

Coronavirus Bill – Supporting documents

Annex G

The Public Sector Equality Duty

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 make a decision 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; and
- other.

Table of Contents

The Public Sector Equality Duty	1
Table of Contents	4
Section 1: DHSC Provisions.....	6
Enhanced Capacity and Flexible Deployment.....	6
Clause 2: Emergency Registration [England and Wales]	6
Clause 5: Emergency Registration of Social Workers [England and Wales]	7
Clauses 7, 8: Employment Rights and Compensation for Volunteers [England and Wales, Scotland, Northern Ireland]	7
Clause 10: Indemnity for Health Service Activity [England and Wales]	9
Clauses 43, 44, 45: Pension Clause [England and Wales, Scotland, Northern Ireland].....	10
Easing of Legislative and Regulatory Requirements	13
Clause 9: Mental Health [England and Wales, Scotland, Northern Ireland].....	13
Clause 13: NHS Continuing Healthcare Assessments [England]	15
Clause 14: Care Act Easements [England and Wales].....	16
Containing/Slowing the Virus	17
Clause 49: Quarantine Powers [England and Wales, Scotland, Northern Ireland]	17
Section 2: Non-DHSC Provisions	21
Enhanced Capacity and Flexible Deployment.....	21
Clause 3: Emergency Registration [Scotland]	21
Clause 4: Emergency Registration [Northern Ireland].....	22
Clause 11: Indemnity for Health Service Activity [Scotland]	22
Clause 12: Indemnity for Health Service Activity [Northern Ireland]	23
Easing of Legislative and Regulatory Requirements	23
Clause 15: Social Care Easements [Scotland]	23
Clauses 20, 21: Judicial Commissioners [England and Wales, Scotland, Northern Ireland].....	24
Clause 30: Disapplication of Disclosure Barring and Service [Wales]	25
Clause 31: Disapplication of Disclosure Offences [Scotland]	26
Clause 32: Reclassification of Disclosure Checks [Scotland]	27
Clause 33: Provision of Vaccines by Health Boards [Scotland]	27

Clauses 51, 52, 53, 54, 55: Expansion of Video and Audio Hearings in the Magistrates and Criminal Courts [England and Wales, Scotland, Northern Ireland]	28
Containing/Slowing the Virus	30
Clauses 34, 35: Schools, Further Education and Childcare Settings [England and Wales, Scotland, Northern Ireland]	30
Clause 46: Powers to Act for the Protection of Public Health [Northern Ireland]	32
Clause 47: Health Protection Regulations [Scotland]	32
Clause 48: Powers to Suspend Port Operations [England and Wales, Scotland, Northern Ireland]	33
Clause 50: Events, Gatherings and Premises [England]	34
Managing the Deceased	35
Clauses 16, 17: Cremation; Certification, Registration and Inquests [England and Wales]	35
Clause 19: Suspension of Review of Cause of Death Certificates and Cremations [Northern Ireland]	36
Clause 18: Suspension of Review of Cause of Death Certificates and Cremations [Scotland]	37
Clause 29: Deaths in Custody from Natural Illness [Northern Ireland]	37
Clause 56: Transport, Storage and Disposal of Dead Bodies [England and Wales, Scotland, Northern Ireland]	37
Other	38
Clauses 36, 37, 38, 39, 50, 41: Statutory Sick Pay [England and Wales, Scotland, Northern Ireland]	38
Clauses 22, 23, 24, 25, 26: Food Supply Chain [England and Wales, Scotland, Northern Ireland]	40
Clause 42: Financial Assistance for Industry [England and Wales, Scotland]	40

Section 1: DHSC Provisions

Enhanced Capacity and Flexible Deployment

Clause 2: Emergency Registration [England and Wales]

Explanation of the policy and the provision

1. 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.
2. 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.
3. 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

4. The policy reflected in these provisions will not exclude any individual based on their protected characteristics.
5. 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.
6. 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.

