow the Department of Health to bring forward proposals for regulations to the Northern Ireland Assembly that would allow for additional measures to be introduced to help delay or prevent further transmission of an infectious agent which constitutes a serious imminent threat to public health. This is an important public interest aim. These proposals are being expedited in the context of the current global spread of coronavirus.

Consideration of any equality impact and mitigating measure

171) These provisions will allow for the making of regulations by the Northern Ireland Assembly that could provide powers to the Director of Public Health and/or the Public Health Agency in Northern Ireland to impose restrictions or requirements to help delay or prevent further transmission of coronavirus.

172) We consider that the impact on persons with a protected characteristic due to the policy aims of these provisions will be limited. If, and to the extent, there is any differential impact, the available evidence and public health imperative justify the approach as the appropriate way of dealing with the public health risks as urgently and effectively as possible.

173) The provisions replicate the main provisions of Part 2A of the Public Health (Control of Disease) Act 1984 for England and Wales to provide similar regulation making powers for Northern Ireland with a view to achieving a level of legislative parity across the four nations of the United Kingdom.

174) The provisions will apply equally to any individual or group if there are reasonable grounds to believe the person or group is or may be infected or contaminated with coronavirus and there is a risk that the person or group might infect or contaminate others.

175) The PSED is an ongoing duty and the equalities implications will continue to be monitored and reviewed, including at the time any regulations under this power are being considered.

Clause 47: Health Protection Regulations (Scotland)

Explanation of the policy and the provision

176) These provisions provide Scottish ministers with a power to make regulations for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Scotland. The threat can come from inside or outside Scotland.

177) Scottish ministers already have powers under the Public Health etc. (Scotland) Act 2008 to make regulations to give effect to international agreements or arrangements, including World Health Organisation recommendations. However, the purpose of these provisions is to increase consistency of approach across the United Kingdom.

Consideration of any equality impact and mitigating measure

178) We repeat our analysis of clause 45 above which has equal or similar equalities considerations.

Clause 48: Powers to Suspend Port Operations (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

179) The proposed powers will allow the Secretary of State for Transport to direct a port operator to suspend operations, partially or wholly, for the purpose of preventing or placing a restriction or prohibition on the arrivals at a port where there are insufficient resources to adequately secure the border. The power will also provide for the Secretary of State to issue supplementary directions to other parties if they consider it necessary in connection with the primary direction.

180) The power will only be used where the Secretary of State believes that it is necessary and proportionate to so do; and once all relevant alternative mitigations have been deployed. Use of the power would be governed by strict safeguards to ensure, while responsibility for an initial direction may be made by senior Border Force officials on behalf of the Secretary of State, any decision to extend the period beyond 12 hours would be taken at Ministerial level and subject to engagement with relevant government departments and devolved administrations.

181) The power is in response to the increasing public risk of coronavirus and will be subject to sunset provisions within the wider Bill. As PSED is a continuing duty, due regard will be had to this duty when deciding whether or not to make a specific direction and exercise these powers.

Consideration of any equality impact and mitigating measure

182) The policy reflected in these provisions will not exclude any individual based on their protected characteristics.

183) Indirectly, the application of partial suspension of operations that affects specific points of origin will impact on certain nationalities more than others due to geographic concentration of nationalities at that point of origin. This also applies to people with certain religions and beliefs. In these circumstances, we consider that any differential impact is justified and proportionate in achieving the legitimate aim of ensuring border security.

184) It is conceivable that there may be instances where those who have a protected characteristic that limits mobility (for example, age, disability or pregnancy) are more significantly affected by these powers if used, thereby leading to a negative impact on relations through this perception. In these instances, the effects of these powers necessarily apply to all individuals and the powers aim to protect border security as a whole, thereby safeguarding and mitigating the perceived negative impact as a justified and proportionate means of delivering a legitimate aim. Further, it is reasonable to assume for there to be broadly equivalent mobility access provisions within ports that receive the diversions, in addition to options for onward travel from such ports.

185) It is conceivable for disproportionate impact to be observed by means of suspension of operations at particular types of ports favoured by different age groups, in addition to additional travel pressures applied to certain groups (for example, the elderly, people with a disability, children) as an indirect effect of transport diversion to an unscheduled destination or prolonged travel time resulting from disruptions. Overall, we consider that any such differential impact will be

minimal and a proportionate means of delivering a legitimate aim of border security.

Clause 50: Events, Gatherings and Premises (England)

Explanation of the policy and the provision

186) The clause will provide a direction making power to the Secretary of State to restrict or prohibit events or gatherings, and close premises.

187) The power will be used, if considered appropriate, to prevent, protect against, control or provide a public health response to the incidence or spread of infection of coronavirus.

Consideration of any equality impact and mitigating measure

188) The exercise of the proposed powers may have differential impacts on different groups, based on the nature of the event, gathering or premises. For example, the restriction of an event or gathering could have a disproportionate impact on a particular group, if more attendees of that event shared a specific protected characteristic.

189) Overall, we consider that the impact on persons with a protected characteristic due to the policy aims of these provisions will be minimal. The measures provided for under these provisions are aimed at protecting the general public from coronavirus and therefore are considered to have a positive impact on protected groups, in particular the elderly and people with underlying health conditions, which includes disability, who are considered to be more at risk.

190) The PSED is an ongoing duty and the Secretary of State and officials will consider equalities impacts when decisions are being made to utilise this power.

Managing the deceased

Clauses 16, 17, 27, 28: Cremation; Certification, Registration and Inquests(England and Wales) Inquests (Northern Ireland)

Explanation of the policy and the provision

191) In relation to completing a Medical Certificate of Cause of Death (MCCD), the provisions provide for any registered medical practitioner, who has knowledge as to the cause of death, to complete and sign a MCCD irrespective of whether they were the deceased's own doctor or whether they had seen the deceased after death or within 28 days. The provisions do not remove the ability of the deceased's own doctor completing the MCCD if they are able to do so.

192) The provisions will also modify provisions in the Notification of Deaths Regulations 2019 which require that a medical practitioner must notify the coroner of a death where it is reasonably believed that there is no medical practitioner required to sign a MCCD in relation to the deceased and where the medical practitioner believes an attending medical practitioner is required to sign the MCCD but that practitioner is not available within a reasonable time of the death to sign the MCCD. This will be modified so that the duty will only apply where the medical practitioner reasonably believes that there is no medical practitioner who may sign the certificate under the revised provisions (or that such a medical practitioner is not available within a reasonable time of the person's death to do so).

193) In relation to cremations, the provisions will permit cremations to proceed on the basis of one medical certificate only (Cremation Form 4) without the need for additional scrutiny by a second registered medical practitioner.

194) In relation to inquests, the provisions will disapply the requirement for any inquest in cases of notifiable disease to be held with a jury, where the coroner has reason to suspect that the death was caused by coronavirus. The Northern Ireland provisions make similar amendments in respect of inquests.

195) The death registration measures allow for deaths to continue to be registered at a time in which there may be extreme pressure put on to the delivery of the service. They allow for:

- registrations to be made without the need for a face-to-face interview with the registrar
- an undertaker who is acting on behalf of the family, to give the information for the registration, and
- for the transfer of documents electronically

196) The provisions do not exclude normal working practices, if available.

Consideration of any equality impact and mitigating measure

197) These measures will apply equally to all deaths within England and Wales. The policy reflected in these provisions will not exclude any individual based on their protected characteristics.

198) The aim of the cremation provisions is to reduce the likelihood of delays allowing families to make arrangements for the funerals of their loved ones. The inquests provision will ensure that coroners' workloads, Local Authority run coroner services and other resources do not become unmanageable due to potential excess deaths and staff absences during a coronavirus pandemic. They will allow coroners to focus on their core duties.

199) The provisions will apply equally to all inquests, cremations, certification and registration of deaths. We do not consider that there will be a disproportionate impact on any group of people with a protected characteristic. If there were a more significant impact on any protected group, we do not consider that there would be a material disadvantage arising from this.

Clause 19: Suspension of Review of Cause of Death Certificates and Cremations (Northern Ireland)

Explanation of the policy and the provision

200) The Cremation (Belfast) Regulations (Northern Ireland) 1961 set out the conditions that must be met before the body of a deceased person may be cremated. The regulations require both a medical certificate giving the cause of death which must be given by a registered medical practitioner and a confirmatory medical certificate which must be given by a second registered medical practitioner, independent of the first, before a cremation may take place.

201) The regulations will be modified to apply in relation to the death of a person that occurs while that section is in force:

- to remove the requirement for the completion of the Confirmatory Medical Certificate
- to provide consequential modifications to the powers and duties of the Medical Referee
- to remove the reference to a person being seen and treated within 28 days by a registered medical practitioner for a natural illness or disease in the case where the matter has been referred to the Coroner, and
- to remove the requirement in Forms A and B for a registered medical practitioner to have attended a deceased person during their last illness and within 28 days before death

Consideration of any equality impact and mitigating measure

202) Officials within the lead department consider that these provisions will not have a direct impact. Any resulting indirect impact relating to these powers on their own is expected to be small and temporary in nature. The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the Bill.

Clause 18: Suspension of Review of Cause of Death Certificates and Cremations (Scotland)

Explanation of the policy and the provision

203) These provisions enable the Scottish Ministers to suspend the review of death certificates in Scotland under the Registration of Births, Deaths and Marriages (Scotland) Act 1965 and the Certification of Death (Scotland) Act 2011 and makes provision for reviews which have been started but not completed when the suspension takes effect.

204) These provisions also enable Scottish Ministers to suspend the offence in section 49 of the Burial and Cremation (Scotland) Act 2016, insofar as it relates to

the signing of an application for cremation. In practice, this means that any relative (or friend of long standing) of the deceased can make arrangements for cremation, regardless of where they are placed in the statutory hierarchy. The provisions will also have the effect of removing administrative duties on cremation authorities and funeral directors in relation to uncollected ashes. Instead, the relevant bodies will be placed under a duty to retain the ashes and to comply with their duties under the Act once the provisions have been re-instated.

Consideration of any equality impact and mitigating measure

205) Officials within the lead department consider that these provisions will not have a direct impact. Any resulting indirect impact relating to these powers on their own is expected to be small and temporary in nature. The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the Bill.

Clause 29: Deaths in Custody from Natural Illness (Northern Ireland)

Explanation of the policy and the provision

206) Section 7 of the Coroners Act (Northern Ireland) 1959 requires a death from natural illness or disease to be notified to the coroner if the deceased has not been seen and treated by a doctor within 28 days prior to death. The provisions will remove this requirement where a person has died from natural illness or disease if a doctor has signed a death certificate under the provision.

Consideration of any equality impact and mitigating measure

207) Officials consider that the provisions will not have a direct impact on protected groups. Any resulting indirect impact relating to these powers on their own is expected to be small and temporary in nature. The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the Bill.

Clause 56: Transport, Storage and Disposal of Dead Bodies (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

208) This provision allows those exercising the powers to ensure excess deaths can be managed respectfully and safely.

209) Part 1 ensures that local authorities coordinating the death management system have the powers to direct actors to provide information necessary to effectively manage the system. This may include information from private companies (such as private funeral homes or crematoria) on their capacity and

operational status. They may direct that this information is shared with other actors who require this information (for example neighbouring local authorities who are searching for spare capacity in the region).

210) Part 2 gives powers to give necessary directions to actors, in areas where there is insufficient capacity to deal with dead bodies (for example, a direction to a private company to extend crematoria operating hours or use their vehicle to transport deceased bodies). The trigger point of this will be a ministerial decision in the relevant nation.

211) Part 3 allows for central government to intervene if the local authority is unable to manage the death management system effectively.

Consideration of any equality impact and mitigating measure

212) By enabling those in the body management system to increase capacity, this is likely to have a positive effect on bereaved families by reducing the likelihood of delays to the cremation or burial process. The flexibility underpinned by the provisions might also provide families with greater choice of service than would otherwise be the case in a coronavirus pandemic.

213) The provisions may give rise to equality considerations as powers of direction may be used to override religious preferences, if required. However, we would consider that the objective of supporting the respectful and safe treatment of the deceased within a finite resource in responding to an excess deaths scenario would make it a proportionate means of achieving a legitimate aim.

214) Religious groups are being consulted and there will be a national framework to support this. Religious preferences will be respected, as far as possible.

215) Without this ability, it will be more difficult to meet the usual expectations of different faith practices. The powers will allow authorities to keep the procedures in line with faith requirements, as far as possible.

Other

Clauses 36, 37, 38, 39, 50, 41: Statutory Sick Pay (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

216) These provisions will enable small and medium employers (those with fewer than 250 employees) to reclaim Statutory Sick Pay that is paid for sickness absences relating to coronavirus, during the period of the outbreak. The refund will be capped at 2 weeks of Statutory Sick Pay per employee.

