Witness Name: James Skinner
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Exhibits: 19
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UK COVID-19 INQUIRY

WITNESS STATEMENT OF JAMES SKINNER (MEDACT)

I, James Skinner, will say as follows: -

1. I am Campaign and Programme Lead in Health and Human Rights at Medact. I make this statement in response to the Request for Evidence by the Chair of the UK Covid-19 Inquiry under Rule 9 of the Inquiry Rules 2006 (Reference: M1/MEDACT/01).

2. In accordance with the request, my statement will speak to the state of the UK's pandemic planning, preparedness and resilience, at the time that the Covid-19 pandemic struck.

Brief overview of history, legal status, and aims of the organisation

3. Medact is a membership organisation, formed in 1992, made up of health professionals committed to advocating for a safer, fairer and better world. We have 1055 members. Their expertise lies in investigating and analysing evidence of the social and environmental factors which adversely affect health. Medact's membership is composed of workers in the NHS and community services, public health professionals, and specialist academics. They provide support to health workers to identify and raise concern about issues that drive health inequality. By combining front line workers from the services affected by policies with academics and public health professions, Medact is able to bring a distinct insight and specialist knowledge to the policy debate surrounding health inequality.

4. Medact's work is driven through a combination of research and evidence-based campaigning for solutions to the social, political and economic conditions which damage health, deepen health inequalities and threaten peace and security. These social determinants of health interact to create differential exposure to health risks which shape widespread health inequality. Medact campaigns for changes in the political and economic systems that dictate how power and resources are distributed; and which have the capacity to create and exacerbate not only deepening social inequality but wider threats to health such as climate change, violent conflict, and human rights abuses.

5. Medact's legal status is a company limited by guarantee without share capital. Our registered charity number is 1081097.

6. Primarily, we are a health worker focused organisation, supporting and representing both our members and the wider health community with whom we engage. The majority of health workers we engage are doctors, but we also engage nurses, academics, public health professionals and otherwise anyone in any way related to health. Specifically we support health workers to use their knowledge, skills, and frontline experience to identify and then take action on health inequalities, especially where they are driven by political and economic conditions that sit alongside but often not considered in traditional medicalised understandings of health inequality

7. We have a national structure of local member groups, through which health workers volunteer their time and work on campaigns of their choosing. Medact hosts four main campaign focus areas: climate change, economic Justice, peace and security, and health and human Rights. The Patients Not Passports campaign sits under health and human rights. In the Patients Not Passports campaign specifically, there are over 10 local groups, in Brighton, Birmingham, Oxford, Bristol, Sheffield, Liverpool, Manchester, and in London - Hackney, Lambeth & Southwark, Walthamstow, Newham, Tower Hamlets, Lewisham and around the Royal Free hospital. Our scope of our work is UK wide but the majority of the organisation's activity takes place in England currently.

8. In these areas we work directly with health workers employed by the NHS, raising awareness about NHS charging policies, running training sessions focused on patient advice and advocacy, conducting local research into the impact of NHS charging through freedom of information requests, and engage directly with NHS Trust management about their implementation of NHS charging policies. We have a formal partnership with Migrants Organise and in this work directly with migrant communities, organisations, and individuals across England. We provide specialist and tailored casework advice for caseworkers supporting people impacted by NHS charging, we directly support some individuals that have been charged for NHS care and we run healthcare rights trainings with migrant community groups

NHS Charging and Data-Sharing Regulations

9. It is our view that the UK's pandemic planning, preparedness and resilience were severely lacking at the time the Covid-19 pandemic struck, in particular as a result of the NHS Charging Regulations and data -sharing policies. The NHS Charging Regulations 2015 and 2017 ("**NHS Charging Regulations**") and NHS immigration data-sharing policies had a significantly detrimental impact on the UK's pandemic planning, preparedness and resilience. Despite advice and calls from organisations in the healthcare and charity sector over several years, the government did not take action to avoid worsening pre-existing inequalities and the public health crisis posed by a pandemic in respect of those impacted by these policies.

Deterrence from seeking care

10. Before the Covid-19 pandemic struck, there was already substantial evidence that the NHS Charging Regulations and data sharing policies functioned to deter patients from seeking care either through the threat of unaffordable bills, following debt accrued through previous treatment, and/or fear of immigration enforcement, including detention or removal. Between 2017 and 2020, at least 18 healthcare and civil society organisations engaged with government ministers reporting that the regulations were having a deterrent effect on patients from migrant

communities, including on those with exemptions from charges, and requesting that the policies be repealed. Both the Academy of Medical Royal Colleges (JS/1) and the British Medical Association (JS/2) also called on the Department for Health and Social Care (DHSC) to suspend the NHS Charging and data-sharing policies pending review.