7. 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.
8. We are of the view that standards of practise 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

1. The provision introduces temporary emergency registration powers for the Registrar of Social Work England and the Registrar of Social Care Wales.
2. 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

3. 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

1. 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.
2. 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

3. 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 is entitled to compensation in accordance with the arrangements made under these provisions. The policy will not exclude any individual based on their protected characteristics.
4. 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 25-34 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.
5. 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.
6. 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.
7. 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

1. 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.
2. 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:
 - a. all activities of staff that relate to the diagnosis, care and treatment of patients with Coronavirus; and
 - b. 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).
3. The approach therefore taken complements existing indemnity arrangements.

Consideration of any equality impact and mitigating measure

4. The policy reflected in these provisions will not exclude any individual based on their protected characteristics.
5. 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.
6. 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.
7. 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.
8. 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

1. 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.
2. There are a number of affected groups of people with pensions interests which warrant specific analysis:
3. **16 Hour Rule:**
 - a. 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 four weeks.
 - b. 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.
4. **Special Class Holders:**
 - a. The clauses will suspend the abatement provisions that apply to special class holders.
 - b. 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 6th 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.
 - c. 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.
 - d. 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 55-60 who have claimed their pension benefits from returning to work without having their pension suspended.
5. **Draw Down:**

- a. 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.

6. Retirement on Ill-Health Grounds:

- a. 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.
 - i. Tier 1: Be permanently incapable of efficiently carrying out the duties of previous employment because of illness or injury.
 - ii. Tier 2: Be permanently incapable of engaging in regular employment of like duration because of the illness or injury.
- b. 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.
- c. The provisions will not lift ill-health abatement for ill-health retirees returning to work.

7. Retirement in the Interests of the Efficiency of the Service (IES):

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

8. Retirement on Redundancy Grounds:

- a. 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.

- b. The provisions will not apply pension abatement to members retired on redundancy grounds who return to work.
9. 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

10. Suspending the above rules will have a direct impact on staff over the age of 50, but predominantly staff over the age of 55. 50 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. 55 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. 55 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.
11. 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.
12. 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.
13. **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.
14. **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.

15. **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.
16. 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

1. 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.
2. 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.
3. 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.

4. 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

5. 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.
6. 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.
7. 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.
8. 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 18-34 had the highest rate of detention (128.9 detentions per 100,000 people), one third higher than those aged 50-64 (89 per 100,000), but detentions rose again for people aged 65 and over (98.1 per 100,000).
9. 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.
10. 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.
11. 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:

12. 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 17-20% 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.
13. 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

1. 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.
2. 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.
3. 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

4. Under this provision, the 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.
5. 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.

6. 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

1. 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.
2. 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.
3. 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

4. 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.
5. 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.
6. 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.
7. 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.
8. 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.
 9. 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.
 10. 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.
 11. 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.
 12. 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.
 13. 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

1. 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.

2. 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.
3. 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.
4. 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

5. 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.
6. 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.
7. 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.
8. 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.
9. 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.

10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. Staff carrying out screening will need to be aware of cultural sensitivities, and will take into account 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.

17. 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

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

1. 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.
2. 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.
3. 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

4. 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.
5. 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.
6. 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

1. 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.
2. 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.
3. 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 of 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

4. The Pharmaceutical Society of Northern Ireland has a higher number of female registrants.
5. We repeat our analysis of clause 2 above which has equal or similar equality considerations.

Clause 11: Indemnity for Health Service Activity [Scotland]

Explanation of the policy and the provision

1. 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

2. We repeat our analysis of clause 9 above which has equal or similar equality considerations.

Clause 12: Indemnity for Health Service Activity [Northern Ireland]

Explanation of the policy and the provision

1. 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

2. 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

1. 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.
2. 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.
3. 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.
4. The Bill will also include 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 will remove the duty to carry out a 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.

5. 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

6. 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.
7. 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.
8. We repeat our analysis of clause 13 above which has equal or similar equalities considerations.
9. 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

1. 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.

2. 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.
3. 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.
4. 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.
5. 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

6. 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 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.
7. 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

1. 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:
 - a. 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
 - a. obtaining in relation to such persons of certificates or information from the Disclosure and Barring Service.
2. 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.
3. The purpose of these provisions is 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

4. 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.
5. 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 (e.g. the elderly, children and people with disabilities).
6. 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

1. 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.
2. These provisions are designed not to criminalise healthcare providers during a time of mass recruitment during a Coronavirus pandemic.