217) Under current rules, Statutory Sick Pay is not paid for the first three days of work that an employee is unable to work because of sickness. These days are

known as waiting days. The provisions will allow the temporary suspension of this rule so that employees will receive Statutory Sick Pay from the first day that they are unable to work, should this be necessary.

218) The provisions will also allow for regulations to be made referring to guidance issued by Public Health England, National Health Services Scotland and Public Health Wales in determining whether an employee should be deemed to be incapable of work by reason of coronavirus, for example because the employee is self-isolating.

219) The Northern Ireland provisions make similar amendments in respect of refunding Statutory Sick Pay, disapplying the waiting period limitation and modifying regulation making powers.

Consideration of any equality impact and mitigating measure

220) A rebate of Statutory Sick Pay paid for sickness absences relating to coronavirus will support the financial position of small and medium employers which might otherwise be constrained or compromised because of increased absences during a coronavirus pandemic. As associated consequence will be an improvement of job security among the general population, including those with protected characteristics.

221) As the rebate will be for small and medium employers, the equalities impact of this measure depends on the equalities characteristics of those currently employed in small and medium employers.

222) Employees who are absent from work and receive Occupational Sick Pay, whereby an employer has agreed to pay sick pay above the statutory minimum level, may not have to complete waiting days before receiving sick pay (depending on the terms of their Occupational Sick Pay).

223) 28% of all employers pay Occupational Sick Pay. We do not know directly the equalities characteristics of those that currently receive Occupational Sick Pay. However, we know that small and medium employers are less likely to offer Occupational Sick Pay (26% of small firms, 47% of medium firms and 77% of large firms) and therefore employees of small employers are more likely to benefit more from these measures.

224) 50% of all employed people with disabilities work in small workplaces, compared to just under half of people who do not have disabilities (47%). A further 22% of people with disabilities work in medium sized workplaces (between 50 and 250 staff), compared with 23% of people who do not have disabilities. 25% of people with disabilities work in large workplaces (over 250 staff), compared with 25% of people who do not have disabilities. Therefore, small businesses employ a slightly higher proportion of disabled employees than the rest of the economy and so the measures are more likely to benefit employed people with disabilities.

225) Overall, we consider that any negative differential impacts on the basis of protected characteristics are justified and a proportionate means of achieving the

legitimate aim of supporting small and medium employers who are particularly vulnerable to increased absenteeism as a result of a coronavirus pandemic.

226) We do not have data readily available on other equalities characteristics of employees in small and medium employers.

227) As PSED is an ongoing duty, we will continue to monitor and review the impacts of these provisions.

Clauses 22, 23, 24, 25, 26: Food Supply Chain (England and Wales, Scotland, Northern Ireland)

Explanation of the policy and the provision

228) These clauses enable the appropriate authority to require those in or closely connected with the food supply chain to provide information about their activities, where that activity is connected with the food supply chain. This does not apply to individuals. The information must be collected and processed for certain defined purposes.

229) The purpose of these provisions is to ensure the government is able to support industry effectively and to maintain or restore efficient and equitable food supply.

Consideration of any equality impact and mitigating measure

230) In considering how these powers might be used, we have had due regard to our duties under the Equality Act, and our ability to protect vulnerable groups. We have considered which groups could be particularly vulnerable to compromised access to food in the context of responding to a coronavirus pandemic, including considering protected characteristics.

231) As the measures are aimed at maintaining or restoring efficient and equitable food supply, we believe that they will have particular positive effects on people who have limited mobility, limited or no social networks, or are particularly vulnerable in this context due to underlying health conditions, who could face challenges to accessing food via their usual methods.

232) As PSED is a continuing duty, we will continue to monitor and review the impacts of these provisions on these vulnerable groups, as well as other protected groups.

Clause 42: Financial Assistance for Industry (England and Wales, Scotland)

Explanation of the policy and the provision

233) These provisions will ensure that support to UK industry in relation to a coronavirus pandemic can be provided under the general power to provide financial assistance in section 8 of the Industrial Development Act 1982.

234) Section 8 of the Industrial Development Act enables the Secretary of State for Business, Energy and Industrial Strategy to give financial assistance to industry where, in the Secretary of State's opinion:

- the financial assistance is likely to benefit the economy of the UK (or any part or area of the UK)
- providing the financial assistance is in the national interest; and
- the financial assistance cannot otherwise be appropriately provided.

235) Financial assistance is currently limited to an aggregate cap. Under these provisions, financial assistance does not count towards the aggregate cap if it is designated by a Secretary of State, Scottish Minister or Welsh Minister as "coronavirus-related". Financial assistance is "coronavirus-related" if it is provided (wholly or to a significant degree) for the purpose of preventing, reducing, or compensating for any effect or anticipated effect (direct or indirect) of coronavirus or coronavirus disease.

236) To ensure transparency, the Secretary of State is required to report to Parliament on the amount of coronavirus-related financial assistance granted under this section.

Consideration of any equality impact and mitigating measure

237) As the financial assistance will apply to UK industry, the equalities impact of this measure depends on the equalities characteristics of those currently employed in UK industry. We do not have readily available data on the profile of protected groups across UK industry.

238) Overall, the policy reflected in these provisions will have a positive impact on UK industry, including protected groups within UK industry, as it will provide financial assistance and stability to industries that will likely suffer financial detriment arising from a coronavirus pandemic. An associated consequence will be an improvement of job security among the general population, including those with protected characteristics.

239) In any case, to the extent there is differential treatment, we consider this is justified and a proportionate means of supporting UK industry in times of crisis such as a coronavirus pandemic.

240) The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the overall Bill.

Annex A: The Public Sector Equalities Duty Impact Assessment

Introduction

This document builds on the initial Equalities Impact Assessment, which can be found below. Some clauses of the Bill were added after this initial Equalities Impact Assessment was drafted; others changed their numbering, as a result of that addition; and there were also some changes to the wording of some of the clauses. This additional material comprises updates to that original Equalities Impact Assessment document; plus, the Equalities Impact considerations of the clauses added/changed after it was drafted. These are clearly labelled in the text at Annex A. This document should be read in conjunction with the guide at Annex B that maps the original clauses (i.e. of the Bill as introduced to Parliament) to the sections in the Act

This package of material therefore provides a comprehensive picture of the way in which Equalities Impact considerations have informed the development of the legislation and of the policies that underpin it. That process is ongoing and further updates will be published as and when these policies develop further and/or their impacts become more readily assessable.

Please note that the devolved administrations are responsible for their own policies and legislation and any information provided in these areas is designed to aid the reader's understanding and not to imply that UK Ministers are accountable for devolved matters.

Section 3 (Schedule 2): Emergency arrangements concerning medical practitioners (Wales)

Equalities Impact Assessment carried out after Royal Assent.

Explanation of the policy and the provision

241) In addition to the UK-wide system of professional registration operated by the General Medical Council, the NHS in Wales also operates "medical performers list" with which a medical practitioner in Wales must be included before they can practise on behalf of a Local Health Board in Wales. This allows a Local Health Board in Wales to suspend or bar a GP from practising in the Local Health Board area specifically without depending upon the GMC to strike off the medical practitioner altogether.

242) This additional requirement to be included in a performers list may create a barrier to medical practitioners responding quickly to assist during the emergency. The risk is that although many previously inactive medical practitioners may find themselves registered again as medical practitioners with the GMC, they would still be ineligible to provide primary medical services because their name is not included in a performers list. Modifications to the operation of performers lists are therefore needed to support the emergency response.

243) The modifications will allow medical practitioners who have received an emergency registration from the GMC to apply to be included in the medical

performers list and to then practise in the NHS in Wales while their application to join a performers list is being processed. Crucially, the medical practitioners do still have to apply, and the Local Health Boards may require particular medical practitioners to complete the full process before practising if they have any concerns about them. Any medical practitioner who gives a Local Health Board cause for concern can still be prevented from practising.

Consideration of any equality impact and mitigating measure

244) It is expected that these provisions will have limited impact on persons with protected characteristics. The policy reflected in the performers list provisions is not based on any protected characteristic. All persons who are registered with the General Medical Council will be eligible to practice. Therefore, there will be no direct discrimination on the grounds of any protected characteristic.

245) It is expected that most of the people affected by these provisions will be retired GPs and, as such, they will tend to be older but perhaps not elderly. However, registration will not be mandatory.

246) If, and to the extent, there is any differential impact, the public health reasons justify the approach, and there is no alternative way of dealing with the public health risks as effectively during an emergency pandemic. The provisions will support fast deployment of temporarily registered health care workers by the NHS in Wales.

Section 7: Temporary Registration of social workers (Scotland)

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Impact Assessment document

Explanation of the policy and the provision

247) The provision introduces temporary registration powers for the Scottish Social Services Council (SSSC). After receiving a direction from the Scottish Ministers, the SSSC will be able to temporarily register fit, proper and suitably experienced persons as temporary social workers. This provision enables retired social workers, social workers who are on a career break and student social workers to apply for temporary registration. The addition of temporary registrants to the registers held by the SSSC will help to deal with any shortage of social workers in the children's and adult social care sectors as a result of increased staff absenteeism.

248) The provision also provides for the period within which social workers and social services workers who are employed in care services registered with the Care Inspectorate must register with the SSSC after commencing employment, to be lengthened from 6 months to 12 months during the time the Bill will be in force. This will reduce additional pressures on social care providers and the SSSC that may arise from increased staff absenteeism.

Consideration of any equality impact and mitigating measure

249) The measures will support the provision of additional temporary staff to enable the continuing delivery of children's and adults' social care services. These additional temporary social workers will be able to take up social work roles in services hit by high levels of absenteeism or increased demand because of the virus, ensuring vital continuity of care for vulnerable children and adults. Social care workers reaching the end of the six-month period required for registration will not need to cease employment if they have failed to register and new workers will have a longer period in which to apply for and achieve registration. In the adult social care sector, this could be of particular benefit to older people; in the children's sector, this would benefit children already facing multiple needs.

250) The majority of social workers and other social services workers (circa 85%) are female. This proportion is likely to be similar in the group of potential temporary social worker registrants. Enabling a faster process to register these professionals is not considered to have a negative impact upon the existing workforce because their registration will support the delivery of care by the existing workforce.

Registration is on a temporary basis and these temporary registrants will not continue to be eligible to practise as a temporary social worker after the Scottish Ministers have directed the SSSC to cease registering people as temporary social workers. However, there is nothing to prevent anyone who has been or is a temporary social worker applying for registration as a social worker if they decide they wish to return for work, or in the case of a student become fully qualified to apply to be a social worker. Standards of practice will be maintained because the Registrar will only be able to register people who are "fit, proper and suitably experienced". They will also be able to apply conditions to an individual's registration.

251) We do not consider that this measure will have a negative impact upon those who receive care. The SSSC is able to enter a fit, proper and suitably experienced person's name on the register as a temporary social worker. Accordingly, the SSSC will also be able to revoke registration of temporary social workers and will remove that person from the temporary register when the Scottish Ministers direct them it is no longer necessary to consider temporary registrations. This will allow the SSSC to react to fluctuations regarding the outbreak of COVID-19 and any increase in the demand for social worker services, and to support the delivery of care by social workers. These services will be received in particular by older and vulnerable people at risk from the virus, and by vulnerable children with multiple needs lacking safe and secure family care.

252) Allowing a longer period in which social services workers employed in registered care services can register is not considered to have a negative impact upon the existing workforce, because this longer period will apply across existing and new workers who have not yet registered in this part of the workforce. The 12-month period before social services workers working in registered care services are required to register will revert to 6 months on expiry of the Act. We do not consider this will have a negative impact upon those who receive care.

Section 8, 9: Employment Rights and Compensation for Volunteers (England and Wales, Scotland, Northern Ireland)

Equalities Impact Assessment updated after Royal Assent.

Explanation of the policy and the provision

253) These provisions aim to ensure that trained volunteers that assist with the delivery of health or social care services during the COVID-19 outbreak are not detrimentally affected as a result. The provisions will allow eligible volunteers to retain the benefits of their terms and conditions of employment during the period they are volunteering. The provisions also provide eligible volunteers with rights to return to their original job and with protections in relation to pensions, unfair dismissal and other employment detriment.

254) The provisions will also require compensation arrangements to be made for the making of payments to emergency volunteers for loss of earnings, travel and subsistence. The volunteers eligible for this scheme will be defined through guidance.

Consideration of any equality impact and mitigating measure

255) It is not possible to specify the exact sectors of society that will take up this opportunity, and in any event, it will not be mandatory. All trained volunteers (that is a volunteer that has the skills, experience and/or qualifications that enable them to support the delivery of front-line health and social care services) will be able to benefit from the protections afforded by this provision, with the exception of those in an excluded role. Similarly, these same volunteers are entitled to compensation in accordance with the arrangements made under these provisions. The policy will not exclude any individual based on their protected characteristics.

