

Submission from Ealing Reclaim Social Care Action Group (ERSCAG)

Addressed to the Women and Equalities Committee inquiry into the different or disproportionate impact that the Coronavirus – and measures to tackle it - is having on people with protected characteristics under the Equality Act

29 April 2020

Ealing Reclaim Social Care Action Group (ERSCAG)¹ understands that the Committee wants submissions about experiences on the ground, especially in regard to: (a) how people have been affected by the illness or the response to it; (b) if there have been specific impacts on people due to them having a protected characteristic; and (c) whether there may be unforeseen consequences to measures brought in to ease the burden on frontline staff, for example, relaxing the measures under the Mental Health Act and Care Act.

(a) How people have been affected by the illness.....

ERSCAG sent out a newsletter in early April to a hundred or more addressees with a summary of all the then current government guidance and asking to be alerted to any social care problems arising as a result of the coronavirus. We also wrote individually to all our Councillors, as well as senior staff, requesting them to be particularly alert to the needs of those in receipt of social care at this time of pandemic and lock-down. Our fear, largely borne out since then by the public and media debate, is that attention would go primarily to the NHS and hospital patients, to a lesser extent to those in residential care, and finally, if at all, to those experiencing problems in their own homes and, as such, all the more invisible. At an anecdotal level, we are aware of members who have lost family or friends, and we believe that the crisis facing social care provision has been further exacerbated by the pandemic.

.....and the response to it:

ERSCAG shares in the widespread public support that has been shown to the NHS, but has been disappointed to see government failings in terms of PPE, testing etc. Of more immediate concern to us, however, is the fact that the government has been very slow to respond to the risks posed by coronavirus to people living in residential care,² or people in receipt of social care in their own homes. Both of these categories are likely to consist disproportionately of people who are older, disabled, or experiencing serious underlying health problems, which – from the outset – were supposedly the vulnerable categories that government wanted to protect. To the extent that social care is discussed, it is seen as a problem for local authorities to address, but the provision of social care was said to be in crisis before the pandemic struck. ERSCAG is, for example, aware of disabled people kept in care-homes when they, and other (often more elderly) residents, would be safer if their desire for independent living had been actively pursued in a more timely manner. We are

¹ Ealing Reclaim Social Care Action Group is a non-partisan, politically independent group, working for improvements in the provision and monitoring of social care in the London Borough of Ealing.

² <https://www.theguardian.com/world/2020/apr/22/without-a-plan-its-not-going-to-stop-care-homes-fear-worst-yet-to-come-covid-19> Includes an interview with Dr Anna Down, a doctor with a GP practice in west London.

aware of the problems created for people with learning disabilities or mental health problems when voluntary services and home visits have been curtailed. Several of our active members live in fear that their carers might fall ill or indeed bring the virus into the home with them after visiting others. The running down of social care provision,³ and the failure to treat it as a public good, akin to the NHS, has rendered all those in need of social care all the more vulnerable once the pandemic hit.

(b) Have there been specific impacts on people due to them having a protected characteristic:

Age: Coronavirus has been recognised as a pandemic that has proved very dangerous for older people, and social care is disproportionately a service offered to older people.⁴

Disability: People with disabilities disproportionately face a series of underlying health concerns (another target group for the virus) and a large proportion of those in receipt of social care are working age people with disabilities (see some examples cited above).

Race/Religious belief: Media coverage would suggest that BAME communities have been disproportionately targeted by the coronavirus.⁵ Whilst some have suggested that there may be genetic or other cultural reasons why this would happen, few would challenge that this may also be related to the poor health that affects people on lower incomes (in which category BAME people are disproportionately represented). Another factor must surely be that a large number of people from BAME communities are employed by the NHS and in social care: 1 in 5 care-workers were born outside the UK, and 1 in 7 outside the EU.⁶

Sex: Media coverage suggests that coronavirus is more dangerous for men than women and the reasons for this need to be investigated. Much of the disproportionate impact of coronavirus on women can be traced to long-standing trends such as the facts that: of the 3m people in the groups said to be 'highly exposed' to coronavirus, 77% are women; of these 3m, one third earn 'poverty' wages⁷ and 98% of them are female; and 80% of paid care-workers are female, with 24% of paid carers on zero hours contracts. The majority of unpaid carers are women too, as are 77% of NHS staff.⁸

ERSCAG is unaware of impacts on other protected characteristics and hopes that other submissions may address such issues. It is however apparent to us that coronavirus is likely

³ The head of the National Audit Office, publishing a report on the Adult Social Care Workforce in England in February 2018, noted: "Social care cannot continue as a Cinderella service".

⁴ The National Pensioners Convention briefing on The Budget, dated April 2020 notes: "Even prior to the pandemic outbreak, The Budget showed no real or genuine commitment to dealing with the crisis in social care".

⁵ <https://www.theguardian.com/world/2020/apr/22/racial-inequality-in-britain-found-a-risk-factor-for-covid-19> and also see Financial Times (26/4/20) which reports that Baroness Doreen Lawrence has been appointed to advise the Labour Party on its review on impact of coronavirus on black, Asian and minority ethnic (Bame) communities and that Trevor Phillips is doing something similar for the government.

