



# **Women and Equalities Committee's Inquiry into the Unequal Impact of COVID- 19: Disability and Access to Services**

**July 2020**

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## Summary of Recommendations

- 2.5** IMNI recommends that the NI Executive introduces legislation that strengthens, simplifies and harmonises equality law within a single Equality Act for Northern Ireland or in the absence of a single Equality Act, amends the Disability Discrimination Act 1995 as amended to address identified deficiencies.
- 2.9** IMNI highlights the current and continuing applicability of the Section 75 equality duties, and their importance as a mechanism to identify and mitigate any adverse impacts of policies being developed, including at a time of crisis.
- 2.12** IMNI recommends that the emergency legislation is in place for no longer than absolutely necessary to address the COVID-19 pandemic and the contained powers are only utilised when it is necessary and proportionate to do so. IMNI further advises that, where possible to do so, further restrictions affecting persons with disabilities are eased. However, steps must be taken to ensure disabled people are provided with the support and protections necessary to ensure their safety and overcome their concerns as the UK eases the COVID-19 protections it had in place for those most at risk.
- 2.17** IMNI recommends that comprehensive disaggregated data, including disability, that accurately reflects the spread and impact of COVID-19 across the UK, including NI, is developed immediately and is kept under constant review. The gathering and publication of such data should be standardised and comparable across the UK.
- 2.21** IMNI recommends that the UK Government establishes a disability forum that effectively involves disabled people and their representative organisations across the UK, including Northern Ireland. A Regional Disability Forum in Northern Ireland, committed to in the 2016 Draft Programme for Government, should also be established without further delay.
- 2.22** IMNI highlights that a UK forum could also include or work with a Northern Ireland Regional Disability Forum. Such fora

could play an important role in shaping policy and practice in respect of COVID-19 and disability.

**2.26** IMNI advises the UK Government that the prevalence and impact of digital exclusion should be considered as COVID-19 response measures are developed. Specific consideration should be given to areas that are experiencing particular digital exclusion, such as in Northern Ireland. Steps must also be taken to ensure that digital services are affordable. Further, effective education and training programmes need to be developed, implemented and adequately funded to ensure that persons with disabilities can avail of digital technologies.

**3.5** IMNI recommends that the UK Government ensures that all public health information and medical correspondence is promptly accessible for persons with disabilities, who have an equal right to access to information. This includes, but is not limited to, considering the need to provide British and Irish sign language interpretation at public Government briefings and ensuring all Government letters are available in a range of accessible formats and promptly delivered to the individuals affected.

**4.5** IMNI recommends the ongoing need for food parcels, including for people with disabilities, is comprehensively monitored and, where need is evident, schemes, including that in Northern Ireland, are extended for as long as required. Such schemes should provide food that is in line with expert advice on nutrition.

**4.6** IMNI recommends that provision is made to ensure that children in Northern Ireland, including those with disabilities, have access to sufficient food across the year as a whole, for example, via the extension of free school meals and other measures.

**5.6** IMNI highlights that triage protocols must be based on individual medical needs and the best scientific evidence.

**5.7** IMNI recommends that the UK Government embeds the six guiding principles on COVID-19 and disability into its

**guidance and that this approach is adopted by the devolved Departments of Health.**

**5.10 IMNI recommends that sufficient Personal Protective Equipment is made immediately available to all care workers and carers in health and social settings. This equipment should adequately fit the particular individual to ensure satisfactory protection and enable communication with the individual being cared for.**

**5.12 IMNI recommends that when reconfiguring services and redirecting resources full account is taken of the impact on other vulnerable patients and groups and that full cognisance is taken of the need to ensure the highest attainable standard of health for all is pursued. This includes ensuring care arrangements are subject to constant review.**

**5.14 IMNI recommends that visiting options available to relatives of patients and residents within all health and social care settings are kept under constant review, with reasonable visits facilitated where possible.**

**5.17 IMNI recommends that post COVID-19, online health services remain an option for persons with disabilities, but that non-online alternatives are also widely available for people that find such online services inaccessible. Any alternative provision must also be accessible (e.g. automated telephone services).**

**6.2 IMNI recommends that the respective Department of Health in each jurisdiction is required to monitor and evaluate the reports it is provided on how changes to mental health legislation is being used and the impact that it is having on individuals affected within each jurisdiction, including Northern Ireland. These evaluations should be used as a basis for reassessing whether the temporary changes need to be amended to address any detrimental impacts.**

- 6.4 IMNI recommends that comprehensive Mental Health Strategies are in place and being effectively implemented across the UK, including Northern Ireland.**
- 6.7 IMNI recommends that individuals affected by any changes to health and social care services, including mental health services, are informed in a way that is clear and accessible to individuals and their families.**
- 6.8 IMNI recommends that specialised support should also be provided to assist individuals affected to process this information and that they are provided with clear and accessible communications on what the contingency plan is, how to access temporary services and any according updates.**
- 6.9 IMNI recommends that processes should be in place for individuals to appeal decisions or make requests for enhanced support when such changes are having a detrimental effect on the affected individual's mental health, particularly individuals that rely on routine and are caused distress when their routine is disrupted.**
- 6.13 IMNI recommends that any measures introduced to move the UK out of lockdown are accessible for all, and do not lead to, or exacerbate isolation. Enhancing or maintaining accessibility should be a requirement of any changes.**
- 6.14 IMNI recommends that solutions should be developed through directly engaging with disabled people and their representative organisations to ensure that proposed responses take account of relevant expertise and experience.**
- 7.4 IMNI recommends that priority COVID-19 testing for all care homes, including residents and staff, is promptly implemented and maintained long-term.**

- 7.5 IMNI recommends that sufficient, effective and accessible Personal Protective Equipment is provided in all care homes for all staff, residents and visitors.**
- 7.6 IMNI recommends that data collection for COVID-19 related infections and deaths in care homes continues, including in Northern Ireland. Such data should be disaggregated, including by disability.**
- 7.7 IMNI recommends that necessary steps are taken to ensure the sector is adequately funded and fit for purpose to deal with the ongoing issue of COVID-19 and any future pandemic.**
- 7.8 IMNI recommends that steps are taken to identify and promptly address any key factors which contributed to the high numbers of COVID-19 deaths within care homes. Findings from any rapid assessments (including any undertaken by the Department of Health's Rapid Learning Initiative Group) should be supplemented, in due course, with comprehensive reviews and formal recommendations to ensure any failings that led to the significant number of COVID-19 related deaths linked to care homes do not happen again.**
- 7.12 IMNI advises that an independent regulator, that can support and inspect health and social care services, is essential across all parts of the UK. Steps should be taken to ensure this provision in Northern Ireland.**
- 7.15 IMNI recommends that social care services that were cancelled by the provider or client due to COVID-19 should be promptly reinstated, including domiciliary care.**
- 7.16 IMNI recommends that accessible and effective Personal Protective Equipment should be provided and properly used in the provision of such services.**



- 8.6 IMNI recommends that action is taken to: urgently address the wider statementing issues for children with Special Educational Needs including deficit of places and significant delays; mitigate the negative impact on children of the closure of preschool settings caused by the COVID-19 outbreak, including for those with disabilities; identify and mitigate potential negative equality impacts arising from reduced access to formally taught education; address any negative equality impacts arising from the shift to home-based learning or any subsequent move to ‘blended’ learning; identify and address any effects of COVID-19 that poverty or socio-economic status may have on the emergence or exacerbation of educational inequalities.**
- 9.2 IMNI recommends that measures are developed to improve the identification and reporting of abuse and that support services are reviewed for their accessibility. Moreover, the extent of domestic violence and abuse against disabled persons in NI should be identified through research and data collection.**
- 9.8 IMNI recommends that effective measures are developed to ensure persons with disabilities can meet increased financial needs during and after the COVID-19 crisis. In particular, IMNI recommends that social protection payments are increased to meet any additional needs and costs of carers or people with disabilities during and after the COVID-19 period. This should include retaining the additional payments made through Universal Credit or other support.**
- 9.9 IMNI recommends that the Department for Communities ensures that the Video Relay Service is available in the context of all social security benefits.**
- 9.13 IMNI recommends that a comprehensive strategy and effective action plan is developed to support disabled people to secure and maintain training and employment following labour market disruption due to COVID-19.**