256) The National Council of Voluntary Organisations indicates that the rates of volunteering at least once a year is very similar across age groups, although it is less overall with regard to 25 to 34 year olds. Women are also slightly more likely to volunteer than men at least once a year (40% to 35%). However, we do not assess there being a negative impact due to the positive role that these individuals will play during a time of national crisis. By maximising the ability for trained volunteers to offer their services in a time of need, we are providing a platform to bolster the overall national response that will bring people together in a collective effort, and provide opportunities to harness new skills and experiences that can be deployed in other areas of life.

257) There are several categories of workers who will not be entitled to emergency volunteering leave. This includes those employed by an undertaking with fewer than 10 members of staff, Crown servants and other specified public sector roles. A complete list of excluded employers will be set out in regulations. These groups are excluded on the basis that the workers participate in delivery of core public services and critical national infrastructure, and to protect the operation and

viability of undertakings with fewer than 10 members of staff during what are challenging economic times.

258) We do not have data on the composition of these sectors to ascertain whether the restriction placed on them would affect a protected group. However, the expectation at this stage is that the provisions will not have a significant impact on a protected group. To the extent there is a perceived impact on a protected group, we believe it is a proportionate means of ensuring that core public services continue to function effectively, as well as protecting undertakings with fewer than 10 members of staff which are particularly susceptible to the effects of a reduced workforce.

259) As PSED is an ongoing duty, the impacts will continue to be monitored and prior to decisions being made, including any decision taken to trigger these powers. These provisions are not yet activated, and will only be triggered if deemed necessary by the Secretary of State, in consultation with the devolved administrations.

Section 10: Mental Health (England and Wales, Scotland, Northern Ireland)

Equalities Impact Assessment updated after Royal Assent.

Explanation of the policy and the provision

260) During a coronavirus pandemic, it is anticipated that there will be a surge in demand for healthcare services, including mental health services. There will also likely be higher staff absence rates than usual, particularly during the peak weeks. It is thought likely that organisations will find it very difficult to comply with a number of procedural requirements set out in the Mental Health Act 1983. The consequences of this would include meaning that patients needing mental health treatment in an inpatient setting would be less likely to receive it, particularly in those cases where a person is so unwell, he or she is not able or willing to consent formally to treatment. It would also mean that people would have to wait for an extended period before receiving mental health assessments, and be unwell and untreated for longer. These waits would include those for assessments following detentions made by the police under the Mental Health Act, which would be a burden on police time, and could result in an increase of the number of people being assessed within police stations.

261) In order to support these services and give them the flexibility they will need to continue treating patients during a coronavirus pandemic, a number of temporary amendments to the Mental Health Act are proposed. These include allowing fewer health care professionals needed to undertake certain functions; and extension or removal of time limits relating to detention and transfer of patients. The sole intention of these temporary amendments is to ensure that services are maintained for patients.

262) For example, the amendments would mean that an approved mental health professional may decide to detain a person on the advice of one doctor approved under section 12 of the Mental Health Act. The Mental Health Act currently requires the advice of two doctors, the second having acquaintance with the patient.

263) For prisoners, the provisions would help to ensure that defendants and prisoners with a mental health condition can be admitted to hospital for treatment during a time of staff shortages and disruption to services. The flexibilities will change the number of doctors' opinions and time limits required for detention and movement between court, prison and hospital.

264) Amendments to relax the rules in the proceedings of the Mental Health Review Tribunal for Wales (MHRTW) permit the reduction in the number of members required to constitute a tribunal and permit a tribunal to decide without holding a hearing. They also provide for a temporary deputy if the President of the MHRTW is unable to act in office.

Consideration of any equality impact and mitigating measure

265) The measures decrease the immediate safeguards around a number of processes under the Mental Health Act for persons with mental health conditions. There is a risk that the reduction of staff required for admission, and increasing the length of time patients can be detained, could have a negative impact on this protected group.

266) The softening of immediate safeguards has to be balanced against the interests of patients being able to access treatment if needed. The policy aim is to ensure that patients receive the mental health treatment they require in a timely and effective manner during a coronavirus pandemic. We consider that the policy is justified and proportionate in seeking this aim.

267) The available evidence also shows that the Mental Health Act already has a disproportionate impact on people from Black and Ethnic Minority backgrounds, for Black or Black British people. NHS Digital's statistics on the use of sections 2 and 3 of the Mental Health Act showed that rates of detention for Black or Black British people were over four times higher than that of the White group in 2018/19, which is similar to previous years.

268) Turning to the other protected characteristics, NHS Digital statistics for 2018/19 show that, in terms of gender, men were marginally more likely than women to be detained under the Act (91.4 per 100,000 people vs 83.2 for women). In terms of age, people aged 18 to 34 had the highest rate of detention (128.9 detentions per 100,000 people), one third higher than those aged 50 to 64 (89 per 100,000), but detentions rose again for people aged 65 and over (98.1 per 100,000).

269) Therefore, there is also a risk that the negative effects of the policy may be disproportionately felt by Black and Black British people, men and young adults. Again, we consider the fundamental interests in ensuring the mental health service

is accessible in a timely and effective manner during a coronavirus pandemic justifies any added impacts which might be felt by these protected groups.

270) PSED is an ongoing duty and so due regard will continue to be had and steps taken under these provisions will need to be kept under review. Clear communication of these amendments and how they should impact on provision will be key to their successful implementation. There is likely to be local variation in the impact of the emergency across the country and a clear understanding of when to utilise these flexibilities will be important.

271) The Mental Health Act Code of Practice for Wales 2016 identifies that the PSED applies to operation of the Act. Without the adjustments to the MHRTW there was a real risk that people would have had no access to justice/Article 5 safeguards at all. For those detained under the Act, the absence of adjustments to the MHRTW could have compounded existing inequalities. In the event that Schedule 8 modifications to the Mental Health Act are required to come into force, the continued availability of an independent review of detention under the Act by the MHRTW is even more important.

Section 10: Mental Health (Scotland)

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

Mental Health (Care and Treatment) Scotland Act 2003 “the 2003 Act”, the Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) and related subordinate legislation.

Explanation of the policy and the provision

272) During a pandemic period, it is anticipated that there will be a surge in demand for healthcare services, including mental health services. There will also likely be higher staff absence rates than usual, particularly during the peak weeks. It is thought likely that organisations will find it very difficult to comply with a number of procedural requirements set out in the 2003 Act, the 1995 Act and related subordinate legislation. Mental health legislation provides various procedural safeguards in relation to the care and treatment of mentally disordered persons. These safeguards include strict limitations on who can apply for detention for assessment and treatment of mentally disordered persons and the circumstances in and conditions under which such assessment and treatment can be carried out.

273) The consequences of this may mean that patients needing mental health treatment in an inpatient setting would be less likely to receive it, particularly in those cases where a person is so unwell, he or she is not able or willing to consent formally to treatment. It would also mean that people may have to wait for an extended period before receiving mental health assessments and treatment, and, therefore, be unwell and untreated for longer.

274) In order to support these services and give them the flexibility they will need to continue assessing and treating patients during the pandemic period, a number of temporary amendments to the 2003 Act, the 1995 Act and related subordinate legislation are proposed. These include, amongst others, where the assent or evidence of two medical practitioners is required, or the assent of one medical practitioner and a mental health officer, this is reduced to a requirement for one medical practitioner in circumstances where seeking the assent of two would be impractical or result in undesirable delay; the extension of the duration of certain orders; and the extension of timescales for the assessment of those involved in criminal proceedings.

Consideration of any equality impact and mitigating measure

275) Under the NHS (Scotland) Act 1978, the Secretary of State has a duty to promote a comprehensive and integrated health service, and Scottish Ministers have a separate duty to promote improvement of the physical and mental health of the people of Scotland. The proposed measures are intended to reduce the likelihood of a patient who requires treatment not receiving it whilst also ensuring that clinicians are provided with the flexibility they may need to continue to treat patients in accordance with the law during a period of significant staff shortages and increased strain on public bodies across Scotland. It would also support the autonomy of clinicians working within the health service by increasing their individual responsibilities.

276) These measures do decrease the immediate safeguards around these processes for persons with a protected characteristic, namely persons with a mental health condition. There is a risk that the reduction of measures required for admission, and the increase in the length of time patients can be detained could have a detrimental impact on this protected group. However, section 3 of the 2003 Act provides that anyone exercising functions under the Act is required to discharge the function in a manner that encourages equal opportunities and in particular the observance of the equal opportunity requirements. This section remains even if the amended provisions are being relied upon.

277) The Mental Welfare Commission for Scotland has a statutory duty to monitor the use of the Mental Health (Care and Treatment) (Scotland) Act 2003. The Commission is interested in how the Act is applied to different groups. 4% of Scotland's population is minority ethnic. In its most recent [Annual Statistical Monitoring Report 2018/19 \(https://www.mwcscot.org.uk/sites/default/files/2019-10/MHA-MonitoringReport-2019_0.pdf\)](https://www.mwcscot.org.uk/sites/default/files/2019-10/MHA-MonitoringReport-2019_0.pdf), the MWC notes that, from the ethnic monitoring forms completed and returned, 5.8% of people in Scotland subject to detention are ethnic minority. However, there is a gap in the completeness of data. Over the past five years for 9% to 13% of the forms returned, the matching ethnicity form was not found and where the form is present, ethnicity information has not been completed on 16% to 18% of all forms.

278) In addition, the inpatient census provides a snapshot of how mental health beds are occupied on a given day in 2018: and showed that 58% of mental health

inpatients are male and 42% are female. The reason for this difference between the genders is not clear.

Section 11: Indemnity for Health Service Activity (England and Wales)

Equalities Impact Assessment carried out after Royal Assent

Explanation of the policy and the provision

279) This indemnity clause will allow the Secretary of State for Health and Social Care, and the Welsh Ministers in Wales, to provide emergency indemnity coverage for health care workers in a coronavirus pandemic, as necessary, in relation to clinical negligence arising from NHS activities. The indemnity powers in the clause are not exercisable where indemnity is already in place to cover clinical negligence, for example for those already covered by state schemes (for example in England, the Clinical Negligence Scheme for Trusts (CNST) and the Clinical Negligence Scheme for General Practice (CNSGP) or in Wales the Welsh Risk Pool (WRP) and the Scheme for General Medical Practice Indemnity (GMPI)). The powers will also not be exercisable to cover healthcare workers who have indemnity cover through a private Medical Defence Organisation (MDO) or commercial insurance.

280) The intention behind this clause is to ensure that, in exceptional circumstances that might arise in a coronavirus pandemic, sufficient indemnity arrangements are in place to cover clinical negligence arising from:

- all activities of staff that relate to the diagnosis, care and treatment of patients with coronavirus; and
- other NHS roles that have arisen as a result of a coronavirus pandemic, where those undertaking those roles do not normally do so and where the NHS activities carried out fall outside the scope of pre-existing indemnity cover arrangements (both in the state schemes and privately provided cover).

281) The approach therefore taken complements existing indemnity arrangements.

Consideration of any equality impact and mitigating measure

282) The policy reflected in these provisions will not exclude any individual based on their protected characteristics.

283) We have considered the position of staff who will be covered by any indemnity that may be provided under the clause (staff who perform NHS services in relation to the care, treatment and diagnosis of coronavirus, or staff performing other activities that they have been asked or are required to carry out as a consequence of the pandemic, where existing indemnity arrangements do not apply). We have also accounted for the fact that the proposed measures enacted by the clause are designed to be temporary in nature and would not be a permanent change to the provision of indemnity for staff providing NHS services.

284) We consider that the impact, if any, on persons with a protected characteristic because of these provisions will be limited. To the extent that if there is any impact in terms of the protected characteristics that may not have been identified, this would only be for a temporary period of time.

285) There is no insight or evidence to suggest that there will be a negative differential impact on any of the protected groups. Instead, the creation of the state 'safety net' to indemnify the actions and omissions of all staffs in relation to a coronavirus pandemic is seen to positively impact the healthcare sector, as all staff carrying out the relevant services are reassured that adequate indemnity arrangements are in place to do their job.

286) The PSED is an ongoing duty and we will continue to monitor and review the impacts of these provisions.

Section 12: Indemnity for Health Service Activity (Scotland)

Equalities Impact Assessment carried out after Royal Assent

Explanation of the policy and the provision

287) The provisions will allow Scottish Ministers to make indemnity arrangements for personal injury liabilities and professional negligence liabilities to any person involved in the treatment or diagnosis of coronavirus on behalf of the health service.

Consideration of any equality impact and mitigating measure

288) We repeat our analysis of Section 11 above which has equal or similar equalities considerations.

Section 13: Indemnity for Health and Social Care Activity (Northern Ireland)

Equalities Impact Assessment carried out after Royal Assent.

Explanation of the policy and the provision

289) The provisions will allow the Northern Ireland Department of Health to make indemnity arrangements for personal injury liabilities and professional negligence liabilities to any person involved in the treatment or diagnosis of coronavirus on behalf of the health service.

Consideration of any equality impact and mitigating measure

290) We repeat our analysis of Section 11 above which has equal or similar equalities considerations.

