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| **Liberation’s response to the UK parliament’s Women and Equalities Committee’s coronavirus enquiry**  **Updated version in response to the joint questionnaire of Special Procedures on the human rights impact of Covid-19**  **June 2020** |

**Introduction**

Liberation is a newly formed, user-led organisation, operating in England. Its aim is to promote the implementation of full human rights for people with lived experience of a mental health diagnosis/mental trauma, in particular the fundamental rights set out in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). Liberation’s work includes a particular focus on human rights for people with lived experience who encounter more than one form of discrimination. The views expressed in this submission stem from Liberation members and associated networks.

**The enquiry from the UK parliament’s Women and Equalities Committee**

The Women and Equalities Committee holds the UK Government’s Equalities Office to account for the government’s progress with equality issues for people who have ‘protected characteristics’ under the UK’s [Equality Act 2010](http://www.legislation.gov.uk/ukpga/2010/15/contents). The protected characteristics included in the Act are sex, age, race, religion or belief, sexual orientation, disability, gender identity, pregnancy and maternity and marriage or civil partnership status. The Committee has launched an enquiry into the impact of the coronavirus in the UK and of measures to tackle it on people with protected characteristics. The content of this report represents an updated copy of evidence which Liberation submitted to the Committee at the end of April, on behalf of people with lived experience of a mental health diagnosis/ mental trauma; the material is also relevant for the UN’s Special Procedure mandate holders to consider.

**Points of concern**

**1. Socio-economic issues relevant to the coronavirus situation**

People from already disadvantaged socio-economic groups have fared particularly badly since 2008, following the UK government’s introduction of austerity measures in response to the financial crisis that year. Strong evidence of this is provided in the report from the UN’s Special Rapporteur for Extreme Poverty and Human Rights (2018)[[1]](#footnote-1). The Special Rapporteur drew attention to the fact that 1.5 million people in the UK were so destitute that they could not afford even basic essentials. He also emphasised that austerity measures had disproportionately affected people from often marginalised communities such as women, disabled people, single parents, racial and ethnic minorities, asylum seekers/refugees and rural dwellers.

In this context, a particular concern is the current status of Section 1 of the [Equality Act 2010](http://www.legislation.gov.uk/ukpga/2006/41/contents). The Equality Act has brought in a Public Sector Equality Duty. Under this Duty, public bodies are required actively to promote equality for people whom the Act classifies as having protected characteristics. However, because the government has not yet triggered Section 1 of the Act, technically, public bodies do not yet have a socio-economic equality duty. This is a major issue for Liberation and many other user-led organisations, given the high level of socio-economic disadvantages which Disabled people experience.

For people with lived experience of a mental health diagnosis/mental trauma, the impact of austerity measures has been particularly acute, because they form the largest number of benefit claimants; this has been illustrated in material from Bond, Braverman and Evans (2019)[[2]](#footnote-2). In addition, homelessness numbers have been rising to as many as one in every 200 people in England; this is evidenced in a report from the housing charity, Shelter (2019)[[3]](#footnote-3). Homelessness has again been particularly affecting people with lived experience of mental trauma. Thus, in 2018, *The Big Issue*, a magasine which provides employment opportunities for people in poverty, drew attention to the fact that as many as 80% of homeless people have pre-existing mental health diagnoses, or have developed related difficulties since losing their homes[[4]](#footnote-4).

The Covid-19 situation is now exacerbating existing inequalities.

There is an escalating need for people to rely on food banks, still more so for people experiencing more than one form of discrimination. As a Black disabled woman with lived experience has commented:

*I have food coming in from the food bank, because I have no wage. Why is that when I’m advising ministers?*

Because of the escalation, the need for emergency food parcels is now outstripping the amount which food banks can supply, as Butler (2019)[[5]](#footnote-5) has underlined. Food banks have therefore had to warn the government that they have reached a crisis point.

Poverty is rising because of job losses during the coronavirus outbreak. This has been illustrated by the unprecedented numbers of people who have been applying for Universal Credit (UC); UC is a benefit for people of working age who are on a low income, or not in work. According to management information from the government’s Department for Work and Pensions (2020)[[6]](#footnote-6), there were 3.2 million claims between 1st March 2020 and 9th June 2020. It is positive that the government has increased payments of UC by up to £1,040 a year. However, this still leaves payments lower than the amount considered sufficient to keep people out of poverty. A further issue is that, whilst the increase to UC represents a rise for new disabled claimants, people already receiving disability benefits remain on previous levels which have fallen considerably behind the cost of living.

