

# LIBERTY

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Copied to: Rt Hon Boris Johnson MP, Rt Hon Sir Keir Starmer KCB QC MP, Jon Ashworth MP

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Dear Secretary of State for Health and Social Care,

I write in response to the announcement that covid restrictions are to be eased from 19 July 2021. First of all, I would like to take this opportunity to wish you a speedy recovery from covid.

Liberty has supported proportionate measures to protect public health since the start of the pandemic, and safeguarding human rights and civil liberties is clearly integral to achieving this aim. To this end, I write to recommend a number of policy measures that will ensure that everyone is protected in the face of the continued pandemic. They are especially pertinent in the context of the loosening of restrictions while the pandemic remains ongoing: however, many have been sorely needed since the pandemic first began in March of last year, and will remain relevant for the future. I encourage you to take this opportunity to consider the policies that might allow us to establish a new 'normal' – whereby everyone, without exception, can be protected.

## **A TRUE PUBLIC HEALTH APPROACH**

1. **Since the beginning, we have called for a public health, rather than a criminal justice, approach to the pandemic.** For this reason, we welcome the reduced reliance on fines, policing, and criminal punishment that is likely to result from the lifting of national restrictions. We believe that a public health approach is one that will prioritise continuing to provide people with the necessary support to keep themselves and their communities healthy and safe. For this reason, we have drafted an alternative Coronavirus (Rights and Support) Bill, in consultation with a wide range of civil society groups, which enshrines many of the protections that will enable everyone to be protected,<sup>1</sup> and on which we would welcome your views.
2. **A cornerstone of our public health approach is accountability and transparency, as necessary ingredients to maintaining public trust.** For this reason, we continue to oppose the Coronavirus Act 2020,<sup>2</sup> which was rushed through Parliament in March 2020 and which has been insufficiently scrutinised, more than one year on. We specifically oppose the

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<sup>1</sup> Liberty, *Protecting everyone during the coronavirus pandemic*, March 2020, available at: <https://www.libertyhumanrights.org.uk/fundamental/coronavirus/>

<sup>2</sup> Liberty, *Liberty's briefing on the Coronavirus Bill*, March 2020, available at: <https://www.libertyhumanrights.org.uk/wp-content/uploads/2020/03/Libertys-Briefing-on-the-Coronavirus-Bill.pdf>

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measures that enable the detention of ‘potentially infectious persons’ – not one charge out of 270 under which has been made correctly<sup>3</sup> – and the powers to restrict gatherings,<sup>4</sup> which we believe must be expired as a matter of utmost urgency. The Government must also recognise the importance of meaningful Parliamentary scrutiny, for example by making far less extensive use of Statutory Instruments<sup>5</sup> and providing sufficient time for parliamentarians to debate proposals that have significant implications for human rights such as mandatory vaccinations and vaccine passports.<sup>6</sup> The Government must continue to provide for a protest exemption in all future coronavirus regulations.<sup>7</sup>

3. **All fixed penalty notices (FPNs) issued under the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 must be reviewed**, in line with the Joint Committee on Human Rights’ recommendation.<sup>8</sup> Currently, there is no formal appeal process for FPNs, meaning that people who wish to challenge a fine – which can be as much as £10,000 – they believe was unfairly levied will have no option but to refuse to pay and risk prosecution.<sup>9</sup> This is particularly concerning given the racially disproportionate way that fines have been issued, with people of colour being 54% more likely to be fined than white people.<sup>10</sup>
4. To support public compliance, all communications by public authorities should **accurately distinguish between law and guidance, and come from reliable sources**, not via anonymous sources or paywalled publications. Information must also be published in accessible format. For example, written publications should come with Easy Read versions, and British Sign Language interpretation should be made available for all public broadcasts.
5. We understand the desire on the part of the Government and some members of wide society to make a return to normal. However, we are concerned that in the absence of effective access to healthcare for all, in addition to clear communication and education around the vaccine, quick fixes such as vaccine passports will entrench existing inequalities. **The Government must therefore firmly oppose the introduction of COVID-status certification**, given the impacts that such schemes would have on marginalised communities.<sup>11</sup>

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<sup>3</sup> Dearden, L., *All 270 charges brought under Coronavirus Act wrongful, official review finds*, 14 May 2021, available at: <https://www.independent.co.uk/news/uk/home-news/coronavirus-act-prosecutions-wrongful-cps-review-b1847194.html>

<sup>4</sup> Section 52 and Schedule 22, Coronavirus Act 2020.

<sup>5</sup> As of 15 July, the Government has laid 472 Coronavirus-related Statutory Instruments (SIs) before the UK Parliament.