Section 15: Care Act 2014 and Social Services and Well-being (Wales) Act 2014 Easements (England and Wales)

Equalities Impact Assessment carried out after Royal Assent.

Explanation of the policy and the provision

291) There are duties on Local Authorities in Part 1 of the Care Act 2014 to assess needs for care and support, and to meet those needs (subject to their financial circumstances). There are analogous duties for Local Authorities in Wales under Parts 3 to 5 of the Social Services and Well-being (Wales) Act 2014. An individual has eligible needs if they have care and support needs as a result of a physical or mental condition, which means that they cannot achieve two or more of the outcomes specified in the regulations and, as a result, there is a significant impact on their wellbeing. The outcomes specified in the regulations include things like dressing, maintaining personal relationships and going to school.

292) The provisions will replace these duties with a duty on Local Authorities to meet needs for care and support where not to do so would be a breach of an individual's human rights. Subject to these requirements, Local Authorities may lawfully prioritise who and what type of needs it will meet, rather than being required to meet all eligible assessed needs as currently specified under the Care Act.

293) The provisions will also include a power for the Secretary of State for Health and Social Care to direct Local Authorities in relation to the prioritisation of services to meet care and support needs.

294) The provisions will replace the duties of Local Authorities in Wales under the Social Services and Well-being (Wales) Act to meet the needs for care and support or support with the requirement to meet needs in order to protect the adult (or adult carer) from abuse or neglect or a risk of abuse or neglect.

295) The provisions also include a power for the Welsh Ministers to direct Local Authorities in Wales in relation to the prioritisation of services to meet care and support, or in the case of an adult carer, support.

Consideration of any equality impact and mitigating measure

296) The policy reflected in these provisions is not based on any protected characteristic. However, it will principally affect older people and people with a disability. Based on the data available, it is understood that those over the age of 70, and/or those who have pre-existing medical conditions are likely to be most affected by coronavirus. Similarly, it is that demographic, along with those with a disability, who ordinarily rely on the social services provided by Local Authorities and Local Authorities in Wales.

297) Reducing or withdrawing the levels of care and support from some, during this temporary period, could mean that these people suffer new or increased impacts on their wellbeing (physical, financial, social and psychological). For example, an

individual is not washed as regularly as they might previously have been, or is not supported to attend work during the emergency period. The impacts on the levels of service received will be especially felt by certain protected groups such as the elderly, those with physical and mental disabilities and potentially some ethnic backgrounds.

298) The policy may potentially have an indirect impact on the protected characteristic of gender, as the majority of carers (both unpaid and paid) are female.

299) It is also possible that some important needs are missed during the emergency period because Local Authorities are not undertaking full Care Act or Social Services and Well-being (Wales) assessments. It is understood that people from Black and Ethnic Minority backgrounds face a number of potential barriers to effective assessment of their needs.

300) It is envisaged that these negative consequences may be counterbalanced by positive impacts on the affected protected groups. This is because the measures are aimed at ensuring that those in most urgent need of support from the Local Authority receive that care without delay during a public health emergency.

301) These provisions will not be triggered unless Secretary of State for Health and Social Care (or the Welsh ministers in relation to the provision for Wales) considers there to be an imminent risk of Local Authorities failing to fulfil their duties under the Care Act (or the Social Services and Well-being (Wales) Act) as a result of a coronavirus pandemic. The power is temporary and confined to public health risk emergencies.

302) The Secretary of State for Health and Social Care has the power to direct Local Authorities in relation to the prioritisation of services to meet care and support needs. In addition, the provisions require that Local Authorities meet the needs for care and support of an individual under the Care Act if it is necessary to do so for the purpose of avoiding a breach of the individual's Convention rights. These measures safeguard fundamental rights and protections and offer important mitigation outcomes.

303) The Welsh Ministers have the power to direct Local Authorities in Wales in relation to the prioritisation of services to meet care and support (or support) needs. The provisions require that Local Authorities in Wales meet the needs for care and support (or support) of an individual under the Social Services and Well-being (Wales) Act 2014 in order to protect that individual from abuse or neglect or the risk of abuse or neglect.

304) We consider the policy is justified and a proportionate means of achieving the legitimate aim of ensuring that Local Authorities (and Local Authorities in Wales) have flexibility in prioritising social care and support services to those in most need at a time where Local Authorities (and Local Authorities in Wales) are managing pressure on demand for care and support during a coronavirus pandemic. There is no alternative way of dealing with these risks as urgently and effectively.

305) Authorities will continue to be guided by their existing public sector equality duties in their approach to prioritisation. Authorities will need to develop and undertake some new processes, including the organisation of urgent evaluations of basic care needs and the ethical and consistent prioritisation of care down to the level of the basic requirements as provided for in the Bill.

306) Clear communication of these amendments and how they should impact on provision will be key to their successful implementation. There is likely to be local variation in the impact of the emergency across the country and a clear understanding of when to utilise these flexibilities will be important.

Section 16 and 17: Duty of local authority to assess needs, and further provision (Scotland)

Equalities Impact Assessment carried out after Royal Assent

Explanation of the policy and the provision

307) These provisions increase flexibility for social care decision making during a coronavirus pandemic. The aim is to protect vulnerable people by allowing rapid prioritisation of urgent cases at a time when there is likely to be an influx of discharges from hospital, an influx of new cases from the community and a reduction in the social care staff available.

308) The core duty on Local Authorities to provide care and support to people in need of assistance remains in place under section 12 of the Social Work (Scotland) Act 1968. The provisions clarify that authorities can provide support without first conducting an assessment. The provisions also change duties to carry out a number of social care assessments into powers to assess. This will allow authorities to deliver urgent support and decide if and when assessments are required. The provisions cover all cases in which adults may be assessed for social care.

309) Similarly, the provisions remove the duty to prepare adult carer support plans and young carer assessments under the Carers (Scotland) Act 2016, but retain the power to do so. The duties and powers to provide support to carers under that Act are retained.

310) The Act also includes provision to increase flexibility for Local Authorities to meet the needs of young persons seeking after care assistance. The core duty in section 29(1) of the Children (Scotland) Act 1995 remains that a Local Authority has a duty to advise, guide and assist, for example, a formerly looked after young person (aged between 16 and 19) unless satisfied that the welfare of that person does not require it. The provision removes the duty to carry out an assessment in section 29(5) of the Children (Scotland) Act, but retains a power to do so. This allows Local Authorities to make provision of relevant services without the need to carry out assessments to the extent they may be impractical or lead to undesirable delay.

311) The provisions increase flexibility for Local Authorities to prioritise social care decision making for children affected by disability in the event of a coronavirus pandemic. The core duty to safeguard and promote a child's welfare under section 22 of the Children (Scotland) Act will continue. The provisions change the requirement to carry out an assessment in section 23(3) of the 1995 Act to a power to carry out an assessment. This allows Local Authorities to make provision of relevant services in relation to a child without the need to carry out assessments to the extent they may be impractical or lead to undesirable delay.

Consideration of any equality impact and mitigating measures

312) It is considered that the impact on persons with a protected characteristic under the Equality Act 2010 will be limited due to the above policy aims of the social care provisions.

313) The policy reflected in the provisions is not based on any protected characteristic, however, will likely be most impactful to those with the protected characteristics of age or disability. Based on the data available it is understood that those over the age of 70, and/or those who have pre-existing medical conditions are likely to be most affected by COVID-19. Similarly, it is that demographic, along with those with a disability, who ordinarily rely on the services provided by local authority.

314) The measures provided are with the intention to ensure that those in most urgent need of support from the local authority receive that care without delay, and it is therefore envisaged that it will have a positive impact on those with those protected characteristics.

315) The policy may potentially have an indirect impact on the protected characteristic of gender, as the majority of unpaid carers are female. In respect of the carer provisions, the local authority will still retain the duty to provide support however will not have a duty to provide a care and support plan for adult carers. The policy intention is that this will ensure that authorities have flexibility in prioritising support for carers to those in most need at a time where local authorities are managing pressure on demand for care and support. The policy does not amount to indirect discrimination because the public health reasons justify the approach, and there is no alternative way of dealing with these risks as effectively.

316) The policy has a direct effect on young carers, and therefore will engage the protected characteristic of age. A carer is deemed a young carer if they are under the age of 18 (or 18 and still at school). The intention is that this will have a positive impact during the coronavirus emergency, as it will ensure that authorities have flexibility in prioritising support for young carers to those in most need. Nevertheless, this does not amount to indirect discrimination as the policy is required to protect the greater public.

317) Authorities will continue to be guided by their existing public sector equality duties in their approach to prioritisation.

318) In relation to the proposed amendments to the Children (Scotland) Act 1995 it is considered that the impact on persons with a protected characteristic under the Equality Act 2010 will be limited due to the above policy aims of the above provisions.

319) The policy reflected in the provisions is not based on any protected characteristic, however, will likely be most impactful to those with the protected characteristics of age or disability. Based on the data available it is understood that those over the age of 70, and/or those who have pre-existing medical conditions are likely to be most affected by COVID-19. Similarly, it is that demographic, along with those with a disability, who ordinarily rely on the services provided by local authority.

Section 18: Registration of deaths and still births etc. (Northern Ireland)

Equalities Impact Assessment carried out after Royal Assent.

Explanation of the policy and the provision

320) In relation to completing a Medical Certificate of Cause of Death (MCCD), the provisions provide for any registered medical practitioner, who has knowledge as to the cause of death, to complete and sign a MCCD irrespective of whether they were the deceased's own doctor or whether they had seen the deceased after death or within 28 days prior to death. The provisions do not remove the ability of the deceased's own doctor completing the MCCD if they are able to do so.

321) The death registration measures allow for deaths to continue to be registered at a time in which there may be extreme pressure put on to the delivery of the service. They allow for:

- registrations to be made without the need for a face-to-face interview with the registrar; and
- for the transfer of documents electronically between medical practitioners, General Register Office, Registrars and Funeral Directors.

322) Section 7 of the Coroners Act (Northern Ireland) 1959 ordinarily requires a death from natural illness or disease to be notified to the coroner if the deceased has not been seen and treated by a doctor within 28 days prior to death. This requirement is disapplied where a person has died from natural illness or disease if a doctor has signed a death certificate under the provisions noted above.

323) The provisions do not exclude normal working practices, if available.

Consideration of any equality impact and mitigating measure

324) These measures will apply equally to all deaths within Northern Ireland. The policy reflected in these provisions will not exclude any individual based on their protected characteristics.

325) The provisions will apply equally to all certification and registration of deaths. We do not consider that there will be a disproportionate impact on any group of people with a protected characteristic. If there were a more significant impact on any protected group, we do not consider that there would be a material disadvantage arising from this.

Section 20: Suspension of Review of Cause of Death Certificates and Cremations (Scotland)

Equalities Impact Assessment carried out after Royal Assent

Explanation of the policy and the provision

326) These provisions enable the Scottish Ministers to suspend the review of Medical Certificates of Cause of Death (MCCD) and interested person reviews in Scotland under the Registration of Births, Deaths and Marriages (Scotland) Act 1965 and the Certification of Death (Scotland) Act 2011 and makes provision for reviews which have been started but not completed when the suspension takes effect.

327) Separately, these provisions enable Scottish Ministers to suspend the offence in section 49 of the Burial and Cremation (Scotland) Act 2016, insofar as it relates to the signing of an application for cremation. In practice, this means that any relative (or friend of long standing) of the deceased can make arrangements for cremation, regardless of where they are placed in the statutory hierarchy. The provisions also enable Scottish Ministers to suspend duties on cremation authorities and funeral directors to contact applicants to ascertain their wishes in respect of uncollected ashes under the Burial and Cremation (Scotland) Act 2016. When Local Authorities are making the arrangements for cremation, they are not required to take steps to ascertain how the ashes of the deceased are to be disposed of. Instead, the funeral director or cremation authority will be placed under a duty to retain the ashes and to comply with their duties under the 2016 Act once the provisions have been re-instated.

Consideration of any equality impact and mitigating measure

328) It is considered that these provisions will not have a direct or disproportionate impact on any group of people with protected characteristics. Any resulting indirect impact relating to these powers on their own is expected to be small and temporary in nature. The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the Act.

Section 22, 23: Judicial Commissioners (England and Wales, Scotland, Northern Ireland)

Equalities Impact Assessment updated after Royal Assent

Explanation of the policy and the provision

329) The Investigatory Powers Act 2016 is the one of the critical pieces of domestic legislation for national security. It creates the statutory basis for the use of the investigatory powers (intercept of communications, equipment interference, use of bulk powers, and communications data) by the intelligence and law enforcement agencies, using warrants issued under the Act. These warrants provide the agencies with the capability they need to protect national security and investigate serious crime, and by way of example are used in almost all MI5 and National Crime Agency investigations. These include urgent warrants where there is an imminent threat to life.