Liberation welcomes the fact that the government has taken steps to ensure provision for rough sleepers and to pre-empt evictions from the private rented sector during the Covid-19 pandemic, for example has required local authorities to house the former in hotels, or emergency accommodation and stated that evictions of private tenants unable to pay their rent should be halted for three months. However, significant obstacles remain, not least because of ongoing government failures to address critical housing issues.

Immediate problems include the provision of accommodation at an unacceptable standard, resource and support issues and the risk that private renters will fall still further into arrears and then be evicted, because they continue to be in poverty. The extent of the problems is apparent in the submission from Shelter (2020)[[7]](#footnote-7) to the Housing, Communities and Local Government Committee inquiry, set up to analyse the effectiveness of government housing measures. What remains to be seen is whether the inquiry will result in a resolution of the problems.

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| **What is needed**  1. Recognition of additional issues stemming from the coronavirus outbreak for people with lived experience of a mental health diagnosis/mental trauma who were already experiencing major socio-economic disadvantages.  2. Priority action to address these, based on major structural changes.  3. Activation of Section 1 of the Equality Act.  4. Meaningful involvement of user-led organisations in decisions made and solutions adopted, in line with Article 4.3 of the UNCRPD. |

**2. Physical health factors**

Because of existing shortfalls in physical health care provision for people with lived experience of a mental health diagnosis/mental trauma, Covid-19 represents a particular risk for them. For example, as the *Healthy Lives* research study has illustrated (Gould, 2016)[[8]](#footnote-8), it is already the position that people diagnosed with serious mental illnesses are more at risk of long-term physical health problems, receive poorer physical healthcare and die an average of 15-20 years earlier than others, not least because of side-effects of psychiatric drugs. However, it is unclear whether any increased focus is being put on physical health care for people with lived experience during the coronavirus outbreak.

Not surprisingly, people with lived experience were among those who were very frightened by initial guidance to clinicians from the [National Institute for Health and Social Care Excellence](https://www.nice.org.uk/) (NICE): that clinicians should use a triage system, based on a frailty score, to decide which patients were given critical care and which received end of life care. Although NICE has subsequently issued revised guidelines which are phrased more reassuringly, many people with lived experience remain fearful that they will be left to die because of a serious underlying condition and/or because they are not regarded as being valuable members of society.

A large number of *Healthy Lives* study participants also regarded physical healthcare as unduly linked to the medical model which is dominant in psychiatric services and to the compulsory powers of the [Mental Health Act 1983](http://www.legislation.gov.uk/ukpga/1983/20/contents). They experienced the Act as discriminatory, and were not confident of receiving adequate physical healthcare unless there were fundamental changes in these factors. In this context, it is particularly concerning that deaths of people detained under the Act have doubled since 2019, with half of the fatalities being caused by Covid-19; see, for example, the article from Thomas (2020)[[9]](#footnote-9). Although the regulator of health and social care in England, the [Care Quality Commission](https://www.cqc.org.uk/), has spoken of monitoring the situation, the level of deaths remain totally unacceptable, still more so given that detained patients have no power to refuse the use of compulsion.

Study participants also emphasised the need for physical health services to be better suited to the extensive demographic diversity amongst people with lived experience.

For instance, one participant explained:

*I’ve had bad experiences with nurses and GPs assuming I’m heterosexual and asking what I felt to be intrusive questions about contraception and not believing me, or showing visible disbelief that I’ve never had sexual intercourse with a man.* (Gould, 2016: 51)[[10]](#footnote-10)

Another participant commented:

*… mostly just the mental health is looked at in the medical model and they almost ignore the spiritual, physical, or emotional health and it’s treated with drugs, or whatever that mental health side is. If you were meditating in Tibet 15 hours a day and chanting, you’re seen as a guru. If you do that in the streets of Hackney, you’re sectioned.* (Gould, 2016: 26)[[11]](#footnote-11)

It would be hard not to see a connection between healthcare shortfalls of these sorts and the increased coronavirus infection and mortality rates amongst underprivileged people which are highlighted in the recent report from Public Health England (2020)[[12]](#footnote-12).

