



Merton Centre for Independent Living  
Unit 1 Batsworth Road  
Mitcham, Surrey  
CR4 3BX

23 March 2020

Siobhain McDonagh MP  
House of Commons  
SW1A 0AA

## **REF: Coronavirus Bill and Disabled people**

Dear Ms McDonagh,

I am writing to raise Merton CIL's concerns about the Coronavirus Bill and how it may impact on Disabled people and actually create further demands on the NHS by removing social care support.

We would very much appreciate anything you can do to raise these issues and, if possible, table and support amendments to prevent this from happening.

Merton CIL believes that the Coronavirus Bill presents a threat to the health and wellbeing of Disabled people at this difficult time, and in the most serious circumstances could threaten people's lives.

The government plans to:

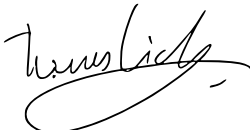
- Remove Disabled people's rights to social care through the suspension of the Care Act
- Change the duties to educate to meet children's educational requirements to a 'reasonable endeavours' duty
- Severely undermine the civil liberties of Disabled people and erode their rights to support.

We understand the coronavirus is an unprecedented and extremely challenging situation, but given the existing problems with the social care system, this Bill will almost inevitably leave many thousands of Disabled people without essential support or any rights to request this support. Rolling back our rights is not good for anyone

and in the current circumstances will put many lives at risk and potentially put unnecessary demands on the NHS.

Rather than removing Disabled people's right to social care support the government must treat our essential social care service as key infrastructure, alongside the NHS, and as such it must immediately provide the necessary funding to keep this vital service running.

I have included further details of Merton CIL's concerns about the Bill. We have discussed our concerns with other Disabled People's Organisation who have worked with barristers who specialise in public law and disability rights to prepare this information.

Kind regards, 

Tom Lichy  
CEO, Merton Centre for Independent Living  
p: 020 3397 3119  
e: tom@mertoncil.org.uk  
w: www.mertoncil.org.uk

## **Further details about the implications of the Coronavirus Bill for Disabled people**

### **Disabled adults**

The Bill suspends every duty in the Care Act, 2014, including the duty to meet the eligible needs of disabled people (Section 18) and their carers (Section 20). Under the #CoronaVirus Bill, Local Authorities will only have to provide care 'if they consider it necessary' for the purposes of avoiding a breach of the European Convention of Human Rights (ECHR). There is no human right to social care or positive obligation under the ECHR to meet care needs. See assessment from leading lawyers specialising in Social Care here: <https://www.39essex.com/the-coronavirus-bill-schedule-11/>

Other changes set to be introduced through the #CoronaVirusBill will allow health bodies to delay carrying out an assessment for eligibility for NHS continuing care.

### **Disabled children and young people**

Duties for young people transitioning to adult social care have also been suspended.

The Secretary of State for Education will have power to disapply the duty on schools and other institutions to admit a child to a school where they are named on an EHCP. The Secretary of State will be able to vary provisions of the act, such as the core duty to procure provision set out in an EHCP, so instead of being an absolute duty it becomes a 'reasonable endeavours' duty, creating a lesser entitlement for up to two years.

## **The Mental Health Act**

The power to recommend individuals be detained under the Mental Health Act will be implemented using one doctor's opinion instead of two, making it easier for people to be detained.

The proposed bill will temporarily allow the extension or removal of time limits in mental health legislation which means individuals might be released into the community early, or find themselves detained for longer.

Under section 5, emergency detention for people already in hospital would extend from 72 hours to 120 hours, and nurses' holding powers would extend from 6 to 12 hours. Under sections 135 and 136, police powers to detain a person found in need of immediate care at a "place of safety" will extend from 24 hours to 36 hours. Under section 35/36, the cap on how long someone can be held in hospital while awaiting a report (currently 12 weeks) will be lifted.

## **The rights of disabled people**

Local authorities will have a duty to uphold disabled people's human rights under the European Convention on Human Rights, but the threshold for a breach, in terms of not providing care and support is high, which means that disabled people will be left without care and support. Lack of care and support will have a significant impact on disabled people's well-being, but may not be considered to reach the threshold for their human rights to have been breached – they will not have a right to care and support.

## **Sources of information**

Watch @stevebroach, Public Law Barrister talk about the impact of the Bill here: <https://www.specialneedsjungle.com/steve-broach-public-law-barrister-on-the-coronavirus-bills-implications-for-disabled-children/>

Read this Twitter thread for more information:

<https://twitter.com/JamieBurton29/status/1240781535340568577>

Statement from National User Survivor Network:

<https://www.nsun.org.uk/News/covid-19-and-human-rights>

Current hashtags: #CoronaVirusBill #CoronavirusBillUK