330) Judicial Commissioners play a vital role in the warranty process by providing independent, judicial consideration of warrants after they have been signed by the Secretary of State, or Scottish Ministers – except in urgent cases where they must consider a warrant within three working days of it being issued. In these cases, the warrant ceases to have effect after five working days unless it is renewed. Judicial Commissioners can only be appointed after a lengthy process. They must be, or have been, holders of high judicial office.

331) There are 15 Judicial Commissioners, working under the Investigatory Powers Commissioner. All but one of the current Judicial Commissioners are over 70 and therefore at particular risk from the virus itself or highly likely to be affected by other measures the government may take to mitigate the virus' impacts.

332) The provisions in the Bill create a regulation-making power to allow the Home Secretary, at the request of the Investigatory Powers Commissioner, to vary the appointment process for Judicial Commissioners to allow for the Investigatory Powers Commissioner to directly appoint temporary Judicial Commissioners. The temporary Judicial Commissioners will be appointed for terms not exceeding 6 months each and no more than 12 months in total.

333) The Bill will also create an order making power to allow the Home Secretary to vary the time periods of an urgent warrant at the request of the Investigatory Powers Commissioner. This would extend the timeline for ex post facto Judicial Commissioner authorisation and the lifespan of the warrant for up to 12 working days.

Consideration of any equality impact and mitigating measure

334) The policy reflected in these provisions will not exclude any individual based on their protected characteristics. However, Judicial Commissioners must be current or past holders of high judicial office, and these criteria will also extend to temporary Commissioners appointed under these provisions. Those appointed are unlikely to be less than around 45 years old, given the legal experience that is necessary to be appointed. Any perceived exclusion or disadvantage suffered by younger people because of these provisions is considered to be justified and proportionate in achieving the legitimate aim of ensuring that Judicial Commissioners are suitably qualified given the vital role they play in the warranty process.

335) Enabling the appointment of temporary Judicial Commissioners is not considered to have a negative impact on existing Judicial Commissioners because their appointment will support and supplement the service provided. Appointment is time limited. It is unlikely, therefore, to reduce or jeopardise the position of Judicial Commissioners.

Section 24: Fingerprints and DNA profiles (Extension of time limits for retention of fingerprints and DNA profiles)

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

336) Section 24 of the Coronavirus Act 2020 confers a regulation-making power on the Secretary of State so that she may vary the statutory retention deadlines for biometrics (fingerprints and DNA profiles) taken under relevant specified counterterrorism and law enforcement legislation. It does not introduce wholly new provisions.

337) There is no quantitative or qualitative data available to suggest that the changes to the biometrics retention arrangements will discriminate against or disproportionately affect people who share certain protected characteristic(s).

338) Section 24 was introduced to mitigate the effects of coronavirus on Counter-Terrorism Policing, including the risk that a critical national security capability would be lost. The power includes a number of safeguards:

339) The power may be exercised on more than one occasion but not so as to extend the period for which fingerprints or DNA profiles may be retained by more than 12 months in total.

340) Regulations may only be made in response to the effects that coronavirus is having, or is likely to have, on the capacity of chief officers of police to consider whether biometrics need to be retained in the interests of national security.

341) The regulations may only provide for the retention of biometrics which would otherwise fall to be destroyed in the period of 12 months starting with the date of Royal Assent (25 March) of the Coronavirus Act 2020 and only after consulting the Biometrics Commissioner.

342) The UK's counter-terrorism legislation is ideologically blind. Regulations made under Section 24 will apply to all relevant biometrics regardless of gender, race, religion, age or disability. Quantitative data suggests that Asian/British Asian and Muslim individuals have been disproportionately affected by terrorism legislation relative to the percentage of Asian/British Asian and Muslim individuals in the total population. This trend is consistent with Islamist terrorism posing the single most prevalent threat in the UK. The independent Biometrics Commissioner keeps under review the retention and use by the police of biometrics. The Commissioner will publicly report on the effect of the regulations made under Section 24.

Section 32: Deaths in Custody from Natural Illness (Northern Ireland)

Equalities Impact Assessment carried out after Royal Assent.

Explanation of the policy and the provision

343) The provision, which extends to Northern Ireland only, disapplies the requirement for an inquest into a death in prison to be held with a jury where the death is from natural illness.

Consideration of any equality impact and mitigating measure

344) The provision will apply to all inquests into deaths in prison from natural illness. Any indirect impact on protected groups is likely to be small and it is not considered that this would give rise to any material disadvantage.

Section 38 (Schedule 17): Temporary continuity: education, training and childcare (England)

Equalities Impact Assessment carried out after Royal Assent

Explanation of the policy and provision

345) This provision gives the Secretary of State a power to issue temporary continuity directions to educational institutions, registered childcare providers and local authorities requiring them to take reasonable steps – or specific steps that the Secretary of State considers reasonable – in connection with the provision of education, training, childcare (or services relating to these), or ancillary services and facilities, for a specified period. Before giving the direction the Secretary of State must have regard to any advice from the Chief Medical Officer (or his deputies) relating to the incidence or transmission of coronavirus, and must determine that giving the direction is a necessary and proportionate action for or in connection with the continued provision, as relevant, of education, training or childcare etc. It also gives the Secretary of State a power to issue notices to disapply or modify, for a period of one month, certain specified statutory requirements in education and childcare (and any similar provision found in academy arrangements), where the Secretary of State considers the issuing of the notice to be an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus.

346) Similar powers to issue educational continuity directions apply in Scotland and these powers are held by Scottish Ministers.

Consideration of any equality impact and mitigating measure

347) The Secretary of State for Education has issued 4 notices to temporarily disapply requirements relating to pupil registration, school attendance and school

inspection and to modify requirements relating to Education, Health and Care plans. The first notices applied from 1 May to 31 May 2020 and second notices have now been issued and apply from 1 June 2020 to 30 June 2020. Prior to making each decision to issue notices the Secretary of State for Education considered the equality implications pursuant to the requirements of the public sector equality duty (PSED) in section 149(1) of the Equality Act 2010.

Section 38 (Schedule 17) – Temporary continuity: education, training and childcare (Wales)

Equalities Impact Assessment carried out after Royal Assent

Explanation of the policy and provision

348) This provision gives the Welsh Ministers a power to issue temporary continuity directions to educational institutions, registered childcare providers and local authorities requiring them to take reasonable steps – or specific steps that the Welsh Minister consider reasonable – in connection with the provision of education, training, childcare (or services relating to these), or ancillary services and facilities, for a specified period. Before giving the direction, the Welsh Ministers must have regard to any advice from the Chief Medical Officer for Wales (or his deputies) relating to the incidence or transmission of coronavirus, and must determine that giving the direction is a necessary and proportionate action for or in connection with the continued provision, as relevant, of education, training or childcare etc. It also gives the Welsh Ministers a power to issue notices to disapply or modify, for a period of one month, certain specified statutory requirements in education and childcare, where the Welsh Ministers consider the issuing of the notice to be an appropriate and proportionate action in all the circumstances relating to the incidence or transmission of coronavirus.

Consideration of any equality impact and mitigating measure

349) The Minister for Education has issued notices to temporarily disapply requirements relating to public registration, curriculum requirements and school organisation. Prior to making each decision to issue notices the Minister for Education carefully considered the equality implications pursuant to the requirements of the public sector equality duty (PSED) in section 149(1) of the Equality Act 2010.

Section 39, 40, 41, 42, 43, 44: Statutory Sick Pay (England and Wales, Scotland, Northern Ireland)

Equalities Impact Assessment or updated after Royal Assent.

Explanation of the policy and the provision

350) These provisions will enable small and medium employers (those with fewer than 250 employees) to reclaim Statutory Sick Pay that is paid for sickness absences relating to coronavirus, during the period of the outbreak. The refund will be capped at 2 weeks of Statutory Sick Pay per employee.

351) Under current rules, Statutory Sick Pay is not paid for the first three days of work that an employee is unable to work because of sickness. These days are known as waiting days. The provisions will allow the temporary suspension of this rule so that employees will receive Statutory Sick Pay from the first day that they are unable to work, should this be necessary.

352) The provisions will also allow for regulations to be made referring to guidance issued by Public Health England, NHS National Services Scotland and Public Health Wales in determining whether an employee should be deemed to be incapable of work by reason of coronavirus, for example because the employee is self-isolating.

353) The Northern Ireland provisions make similar amendments in respect of refund Statutory Sick Pay, disapplying the waiting period limitation and modifying regulation making powers.

Consideration of any equality impact and mitigating measure

354) A rebate of Statutory Sick Pay paid for sickness absences relating to coronavirus will support the financial position of small and medium employers which might otherwise be constrained or compromised because of increased absences during a coronavirus pandemic. An associated consequence will be an improvement of job security among the general population, including those with protected characteristics.

355) As the rebate will be for small and medium employers, the equalities impact of this measure depends on the equalities characteristics of those currently employed in small and medium employers.

356) 50% of all employed people with disabilities work in small workplaces, compared to just under half of people who do not have disabilities (47%). A further 22% of people with disabilities work in medium sized workplaces (between 50 and 250 staff), compared with 23% of people who do not have disabilities. 25% of people with disabilities work in large workplaces (over 250 staff), compared with 25% of people who do not have disabilities. Therefore, small businesses employ a slightly higher proportion of disabled employees than the rest of the economy and so the rebate is more likely to benefit employed people with disabilities.

357) Concerning the removal of waiting days, employees who are absent from work and receive Occupational Sick Pay, whereby an employer has agreed to pay sick pay above the statutory minimum level, may not have to complete waiting days before receiving sick pay (depending on the terms of their Occupational Sick Pay) and are therefore less likely to benefit from this measure than employees who receive Statutory Sick Pay.

358) 28% of all employers pay Occupational Sick Pay. We do not know directly the equalities characteristics of those that currently receive Occupational Sick Pay. However, we know that small and medium employers are less likely to offer Occupational Sick Pay (26% of small firms, 47% of medium firms and 77% of large firms) and therefore employees of small employers are more likely to benefit more from these measures.

359) Overall, we consider that any negative differential impacts on the basis of protected characteristics are justified and a proportionate means of achieving the legitimate aim of supporting small and medium employers who are particularly vulnerable to increased absenteeism as a result of a coronavirus pandemic.

360) We do not have data readily available on other equalities characteristics of employees in small and medium employers.

361) As PSED is an ongoing duty, we will continue to monitor and review the impacts of these provisions.

Section 49: Health Protection Regulations (Scotland)

Equalities Impact Assessment carried out after Royal Assent

Explanation of the policy and the provision

362) These provisions provide Scottish ministers with a power to make regulations for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Scotland. The threat can come from inside or outside Scotland.

363) Scottish ministers already have powers under the Public Health etc. (Scotland) Act 2008 to make regulations to give effect to international agreements or arrangements, including World Health Organisation recommendations. However, the purpose of these provisions is to increase consistency of approach across the United Kingdom.

Consideration of any equality impact and mitigating measure

364) These provisions allow for regulations to be made for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in Scotland.

365) Throughout the development of the regulations that have now been made under these powers to support social distancing measures as part of the response to the current coronavirus outbreak, and development of the supporting guidance, the Scottish Government has had regard to equality considerations as part of the policy development process. Impact assessment will be carried out as required on the measures contained within the regulations, and proposed changes to the measures are being assessed for their impact on equality and other areas as part of the policy development. This will be reported to the Scottish Parliament in appropriate impact assessments supporting any further amending regulations.

Section 50 (Schedule 20): Powers to Suspend Port Operations (England and Wales, Scotland, Northern Ireland)

Equalities Impact Assessment updated after Royal Assent

Explanation of the policy and the provision

366) The purpose of this power is to ensure that we can continue to protect the border in the event that, due to coronavirus, there are insufficient officers to maintain adequate border security. Specifically, the Schedule provides powers for the Secretary of State to direct a port operator in the UK (i.e. a person concerned in the management of any port, for example airport, ferry port, international rail terminal) to suspend relevant operations. The Schedule also provides the Secretary of State a power to issue consequential directions to other parties if the Secretary of State considers it appropriate in connection with the primary direction.

367) Before making a direction, the Secretary of State must: i) consider that there is a real and significant risk that, as a direct or indirect result of coronavirus, there are or will be insufficient Border Force officers to maintain adequate border security; and ii) have taken such other reasonably practicable measures to mitigate that risk. There will also be a consultation process with relevant government departments and Devolved Administrations, prior to a direction being made, to the extent possible. The power will only be used where the Secretary of State believes that it is necessary and proportionate to do so; and once all relevant alternative mitigations have been deployed.

368) The power is in response to the public risk of coronavirus and will be subject to sunset provisions within the wider Bill. The PSED is an ongoing duty and the equalities implications will continue to be monitored and reviewed.

Consideration of any equality impact and mitigating measure

369) Consideration has been given as to whether the proposals could constitute conduct prohibited by the Equality Act. The proposals would apply to all persons irrespective of any protected characteristics and would therefore not constitute direct discrimination. We have considered whether they constitute indirect discrimination and have determined that this could conceivably be the case in the potential impacts and evaluations set out below.