11. Whilst Covid-19 was an exempt from charges under the regulations, this was insufficient to mitigate the deterrent effect. Research commissioned by Medact, Migrants Organise and the New Economics Foundation in June 2020 showed that 57% of migrant support organisations report that their members have avoided seeking healthcare due to fears of NHS charges and data-sharing and only 20% considered that migrants were aware of the Covid-19 exemption (JS/3). In the course of this research, migrant support organisations also reported that they saw no change in the deterrent effect of the charging policies on their members before and after the pandemic struck. There is also evidence that shows that people suffering with tuberculosis have previously been deterred from seeking treatment since the introduction of NHS charging regulations, despite the disease being exempt from charge (JS/4). In April 2020, Medact and Kanlungan also shared widely a case study of an undocumented migrant who died of Covid-19 without seeking healthcare as a result of hostile environment policies (JS/5). Indeed, despite the exemption of Covid-19 from the charging regulations, the data-sharing policies which compel NHS trusts to share immigration data with the Home Office still presented a very real risk of immigration enforcement to undocumented migrants and, as such, a substantial barrier to this community seeking healthcare.

12. It is apparent from this evidence that the NHS Charging Regulations and data-sharing policies deterred patients from seeking essential healthcare even in the case of exempt conditions. In doing so, patients who are subject to immigration control were put at greater risk of harm, and healthcare services were less equipped to control the spread of the virus. With the evidence available since the introduction of the NHS Charging Regulations and data-sharing policies, the government ought to have been able to anticipate this effect and review the regulations accordingly to build greater resilience into healthcare services in their pandemic planning. Despite the ongoing evidence of this detrimental impact, the NHS Charging Regulations still remain in place.

Lack of understanding of the regulations

13. In addition to its deterrent effect, the NHS Charging Regulations are also widely misunderstood within the healthcare service itself which has led to inconsistent application of the regulations. Research conducted by Medact in 2017 showed that healthcare workers had a limited understanding of different immigration statuses, their corresponding entitlements and exempt conditions (JS/6). Further research in 2019 showed that 80% of surveyed healthcare respondents were not comfortable defining the immigration categories that determine entitlement to care (JS/7). As a result, a number of studies have found that patients have been presented with charges incorrectly in some cases. For example, a report by Doctors of the World covering the period of 2018-2020 found that 6 of the 27 patients they assessed as being exempt were charged for healthcare costs (JS/8).

14. Research in 2019 on the impact of NHS charging regulations on children has shown that 34% of surveyed healthcare professionals reported examples of charging regulations impacting patient care. Of the 200 responses amongst paediatricians, the survey identified 18 cases of migrants being deterred from accessing healthcare, 11 cases of healthcare being delayed or denied outright, 12 cases of delays to care leading to worse health outcomes, and two cases of intrauterine death (JS/9).

15. The lack of awareness also increases the risk of discriminatory treatment of patients. In July 2019, the BBC published an article in which a former-NHS worker had disclosed that those with “foreign-sounding names” were perceived as likely to be resident in the UK and targeted for checks (JS/10).

16. Prior to the outbreak of the pandemic, evidence Medact gathered through FOI requests demonstrated that one third of NHS Trusts has no local NHS charging guidance in place, two thirds offered no training on its policy to staff, and only 3% had conducted an equality impact assessment of the policies (JS/11). With these figures, it was inevitable that the NHS Charging Regulations would be applied inconsistently with a detrimental impact on both migrant communities and public

health overall. They also betray a concerning lack of regard to the public sector equality duty. Adequate guidance and training across the NHS on the NHS Charging Regulations as a bare minimum could have improved the government's preparedness for Covid-19. However, guidance and staff training would not be sufficient to address the detrimental impact of these regulations. Even if they were consistently applied, they function by nature as a deterrent to vulnerable groups seeking healthcare, including Covid-19.

17. Given these conditions, it is unsurprising that migrants were deterred from seeking care when the Covid-19 pandemic struck. Even during the escalation of the pandemic, we were made aware of a patient in the ICU receiving treatment for Covid-19 who was asked to prove entitlement to care. This was likely an automated letter from the hospital, but nonetheless worsens and perpetuates the deterrent effect of the NHS Charging Regulations.

Entrenching pre-existing inequalities

18. The disproportionate impact of Covid-19 on Black and minority ethnic communities has been well-documented. In our view, the NHS Charging Regulations functioned as a contributing factor to this disproportionate impact and the failure of the government to review and repeal these regulations undermined the UK's pandemic planning and emergency preparedness. Rather than considering the impact on at-risk and vulnerable communities, the government's failure to review the NHS Charging Regulations and data-sharing policies has instead further entrenched pre-existing inequalities.