One of the report’s key findings is that infection and mortality rates are much higher among Black, Asian and other minority ethnic (BAME) communities than among their white counterparts. For many BAME people with lived experience of a mental health diagnosis/mental trauma, this hardly comes as a surprise and can only add to the degree of alienation which many already feel because of the extent of institutional racism which they have encountered in the UK. Thus, in a very powerful poem related to the killing of George Floyd at the hands of US police and his reaction to it as a Black man, King (2020)[[13]](#footnote-13) writes:

*Let me died before I am killed.*

*Sixty years still a political, economic and cultural slave, I saw George, he is my despair.*

*Victims to a virus that may kill me, victim to a racism, it will kill me.*

*I petition for human and racial equality, it condemned me, a schizophrenic, a dyslexic, a nigger …*

*I seek a public enquiry, black men murdered, imprisoned illegally in cells of mental health* …

*I cannot breathe unless racism is treated as a mental illness that kills our Community.*

*It is the Covid-19 virus of white supremacy that will kill my soul and my spirit.*

As has been mentioned above, many rough sleepers and homeless people have lived experience as well. A further anxiety for many of them is the quite strong likelihood that they will become infected with the coronavirus; not only do they often have much poorer health than the public in general, but many are currently in crowded hostel facilities which enable the coronavirus to spread easily. An article from Watt (2020)[[14]](#footnote-14) in the *Guardian* newspaper describes a study from University College London’s Collaborative Centre for Inclusion Health which demonstrates that such fears are far from groundless. The worrying initial findings from this study are that the coronavirus death rate among homeless people living in London’s hostels is 25% higher than that among the general adult population. However, there is no indication to date of government plans to take action about the situation.

A massive cause of anger for people with lived experience is the huge number of deaths amongst care home residents, many of whom have mental health diagnoses as well as underlying physical health conditions. As Booth and Duncan have identified in an article for the *Guardian* newspaper (2020)[[15]](#footnote-15), over 16,000 care home residents have now died from Covid-19; this amounts to nearly one third of all deaths where the coronavirus has been identified as a cause. A particular concern is that the UK government seemingly chose to give NHS services priority over care homes, despite the known physical frailty of many care home residents. See, for example, the *Daily* *Mail* article from Tapsfield (2020)[[16]](#footnote-16).

Gardner, whose father became infected and died from Covid-19 after a patient who tested positive for the virus was discharged from hospital into his care home, is now bringing a legal case against Hancock, the UK’s Health Secretary; details are provided by Booth (2020)[[17]](#footnote-17) in an article for the *Guardian* newspaper. Gardner has accused the Health Secretary of a ‘litany of failures’ and of misleading the public when he claimed that he had ‘thrown a protective ring’ round care homes. In her legal case, Gardner alleges that the government breached its obligation under the [European Convention of Human Rights](https://www.echr.coe.int/Documents/Convention_ENG.pdf) ‘to safeguard the lives of those within its jurisdiction’, its responsibility under the [National Service Act 2006](http://www.legislation.gov.uk/ukpga/2006/41/contents) to protect ‘the public in England from disease or other dangers to health’ and its duty under the [Equality Act 2010](http://www.legislation.gov.uk/ukpga/2006/41/contents) to ensure ‘equal and fair treatment of individuals with protected characteristics of age and disability and also potentially race’.

There are major ongoing fears, too, that, because of their over-representation in prisons, more Black men will die of coronavirus there, despite the government bringing in some preventative action on behalf of prisoners. A Black Liberation member expressed the following plea on behalf of Black men and their families:

*Culturally, our men are being very trodden on, so much so that they cannot get off the floor. So their families are falling apart as well - lots of the fathers are in prison.*

An additional compounding factor is the UK government’s apparent lack of preparedness for the coronavirus and failure to act quickly enough once the pandemic started. Thus, Greenhalgh and Sentance (2020)[[18]](#footnote-18), in their recent article for the *Guardian* newspaper, sum up the current situation as follows:

*While other countries are recovering from Covid-19, Britain is still in intensive care.*

In their view:

*The country’s economy and public health will be paying the price of too-little, too-late policymaking for a long time.*

These government shortfalls have been problematic for large numbers of people in the UK. For many people with lived experience of a mental health diagnosis/mental trauma, the impact has been dire, still more so for those who are disadvantaged in more than one way.