370) Indirectly, the application of a suspension of operations could disproportionately affect specific points of origin and could, therefore, impact certain nationalities and/or religions and beliefs more than others due to geographic concentration of nationalities and/or religions and beliefs at that point of origin. In these circumstances, we consider that any potential differential impact in this respect is justified and proportionate to achieve the legitimate aim of ensuring border security.

371) It is conceivable for disproportionate impact to be observed by means of suspension of operations at types of ports favoured by different groups who share

protected characteristics (such as those relating to age and/or disability). Overall, we consider that the spread of groups using each type of port is sufficiently mixed, such that any indirect discrimination in this respect will be minimal and justified and proportionate means of delivering a legitimate aim. We consider that any such differential impact will be minimal and a proportionate means of delivering a legitimate aim of border security.

372) Additionally, it is conceivable that through the issue of such directions to suspend particular port operations, additional travel pressures could be applied to certain groups with additional mobility requirements (such as those relating to age, disability, pregnancy etc) as an indirect effect of transport diversion to an unscheduled destination or prolonged travel time resulting from disruptions. It is reasonable to assume for there to be broadly equivalent mobility access provisions within ports in most circumstances that receive the diversions, in addition to options for onward travel from such ports. We therefore consider that any such differential impact will be minimal and a proportionate means of delivering a legitimate aim of border security.

373) With regards to fostering good relations, the powers represent a fairness and equality of treatment and we do not expect any positive or negative impact on the relations between those who share a protected characteristic and those who don't. It is conceivable that there may be instances where those who have a protected characteristic that limits mobility requirements (for example, considerations relating to age, disability, pregnancy etc) resulting in them being disproportionately affected by these powers if used, and lead to a negative impact on relations through this perception. In these instances, the effects of these powers necessarily apply to all individuals and the powers aim to protect border security, thereby safeguarding and mitigating the perceived negative impact as a justified and proportionate means of delivering a legitimate aim.

Section 51 (Schedule 21): Potentially Infectious Persons (England and Wales, Scotland, Northern Ireland)

Equalities Impact Assessment updated after Royal Assent

Consideration of any equality impact and mitigating measure

374) The policy reflected in the quarantine provisions is not based on nationality or race in any way. The provisions will apply equally to any individual who has arrived in the UK and has left an infected area within the preceding 14 days prior to arrival in the UK, or to persons (of any nationality) if there are reasonable grounds to believe the person is or may be infected or contaminated with the coronavirus and there is a risk that the person might infect or contaminate others. Therefore, there will be no direct discrimination on the grounds of any protected characteristic.

375) A proportion of such people may also have difficulty understanding English. There may, in some instances, be a need for an official translator (rather than a fellow passenger or family member) to assist in communicating with an individual. It is important for public health reasons that any person identified clearly

understands the public health requirements imposed on them using the powers under the Act.

376) Coronavirus is considered to have a greater impact on older people and people with health problems, which might include a form of disability. This may render these protected groups more liable to be symptomatic and therefore more likely to be identified as being infectious.

377) The quarantine provisions will include a duty to have due regard to whether the particular quarantine measure is necessary and proportionate in the interests of the potentially infectious person, for the protection of other people or for the maintenance of public safety. For example, a particular measure is likely to be necessary and proportionate if an individual is deemed unlikely to comply with a direction to voluntarily attend a hospital or other suitable place for assessment. Each measure will be considered on a case-by-case basis.

378) The provisions require that a responsible adult, so far as reasonably practicable, ensures “a child” complies with any direction, instruction, requirement or restriction. There will be full regard to safeguarding the wellbeing of any child affected by such procedures. The responsible adult is a person with parental responsibility for the child (within the meaning of the Children Act 1989) or a person who has custody or charge of the child for the time being.

379) Staff carrying out screening will need to be aware of cultural sensitivities, and will consider that individuals of certain religions or beliefs may have slightly different needs. We will advise staff to do their utmost to gain compliance from these individuals through negotiating with them in a sensitive, sympathetic way. Regardless of religion or belief, it is important for public health reasons that people comply with screening requirements and that they understand the public health requirements imposed on them.

380) The NHS will remain a key point of contact for anyone suffering from coronavirus and in need of urgent care. We anticipate that most people will follow sensible public health advisory and imposing restriction and requirements will not be necessary. Wide safeguards are included in the Act including the requirement that powers are only exercisable when it is necessary and proportionate in the interests of the person, for the protection of others or for the maintenance of public health. The provisions include the right to appeal to a magistrates’ court against the imposition of any requirement, restriction or direction imposed on a person.

Section 53, 54, 55, 56, 57: Expansion of Video and Audio Hearings in the Magistrates and Criminal Courts (England and Wales, Scotland, Northern Ireland)

Equalities Impact Assessment updated after Royal Assent

381) In England and Wales, we are carefully monitoring the impact of the provisions. Courts will only order participation by video or audio live link if they are satisfied that it is in the interest of justice to do so. They will consider how best to

adapt proceedings for disabled defendants through reasonable adjustments, such as intermediaries and rules of procedure, to ensure they can fully participate in hearings. As the number of video hearings rises, courts are increasing access to reasonable adjustments and working to ensure that specific needs are identified and prepared for well in advance.

Section 58: Powers in Relations to transportation, storage and disposal of dead bodies etc

The amendment wording was drafted in real-time consultation with Ministers shortly before the Bill was laid in Parliament. The amendment addressed some of the Equalities Impact Assessments that MPs had raised concerns about to ministers and positively mitigated Equalities Impact Assessments that communities were concerned about.

382) The amendment to Section 58 [Part 4 of the Schedule] made a requirement for local and national authorities to take regard of the deceased person's wishes, where they are known, of the method to be used for their final committal (i.e. burial or cremation). The amendment also included a requirement that the national authorities give guidance setting out how they expect local authorities to meet these requirements in more detail and requires local authorities to take that guidance into account. This [guidance was published by MHCLG in April 2020](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885083/Schedule_28_guidance.pdf) (https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/885083/Schedule_28_guidance.pdf) and covers the use of the powers in England. Scotland and Wales have also published guidance.

383) The principles included in these amendments were an integral part of the government's approach and were to be expanded with statutory force in supporting guidance. However, there were concerns from some religious groups in particular that the original clause did not offer enough assurance that personal wishes would be adhered to. The amendment was drafted to address this and reassure the public that respecting the dignity of the deceased is a priority for national and local government throughout the COVID response. Part 2 powers of Section 58 have not been used and no designations have been made.

Section 59, 60,61,62, 63, 64: Postponement of Elections (England)

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

Explanation of the policy and the provision

384) These provisions will make provision to postpone elections in England and Wales scheduled for 7 May 2020 and any other elections or local government referendums that may arise (including by-elections). The provisions will also extend the term of incumbents where postponement has taken place.

Consideration of any equality impact and mitigating measure

385) The measures reflected in these provisions will apply universally in England and Wales. Accordingly, we do not perceive any equality impacts including on persons with protected characteristics.

386) The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the overall Bill.

Sections 65, 66, 67, 68: Postponement of elections in Wales

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

Explanation of the policy and the provision

387) These provisions make provision about the postponement of Senedd and local government elections in Wales from 16th March 2020 onwards.

Consideration of any equality impact and mitigating measure

388) The provisions enabling Senedd and local government by elections in Wales to be postponed will enable full consideration to be given to ensuring that no group with a protected characteristic is disadvantaged by being disenfranchised when the elections are held. For example, for those needing to shield or self-isolate which include older people and people with disabilities preparations can be made for postal voting.

Sections 69, 70: Postponement of elections (Scotland)

Equalities Impact Assessment of new clauses – omitted from the initial Equalities Impact Assessment document

Explanation of the policy and the provision

389) These provisions enable Returning Officers and the Presiding Officer respectively to postpone local government by-elections and by-elections for constituency seats to the Scottish Parliament.

Consideration of any equality impact and mitigating measure

390) These measures will apply equally to all postponed by-elections in Scotland. Accordingly, we do not perceive any equality impacts including on persons with protected characteristics.

Section 71: Signatures of Treasury Commissioners (England and Wales, Scotland and Northern Ireland)

Equalities Impact Assessment carried out after Royal Assent.

Explanation of the policy and the provision

391) The functions of the Treasury are carried out by the Commissioners of HM Treasury. There are currently 8 Commissioners – the Prime Minister, Chancellor and 6 Junior Lords of the Treasury.

392) These provisions will ensure that during a coronavirus pandemic, where any instrument or Act is required to be signed by the Commissioners, it will be possible for a single Commissioner or a single Treasury Minister to sign instruments and act on behalf of the Commissioners. The purpose of these measures is to ensure that the Treasury can transact its business at all times during a coronavirus pandemic.

Consideration of any equality impact and mitigating measure

393) We do not perceive any equality impacts including on persons with protected characteristics. We consider that the approach reflected in these provisions strikes the right balance between constitutional propriety and making necessary provision for the Treasury during a coronavirus pandemic. This is an important public interest aim.

394) The equalities duty will continue to be considered before and after the powers are used and as part of the wider assessment of the overall Bill.

Section 72, 73 and 74: HMRC National Insurance Contributions

- 72) Exercise of section 143 of the Social Security Administration Act 1992
- 73) Exercise of section 145 of the Social Security Administration Act 1992
- 74) Exercise of section 5 of the National Insurance Contributions Act 2014

Equalities Impact Assessment will be further considered if the amendments to the regulation making powers are utilised.

Explanation of the policy and the provision

395) These provisions enable the government to respond flexibly to the COVID-19 outbreak through the National Insurance system. The government is providing a wide range of support to businesses and employers and therefore to date it has not needed to exercise these powers.

396) Under these provisions, the government can, if required, act quickly to support employers through the National Insurance system by reducing rates of National Insurance or amending the amount and eligibility criteria for the Employment Allowance.

397) The Act modifies the existing procedures for making changes to National Insurance contributions, to enable the government if needed to respond quickly to

the COVID-19 outbreak. Specifically, the Act removes the statutory requirement that a report from the Government Actuary Department accompany secondary legislation implementing rate changes. The Act also provides that secondary legislation for changing National Insurance rates and the Employment Allowance amount and eligibility is subject to the negative procedure in Parliament instead of the affirmative procedure. These temporary modifications will last for 2 years from the day the Bill received Royal Assent.

Consideration of any equality impact and mitigating measure

398) As these powers only modify existing regulation making powers to provide further flexibility to the government no further equalities impact was considered necessary at this time. The equalities duty will continue to be considered if the powers are used.

Section 76: HMRC Functions

Equalities Impact Assessment of new clauses – omitted from the initial Equalities Impact Assessment document

Explanation of the policy and the provision

399) The provision allows the Treasury to make Directions that give HMRC responsibility for new functions necessary to deliver the government's response to COVID-19. Specifically, this allows the Treasury to direct that HMRC have the new functions in respect of paying and managing grants to support the economic response to the pandemic. The grants include to businesses and individuals under the Coronavirus Job Retention Scheme (CJRS) and Self-Employment Income Support Scheme (SEISS). The powers were required as HMRC is a non-ministerial department that only has the functions conferred by or under statute and its existing functions did not extend to delivery of the Schemes.

Consideration of any equality impact and mitigating measure

400) The provision allows the Treasury to give HMRC responsibility for new functions through a Direction. The consideration of equality impacts of any new functions set up under this provision are considered by Ministers as part of the policy and delivery advice on the individual Schemes, for example, the Chancellor considered the equalities impacts of the Coronavirus Job Retention Scheme as part of broader advice at the time.

Section 77: Up-rating of working tax credit etc

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

Explanation of the policy and the provision

401) This section provides for a temporary increase to the rate of the basic element of Working Tax Credit; providing additional support to claimants to help them manage the economic impacts of the coronavirus pandemic. Under the provisions in this section the annual rate of £1,995 which had been due to take effect from 6 April 2020 has been replaced with a higher amount of £3,040. The higher rate will apply for the 2020/2021 tax year only.

402) Also, provisions under this section will allow Treasury Ministers to ignore the increased rate of the basic element of Working Tax Credit that will be in effect in 2020/21 when they conduct their annual review of whether tax credits rates have kept their value in relation to the rise in the general level of prices in the United Kingdom.

403) Similar provision is made for increases to the standard allowance of Universal Credit, which has been increased under separate legislation. Again, as this is a temporary measure for the 2020/2021 tax year only, the previously announced rates of the standard allowance of Universal Credit will be used for the purpose of the Secretary of State for Work and Pensions review of benefit rates for the tax year 2021/2022.

Consideration of any equality impact and mitigating measure

404) This measure is designed to provide additional support to people in work affected by the coronavirus pandemic, particularly where they need more support as a result of a reduction in income. It is expected that 1.6 million Working Tax Credit claimants will benefit from the extra support, with the amount gained dependent on circumstances but up to an additional £20 per week per household.