⁶ We rely here on statistics from the Women's Budget Group - <https://wbg.org.uk/blog/it-is-women-especially-low-paid-bame-migrant-women-putting-their-lives-on-the-line-to-deliver-vital-care/>

⁷ Statistics as in footnote 6 and the government definition of 'poverty' wages is 60% or less of median wage.

⁸ See also Age UK report (March 2019): Breaking Point: the social care burden on women.

to negatively affect people in receipt of social care, and those providing social care, under a range of the protected characteristics of concern to this Committee.

© **Whether there may be unforeseen consequences to measures brought in to ease the burden on frontline staff, for example relaxing the measures under the Mental Health Act and Care Act.**

ERSCAG wrote to the three Ealing MPs at the time of the passage of the Coronavirus Act because of our concerns about the relaxation of measures under the Mental Health Act and, particularly, the Care Act. As expected – given the urgent nature of the proposed legislation – few amendments were taken on board, though thankfully it will be reviewed in six months, rather than the two year timeframe originally proposed.

ERSCAG recognises the need for emergency action but is naturally worried about the important changes to the rights of people being considered for sectioning on mental health grounds (particularly with one rather than two medical opinions being required). In relation to social care, local authorities will be freed up from having to carry out their statutory duty under the Care Act to undertake assessments of people’s care and support needs, or to carry out financial assessments, though they will have powers to charge people retrospectively for the care and support they receive during this period. Local authorities are also relieved of their Care Act statutory duty to prepare or review care and support plans, and the duties on Local Authorities to meet ‘eligible care and support needs’, or the support needs of a carer, are replaced with a power to meet ‘needs’ (our emphasis).

We have taken this language from the summary of the legislation itself (see <https://www.gov.uk/government/publications/coronavirus-covid-19-changes-to-the-care-act-2014/care-act-easements-guidance-for-local-authorities>) and certain safeguards are indeed included (for example the importance of respecting people’s human rights).⁹ In particular, the emergency legislation requires that a Local Authority only take a decision to begin exercising the Care Act easements when the workforce is “significantly” depleted, or demand on social care “increased”, to an extent that it is deemed no longer reasonably practicable for it to comply with its Care Act duties. ERSCAG intends to monitor local developments carefully since it is very concerned that people may fall through the safety net if the Council reduces its assessment processes.¹⁰

We attach in appendix a case-study paper produced by ERSCAG in February 2020 providing personal stories of the pressures long experienced on the frontline of social care. The paper highlights a whole series of problems around charging; assessment procedures; the inadequate support and respect awarded carers (paid and unpaid); the fear that advocacy services were being cut to the detriment of some of the most vulnerable in society; the need to promote the principle of independent living; and the illogicality of some of the

⁹For a detailed commentary (23.4.20) on the human rights aspects of the pandemic, health inequalities, and gender responsive approaches to health and equality see the Council of Europe’s Human Rights Commissioner: <https://www.coe.int/en/web/commissioner/-/learning-from-the-pandemic-to-better-fulfil-the-right-to-health>

¹⁰ One Ealing Councillor responding to ERSCAG concerns noted that he had indeed “received several enquiries from clients whose services were being curtailed” (2 April 2020)

divisions between health (NHS) and social care (Local Authorities). The Association of Directors of Adult Social Services recently¹¹ highlighted their concerns and referred to ‘unmet need’. The government was clearly aware of these long-standing inadequacies, since it made provisions for easements in the emergency legislation precisely because it understood that the pressure on local authorities’ social care provision would become unmanageable.

Proposals for consideration by the Committee:

1. The Committee should ask all MPs to brief themselves on the social care problems arising in their constituencies, so that if, as ERSCAG fears, significant problems arise as a result of the emergency legislation, these issues can inform the parliamentary debate around renewal in 6 months’ time.

2. The Committee should alert MPs to the disproportionate impact the coronavirus itself, and social care provision during the pandemic, is having on a range of protected characteristics, and monitor developments over time. It would be particularly important to properly assess the equality impact that any renewal of this legislation is likely to have on all the protected characteristics of the Equality Act. Did the original Equality Impact Assessment highlight the kinds of problems brought now to the attention of your Committee and, if not, why not?

3. The Committee should also call on the relevant parliamentary committee to undertake an inquiry into the long term needs of social care.¹² ERSCAG believes that this pandemic makes it crystal clear that social care in future must be well-funded from general taxation and free at the point of delivery. Out of World War Two came the NHS, maybe out of the pandemic, can come a recognition of the need for a national social care system, staffed by people who are respected as essential, and highly skilled, workers?

Ealing Reclaim Social Care Action Group (ERSCAG)
Maggie Beirne (secretary)
29 April 2020

¹¹“Never before has social care been so obviously essential to the fabric of our lives, and while we focus on those infected by and dying of the virus, there are equally those with unmet needs for care and support who are suffering as a result”.

¹² Numerous detailed studies have been made about the possible reform of social care and all political parties have recognised the need for change, but the political will has been lacking until now to make real progress. For an examination of the funding issues concerned see: <https://www.centreforwelfarereform.org/library/fully-funded-social-care.htm>