- 9.14 IMNI recommends that clarification is provided on future funding arrangements for disability employment projects that are currently delivered through European Social Fund.**
- 9.15 IMNI recommends that clear and accessible Government-issued guidance is issued to all employers setting out their duties in respect to workers returning to work, including taking into account any reasonable adjustments that are required.**
- 9.18 IMNI recommends that restoring the economy and raising revenue, given the increase in public expenditure due to COVID-19 should be done in a way that does not penalise individuals in particular equality categories, those on low income or already disadvantaged.**
- 9.19 IMNI recommends that any social distancing measures introduced by retailers in line with Government guidance are developed through effective engagement with disabled people and their representative organisations to ensure accessibility.**

## **1.0 About IMNI**

- 1.1 The Equality Commission for Northern Ireland (ECNI) and the Northern Ireland Human Rights Commission (NIHRC) jointly perform the role, under Article 33(2) of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), of 'Independent Mechanism' in Northern Ireland (IMNI) to promote, protect and monitor the implementation the Convention in Northern Ireland (NI).
- 1.2 IMNI welcomes the opportunity to respond to the Women and Equalities Committee's inquiry, 'Unequal impact: Coronavirus, disability and access to services'.

## **2.0 Preliminary Issues**

- 2.1 Before responding to the topics outlined in this inquiry, IMNI highlights a number of underlying issues relating to disability rights in Northern Ireland that provide context to this response.

### **Reform of Equality Law**

- 2.2 Significant gaps exist in equality law between Great Britain and Northern Ireland, gaps which have widened following the introduction of single equality legislation – the Equality Act 2010 - in Great Britain.<sup>1</sup>
- 2.3 These differences mean that in a number of key areas, individuals in Northern Ireland have less protection against discrimination and harassment than people in other parts of the United Kingdom,

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<sup>1</sup> Equality Commission for NI, 'Gaps in Equality Law between Great Britain and Northern Ireland', (ECNI, 2014).

including with regards to disability.<sup>2</sup> The disability legislation in GB has also been strengthened and harmonised, unlike in Northern Ireland despite calls for amendment.

2.4 There is a need for urgent reform of equality law to address gaps in protection, including on the ground of disability; and for NI equality law to be harmonised and simplified so as to address significant inconsistencies, unjustified anomalies and complexities and to ensure uniform protection against discrimination across all grounds, where appropriate. Single Equality legislation would best harmonise and simplify the protections available.

**2.5 IMNI recommends that the NI Executive introduces legislation that strengthens, simplifies and harmonises equality law within a single Equality Act for Northern Ireland or in the absence of a single Equality Act, amends the Disability Discrimination Act 1995 as amended to address identified deficiencies.**

### **Use of equality duties in Northern Ireland to inform responses to COVID-19**

2.6 In Northern Ireland public authorities are required to have due regard to the need to promote equality of opportunity and to have regard to the desirability of promoting good relations generally and including when developing COVID-19 related policies.<sup>3</sup>

2.7 These are continuing duties and are important duties to observe, even in the context of COVID-19 when policies may need to be developed at pace.

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<sup>2</sup> For example, in Great Britain, employers are prohibited from asking job applicants questions related to disability, prior to making a job offer, except in certain limited circumstances; schools are under a duty to make reasonable adjustments to auxiliary aids and services in respect of disabled pupils; the law was strengthened in Great Britain to prohibit both 'indirect disability discrimination' and 'discrimination arising from disability'; the definition of disability was amended in GB to make it easier for people for people to fall with the definition; and there is improved protection in GB for disabled people against harassment when accessing goods and services.

<sup>3</sup> Equality Commission for NI, 'The Section 75 duties when developing COVID-19 related policies', (ECNI, 2020).

- 2.8 The framework associated with the duties can assist Departments and public authorities to identify and mitigate equality impacts.
- 2.9 **IMNI highlights the current and continuing applicability of the Section 75 equality duties, and their importance as a mechanism to identify and mitigate any adverse impacts of policies being developed, including at a time of crisis.**

## **Emergency legislation**

- 2.10 IMNI recognises that the introduction of emergency legislation was necessary to preserve life and prevent the spread of COVID-19. Human rights has a framework for dealing with emergency circumstances that enables human rights and equality and other freedoms to be curtailed in public health emergencies.<sup>4</sup> Restrictions must not last longer than absolutely necessary. The Coronavirus Act 2020 places a number of limits on rights – some of which have a particular impact on persons with disabilities – and IMNI is concerned that some limits may become more permanent.
- 2.11 IMNI welcomes that UK Government has recognised and sought to respond to the fact that some persons with disabilities have been particularly impacted by restrictions. An example is the easing of lockdown restrictions to enable persons with autism or learning disabilities and carers to leave their home more than once and/or travel.<sup>5</sup> However, the isolation and fear experienced by many persons with disabilities, particularly those shielding, during the height of the lockdown and how to best support such individuals in transitioning back into society must be considered.<sup>6</sup>

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<sup>4</sup> Principle 10(a), Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights 1985.

<sup>5</sup> Amy Walker, 'UK coronavirus rules relaxed for people with autism and learning disabilities', *Guardian*, 14 April 2020.

<sup>6</sup> Information provided by stakeholders attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

**2.12 IMNI recommends that the emergency legislation is in place for no longer than absolutely necessary to address the COVID-19 pandemic and the contained powers are only utilised when it is necessary and proportionate to do so. IMNI further advises that, where possible to do so, further restrictions affecting persons with disabilities are eased. However, steps must be taken to ensure disabled people are provided with the support and protections necessary to ensure their safety and overcome their concerns as the UK eases the COVID-19 protections it had in place for those most at risk.**

## **Data**

2.13 Article 31 of the UNCRPD requires that disability-related data is collected to enable Government to “formulate and implement policies that give effect” to the UNCRPD.

2.14 Comprehensive, timely and accurate statistics enable Government to establish who is most at risk and where to direct resources. There appears to be a lack of data disaggregation by equality category, including disability, in relation to COVID-19 statistics in Northern Ireland. There have also been inconsistencies in how statistics are recorded and published across the UK, making it difficult to compare NI’s situation and response with the rest of the UK. Notably, the statistics in NI were not as comprehensive as they could have been. For example, prior to 17 April, the statistics for COVID-19 deaths in NI were limited to those that had occurred in hospital.<sup>7</sup> Additionally, NHS England data reveals that twice as many people with learning disabilities have died during the coronavirus pandemic compared to the same period last year.<sup>8</sup> There is no comparable data in NI.

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<sup>7</sup> Eimear Flanagan, ‘Coronavirus deaths: Why NI’s statistics are changing’, *BBC News*, 15 April 2020.

<sup>8</sup> NHS England, ‘Press Release: COVID-19 deaths of patients with a learning disability notified to LeDeR’, 18 May 2020; Mencap, ‘Press Release: Mencap sound the alarm as higher proportion of people with a learning disability dying with COVID-19 than in care homes’, 19 May 2020.

2.15 The UNCRPD Committee has recommended that the UK “increases significantly the availability of high high-quality, timely and reliable data disaggregated by, among others... disability”.<sup>9</sup> A key concern in NI is the limited data available on COVID-19. The ‘Daily Dashboard’ statistics published by the Department of Health outline the number of COVID-19 tests, hospital admissions and deaths broken down by age group, gender and Local Government District. No data is available about disability status<sup>10</sup>.

2.16 Data published by the NI Statistics and Research Agency shows that age-standardised mortality rates are highest in the most deprived areas of NI.<sup>11</sup> Poor health, including long-term health conditions and disability, is particularly prevalent in areas of deprivation.<sup>12</sup> This suggests that persons with disabilities are likely to be disproportionately affected by COVID-19, but the data to confirm this, and therefore how best to focus support, is lacking.

