

22. Section 15, in combination with Schedule 12 of the Act allows local authorities to apply easements under the Care Act 2014, weakening protections for those in need of care at a time when informal social support is restricted by the need for social distancing, and increasing pressure on local authority and NHS services by only allowing people access to support once conditions have reached a minimum threshold of severity. Of the eight councils that have implemented the easements, many of them have done so without providing transparent evidence that thresholds have been met. Liberty is concerned that Government guidelines are not rigorous enough to prevent abuse of the power.
23. Evidence indicates this has led to a significant reduction in the care and support disabled people receive, inhibiting their ability to live dignified lives. A survey conducted by Mencap found that seven out of ten learning disabled people had some or all of their support cut during the pandemic, leaving many in lockdown long after the easing of official restrictions.<sup>30</sup> Liberty also gathered evidence from our members who rely on social care. We documented the distressing experience of a terminally ill ex-serviceman could not register for food or receive support from social services, so was forced to survive on packets of crisps. Another 90-year old disabled Liberty member whose wife passed away at the start of the pandemic was contacted by social services, but his needs were not addressed, leaving him feeling lonely and suicidal. This hollowing out of rights is particularly concerning given the devastating impact of coronavirus on disabled and older people. Disabled people account for 59% of covid-19 related deaths,<sup>31</sup> while four out of every five people who have died from coronavirus are aged 70 or over.<sup>32</sup>
24. Liberty considers the easement provisions in the Coronavirus Act provide cover for local authorities to reduce care and support to disabled people, even where authorities do not formally implement them. They also disincentivise local authorities from taking proactive steps to ensure people get the critical care they need at a time of crisis. The easements should be removed altogether, or at the very least suspended using the powers set out at section 88 of the Act.
25. Liberty recommends that the provisions of the Coronavirus Act which dilute safeguards under the Mental Health Act 1983 and the Care Act 2014 should be repealed.

## **Protecting migrants' rights, homeless people, and domestic abuse victims**

26. The Government missed an important opportunity in passing the Coronavirus Act to make specific provision for groups of people most likely to be at risk of illness and other human rights abuses in the context of the pandemic. Future measures must address the now well-documented differentiated impact of the pandemic.<sup>33</sup>
27. First, the continuing hostile environment means that undocumented migrants are left at the mercy of unscrupulous landlords and employers, without access to welfare benefits or banking, potentially barred from work or forced to work in unsafe conditions to survive. Crucially, migrants face significant barriers to accessing healthcare through NHS charging,<sup>34</sup> and data sharing between NHS Trusts and the Home Office.<sup>35</sup> Documented migrants also suffer because, like undocumented migrants, many are excluded from welfare benefits due to the No Recourse to Public Funds (NRPF) condition, leaving people with no safety net of

<sup>30</sup> Mencap Survey, available here <https://www.mencap.org.uk/sites/default/files/2020-08/Social%20care%20survey%20%281%29.pdf>

<sup>31</sup> Office for National Statistics, Coronavirus (COVID-19) related deaths by disability status, England and Wales: 2 March to 14 July 2020 March - July 2020:

<https://www.ons.gov.uk/releases/coronaviruscovid19relateddeathsbydisabilitystatusenglandandwales2marchto3july2020>

<sup>32</sup> Age UK, Coronavirus risk for older people: the updated picture, June 2020:

<https://www.ageuk.org.uk/discover/2020/06/coronavirus-risk-for-older-people-updated/>

<sup>33</sup> For example, people of colour are disproportionately affected by Covid-19. Analysis using data by the NHS and the Office of National Statistics shows that of 12,593 patients who died in hospital up to 19 April, 19% were Black, Asian or minority ethnic even though these groups make up only 15% of the general population in England. These statistics should be seen in the wider context of race inequality in the UK, including differences in income, education, employment and living conditions.

<sup>34</sup> The exemption for COVID-19 only applies up until a person receives a negative diagnosis, at which point charging commences for any other condition they may have that does not meet another exemption.