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| **What is needed**  1. An urgent government focus on effective physical healthcare for people with lived experience of a mental health diagnosis/mental trauma, including all those who experience more than one form of discrimination.  2. Further reassurance that those who also have underlying physical health conditions will receive the same quality of physical healthcare as any other members of the public.  3. Immediate government action to address the doubling of deaths amongst detained patients.  4. Comprehensive government acknowledgement of the extent of institutional racism in the UK and decisive action to deal with its consequences once and for all.  5. An unreserved apology from the government for disproportionate deaths in care homes and reparation for government failures.  6. Use of the expertise held by people with lived experience of the issues concerned.. |

**3. Mental health law**

For many people with lived experience of a mental health diagnosis/mental trauma, a serious human rights problem with the [Coronavirus Act 2020](http://www.legislation.gov.uk/ukpga/2020/7/contents) is the provision for the Secretary of State to authorise a reduced use of the already unsatisfactory safeguards in mental health legislation, if a shortage of mental health professionals is thought to justify this. For example, in the case of the [Mental Health Act 1983](http://www.legislation.gov.uk/ukpga/1983/20/contents), which covers England and Wales, it will then be possible for:

* An Approved Mental Health Professional (AMHP) to detain someone in mental distress under a section 2, or section 3, with a recommendation from one doctor, instead of two;
* There to be longer holding powers under sections 5, 135 and 136
* Compulsory treatment to last longer than 3 months without a Second Opinion Appointed Doctor (SOAD) being consulted first
* Related changes to be introduced in the case of Part Three patients.

UK mental health legislation is already in serious breach of the fundamental human rights set out in the UNCRPD, despite the fact that the government is a signatory to this treaty. Implementation of the above measures will represent a still more serious breach of human rights. It will also be in contravention of point 5 in the recent *Joint Statement: Persons with Disabilities and Covid-19* (Chair of the United Nations Committee on the Rights of Persons with Disabilities, 2020)[[19]](#footnote-19), which advocates accelerated deinstitutionalisation of Disabled people from all types of institutions. In addition, this situation will be compounded for people who are already over-represented amongst those subjected to mental health law, for example Black men who are detained in psychiatric hospitals, including high security hospitals, and prisons.

What so often happens at a time of crisis is that already disadvantaged people lose still more of their human rights. It will be totally unacceptable if the Coronavirus Act has this effect on the rights of people with lived experience. As one Liberation member has said:

*I just want the same human rights as anyone else. All these plans under the Coronavirus Act just make me feel even more of a nonentity.*

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| **What is needed**  1. Immediate government agreement to refrain from implementing these increased powers and to withdraw them at the time of the six-month review.  2. Active discussion with user-led organisations about feasible ways of accelerating deinstitutionalisation, in line with the *Joint Statement* from the Chair of the UNCRPD, followed by sustained action to bring institutionalisation to an end. |

**4. Support**

In this sphere, too, the negative impact of the coronavirus outbreak has been heightened by previous cuts. There has been a £7 billion reduction in adult social care since 2010. The problems faced by local authorities and service providers have become progressively worse since then, as documentation from the Association of Directors of Adult Social Services (2019)[[20]](#footnote-20) stresses. On average, local government spending on services has fallen by 21% in real terms since 2009-10, with poorer areas particularly badly affected; see *Briefing Note BN25* from the Institute for Fiscal Studies (Smith and Phillips, 2019)[[21]](#footnote-21). This position has not been countered by the [Care Act 2014](http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted), nor by aftercare provisions of the [Mental Health Act 1983](http://www.legislation.gov.uk/ukpga/1983/20/contents). As a result, services were already at crisis point even prior to the coronavirus outbreak.

In his *Joint Statement: Persons with Disabilities and Covid-19* (2020)[[22]](#footnote-22) about the provision of support during the coronavirus outbreak, the Chair of the UNCRPD has emphasised the need to safeguard the supply of items such as food and medicine during periods of isolation and quarantine for Disabled people and for a full range of community support to continue. However, Liberation has heard from a large number of people with lived experience of a mental health diagnosis/mental trauma that accessing these has been problematic, not least because of the absence/major shortage of personal protective equipment. As one person has said:

*I didn’t hear from my local authority until two or three weeks into the lockdown. The information was mostly only useful to people who have computers, which quite a lot of us don’t, and it was almost 6 weeks before a note was put through my door about members of a mutual aid group who could do my shopping, or collect prescriptions. I’ve managed, but I’m really concerned about people who vitally need this sort of support.*

Feedback has also illustrated huge fears about the easement of the [Care Act 2014](http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted) which is now permitted under the [Coronavirus Act 2020](http://www.legislation.gov.uk/ukpga/2020/7/contents). Limited though the Care Act is, people with lived experience of a mental health diagnosis/mental trauma do not want even to lose such support as is provided under that Act.