**2.17 IMNI recommends that comprehensive disaggregated data, including disability, that accurately reflects the spread and impact of COVID-19 across the UK, including NI, is developed immediately and is kept under constant review. The gathering and publication of such data should be standardised and comparable across the UK.**

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<sup>9</sup> CRPD/C/GBR/CO/1, ‘UNCRPD Committee Concluding Observations on the Initial Report of the United Kingdom of Great Britain and NI’, 3 October 2017, at para 65.

<sup>10</sup> The difference in mortality rates between those “limited a lot” by a health problem or a disability and those not disabled were 2.4 times higher for females and 1.9 times higher for males. See The Office for National Statistics, ‘Coronavirus (COVID-19) related deaths by disability status, England and Wales: 2 March to 15 May 2020’, (ONS, 19 June 2020) at 2. The Department of Health in NI, however, confirmed in correspondence to the Equality Commission that it is not currently in a position to collect relevant data for the disability category and that ‘as the registration system does not collect such information any analysis will be a longer term project which will require linkage to other data sources.’ See Correspondence from Department of Health to ECNI dated 15 May 2020.

<sup>11</sup> Adjusting for differing age structures within the population, COVID-19 related ASMRs were highest for the 20 percent most deprived areas at 60.5 deaths per 100,000 population. This compares with an ASMR of 48.2 per 100,000 persons for Northern Ireland as a whole. See: NI Statistics and Research Agency, ‘Press Release: Analysis of COVID-19 related deaths March – May 2020’, 17 June 2020.

<sup>12</sup> NI Assembly Research and Information Service Briefing Paper, ‘Multiple Deprivation in NI: NIAR 124-18’ (NIRAISE, 2018), at 10.

## Effective participation of disabled people

- 2.18 The need for effective participation of disabled people has never been more urgent. It would help ensure that persons with disabilities do ‘not get left behind’ as the UK emerges from lock down and measures are put in place for potential future waves of COVID-19.<sup>13</sup> It is also specifically required by Article 4(3) of the UNCRPD.
- 2.19 In 2018, the UK Government committed to establishing an Inter-Ministerial Group on Disability and Society. The Terms of Reference do not refer to effectively involving disabled people and their organisations. Nor does the group’s membership include Ministerial representatives from the devolved parts of the UK, including Northern Ireland.<sup>14</sup> It is also unclear what role this Inter-Ministerial Group has had, if any, in relation to COVID-19 and supporting persons with disabilities to live independently.
- 2.20 In its 2016 draft Programme for Government, the NI Executive committed to increasing the quality of life for people with disabilities.<sup>15</sup> Among the proposed activities was the creation of a Regional Disability Forum.<sup>16</sup> This forum would give effect to the UNCRPD requirement of facilitating the participation of persons with disabilities in the development and oversight of Government policy.<sup>17</sup> Unfortunately, this commitment is yet to be realised.
- 2.21 IMNI recommends that the UK Government establishes a disability forum that effectively involves disabled people and their representative organisations across the UK, including Northern Ireland. A Regional Disability Forum in Northern Ireland, committed to in the 2016 Draft Programme for Government, should also be established without further delay.**

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<sup>13</sup> Equality Commission for NI, ‘Blog Article: People with disabilities must not be left behind response to COVID-19’, 7 April 2020.

<sup>14</sup> Office of Disability Issues, ‘The Inter-Ministerial Group on Disability and Society’. Available at: <https://www.gov.uk/government/organisations/office-for-disability-issues/about#the->

<sup>15</sup> NI Executive, ‘Draft Programme for Government 2016-21’ (NIE, 2016), at 133.

<sup>16</sup> Department for Communities, ‘Average Life Satisfaction Score’ (DfC, 2016).

<sup>17</sup> Articles 4(3) and 33(3), UN Convention on the Rights of Persons with Disabilities 2006.



**2.22 IMNI highlights that a UK forum could also include or work with a Northern Ireland Regional Disability Forum. Such fora could play an important role in shaping policy and practice in respect of COVID-19 and disability.**

### **Digital exclusion**

2.23 COVID-19 has necessitated a reliance on technologies such as video conferencing and wider online services. While technology has enabled many essential services to keep running, the shift has brought the issue of digital exclusion to the fore. Access to the internet has proved necessary to achieve a variety of day-to-day tasks, for example, for people to stay up to date with public health messages, stay connected with their friends and family, for children to do their school work, and to book food deliveries. Thus, when a person does not have access to the internet a number of human rights are affected. These include, but are not limited to, the right to education (Protocol No 1, Article 2 ECHR; Article 24, UNCRPD), right to adequate standard of living (Article 11, UN ICESCR; Article 28, UNCRPD), right to freedom of expression and access to information (Article 10 ECHR; Article 21 UNCRPD).

2.24 Across the UK, NI continues to have the highest proportion of internet non-users. While the number of internet non-users has declined since 2012, it is a real concern that almost 15 per cent of NI residents do not use the internet.<sup>18</sup> Persons with disabilities are more likely than non-disabled persons to be offline.<sup>19</sup> A compounding issue in NI is the lack of digital infrastructure in rural areas.<sup>20</sup> According to Ofcom, 23 per cent of rural premises in NI do not have basic broadband services, compared to 1 per cent in urban areas.<sup>21</sup> The Department for the Economy has recognised the “greater challenges” faced by households with poor broadband coverage during COVID-19 and acknowledges that approximately 79,000 premises across NI do not have yet have access to the desired broadband infrastructure.<sup>22</sup>

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<sup>18</sup> Office for National Statistics, ‘Exploring the UK’s Digital Divide’ (ONS, 2019), at 7.

<sup>19</sup> *Ibid.*, at Figure 11.

<sup>20</sup> Office for National Statistics, ‘Internet users UK: 2019’, (ONS, 2019), at 2.

<sup>21</sup> Ofcom, ‘Connected Nations 2017 Report’ (Ofcom, 2017), at para 2.5.

<sup>22</sup> Niall McCracken, ‘Coronavirus: We ration our internet because of where we live’, *BBC News*, 3 June 2020.

2.25 The 2016 draft Programme for Government for Northern Ireland committed to “improve internet connectivity”.<sup>23</sup> While welcome, there is no specific commitment to improve digital skills within the population or to ensure that internet access is affordable.

**2.26 IMNI advises the UK Government that the prevalence and impact of digital exclusion should be considered as COVID-19 response measures are developed. Specific consideration should be given to areas that are experiencing particular digital exclusion, such as in Northern Ireland. Steps must also be taken to ensure that digital services are affordable. Further, effective education and training programmes need to be developed, implemented and adequately funded to ensure that persons with disabilities can avail of digital technologies.**

### **3.0 Effectiveness and Accessibility of Government Communications and Consultation**

3.1 There was a significant delay before all UK COVID-19 Government briefings were accompanied by British Sign Language interpreters. There are an estimated 151,000 people who are British Sign Language users in the UK<sup>24</sup> and an estimated 3,500 British Sign Language users in NI.<sup>25</sup> The British Deaf Association estimates that there are 1,500 Irish Sign Language users in Northern Ireland. The NI Executive delivers its COVID-19 briefings with both British and Irish Sign Language interpreters.<sup>26</sup>

3.2 Stakeholders have informed IMNI that a Video Relay Service introduced for the NHS 111 Helpline was not immediately available in Northern Ireland. This service was eventually made available in Northern Ireland in mid-April.

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<sup>23</sup> NI Executive, ‘Draft Programme for Government Framework 2016-21’ (NI Executive, 2016), at 85.

<sup>24</sup> British Deaf Association, ‘What is BSL?’. Available at: <https://bda.org.uk/help-resources/#BSL>

<sup>25</sup> Bronagh Byrne, ‘Queen’s Policy Engagement Blog Post: Why we need a Sign Language Act in NI’, 6 September 2019.