3. 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

4. We consider that the impact on persons with a protected characteristic due to the policy aims of these provisions will be minimal.
5. 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.
6. 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

1. 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.
2. 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

3. We consider that the impact on persons with a protected characteristic due to the policy aims of these provisions will be minimal.
4. 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.
5. 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

1. 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.
2. 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

3. 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.
4. 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.
5. 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.
6. 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

1. 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.
2. 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.

3. 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

4. The policy reflected in these provisions will not exclude any individual based on their protected characteristics.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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

1. These measures introduced are intended to:
 - a. 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
 - b. 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.
2. These provisions will include the following powers:
 - a. **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.
 - b. **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.
 - c. **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.
 - d. **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

3. 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.

4. In particular, we have identified the following potential impacts:
 - a. 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.
 - b. A fall in the quality of services, or progression, may disproportionately affect certain groups, such as disadvantaged children, where certain protected characteristics e.g. 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.
 - c. 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.
 - d. Under the power to direct, should candidates be redirected from a closed exam centre, any necessary adjustments for candidates eligible for access arrangements (e.g. 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.
 - e. 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.
 - f. 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.
 - g. There may also be other considerations, such as in provision of school food, where steps taken may cause issues with religion or belief.
5. 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.
6. 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

1. 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.
2. 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

3. 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.
4. 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.
5. 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.
6. 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.
7. 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

8. These provisions provides 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.

9. 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

3. 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

1. 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.
2. 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. 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.
3. 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

4. The policy reflected in these provisions will not exclude any individual based on their protected characteristics.
5. 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 achieve the legitimate aim of ensuring border security.

6. It is conceivable that there may be instances where those who have a protected characteristic that limits mobility (e.g. 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.
7. 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 (e.g. 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

1. The clause will provide a direction making power to the Secretary of State to restrict or prohibit events or gatherings, and close premises.
2. 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

3. 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.
4. 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.
5. 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: Cremation; Certification, Registration and Inquests [England and Wales]

Explanation of the policy and the provision

1. 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.
2. 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).
3. 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.
4. 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.
5. 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:
 - a. registrations to be made without the need for a face to face interview with the registrar;
 - b. an undertaker who is acting on behalf of the family, to give the information for the registration; and
 - c. for the transfer of documents electronically.
6. The provisions do not exclude normal working practices, if available.

Consideration of any equality impact and mitigating measure

7. 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.

8. 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.
9. 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

1. 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.
2. The regulations will be modified to apply in relation to the death of a person that occurs while that section is in force:
 - a. to remove the requirement for the completion of the Confirmatory Medical Certificate;
 - b. to provide consequential modifications to the powers and duties of the Medical Referee;
 - c. 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
 - d. 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

3. 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

4. These provisions enables 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.
5. The provisions will also have the effect of removing duties on cremation authorities, funeral directors and local authorities to trace and contact relatives of deceased persons to ascertain their wishes in respect of 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

6. 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

1. 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

2. 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

1. This provision allows those exercising the powers to ensure excess deaths can be managed respectfully and safely.
2. 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).
3. 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.
4. 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

5. 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.
6. 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.
7. Religious groups are being consulted and there will be a national framework to support this. Religious preferences will be respected, as far as possible.
8. 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

1. 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 two weeks of Statutory Sick Pay per employee.

2. 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 temporarily 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.
3. 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.
4. 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

5. 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.
6. 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.
7. 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).
8. 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.
9. 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.
10. 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.

11. We do not have data readily available on other equalities characteristics of employees in small and medium employers.
12. 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

1. 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.
2. 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

3. 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.
4. 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.
5. 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

1. 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.
2. 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:

- a. the financial assistance is likely to benefit the economy of the UK (or any part or area of the UK);
 - b. providing the financial assistance is in the national interest; and
 - c. the financial assistance cannot otherwise be appropriately provided.
3. 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.
4. 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

5. 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.
6. 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. As an associated consequence will be an improvement of job security among the general population, including those with protected characteristics.
7. 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.
8. 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.