405) HMRC conducted an equalities assessment for the increases to benefit rates proposed for the 2020/2021 tax year. The equalities assessment covers the impact of increases to both Child Tax Credits and Working Tax Credits.

406) HMRC holds information on tax credit recipients by age, gender and where they report a disability in order to determine their eligibility to tax credits, which is a means-tested benefit available to those who meet the qualifying criteria.

407) Based on the oldest adult in the claim, those aged 35 to 49 are the largest group on tax credits (over 53%) and also see the highest average gain. This may be due to the fact that this age group has the most dependent children. Almost three quarters of single tax credit claimants are female. The expected average annual gain is higher for single males compared to single females. Just over 18% of tax credit families contain at least one disabled adult or child. Claimants who have a disabled child and no disabled adult are expected to have the highest average annual gain in awards.

408) HMRC does not hold tax credits information on other protected characteristics such as religion or sexual orientation. It is not anticipated that there will be impacts for any other group sharing protected characteristics.

409) No separate equalities assessment has been conducted for the additional increase to the basic element of Working Tax Credit as a recent equalities assessment had been undertaken as part of the usual annual uprating exercise and the measure is wholly beneficial to the claimants affected and would impact the same individuals.

410) No separate equalities assessment has been carried out in relation to the Department for Work and Pensions review powers under section 77(3) as the measure simply retains the Secretary of State for Work and Pensions power to use the 6 April 2020 baseline rates for the Universal Credit standard allowance in her up-rating review for this year. No disproportionate impact is anticipated. A full equalities assessment was carried out for the underlying increase to the Universal Credit standard allowance.

411) As PSED is an ongoing duty, we will continue to monitor and review the impacts of these provisions.

Section 78: Local Authority meetings

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

Explanation of Policy and provision

412) MHCLG intends to make 3 sets of time-limited regulations under provisions in the Act relating to local authorities in England:

413) The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) Regulations 2020 will postpone local authority by-elections, polls and referendums in England and by elections for Police and Crime Commissioners in England and Wales and make consequential provision.

414) The Local Government (Coronavirus) (Structural Changes) (Amendment) (England) Regulations 2020 will modify the Structural Changes Orders for Buckinghamshire and Northamptonshire, both of which local government areas are currently re-structuring, to ensure the new Buckinghamshire council goes live from 1 April 2020 and that the two shadow unitary councils in Northamptonshire are established in May 2020, albeit with different membership, to continue to deliver vital services and (for Northamptonshire) to continue to lead effective implementation of the local government reform for 1 April 2021.

415) The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings) (England) Regulations 2020 will remove requirements for local authorities to hold annual meeting and allow them to hold all necessary meetings virtually enabling council members, officers and members of the public to access meetings remotely.

416) The regulations will affect local authority councillors and officers, enabling them to continue effective decision-making processes whilst continuing to uphold democratic principles, and to prioritise the planning and delivery of key services.

Many of the recipients of those key services fall into three of the groups of those who share protected characteristics (age, disability and pregnancy and maternity).

417) The regulations will also affect all members of the public who may wish to attend council meeting or who are eligible to vote in the by-elections and other polls and referendums throughout the year. For example, we expect around 100 neighbourhood planning groups would be directly affected by the Regulations.

418) It will be for local authorities to decide how best to implement the remote access flexibilities and in so doing they will make their own PSED assessments, for example, in relation to ensuring different groups' ability to access meetings remotely (via the internet, telephone dial-in etc).

419) No form of discrimination is likely to arise in relation to any groups sharing protected characteristics and therefore no mitigation is required.

420) There are several ways in which the regulations will help to reduce the potential disadvantages that could be suffered by people who are older, have a disability or are pregnant as a result of the pandemic. The benefits arise because for example, the Regulations support local authorities to prioritise resources for front-line care services and NHS support roles and enable all councillors and public to attend remote meetings.

421) There may be some further positive impacts on relations between people who share a particular protected characteristic and people who do not share it.

Summary of the evidence considered in demonstrating due regard to PSED

422) The evidence reviewed for this assessment relates primarily to the impact of the measures on older people, people with disabilities and pregnant women – medical advice is that people in these three protected groups are most at risk from the COVID-19 virus and the stakeholder evidence consistently urges the government to take the actions being taken in the regulations in order to better protect and support people who share these protected characteristics.

423) In England there are 17,700 Councillors at District/Unitary/ County Level (Source – [LGA 2018 Census of Councillors \(https://lgiu.org/local-government-facts-and-figures-england/#section-3\)](https://lgiu.org/local-government-facts-and-figures-england/#section-3)); of those around 55% are aged 60+ and 43% are 65+. There are around 100,000 town and parish councillors (Source – [NALC \(https://www.nalc.gov.uk/about-local-councils\)](https://www.nalc.gov.uk/about-local-councils)). Recent statistical averages on the age of town and parish councillors are limited – however an [Intergenerational Foundation report \(http://www.if.org.uk/wp-content/uploads/2012/09/Localism_IF_defin.pdf\)](http://www.if.org.uk/wp-content/uploads/2012/09/Localism_IF_defin.pdf) in 2012 indicated that over 40% of all parish councillors were aged over 65. There are no equivalent figures on disability and pregnancy rates.

424) On 13 March, the Prime Minister announced that the 7 May 2020 elections would be postponed by a year. The decision to postpone was taken following advice from the government's medical experts in relation to the response to the COVID-19 virus. Risks include polling station and count safety for voters,

candidates and staff, the likely demands on local authority electoral staff to support other key services, and the impracticality or potential impossibility of campaigning activity.

425) In addition to the medical and behavioural advice informing the Prime Minister's decision, MHCLG and Cabinet Office ministers and officials have received a significant volume of representations from the local government sector including from individual council leaders and chief executives (through regular telephone conferences with the Secretary of State and other routes), and from Returning Officers and sector representative bodies such as the LGA (local councils), NALC (parish councils) and the Association of Electoral Administrators. These representations raise, and expand upon, the issues mentioned above and seek urgent assurances that government will make the required legislation to postpone by-elections and referendums and to give local authorities flexibility regarding timing of meeting and to enable meetings to take place remotely.

426) The Electoral Commission wrote to the Minister for the Constitution on 12 March [urging the government to postpone the May 2020 elections](https://www.politicshome.com/news/article/electoral-commission-urges-ministers-to-postpone-mays-local-elections-over-coronavirus) (<https://www.politicshome.com/news/article/electoral-commission-urges-ministers-to-postpone-mays-local-elections-over-coronavirus>) because the risks to the safe delivery of the elections and local authorities' ability to ensure this were "so significant", particularly at the same time as continuing to manage other key services. Following the PM's announcement, the Commission issued a statement welcoming the decision, saying, "This will allow local authorities to focus their efforts on delivering front line public services and importantly, mitigates risks to voters and campaigners. We will work with the wider electoral community to ensure elections in 2021, including these postponed elections, are well run, command public trust and attract high levels of participation."

Assess the impact

427) Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act.

428) No forms of discrimination are considered to arise in relation to any group sharing protected characteristics (age, disability sex, gender reassignment, marriage or civil partnership, pregnancy and maternity race, religion or belief and sexual orientation). The measures are designed to have the effect of reducing the risk of indirect discrimination in relation to older people, people with a disability and pregnant women – see below.

429) Advance equality of opportunity between people who share a particular protected characteristic and people who do not share it.

430) The medical advice is that people aged over 70 years and those with underlying health conditions, and pregnant women, are especially vulnerable to the COVID-19 virus. The measures we are taking will help to mitigate risks of indirect discrimination as people in these groups are more likely to be adversely affected by capacity issues affecting adult social care (older people and people with

underlying health conditions, i.e. disabilities) and NHS services (all 3 groups) as they are more likely to need these services generally and particularly during the pandemic if they should become infected. In particular:

431) The postponement of by-elections, polls and referendums will release staff resource otherwise required for these activities for deployment to support front-line delivery of key services such as adult social care, for transfer to NHS support roles, or for other local authority activities that may become necessary as a result of the pandemic, for example, in the event of a significant rise in deaths.

432) The postponement of by-elections, polls and referendums will remove the risk of transmission of the virus at polling stations and counts and as a result of canvassing activities – this risk would disproportionately apply to older people, those with underlying health conditions and pregnant women.

433) The postponement of by-elections, polls and referendums will also mean that people who are self-isolating (which is more likely among those in higher-risk groups) and who have not made arrangements for a postal vote will not be excluded from voting in by elections, polls and referendums.

434) The relaxation of requirements relating to when meetings are held will also release staff resource and it will help councillors to prioritise essential decision-making including in relation to the continued delivery of key services including adult social care and children's care services.

435) The flexibility for local authority meetings to take place remotely will enable members of local authorities to take part in council meetings and decision-making, upholding local democracy and accountability. While this impacts upon all council members, there is an increased benefit to those aged over 70 years and those with underlying health conditions, and pregnant women.

436) The flexibility to enable public access local authority meetings that take place remotely will enable members of the public who wish to engage in local democratic decision taking. While this impacts upon all those entitled to attend (the public and press) there is an increased benefit to those aged over 70 years and those with underlying health conditions, and pregnant women.

437) The regulations modifying the Structural Changes Orders for Buckinghamshire and Northamptonshire will provide certainty regarding membership and leadership of the new / shadow authorities for councillors and officers. This will remove a source of practical and legal uncertainty and distraction regarding decision-making following the date on which the May 2020 elections should have taken place which might otherwise have impacted negatively on frontline service delivery. We have not identified any disproportionate impacts on any members of the groups with protected characteristics.

438) No further impact is considered likely in relation to the other protected characteristics (gender reassignment, race, religion or belief and sexual orientation).

439) Foster good relations between people who share a particular protected characteristic and people who do not share it.

440) The regulations are unlikely to have a significant impact - positive or negative - on relations between people who share a protected characteristic and those who do not share it. However, there are some potential indirect positive impacts:

441) Where a councillor represents a ward with a high percentage of residents from a particular ethnic or religious group, that councillor will be able to continue to represent the perspective of his or her constituency remotely, and

442) To the extent that people with certain protected characteristics are more likely than others to be self-isolating (older people, disabled and pregnant women), enabling them to take part in council meetings and decision-making will ensure that their voices are heard.

Summary of the analysis

443) The analysis undertaken on the potential impact of the 3 sets of regulations to be made under the Coronavirus Act 2020 has identified that no form of discrimination is likely to arise in relation to any groups sharing protected characteristics and therefore no mitigation is required.

444) The analysis has identified several ways in which the regulations will help to reduce the potential disadvantages that could be suffered by people who are older, have a disability or are pregnant as a result of the pandemic. The benefits arise because the measures will enable local authorities to prioritise resources for front-line care services and NHS support roles and because council decision-making will be able to continue remotely and therefore to include all councillors and members of the public and press.

445) There may be some further positive impacts on relations between people who share a particular protected characteristic and people who do not share it.

Section 79: Extension of BID arrangements

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

446) S79 of the Coronavirus Act 2020 allows Business Improvement Districts (BIDs) that were due to ballot before 31 December 2020 to extend their arrangements until 31 March 2021 and delay their ballot. This allows BIDs to exceed the previous maximum term of no more than five years.

447) BIDs will be key to supporting recovery and regeneration following coronavirus. This measure relieves pressure on businesses and local authorities by relieving them of the need to organise ballots, and to focus on support following the pandemic. This aligns with legislation to postpone other elections.

448) We have identified at least 12 BID areas in England that have been directly affected by the ability to postpone ballots. This represents around 5% of BIDs in England, with strong regional spread across England. We were aware up to 70 BIDs due to ballot this year.

449) We have sought data on impact on people with protected characteristics, but unfortunately this data is not available. We therefore cannot know if this measure, which impacts all businesses within the affected BIDs, has had a disproportionate impact on any one protected group. There may be some indirect impacts on small and medium-sized enterprise (SME) business owners who in the context of coronavirus closures may be disadvantaged by some increased liabilities as a result of an extension to BID arrangements without a vote to approve. To offset this impact, we have introduced a support funding package for BIDs, making available up to £6.1 million of support to BIDs. This will cover the equivalent of 3 months' of core operational costs. This support funding will enable local authorities and BIDs to be flexible with the enforcement of the levy for businesses that are unable to pay, as it will protect BID bodies from insolvency and ensure that they weather the current crisis so that they can lead the economic recovery of places to come.

450) We will continue to monitor the situation and will consider ways we can acquire the relevant data that would enable an assessment of the impact of this measure on those people with a protected characteristic.

Section 81 (Schedule 29): Residential tenancies in England and Wales: Protection from eviction

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

This provision requires landlords to give 3 months' notice of their intention to seek possession to regain properties that are let on an assured, assured shorthold, secure, flexible, demoted or introductory tenancy or for tenancies under the Rent Act 1977. This means that it will be 3 months before a landlord can apply to the court to proceed with any possession action.