<sup>26</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020. The British Deaf Association estimates that there are 1,500 Irish Sign Language users in Northern Ireland. See British Deaf Association, ‘BSL statistics: how many people use BSL in the UK?’. Available at: <http://signlanguageweek.org.uk/bsl-statistics>

3.3 In the context of situations of risk and humanitarian emergencies, the UNCRPD Committee has recommended that the UK ensures that information and warning systems are accessible for all persons with disabilities.<sup>27</sup> The UNCRPD Committee further reminds the UK Government to pay attention to the Charter on Inclusion of Persons with Disabilities in Humanitarian Action.<sup>28</sup> The UK Government has endorsed the Charter, which commits to:

working towards the elimination of physical, communication, and attitudinal barriers including through systematic provision of information for all in for planning, preparedness and response, and strive to ensure the accessibility of services including through universal design in programming, policies and in all post-emergency reconstruction.<sup>29</sup>

3.4 Stakeholders also informed IMNI that due to a number of factors including delays, and lack of information available in accessible formats, the ‘shielding letters’ caused confusion and uncertainty to a number of persons with disabilities (including those with visual impairments) and their carers. This also had a knock on effect for persons’ eligibility to access services, including food parcels.<sup>30</sup>

**3.5 IMNI recommends that the UK Government ensures that all public health information and medical correspondence is promptly accessible for persons with disabilities, who have an equal right to access to information. This includes, but is not limited to, considering the need to provide British and Irish sign language interpretation at public Government briefings and ensuring all Government letters are available in a range of accessible formats and promptly delivered to the individuals affected.**

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<sup>27</sup> CRPD/C/GBR/CO/1, ‘UNCRPD Committee Concluding Observations on the Initial Report of the United Kingdom of Great Britain and NI’, 3 October 2017, at para 29(c). Of particular relevance are UNCRPD, Articles 9 (accessibility) and 21 (right to information).

<sup>28</sup> The Charter on Inclusion of Persons with Disabilities in Humanitarian Action was developed in advance of the World Humanitarian Summit, 23 and 24 May 2016, Istanbul, by over 70 stakeholders from States, UN agencies, the international civil society community and global, regional and national organisations of persons with disabilities. The Charter has been endorsed by the UK.

<sup>29</sup> Charter on Inclusion of Persons with Disabilities in Humanitarian Action, at 2.4c.

<sup>30</sup> Information provided by stakeholders attending the IMNI Virtual Roundtables on Disability and COVID-19, 23 June 2020 and 25 June 2020.

## 4.0 Access to Food

- 4.1 Article 28 of the UNCRPD provides for the right to an adequate standard of living and social protection, which includes adequate food.
- 4.2 The Department for Communities for Northern Ireland launched its Food Parcel Service in April 2020. More than 150,000 food boxes have been delivered to vulnerable persons as part of a 12-week scheme delivered in partnership with local councils and civil society organisations. In June 2020, it was announced that the scheme would be extended for persons who are medically shielding, including persons with underlying health conditions or disabilities.<sup>31</sup>
- 4.3 The COVID-19 crisis has highlighted the issue of food poverty, with an estimated 75 per cent of individuals receiving the Department for Communities' weekly food parcels being from an economically vulnerable household.<sup>32</sup> Given the links between disability and poverty, IMNI is concerned about persons with disabilities experiencing food poverty.<sup>33</sup> This is particularly true in relation to children with disabilities and accessing meals over the summer months when free school meals are typically not provided. We note the UK Government's commitment to provide free school meals over the summer and its extension to Northern Ireland.<sup>34</sup>
- 4.4 The UK Government has been criticised for ignoring expert advice on nutrition in food parcels.<sup>35</sup> In Northern Ireland, concerns have

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<sup>31</sup> Department for Communities: 'Press Release: Food Parcel Service to be extended for those medically shielding', 17 June 2020.

<sup>32</sup> Ibid.

<sup>33</sup> Independent Mechanism NI, 'Disability Rights in NI: Supplementary Submission to Inform the UN CPRD List of Issues in the UK', (IMNI, 2017); Joseph Rowntree Foundation, 'Monitoring Poverty and Social Exclusion in NI 2016' (JRF, 2016).

<sup>34</sup> Rajeev Syal, Heather Stewart and Helen Pidd, 'Johnson makes U-turn on free school meals after Rashford campaign', *The Guardian*, 16 June 2020; John Campbell, 'Coronavirus: Funding found for free school meals, health and the arts', *BBC News*, 30 June 2020.

<sup>35</sup> Jay Rayner, 'Government attacked for ignoring expert advice on nutrition in food parcels', *The Guardian*, 21 June 2020.

been raised about the quality of some of the food being delivered.<sup>36</sup>

- 4.5 IMNI recommends the ongoing need for food parcels, including for people with disabilities, is comprehensively monitored and, where need is evident, schemes, including that in Northern Ireland, are extended for as long as required. Such schemes should provide food that is in line with expert advice on nutrition.**
- 4.6 IMNI recommends that provision is made to ensure that children in Northern Ireland, including those with disabilities, have access to sufficient food across the year as a whole, for example, via the extension of free school meals and other measures.**

## **5.0 Access to Healthcare Services**

### **Triage protocols**

- 5.1** The National Institute for Health and Care Excellence's guidelines indicate that difficult COVID-19 decisions will be made around access to medical care in a resource-limited environment.<sup>37</sup> The UN Special Rapporteur on Older Persons has warned "triage protocols must be developed and followed to ensure such decisions are made on the basis of medical needs, the best scientific evidence available, individual circumstances and not on generic non-medical criteria such as age or disability".<sup>38</sup>
- 5.2** The National Institute for Health and Care Excellence (NICE) 'COVID-19 rapid guideline: critical care [NG159]' note that they are developed in the context of duties to advance equality of

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<sup>36</sup> Michael McHugh, 'Coronavirus: Damaged and stale goods in food parcels for NI's most vulnerable', *Belfast Telegraph*, 24 June 2020.

<sup>37</sup> National Institute for Health and Care Excellence, 'COVID-19 Rapid Guideline NG159: Critical Care in Adults' (NICE, 2020).

<sup>38</sup> UN Special Rapporteur on Older Persons, 'Press Release: "Unacceptable" – UN expert urges better protection of older persons facing the highest risk of the COVID-19 pandemic', 27 March 2020.

opportunity and to reduce health inequalities. We welcome the focus of such guidelines on evidence based clinical judgement which uses criteria that are not based on equality characteristics such as age, disability etc., and incorporates patient involvement and informed consent. We anticipate and expect that guidelines, such as these, built on equality and human rights principles, will directly inform decisions made in policy and in front line implementation. In this context, the Equality Commission has, for example, written to the Health and Social Care Trusts in Northern Ireland towards ensuring that there are no differences in approach, advice, or decisions taken regarding treatment pathways due to the equality category of a patient, including specifically with respect to Do Not Resuscitate (DNR) notices.

- 5.3 While the current crisis is unprecedented in modern times, Government must ensure that its commitments to principles of equality and international human rights standards are at the core of decision making and service delivery. Article 11 of the UNCRPD obliges our Government to take all possible measures to ensure the protection and safety of people with disabilities in the national response to situations of risk and humanitarian emergencies.
- 5.4 This means taking measures to ensure people with disabilities have the same access to the range, quality and standard of health care as other people. During the COVID-19 pandemic, the Government must act to prevent discriminatory denial of health care or life-saving services, food or fluids on the basis of disability.
- 5.5 It is important that the UK Government maintains a public commitment to upholding the rights of persons with disabilities and ensuring that they will have equal access to hospital treatment, as well as to health and social services. This is in the context of protecting life (Article 2 ECHR; Article 10 UNCRPD), preventing ill-treatment (Articles 3 and 8 ECHR, Article 15 UNCRPD), and ensuring equal access to the highest attainable standard of health

(Article 12, UN ICESCR; Article 25 UNCRPD). The Northern Ireland Health Minister's endorsement of the six guiding principles relating to disability and COVID-19 is welcomed.<sup>39</sup> However, these principles have yet to be translated into Government guidance for health and social care services.