19. In summary, prior to the pandemic the Government introduced a set of policies specifically designed to target and restrict access to healthcare for migrant and minority ethnic communities in England. The NHS was not equipped to respond to these policies with adequate training or safeguarding systems - in part because the very nature of the policies prevents this, and in part because it had neither the infrastructure or the culture to facilitate them. As a result confusion and misapplication became the norm, with discriminatory practices being used to identify potentially chargeable patients - leading to growing mistrust in migrant communities, deterrence and delays in seeking care. Over years, NHS Charging

Regulations and data-sharing policies established a structure that worsened pre-existing inequalities and vulnerabilities, deeply eroding trust in a way that made it impossible for the NHS to respond to the pandemic adequately and rebuild trust that had been lost.

Actions which should have been taken to improve UK pandemic planning and emergency preparedness

20. As outlined above, exemptions alone are not enough to ensure that people will seek care in spite of mistrust and fear of charges and/or immigration enforcement. The government ought to have considered this well-documented impact in its pandemic planning both as a risk to greater spread of a contagious disease and to mitigate the impact of the pandemic on migrant communities.

21. As further evidence of the efficacy of removing such barriers, we refer to the approach to the Covid-19 vaccine amongst migrant communities. Initially, similar barriers created a delay in access to the vaccine to migrant communities. However, third-sector organisations understood the need to directly reassure people of their safety from immigration enforcement by hosting drop-in vaccinations sessions with no identification checks and no GP registration requirement, and in time these were recognised as effective and implemented by local authorities and CCGs. This approach was very successful and we have had reports of people travelling across the country to attend the drop-in sessions. This further demonstrates the desire amongst migrant communities to access the vaccine and the limited awareness or availability of options to get it in a way that feels safe.

22. By way of lessons to be learned, we take this opportunity to reiterate that the NHS Charging Regulations and data-sharing policies continue to have a severely detrimental impact on public health and pre-existing inequalities, and these ought to be reviewed and repealed as a matter of urgency.

Engagement with government pre and post January 2020

Pre-January 2020

23. On 1 February 2018, we wrote a letter signed by several other healthcare organisations responding to the initial DHSC review into the impact of the NHS Charging Regulations (JS/12). We received a response from Lord O'Shaughnessy on 22 February 2018 (JS/13).

24. On 24 June 2019, we wrote to the Health and Social Care Select Committee expressing concerns regarding the DHSC's decision not to make public the findings of the abovementioned review, or to share its findings in confidence to the select committee (JS/14).

25. On 29 August 2019, we submitted witness evidence as part of the application for judicial review of the NHS Charging Regulations made by Maternity Action (JS/15).

Post-January 2020

26. In April 2020, we engaged with 60 cross-party MPs in supporting their letter to then Health Secretary, Matt Hancock, calling for a suspension of all hostile environment policies within the NHS (JS/16). In the same month, we also supported Apsana Begum MP in preparing an Early Day Motion on the same matter (JS/17).

27. In May 2020, we submitted evidence to the Home Affairs Select Committee on the impact of the current healthcare and immigration policies on migrants during the Covid-19 pandemic, specifically in limited the provision of free NHS treatment through the NHS Charging Regulations (JS/18).

28. On 17 February 2021, we wrote to the Health Secretary during the pandemic regarding the impact of NHS charging in migrant access to the vaccine (JS/19).

Publications regarding pandemic planning and emergency preparedness

29. Our comprehensive briefing on the impact of NHS charging: Challenging Healthcare Charging in the NHS Migrant Access to Healthcare During the

Coronavirus Pandemic – originally published in March 2019, with an update in October 2020 incorporating new evidence and research (JS/11).

30. Report "Migrants' Access to Healthcare During the Coronavirus Crisis" – June 2020 (JS/3)

31. Medact Manchester report: "Healthcare professionals' views and experience of dealing with refugees and asylum seekers: a survey of North West practitioners" – October 2017 (See JS/6).

Other organisations who may hold relevant information

32. We consider that the following organisations are likely to hold information relevant to this module:
    - Doctors of the World
    - Royal College of Paediatrics and Child Health
    - Academy of Medical Royal Colleges
    - Migrants Organise
    - United Voices of the World
    - Independent Workers' Union of Great Britain
    - Kanlungan
    - Bail for Immigration Detainees
    - Joint Council for the Welfare of Immigrants
    - Maternity Action

Statement of Truth

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

Signed: Personal Data

Dated: 12 April 2023