At times of crisis, too, it is more important than ever for there to be a full, in fact increased amount of community support available if involuntary detention in a psychiatric hospital and forced treatment are to be avoided. For so many of us, it is vital that they are. As one person has expressed it:

*Going through lockdown feels very restricting - and incredibly tough, for those of us who are meant to be ‘shielding’. But it pales into insignificance in comparison with the trauma of being sectioned and forcibly treated.*

A strong focus on wide-ranging community resources is also very important if the diverse needs of people with lived experience are to be met. Alternatives to the dominant white western medical model, user-led options and services which are culturally appropriate are highly important to many people with lived experience, but often receive very limited, or no funding and so are in short supply.

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| **What is needed**  1. Further urgent action to address the social care funding gap which is worsening the impact of the coronavirus outbreak.  2. An early repeal of the Care Act easements currently permitted under the Coronavirus Act.  3. In place of decreased safeguards against sectioning and forced treatment, a major increase in wide-ranging, community-based resources which support the independent living and community involvement approach set out under Article 19 of the UNCRPD.  4. A meaningful influence for user-led organisations over all three of the actions above, including organisations which represent people with lived experience who encounter more than one form of discrimination |

**5. Hate crime**

A serious issue for Liberation is the sheer amount of hate crime against Disabled people. Existing evidence from hate crime records clearly demonstrates that further, concerted action is needed to tackle such crime. Home Office records (2019)[[23]](#footnote-23) illustrate the fact that there was a 10% overall increase in hate crimes between 2017/2018 and 2018/2019, including intersectional crimes. Hate crimes related to disability rose by 14%. The Home Office report suggests that a main reason for the higher figures is that there has been an improvement in the recording of crime by police. That would not make the reasons for concern less strong, however. What would then emerge from the evidence is that instances of disability hate crime are considerably higher than has been realised.

The *Keeping Control* research study (Carr *et al,*(2019)[[24]](#footnote-24), a user-led study co-produced with Middlesex University staff, has specifically highlighted the fact that disabled people, particularly people with lived experience of a mental health diagnosis/mental trauma, are at higher risk of targeted attacks than others, often on a prolonged and intersectional basis. A further, highly concerning finding which emerged from the study is that safeguarding reforms set up under the [Care Act 2014](http://www.legislation.gov.uk/ukpga/2014/23/contents/enacted) have proved far from adequate for people with lived experience, a situation which urgently needs addressing. The report findings also demonstrate the need for the experiences and insights of people with lived experience to be central to adult safeguarding legislation and approaches, if safeguarding is to prove effective.

Feedback to Liberation from people with lived experience is that the position has worsened further since the start of the coronavirus outbreak. There is also evidence of increased intersectional abuse. For example, in the *Hidden Figures* report from the LGBT Foundation (2020)[[25]](#footnote-25), 37% of survey respondents named decreased mental wellbeing as one of their three top concerns. In addition, they spoke of encountering abuse such as the following:

*I have been subject to a much greater increase of online bullying and transphobia during lock down and I worry people may track my address* (LGBT Foundation, 2020: 20)[[26]](#footnote-26)

*The perpetrator aggressively stated words to the effect of ‘It’s your fault, you gays spread COVID 19 just like you spread AIDS before’. The perpetrator approached him with his face almost touching the victim’s and said he was going to get his golf club and ‘beat the shit out of him’* (LGBT Foundation, 2029: 21)[[27]](#footnote-27)

At a time when many people with lived experience of a mental health diagnosis/mental trauma are already under acute additional pressure and numbers of people experiencing major mental distress are rising because of the coronavirus outbreak, this situation is completely unacceptable.

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| **What is needed**  1. Immediate action against rising hate crime encountered by people with lived experience, including a clear focus on those who are targeted because they have more than one protected characteristic.  2. An effective use of the expertise held by user-led organisations in the drawing up and implementation of both short-term and longer-term solutions and in the monitoring of outcomes. |

**Concluding comments**

In all five spheres outlined above, the Covid-19 pandemic has increased existing inequalities in the UK for people with lived experience of a mental health diagnosis/mental trauma. Without effective government action, the situation will continue to deteriorate. Liberation hopes that concerns raised in this report will receive detailed attention from the UN’s Special Procedure mandate holders and that full use will be made of Liberation’s recommendations for action.

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