- 5.6 IMNI highlights that triage protocols must be based on individual medical needs and the best scientific evidence.**
- 5.7 IMNI recommends that the UK Government embeds the six guiding principles on COVID-19 and disability into its guidance and that this approach is adopted by the devolved Departments of Health.**

### **Personal protective equipment**

- 5.8 Media reports suggest that Personal Protective Equipment is not designed to fit women, even though the majority of key workers in high-risk roles are women.<sup>40</sup> Care home employees, community healthcare and domiciliary teams and carers, who are

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<sup>39</sup> The six principles are as follows:

- 1) Our individual chance of benefiting from treatment should we have COVID-19 must not be influenced by how our lives are valued by society.
- 2) Where we have existing health conditions or impairments that are unrelated to our chance of benefiting from treatment, they must not play any part in decision-making regarding our equal right to access such treatment.
- 3) The fact that we might have significant levels of social care and support needs, or that we may do so in future as a result of the pandemic, should not make health staff think that we will not benefit from treatment.
- 4) We have the right to be fully involved in decisions about our own lives, including life and death decisions. Decisions should never be made without our involvement, or consideration of our best interests. There is no justification for policies based on age or learning disability that do not treat each of us with respect and as individuals.
- 5) We all, and our advocates, have the right to know about decisions that may be made about us that will affect us.
- 6) Guidelines on the assessment, provision, and evaluation of treatment and care provided to individuals during the COVID-19 pandemic must be developed in collaboration with disabled people's organisations and representatives from human rights bodies.

See Disability Rights UK, 'Open Letter: COVID-19 and the rights of disabled people', 7 April 2020.

<sup>40</sup> Maya Oppenheim, 'Coronavirus: Women's Minister insists PPE not gender-specific despite doctors warning gear designed for men putting female health workers at risk', *The Independent*, 23 April 2020.

predominantly women, have not been provided with adequate Personal Protective Equipment.<sup>41</sup>

5.9 Stakeholders have reported to IMNI that the lack of effective Personal Protective Equipment in the provision of health and social care services has caused increased anxiety for persons with disabilities when accessing such services. It was also raised that much of the Personal Protective Equipment, particularly masks, impact on communication and accessibility. For example, masks that are widely used do not include a clear material around the mouth, which makes lip-reading impossible for persons with hearing loss.<sup>42</sup> Advice has been published on steps to overcoming the barriers face masks pose to communication, including in the context of the duty to make reasonable adjustments under the Disability Discrimination Act.<sup>43</sup>

**5.10 IMNI recommends that sufficient Personal Protective Equipment is made immediately available to all care workers and carers in health and social settings. This equipment should adequately fit the particular individual to ensure satisfactory protection and enable communication with the individual being cared for.**

### **Needs outside of crisis**

5.11 Measures to address the health and social care needs outside of this crisis are lacking, particularly for persons with complex needs or persons that need to travel to other jurisdictions. This impacts on the capacity of persons with disabilities to live independently (Article 19, UNCRPD).

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<sup>41</sup> Evidence provided to NI Assembly Committee for Health by Pauline Shepherd a representative of Independent Health and Care Providers, 19 March 2020; Commissioner for Older People NI, 'Press Release: New figures released by NISRA regarding Covid-19 related deaths: Statement from the Commissioner', 17 April 2020; Donna Traynor, 'Coronavirus: District nurse voices COVID-19 PPE concerns', *BBC News*, 9 April 2020; Allan Preston, 'Coronavirus: NI healthcare providers 'seriously worried' over personal protection equipment supply', *Belfast Telegraph*, 19 March 2020.

<sup>42</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

<sup>43</sup> Equality Commission for NI, 'Advice Note: Face masks – overcoming the barriers they pose to communication', 30 April 2020.



**5.12 IMNI recommends that when reconfiguring services and redirecting resources full account is taken of the impact on other vulnerable patients and groups and that full cognisance is taken of the need to ensure the highest attainable standard of health for all is pursued. This includes ensuring care arrangements are subject to constant review.**

### **Visiting relatives in hospitals, care units or care homes**

5.13 In Northern Ireland, from 6 July 2020, one visitor is permitted per patient in both general hospital wards and intensive care units. Additionally, in COVID-free care homes one person will be permitted access to visit at any one time and if necessary a second person if required will be accommodated where possible, as long as this can be carried out safely and under the usual social distancing requirements.<sup>44</sup> Additional restrictions remain in place depending on the COVID-related threat within individual health and social care settings, for example care homes with evidence of COVID-19.<sup>45</sup>

**5.14 IMNI recommends that visiting options available to relatives of patients and residents within all health and social care settings are kept under constant review, with reasonable visits facilitated where possible.**

### **Digitalisation**

5.15 As a result of COVID-19, many health services have been moved online. This includes some GP services and health appointments. Stakeholders have highlighted to IMNI that the option of online

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<sup>44</sup> Department of Health, 'Press Release: Swann announces changes to visiting guidance', 30 June 2020; Department of Health, 'COVID-19: Regional Principles for Visiting in Care Settings in Northern Ireland – 30 June 2020' (DoH, 2020).

<sup>45</sup> Department of Health, 'COVID-19: Regional Principles for Visiting in Care Settings in Northern Ireland – 30 June 2020' (DoH, 2020).

services has been helpful for some persons with disabilities as it precludes the need to, for example, make arrangements with carers, arrange transport.<sup>46</sup> However, there are others who prefer not to use online services or do not have the technology, internet connection or digital literacy to access such services.<sup>47</sup>

5.16 Stakeholders have emphasised to us the need for public services to be available in a range of formats to ensure they are accessible, and not to only rely on online platforms.<sup>48</sup> It was also highlighted that the increased use of automated recordings on public authorities' telephone services, including health and social care services, is not accessible for everyone.<sup>49</sup>

**5.17 IMNI recommends that post COVID-19, online health services remain an option for persons with disabilities, but that non-online alternatives are also widely available for people that find such online services inaccessible. Any alternative provision must also be accessible (e.g. automated telephone services).**

## **6.0 Impact on Mental Health**

### **Changes to legislation**

6.1 The Coronavirus Act (2020) has introduced temporary changes to the Mental Health Order (Northern Ireland) 1986. The amendments allow certain functions relating to the detention and treatment of patients to be satisfied by fewer doctors' opinions or certifications. Temporary amendments also allow for the extension or removal of certain time limits relating to the detention and transfer of patients.<sup>50</sup> The amendments also require the relevant

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<sup>46</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

<sup>47</sup> Ibid.

<sup>48</sup> Ibid.

<sup>49</sup> Ibid.

<sup>50</sup> Coronavirus Act 2020, Explanatory Notes, at paras 24-29.

Health and Social Care Trust to keep a record of when a number of these powers are used and to provide an evaluation report to the Department of Health.<sup>51</sup>

**6.2 IMNI recommends that the respective Department of Health in each jurisdiction is required to monitor and evaluate the reports it is provided on how changes to mental health legislation is being used and the impact that it is having on individuals affected within each jurisdiction, including Northern Ireland. These evaluations should be used as a basis for reassessing whether the temporary changes need to be amended to address any detrimental impacts.**

6.3 In May 2020, a Mental Health Action Plan for NI was published.<sup>52</sup> The Action Plan includes a dedicated COVID-19 response plan, which outlines the psychological wellbeing and mental health response to the pandemic. The publication of a Mental Health Strategy was a commitment outlined in the ‘New Decade, New Approach’ agreement that was due to be delivered by the end of 2020.<sup>53</sup> The Department of Health for Northern Ireland has expressed that this target will not be met due to increased demands posed by COVID-19.<sup>54</sup> A Mental Health Strategy is now long overdue. A report by the NI Commissioner for Children and Young People highlights the need for a system-wide response to challenges outlined in a 2018 review of mental health services.<sup>55</sup>

**6.4 IMNI recommends that comprehensive Mental Health Strategies are in place and being effectively implemented across the UK, including Northern Ireland.**

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<sup>51</sup> Schedule 10, Section 19(1), Coronavirus Act 2020.

<sup>52</sup> Department of Health, ‘Mental Health Action Plan’ (DoH, 2020).

<sup>53</sup> NI Office, ‘New Decade New Approach’, (NIO, 2020), at 6

<sup>54</sup> Department of Health, ‘Mental Health Action Plan’ (DoH, 2020), at 8.

<sup>55</sup> NI Commissioner for Children and Young People, ‘Still Waiting: A Rights-based Review of Mental Health Services and Support for Children and Young People in NI’ (NICCY, 2018).