<sup>35</sup> The Department of Health and Social Care has given no assurance that NHS data will not be shared with the Home Office and used for immigration enforcement, including for those people with a confirmed coronavirus diagnosis.

social housing, emergency homelessness accommodation,<sup>36</sup> or welfare benefits to fall back on should they need or be forced to stop working.

28. Furthermore, hundreds of people continue to be held in immigration detention, reportedly without access to adequate sanitation or the ability to socially distance, despite the fact that removal to many countries remains unlikely given restrictions on international travel.<sup>37</sup>
29. Second, while Liberty welcomes the 'Everyone In' hotel and emergency accommodation operation, in practice there are barriers that undermine these measures, including local authorities failing to provide rough sleepers with emergency accommodation, people being deterred from or denied seeking help because they have No Recourse to Public Funds, worries about data being shared with the Home Office for immigration purposes, and concerns about local authorities continuing to apply the 'connection to local area' test.<sup>38</sup>
30. Third, when it passed, the Coronavirus Act was criticised for containing no provisions for victims and survivors of domestic abuse who would be isolated with their abuser.<sup>39</sup> By April, domestic abuse support charity Refuge saw a 700% rise in visits to their National Domestic Abuse Helpline website,<sup>40</sup> and the Metropolitan Police said they were arresting 100 people a day for domestic violence offences.<sup>41</sup> Despite this, the lockdown regulations failed to include those fleeing abuse in the definition of homeless, so that while escaping harm was a 'reasonable excuse' for leaving home, there was no provision made for those without a safe home to return to.
31. Liberty recommends the Coronavirus Act should be replaced with human rights complaint legislation which includes measures that would better protect at-risk groups in the context of the pandemic, and in any potential second wave, such as:
  - Suspending the hostile environment;
  - Ensuring everyone has access to welfare benefits;
  - Releasing people from immigration detention;
  - Removing barriers to, and ensuring ongoing funding for, the 'Everyone In' scheme; and
  - Ensuring safe, suitable housing and access to welfare benefits for all victims of domestic violence, including migrant women.

## CONCLUSION

32. Emergency situations necessitate quick and decisive action, and Liberty has always supported proportionate action to protect lives. Yet the Government's response to the pandemic thus far risks normalising the concentration of enormous power in the hands of the Executive and the police, and setting a precedent for untrammelled restrictions on the civil liberty of the general population in response to any future situation that could be construed as a crisis. Prioritising criminal justice over public health does not simply undermine attempts to bring the pandemic under control; it also undermines the health of the UK's democracy, while sending a signal to authoritarian governments the world over that a pandemic is legitimate cover to implement repressive measures indefinitely.

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<sup>36</sup> Liberty Investigates, *HOMELESS MAN LEFT ON A BUS 'WITH COVID-19'*, April 2020: <https://libertyinvestigates.org.uk/articles/homeless-man-left-on-a-bus-with-covid-19/>

<sup>37</sup> Following legal action by Detention Action in response to the COVID-19 crisis, the Government released more than 350 people, committed to system-wide case reviews and put a bar on many new detentions <https://detentionaction.org.uk/stories/Covid-19-in-immigration-removal-centres-info-pack/>. More have been released since: <https://www.bbc.co.uk/news/uk-52560093>.

<sup>38</sup> Taylor, D., 2020. *Homeless Migrants Still Sleeping Rough Despite PM's Pledge, Say Charities*, April 2020: <https://www.theguardian.com/society/2020/apr/16/homeless-migrants-still-sleeping-rough-despite-pms-pledge-say-charities>

<sup>39</sup> Sophie Gallagher, *This is why the Coronavirus Bill will hit women hardest according to experts*, 26 March 2020: <https://www.independent.co.uk/life-style/women/coronavirus-act-2020-bill-women-impact-a9428721.html>

<sup>40</sup> Refuge, *Refuge sees online traffic to its National Domestic Abuse Helpline website rise by 700%*, April 2020: <https://www.refuge.org.uk/refuge-sees-700-increase-in-website-visits/>

<sup>41</sup> Dodd, V., *Charges and cautions for domestic violence rise by 24% in London*, April 2020: <https://www.theguardian.com/society/2020/apr/24/charges-and-cautions-for-domestic-violence-rise-by-24-in-london>