No impact assessment was carried out in respect of this provision. As a blanket measure, we do not perceive any adverse equality impacts.

Section 82: Business Tenancies: Protection from forfeitures etc

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

451) Section 82 of the Coronavirus Act 2020 introduced a three-month moratorium on the ability of landlords of commercial properties to enforce any right of re-entry or forfeiture due to non-payment of rent by tenants. This ensured that tenants of commercial leases are not at risk of being evicted from their premises due to the

non-payment of rent, when many have reduced turnover due to restrictions imposed by government to prevent the spread of coronavirus. This temporarily placed the financial burden of closures and restrictions on landlords. However, government intends to mitigate these burdens through a forthcoming sector-led Code of Practice for landlords and tenants and measures to ensure that flexibility is being shown from lenders to commercial landlords.

452) We currently do not have access to robust data on the commercial tenant and landlord populations within the UK. However, we do have data on those who lead UK SMEs, including data on 2 of the protected characteristics: sex and race.

453) In 2019, SMEs (0 to 250 employees) accounted for 99.9% of all businesses in the UK – so the vast majority of businesses are included in the below statistics.

454) Of those SMEs with no employees, 23% were majority-led by women and 4% of businesses were majority-led by people of a minority ethnic group (MEG-led).

455) Of those SMEs with employees, 15% were women-led and 5% were led by teams at least half of which are from minority ethnic groups (MEG-led).

456) Unfortunately, the statistics on the UK's SME population are not sufficient, by themselves, to be able to assess the impact of the measure on those people with a protected characteristic.

457) However, as this measure applies to all commercial tenants, there appears limited scope for it to disproportionately impact any one group. Furthermore, there appears limited scope for the measure to: eliminate unlawful discrimination; advance equality of opportunity between people who share a protected characteristic and those who do not; or to foster or encourage good relations between people who share a protected characteristic and those who do not.

458) We will continue to monitor the situation and will consider ways we can acquire the relevant data that would enable an assessment of the impact of this measure on those people with a protected characteristic.

Section 83: Business Tenancies: Protection from forfeitures etc (Northern Ireland)

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

459) Section 83 of the Coronavirus Act 2020 introduced a three-month moratorium on the ability of landlords of commercial properties in Northern Ireland to enforce any right of re-entry or forfeiture under a relevant business tenancy due to non-payment of rent by tenants during the relevant period. This ensured that tenants of commercial leases that come under the Business Tenancies (Northern Ireland) Order 1996 are not at risk of being evicted from their premises due to the non-payment of rent, when many have reduced turnover or have not been trading at all due to restrictions imposed by government to prevent the spread of coronavirus.

This has temporarily placed the financial burden of closures and restrictions on landlords.

460) The Minister of Finance in the NI Executive has sought to encourage landlords to show leniency to tenants who are experiencing difficulty paying rent due to the current circumstances. A forthcoming sector led Code of Practice for landlords and tenants has not yet been consulted on in Northern Ireland. The Minister would welcome its acceptance.

461) We do not yet have data to enable an assessment of the impact of this moratorium measure. We therefore have no reliable means by which we can assess the impact on those people with a protected characteristic.

462) For a UK wide view and assessment, see report under Section 82.

Section 84: General Synod of the Church of England (Postponement of General Synod Elections)

Equalities Impact Assessment of clauses added after clearance of Bill for introduction – omitted from the initial Equalities Impact assessment document.

Explanation of the policy and the provision

463) Allows HM The Queen, by Order in Council and at the request of the Archbishops of Canterbury and York, to postpone the dissolution of the General Synod of the Church of England and so to postpone elections to the General Synod, due to take place over the summer in 2020.

464) Without postponement, there would be no General Synod in place after July 2020 to pass church legislation, including what is needed to implement the recommendations from the inquiry into Child Sexual Abuse.

465) This matter was brought to the attention of the government by the Archbishop of Canterbury. An opposition amendment was tabled by the Church of England's representative in the Commons (Andrew Selous MP) and supported by Chris Bryant MP which has been accepted by the government.

466) The government supported this amendment in line with the views of the Church of England. This is consistent with the approach the government took in the Act on other elections. The decision to postpone other elections was taken following advice from the government's medical experts in relation to the response to the COVID-19 virus.

Annex B: Guide to clauses and sections

Original Clause Number	Original Clause Name	Revised Clause Number	Revised Clause Name
Clause 2	Emergency Registration (England and Wales)	Section 2 (Schedule 1) and Section 3 (Schedule 2)	Emergency registration of nurses and other health and care professionals Emergency arrangements concerning medical practitioners: Wales
Clause 3	Emergency Registration (Scotland)	Section 4 (Schedule 3)	Emergency arrangements concerning medical practitioners: Scotland
Clause 4	Emergency Registration (Northern Ireland)	Section 5 (Schedule 4)	Emergency registration of and extension of prescribing powers for pharmaceutical chemists: Northern Ireland
Clause 5	Emergency Registration of Social Workers (England and Wales)	Section 6 (Schedule 5)	Emergency registration of social workers: England and Wales
		Section 7 (Schedule 6)	Temporary Registration of social workers: Scotland
Clauses 7 and 8	Employment Rights and Compensation for Volunteers [England and Wales, Scotland, Northern Ireland]	Section 8 (Schedule 7) and Section 9	Emergency volunteering leave Compensation for emergency volunteers
Clause 9	Mental Health (England and Wales, Scotland, Northern Ireland)	Section 10 (Schedule 8-11)	Temporary modification of mental health and mental capacity legislation
Clause 10	Indemnity for Health Service Activity [England and Wales]	Section 11	Indemnity for health service activity: England and Wales
Clause 11	Indemnity for Health Service Activity	Section 12	Indemnity for health service activity: Scotland

Original Clause Number	Original Clause Name	Revised Clause Number	Revised Clause Name
<hr/> [Scotland] <hr/>			
Clause 12	Indemnity for Health Service Activity [Northern Ireland]	Section 13	Indemnity for health and social care activity: Northern Ireland
Clause 13	NHS Continuing Healthcare Assessments (England)	Section 14	NHS Continuing Healthcare Assessments: England
Clause 14	Care Act Easements (England and Wales)	Section 15 (Schedule 12)	Local authority care and support
Clause 15	Social Care Easements [Scotland]	Section 16 and 17	Duty of local authority to assess needs: Scotland Section 17: further provision
Clauses 16 and 17	Cremation; Certification, Registration and Inquests [England and Wales]	Section 18 (Schedule 13), Section 19, Section 30 and Section 31	Registration of deaths and still-births etc Confirmatory medical certificate not required for cremations: England and Wales Suspension of requirement to hold inquest with jury: England and Wales Suspension of requirements to hold inquest with jury: Northern Ireland
Clause 18	Suspension of Review of Cause of Death Certificates and Cremations [Scotland]	Section 20	Review of cause of death certificates and cremations: Scotland
Clause 19	Suspension of Review of Cause of Death Certificates and Cremations [Northern Ireland]	Section 21	Certification, Registration: Northern Ireland

Original Clause Number	Original Clause Name	Revised Clause Number	Revised Clause Name
Clauses 20 and 21	Judicial Commissioners [England and Wales, Scotland, Northern Ireland]	Section 22 and 23	Appointment of temporary Judicial Commissioners Time limits in relation to urgent warrants etc under Investigatory Powers Act
		Section 24	Extension of time limits for retention of fingerprints and DNA profiles
Clauses 22, 23 24, 25 and 26	Food Supply Chain [England and Wales, Scotland, Northern Ireland]	Sections 25, 26, 27, 28 (Schedule 15) and 29	Power to require information relating to food supply chains Authorities which may require information Restrictions on use and disclosure of information Enforcement of requirement to provide information Meaning of 'food supply chain' and related expressions
Clause 29	Deaths in Custody from Natural Illness [Northern Ireland]	Section 32	Deaths in custody from natural illness: Northern Ireland
Clause 30	Disapplication of Disclosure Barring and Service [Wales]	Section 33	Disapplication etc by Welsh Ministers of DBS provisions
Clause 31	Disapplication of Disclosure Offences [Scotland]	Section 34	Temporary disapplication of disclosure offences: Scotland
Clause 32	Reclassification of Disclosure Checks [Scotland]	Section 35	Power to reclassify certain disclosure requests: Scotland
Clause 33	Provision of Vaccines by Health Boards [Scotland]	Section 36	Vaccination and immunisation: Scotland
Clauses 34 and 35	Schools, Further Education and Childcare Settings [England and	Section 37 (Schedule 16) and Section	Temporary closure of educational institutions and childcare premises Temporary

Original Clause Number	Original Clause Name	Revised Clause Number	Revised Clause Name
	Wales, Scotland, Northern Ireland]	38 (Schedule 17)	continuity: education, training and childcare
Clauses 36, 37, 38, 39, 40 and 41	Statutory Sick Pay [England and Wales, Scotland, Northern Ireland]	Section 39 - 44	Statutory sick pay: funding of employers' liabilities Statutory sick pay: power to disapply waiting period limitation Statutory sick pay: modification of regulation making powers Statutory sick pay: funding of employers' liabilities: Northern Ireland Statutory sick pay: power to disapply waiting period limitation: Northern Ireland Statutory sick pay: modification of regulation making powers: Northern Ireland
Clause 42	Financial Assistance for Industry [England and Wales, Scotland]	Section 75	Disapplication of limit under section 8 of the Industrial Development Act 1982
Clauses 43, 44 and 45	Pension Clause (England and Wales, Scotland, Northern Ireland)	Section 45, 46 and 47	NHS pension schemes: suspension of restrictions on return to work: England and Wales NHS pension schemes: suspension of restrictions on return to work: Scotland Health and social care pension schemes: suspension of restrictions on return to work: Northern Ireland
Clause 46	Powers to Act for the Protection of Public Health [Northern Ireland]	Section 48 (Schedule 18)	Powers to act for the protection of public health: Northern Ireland
Clause 47	Health Protection Regulations [Scotland]	Section 49 (Schedule 19)	Health protection regulations: Scotland

Original Clause Number	Original Clause Name	Revised Clause Number	Revised Clause Name
Clause 48	Powers to Suspend Port Operations [England and Wales, Scotland, Northern Ireland]	Section 50 (Schedule 20)	Power to suspend port operations
Clause 49	Quarantine Powers (England, Wales, Scotland and Northern Ireland)	Section 51 (section 21)	Powers relating to potentially infectious persons
Clause 50	Events, Gatherings and Premises [England]	Section 52 (Schedule 22)	Powers to issue directions relating to events, gatherings and premises
Clauses 51, 52, 53, 54 and 55	Expansion of Video and Audio Hearings in the Magistrates and Criminal Courts [England and Wales, Scotland, Northern Ireland]	Sections 53 (Schedule 23), 54 (schedule 24), 55 (Schedule 25), 56 (Schedule 26) and 57 (Schedule 27)	Expansion of availability of live links in criminal proceedings Expansion of availability of live links in other criminal hearings Public participation in proceedings conducted by video or audio Live links in magistrates' court appeals against requirements or restrictions imposed on a potentially infectious person Use of live links in legal proceedings: Northern Ireland
Clause 56	Transport, Storage and Disposal of Dead Bodies [England and Wales, Scotland, Northern Ireland]	Section 58 (Schedule 28)	Powers in relation to transportation, storage and disposal of dead bodies etc
		59	Elections and referendums due to be held in England in period after 15 March 2020
		60	Postponement of elections due to be held on 7 May 2020

Original Clause Number	Original Clause Name	Revised Clause Number	Revised Clause Name
		61	Power to postpone certain other elections and referendums
		62	Power to postpone a recall petition under the Recall of MPs Act 2015
		63	Power to make supplementary etc provision
		64	Northern Ireland: timing of canvass and Assembly by-elections
		65	Elections due to be held in Wales in period after 15 March 2020
		66	Postponement of National Assembly for Wales elections for constituency vacancies
		67	Power to postpone local authority elections in Wales for casual vacancies
		68	Power to make supplementary etc provision
		69	Postponement of Scottish Parliament elections for constituency vacancies
		70	Postponement of local authority elections in Scotland for casual vacancies
		71	Signatures of Treasury Commissioners
		72	Power under section 143 of the Social Security Administration Act 1992

Original Clause Number	Original Clause Name	Revised Clause Number	Revised Clause Name
		73	Power under section 145 of the Social Security Administration Act 1992
		74	Power under section 5 of the National Insurance Contributions Act 2014
		76	HMRC functions
		77	Up-rating of working tax credit etc
		78	Local authority meetings
		79	Extension of BID arrangements: England
		80	Extensions of BID arrangements: Northern Ireland
		81	Residential tenancies in England and Wales: protection from eviction
		82	Business tenancies in England and Wales: protection from forfeiture etc
		83	Business tenancies in Northern Ireland: protection from forfeiture etc
		84	Postponement of General Synod elections

[↑ Back to top](#)

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