## Changes to services

6.5 Stakeholders have raised that the temporary closure of certain services due to COVID-19, for example day centres for persons with learning disabilities and transport to support services.<sup>56</sup> There is an understanding that the nature of the pandemic left little choice but to temporarily close such services, however, the lack of communication and a contingency plan left many feeling unsupported and caused increased anxiety and a need for medical intervention, particularly for individuals that rely on routine.<sup>57</sup> Stakeholders also highlighted, for some that relied on such services there will be anxiety about returning to using such services when they reopen. This therefore needs to be taken into account.<sup>58</sup>

6.6 In terms of addressing these issues, Article 5(3) of the UNCRPD requires that “in order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided”. Reasonable accommodation is defined as:

necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.<sup>59</sup>

## 6.7 **IMNI recommends that individuals affected by any changes to health and social care services, including mental health**

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<sup>56</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020; Information provided by a client of the NI Human Rights Commission's information clinic, 24 June 2020.

<sup>57</sup> Information provided by a client of the NI Human Rights Commission's information clinic, 24 June 2020. Consent provided by client to use experience to inform NI Human Rights Commissions and IMNI's work.

<sup>58</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

<sup>59</sup> Article 2, UN Convention on the Rights of Persons with Disabilities 2006.

**services, are informed in a way that is clear and accessible to individuals and their families.**

- 6.8 IMNI recommends that specialised support should also be provided to assist individuals affected to process this information and that they are provided with clear and accessible communications on what the contingency plan is, how to access temporary services and any according updates.**
- 6.9 IMNI recommends that processes should be in place for individuals to appeal decisions or make requests for enhanced support when such changes are having a detrimental effect on the affected individual's mental health, particularly individuals that rely on routine and are caused distress when their routine is disrupted.**

## **Isolation**

- 6.10 Stakeholders have further raised that the isolation of persons with disabilities has increased during the pandemic, with individuals' access to care workers and carers, support services and social interactions removed overnight. It has been highlighted that the impact is not simply reversed as lockdown eases and many that have been shielding are anxious about re-connecting with their support networks and the wider society, particularly as the threat of COVID-19 remains.
- 6.11 It was also raised that changes aimed at re-starting the economy as the UK eases out of lockdown have not been developed with accessibility in mind.<sup>60</sup> Many persons with disabilities, particularly persons with hearing or visual loss, are experiencing new challenges that will lead to further isolation. For example, most Personal Protective Equipment being used by employers are inaccessible to the deaf community, the extension of entertainment

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<sup>60</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

licenses to public pathways is making footpaths inaccessible for persons with sight loss, and the conversion of traffic lanes for use by pedestrians or cyclists is in some cases obstructing access to bus stops.<sup>61</sup>

6.12 Article 9 of the UNCRPD provides that the appropriate measures should be taken “to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation... and to other facilities and services open or provided to the public, both in urban and rural areas”. This includes “the identification and elimination of obstacles and barriers to accessibility”.<sup>62</sup> Article 4(3) of the UNCRPD requires that:

in the development and implementation of legislation and policies to implement the... [UNCRPD], and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations.

**6.13 IMNI recommends that any measures introduced to move the UK out of lockdown are accessible for all, and do not lead to, or exacerbate isolation. Enhancing or maintaining accessibility should be a requirement of any changes.**

**6.14 IMNI recommends that solutions should be developed through directly engaging with disabled people and their representative organisations to ensure that proposed responses take account of relevant expertise and experience.**

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<sup>61</sup> Ibid.

<sup>62</sup> Article 9(1), UN Convention on the Rights of Persons with Disabilities 2006.

## 7.0 Social Care

### Care home deaths

- 7.1 The high death rate within care homes is of significant concern. Of the 802 total deaths involving COVID-19 in NI that occurred up to 12 June, 407 (50.7 per cent) occurred in hospital, 340 (42.4 per cent) occurred in care homes, eight (1 per cent) occurred in hospices and 47 (5.9 per cent) occurred at residential addresses or another location.<sup>63</sup> Additionally, if you count those who lived in care homes who died in hospital, the majority of deaths are among care home residents.<sup>64</sup>
- 7.2 Indications are that the high numbers of deaths within care homes may be linked to the slow introduction of testing within such settings, the late arrival of Personal Protective Equipment, the delay in including care home deaths in COVID-19 statistics to enable an understanding of the issue, and the relative underfunding and general neglect of the care home sector.<sup>65</sup>
- 7.3 In Northern Ireland, the Department of Health in Northern Ireland has announced that it is establishing a Rapid Learning Initiative Group, which aims to learn from care homes' experiences during COVID-19.<sup>66</sup> The group is made up of representatives of the independent care home sector, the Health and Social Care system and the Royal College of Nursing. The Department is clear that this initiative is not a research project, investigation or inquiry.<sup>67</sup>
- 7.4 **IMNI recommends that priority COVID-19 testing for all care homes, including residents and staff, is promptly implemented and maintained long-term.**

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<sup>63</sup> NI Statistics and Research Agency, 'Provisional Statistics: Weekly Deaths Involving COVID-19 in NI – Week Ending 12 June 2020 (Week 23)' (NISRA, 2020), at 7.

<sup>64</sup> Ibid.

<sup>65</sup> Lisa Smyth, 'More could have been done to prevent deaths in Northern Ireland's care homes, expert says', *Belfast Telegraph*, 5 May 2020; Les Allamby and Eddie Lynch, 'We should have created a ring of steel to protect Northern Ireland care homes from the coronavirus', *Belfast Telegraph*, 6 May 2020.

<sup>66</sup> Department of Health, 'Press Release: Work underway to learn from care home COVID-19 experiences', 24 June 2020.

<sup>67</sup> Ibid.

- 7.5 IMNI recommends that sufficient, effective and accessible Personal Protective Equipment is provided in all care homes for all staff, residents and visitors.**
- 7.6 IMNI recommends that data collection for COVID-19 related infections and deaths in care homes continues, including in Northern Ireland. Such data should be disaggregated, including by disability.**
- 7.7 IMNI recommends that necessary steps are taken to ensure the sector is adequately funded and fit for purpose to deal with the ongoing issue of COVID-19 and any future pandemic.**
- 7.8 IMNI recommends that steps are taken to identify and promptly address any key factors which contributed to the high numbers of COVID-19 deaths within care homes. Findings from any rapid assessments (including any undertaken by the Department of Health’s Rapid Learning Initiative Group) should be supplemented, in due course, with comprehensive reviews and formal recommendations to ensure any failings that led to the significant number of COVID-19 related deaths linked to care homes do not happen again.**

### **Independent assessment**

- 7.9** The RQIA Board is the independent body responsible for monitoring and inspecting the availability and quality of health and social care services in Northern Ireland. The Regulation and Quality Improvement Authority Board has an important role to play with regards to enforcement and we note actions by the Board to issue ‘Failure to Comply’ notices and to subject care providers to



further enforcement action during the period of the COVID-19 lockdown<sup>68</sup>.

7.10 It has been reported that in March 2020 the Department of Health directed the Regulation and Quality Improvement Authority Board to reduce the frequency of its statutory inspection activity and cease its non-statutory inspection activity and review programme.<sup>69</sup> A judicial review was initiated by a concerned family, challenging the lawfulness of the Department's direction.<sup>70</sup> The Department of Health revoked its direction in June 2020 and suspended inspections were reinstated.<sup>71</sup>

7.11 Reports also indicate that Board members claim they were not consulted on a number of decisions taken by the Department of Health including ending inspections of care homes and re-deploying senior RQIA Board staff to other health bodies.<sup>72</sup> On 22 June 2020, it was reported that all nine members of the Regulation and Quality Improvement Authority (RQIA) Board in Northern Ireland had resigned.<sup>73</sup> The Minister of Health for Northern Ireland has announced a review into the resignations.<sup>74</sup>

**7.12 IMNI advises that an independent regulator, that can support and inspect health and social care services, is essential across all parts of the UK. Steps should be taken to ensure this provision in Northern Ireland.**

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<sup>68</sup> Regulation and Quality Improvement Authority Board, 'Current enforcement activity'. Available at: <https://www.rqia.org.uk/inspections/enforcement-activity/current-enforcement-activity/>

<sup>69</sup> Lisa Smyth, 'Coronavirus: Swann warned families could sue if he does not call public inquiry into care homes crisis', *Belfast Telegraph*, 14 May 2020; Shauna Corr, 'Coronavirus restrictions placed on work of health and social care watchdog RQIA are lifted', *Belfast Live*, 22 June 2020.

<sup>70</sup> Alan Erwin, 'Coronavirus: Dementia sufferer's son starts legal action after NI care home inspections are scaled back', *Belfast Telegraph*, 30 April 2020.

<sup>71</sup> Shauna Corr, 'Coronavirus restrictions placed on work of health and social care watchdog RQIA are lifted', *Belfast Live*, 22 June 2020.

<sup>72</sup> Marie-Louise Connolly and Niall McCracken, 'Coronavirus: Health watchdog resigns over row with officials', *BBC News*, 22 June 2020.

<sup>73</sup> 'Coronavirus: Review ordered into RQIA mass resignations', *BBC News*, 23 June 2020.

<sup>74</sup> *Ibid.*

## **Re-accessing social care services**

- 7.13 Stakeholders have informed IMNI that persons with disabilities are struggling to re-avail of social care services, especially domiciliary services, as the COVID-19 lockdown eases. Due to anxieties that paid carer workers would transmit COVID-19, some persons with disabilities made the difficult decision to cancel their care package.<sup>75</sup> They now report facing difficulties in getting their care packages reinstated.
- 7.14 Carers UK reports that, of 5,000 unpaid carers surveyed, 35 percent are providing more care because the local care and support services have been reduced or closed.<sup>76</sup> Of unpaid carers surveyed, 55 percent reported feeling overwhelmed and were worried about burning out.<sup>77</sup> Stakeholders have also raised that continuing to provide such care becomes even more challenging with many carers having to return to their paid work.<sup>78</sup>
- 7.15 **IMNI recommends that social care services that were cancelled by the provider or client due to COVID-19 should be promptly reinstated, including domiciliary care.**
- 7.16 **IMNI recommends that accessible and effective Personal Protective Equipment should be provided and properly used in the provision of such services.**

## **8.0 Access to Education**

- 8.1 IMNI is concerned that the COVID-19 crisis will further deepen existing educational inequalities, or lead to the emergence of new ones, affecting children now and throughout their lives. IMNI is

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<sup>75</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

<sup>76</sup> Carers UK, 'Press Release: The forgotten families in lockdown- unpaid carers close to burnout during COVID-19 crisis', 23 April 2020.

<sup>77</sup> Ibid.

<sup>78</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

particularly concerned about the impact of the disruption of education on children with disabilities and special educational needs. Potential issues arise with regards to access to pre-school and formally taught education; as well as access to information and appropriate support/equipment in a home or 'blended' learning environment.<sup>79</sup> Disabled children who live in rural areas with poor internet connection or are from households with low levels of income, which for example inhibits their access to technology or private tutoring are of further concern.

8.2 Steps were taken to keep as many schools as possible open for vulnerable children and for the children of key workers throughout COVID-19. The definition of 'vulnerable child' is drawn from the Children (NI) Order 1995 and includes children with statements of special educational needs and young carers.<sup>80</sup>

8.3 There are significant barriers already in place with respect to children with Special Educational Needs accessing education. As of 24 June 2020, more than 10 percent of statemented children seeking a place for September 2020 are without one and over 500 children have not received a statement within the statutory timeframe.<sup>81</sup> In the context of COVID-19, research conducted by the Family Fund found that, of 187 disabled families surveyed in Northern Ireland, only 7 per cent reported that their disabled or seriously ill child continued to attend nursery, school or college during COVID-19.<sup>82</sup> Of those not going to nursery, school or college, 88 per cent are receiving some form of support. This includes online and paper resources (71 per cent), support via email (30 per cent), support via telephone or video (17 per cent) and one-to-one telephone or video calls for their children (13 per

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<sup>79</sup> Equality Commission for NI, 'Policy Position Paper: COVID-19 and Education', (ECNI, 2020) at 4-21.

<sup>80</sup> Department of Education, 'COVID-19 Guidance: Vulnerable Children and Young People' (DoE, 2020).

<sup>81</sup> Statistics provided by Education Authority in Oral Briefing to NI Assembly Committee for Education, 24 June 2020.

<sup>82</sup> Family Fund, 'Impact of COVID-19: NI Findings', (Family Fund, 2020) at 20.

cent).<sup>83</sup> However, 13 per cent of those surveyed stated that they had not received any support for their disabled or seriously ill child since they had been at home.<sup>84</sup> Furthermore, the Family Fund reports that “even where support was being provided, many parents are reporting struggling to engage their disabled or seriously ill children in any form of educational activities provided.”<sup>85</sup>

- 8.4 The All Party Group on Learning Disability reports that in addition to children losing out on their education, school closures have meant that children with learning disabilities are now without the allied health therapies and interventions they received during school. A briefing paper issued by the All Party Group shows that 68 per cent of parents report a decrease in formal support. This includes physiotherapy, speech/language therapy, occupational therapy, educational psychologists, Children and Adolescent Mental Health Services, paediatrician, psychologists and psychologists.<sup>86</sup>
- 8.5 Steps have been taken to lend digital devices to eligible school children as a means to assist with remote education.<sup>87</sup> This scheme prioritises vulnerable children, which includes children with disabilities. Of the 187 families surveyed by the Family Fund, 48 per cent needed a tablet, computer or laptop in order to help educate their child at home.<sup>88</sup> However, again not everyone will be able to benefit fully from this scheme, for example, individuals who do not have any or adequate internet connection to enable remote learning.
- 8.6 **IMNI recommends that action is taken to: urgently address the wider statementing issues for children with Special Educational Needs including deficit of places and significant**

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<sup>83</sup> Ibid, at 23.

<sup>84</sup> Ibid, at 23.

<sup>85</sup> Ibid, at 23.

<sup>86</sup> All Party Group on Learning Disability, ‘Briefing Paper on the Impact of COVID-19’, (APGLD, 2020).

<sup>87</sup> NI Executive, ‘Executive Daily Update: Initiatives to deal with Coronavirus’, 21 May 2020.

<sup>88</sup> Family Fund, ‘Impact of COVID-19: NI Findings’, (Family Fund, 2020) at 23.

**delays; mitigate the negative impact on children of the closure of preschool settings caused by the COVID-19 outbreak, including for those with disabilities; identify and mitigate potential negative equality impacts arising from reduced access to formally taught education; address any negative equality impacts arising from the shift to home-based learning or any subsequent move to ‘blended’ learning; identify and address any effects of COVID-19 that poverty or socio-economic status may have on the emergence or exacerbation of educational inequalities.**

## **9.0 Additional Issues**

### **Domestic violence and abuse**

9.1 Stakeholders have highlighted to IMNI concerns that persons with disabilities may be particularly impacted by domestic violence and abuse during the COVID-19 lockdown.<sup>89</sup> The weekly number of domestic abuse calls received by the Police Service NI has been consistently higher than the pre-lockdown figures.<sup>90</sup> According to Public Health England, disabled people generally experience disproportionately higher rates of domestic abuse. Disabled people also experience domestic abuse for longer periods of time, and more severe and frequent abuse than non-disabled people.<sup>91</sup> No disaggregated domestic abuse data is available in NI and it is unknown how many persons seeking the Police Service NI’s assistance during the COVID-19 lockdown were persons with disabilities.

9.2 **IMNI recommends that measures are developed to improve the identification and reporting of abuse and that support services are reviewed for their accessibility. Moreover, the extent of domestic violence and abuse against disabled**

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<sup>89</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 25 June 2020.

<sup>90</sup> Police Service NI, ‘Press Release: Exceptional release statistics: domestic abuse calls received by police in NI’, 24 June 2020.

<sup>91</sup> Public Health England, ‘Disability and domestic abuse: risk, impacts and responses’, (PHE, 2015), at 4.

**persons in NI should be identified through research and data collection.**

## **Social security and poverty**

- 9.3 There is increased risk of poverty among persons with disabilities as a result of COVID-19. Loss of employment and other reductions in household incomes will have a significant impact on the finances of many households. Many older people, disabled people and carers will also have faced additional costs associated with being at home all the time and due to increased cost of medications.<sup>92</sup> The Family Fund report that 81 per cent of the 187 families surveyed with a disabled or serious ill child have experienced an increase in households bills and costs due to COVID-19.<sup>93</sup>
- 9.4 Evidence shows that persons with disabilities are among those most heavily impacted by reforms to tax and social security.<sup>94</sup> This is noted by the UNCRPD Committee and the UN CESCR Committee.<sup>95</sup>
- 9.5 The COVID-19 related amendments to national insurance, Universal Credit and statutory sick pay are welcomed.<sup>96</sup> However, the additional support may need to be maintained once the COVID-19 crisis has ended. This will be particularly important if there are further waves, particularly during winter periods.
- 9.6 A Carers UK survey of more than 5,000 unpaid carers carried out between 3 April and 14 April 2020 found that 70 per cent of unpaid

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<sup>92</sup> Information provided by stakeholders attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020 and 25 June 2020.

<sup>93</sup> Family Fund, 'Impact of COVID-19: NI findings', (Family Fund, 2020) at 8.

<sup>94</sup> Howard Reed and Jonathan Portes, 'Cumulative Impact Assessment of Tax and Social Security Reforms in NI', (NIHRC, 2019).

<sup>95</sup> CRPD/C/GBR/CO/1, 'UNCRPD Committee Concluding Observations on the Initial Report of the United Kingdom of Great Britain and Northern Ireland', 3 October 2017; E/C.12/GBR/CO/6, 'UN ICESCR Committee on Economic, Social and Cultural Rights Concluding Observations on the Sixth Report of the United Kingdom of Great Britain and Northern Ireland', 14 July 2016, at para 48.

<sup>96</sup> Sections 72-76, 77(1) and 77(2), Coronavirus Act 2020.

carers are providing more care during the pandemic and that more than half of individuals surveyed feel overwhelmed.<sup>97</sup> Yet, Carer's Allowance in Northern Ireland has not changed to address increasing needs due to COVID-19.<sup>98</sup> This is unlike in Scotland, where an extra Carers Allowance Supplement is being paid due to COVID-19.<sup>99</sup>

9.7 Stakeholders have informed IMNI that Video Relay Service is only available for claimants wishing to discuss Disability Living Allowance or Personal Independence Payment and Carer's Allowance. It is not available for other benefits such as Universal Credit or tax credits.<sup>100</sup> A person with hearing loss who wishes to claim social security after having lost employment due to COVID-19 is therefore likely placed at an immediate disadvantage.

**9.8 IMNI recommends that effective measures are developed to ensure persons with disabilities can meet increased financial needs during and after the COVID-19 crisis. In particular, IMNI recommends that social protection payments are increased to meet any additional needs and costs of carers or people with disabilities during and after the COVID-19 period. This should include retaining the additional payments made through Universal Credit or other support.**

**9.9 IMNI recommends that the Department for Communities ensures that the Video Relay Service is available in the context of all social security benefits.**

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<sup>97</sup> Carers UK, 'Caring Behind Closed Doors: Forgotten Families in the Coronavirus Outbreak' (Carers UK, 2020).

<sup>98</sup> Raymond Russell, 'Research and Information Service Briefing Paper: Background Information and Statistics on Carers in Northern Ireland' (NI Assembly, 2017).

<sup>99</sup> Scottish Government, 'Coronavirus Carer's Allowance Supplement'. Available at: <https://www.mygov.scot/carers-allowance-supplement/coronavirus-carers-allowance-supplement/>

<sup>100</sup> Information provided by a stakeholder attending the IMNI Virtual Roundtable on Disability and COVID-19, 23 June 2020.

## Employment

- 9.10 Persons with disabilities face particular employment issues as a result of COVID-19. The Northern Ireland Union of Supported Employment (NIUSE) has highlighted that disabled persons are most frequently be employed in the hospitality and retail sectors, which are two of the sectors most adversely affected by COVID-19.<sup>101</sup> Compared to non-disabled people, persons with disabilities are twice as likely to remain unemployed when they fall out of work for an extended period.<sup>102</sup> Accordingly, interventions to sustain employment are particularly important to limit long-term unemployment among persons with disabilities.
- 9.11 It may not be safe or possible for some staff with disabilities to return to the workplace as soon as their colleagues who do not have disabilities. As the UK Government's furlough schemes starts to taper off, people with disabilities for whom it would not be safe to return to work must be protected. Shielding or not, disabled people are protected from discrimination in employment under the law. Many disabled people may not be willing to return to work without engagement with their employer to ensure that reasonable adjustments are in place to provide for their safety.<sup>103</sup> Advice has been published on ensuring equality for disabled people in the post-lockdown return-to-work.<sup>104</sup>
- 9.12 The primary source of funding for employment projects for persons with disabilities in Northern Ireland has been the European Social Fund.<sup>105</sup> NI Union of Supported Employment has highlighted that there is no clear plan to ensure continuous funding for projects

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<sup>101</sup> NI Union of Supported Employment, 'Briefing Paper – June 2020' (NIUSE, 2020).

<sup>102</sup> Mark Magill and Marguerite McPeake, 'Labour Market Implications of COVID-19: How Have Restrictions on Work Impacted Different Types of Workers in Northern Ireland?' (Ulster University, 2020), at para 110.

<sup>103</sup> Equality Commission for NI, 'Press Statement: Respecting the rights of disabled people returning to work' 10 June 2020.

<sup>104</sup> Equality Commission for NI, 'Advice Note: Ensuring equality for disabled people in the post-lockdown return to work', 8 June 2020.

<sup>105</sup> NI Union of Supported Employment, 'Briefing Paper: Future funding for disability employment services - May 2019' (NIUSE, 2020).



when the application of the European Social Fund in the UK ceases in March 2022.

- 9.13 IMNI recommends that a comprehensive strategy and effective action plan is developed to support disabled people to secure and maintain training and employment following labour market disruption due to COVID-19.**
- 9.14 IMNI recommends that clarification is provided on future funding arrangements for disability employment projects that are currently delivered through European Social Fund.**
- 9.15 IMNI recommends that clear and accessible Government-issued guidance is issued to all employers setting out their duties in respect to workers returning to work, including taking into account any reasonable adjustments that are required.**

## **Economic recovery**

- 9.16 While there is a need to restore the economy and raise revenue, it is important that this is done in a way that does not penalise the already disadvantaged. As Philip Alston states “the regressive or progressive nature of a State’s tax structure shapes the allocation of income and assets across the population, and thereby affects various types of inequality”.<sup>106</sup>
- 9.17 The Inclusive Mobility and Transport Advisory Committee has highlighted that the introduction of social distancing measures has created barriers within the built environment and has limited physical access to essential services for some disabled people.<sup>107</sup> For example, the requirement to queue to access premises can be

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<sup>106</sup> Philip Alston, ‘Tax Policy is Human Rights Policy: The Irish Debate’, Keynote Address at Christian Aid Conference on The Human Rights Impact of Tax and Fiscal Policy in Dublin, 12 February 2015.

<sup>107</sup> Inclusive Mobility Transport Advisory Committee, ‘Statement from IMTAC on Living with COVID-19’, (IMTAC, 2020), at 4.

difficult for persons with restricted mobility. In addition, the use of face masks by staff presents particularly difficulties for customers who lip read. Advice has been published to assist retailers and service providers as they plan to open for business again after lockdown.<sup>108</sup>

**9.18 IMNI recommends that restoring the economy and raising revenue, given the increase in public expenditure due to COVID-19 should be done in a way that does not penalise individuals in particular equality categories, those on low income or already disadvantaged.**

**9.19 IMNI recommends that any social distancing measures introduced by retailers in line with Government guidance are developed through effective engagement with disabled people and their representative organisations to ensure accessibility.**

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<sup>108</sup> Equality Commission for NI, 'Advice Note: Assisting retailers as they plan to open for business again after lockdown', 11 June 2020.