See: Hansard Society, *Coronavirus Statutory Instruments Dashboard*, 15 July 2021, available at:

<https://www.hansardsociety.org.uk/publications/data/coronavirus-statutory-instruments-dashboard#total-coronavirus-sis>

<sup>6</sup> Therrien, A., *Compulsory vaccinations for care home staff in England backed by MPs*, 14 July 2021, available at:

<https://www.bbc.co.uk/news/uk-57829135>

<sup>7</sup> Liberty, *Liberty condemns policing of Reclaim These Streets vigil*, 13 March 2021, available at:

<https://www.libertyhumanrights.org.uk/issue/liberty-condemns-policing-of-reclaim-these-streets-vigil/>

<sup>8</sup> Joint Committee on Human Rights, *Joint Committee on Human Rights: Every Fixed Penalty Notice issued under coronavirus Regulations must be reviewed*, 27 April 2021, available at:

<https://committees.parliament.uk/committee/93/human-rights-joint-committee/news/154842/joint-committee-on-human-rights-every-fixed-penalty-notice-issued-under-coronavirus-regulations-must-be-reviewed/>

<sup>9</sup> Dearden, L., *Coronavirus: Public must risk prosecution to challenge lockdown fines, justice secretary says*, *The Independent*, 20 April 2020, available at: <https://www.independent.co.uk/news/uk/home-news/coronavirus-lockdown-fine-challenge-court-police-robert-buckland-a9474926.html>.

<sup>10</sup> Busby, M. and Gidda, M., *BAME people fined more than white population under coronavirus laws*, May 2020, available at: <https://www.theguardian.com/world/2020/may/26/bame-people-fined-more-than-white-population-under-coronavirus-laws>.

<sup>11</sup> For more information on Liberty’s position, please see: Liberty, *Liberty’s view on vaccine passports*, 9 February 2021, available at: <https://www.libertyhumanrights.org.uk/issue/libertys-view-on-immunity-passports/>

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6. It is vital that those at increased risk of covid, including people in care homes and those who rely on care workers, are protected. However, coercion is likely to be counterproductive, and may undermine relationships between employers, patients, and key workers. **The Government must oppose blanket mandatory vaccination schemes**, and instead focus on educating people about vaccinations and support people to make informed consent.<sup>12</sup> Whether they are care workers or NHS staff, no one should not have to choose between their bodily autonomy and their livelihood and ability to go about their daily lives.
7. **Ensure effective access to healthcare by suspending the hostile environment**, including scrapping immigration health charges and creating a data-sharing firewall which will ensure that people's health information will not be shared with law and immigration enforcement.<sup>13</sup>

## HEALTH AND SOCIAL CARE

8. **Do not abdicate responsibility for protecting, and continue to provide appropriate support to, the 3.7 million people in the UK who are clinically vulnerable.** It is simply unacceptable for the Government to advise those most at risk from the virus to shoulder the burden of caution in going about their day to day activities and to strip them of the necessary support,<sup>14</sup> particularly considering the disproportionate impact that the coronavirus pandemic has had on people who are clinically vulnerable, including disabled people.<sup>15</sup> The Government must clarify the rights of clinically vulnerable people, not only in respect of healthcare but their rights at work, to benefits and furlough, and transparency in respect of Government decision-making.<sup>16</sup>

## WORKERS' RIGHTS

9. **Extend the furlough scheme for all industries beyond September 2021, to ensure that people are not forced into destitution.**<sup>17</sup> In addition, **extend statutory sick pay to all workers** (including workers on zero-hour contracts and the lowest paid workers) **and raise it to the living wage and the London living wage** (where appropriate).<sup>18</sup>

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<sup>12</sup> BMA, *Mandatory vaccination for NHS staff is incredibly complex issue, says BMA*, 16 June 2021, available at: <https://www.bma.org.uk/bma-media-centre/mandatory-vaccination-for-nhs-staff-is-incredibly-complex-issue-says-bma>

<sup>13</sup> Hamada, R., Mellino, E., Gayle, V., Haque, S., Bushi, R., Vinter, R., Griffiths, S., *Most GP surgeries refuse to register undocumented migrants despite NHS policy*, The Bureau of Investigative Journalism, 15 July 2021, available at: <https://www.thebureauinvestigates.com/stories/2021-07-15/most-gp-surgeries-refuse-to-register-undocumented-migrants>

<sup>14</sup> Grover, N., *End to Covid rules for England 'leaves 3.8m vulnerable people feeling abandoned*, The Guardian, 13 July 2021, available at: <https://www.theguardian.com/world/2021/jul/13/end-to-covid-rules-19-july-england-leaves-38m-clinically-vulnerable-people-feeling-abandoned>

<sup>15</sup> Pring, J., *Government and NHS discrimination linked to COVID deaths of disabled people*, Disability News Service, 17 June 2021, available at: <https://www.disabilitynewsservice.com/government-and-nhs-discrimination-linked-to-covid-deaths-of-disabled-people/>

<sup>16</sup> National Voices, *Letter to the Prime Minister*, 13 July 2021, available at: [https://www.nationalvoices.org.uk/sites/default/files/public/publications/national\\_voices\\_letter\\_to\\_the\\_prime\\_minister\\_13\\_july\\_2021.pdf](https://www.nationalvoices.org.uk/sites/default/files/public/publications/national_voices_letter_to_the_prime_minister_13_july_2021.pdf) and Inman, P., *Ending furlough scheme too early could damage recovery, say trade unions*, The Guardian, 1 July 2021, available at: <https://www.theguardian.com/uk-news/2021/jul/01/ending-furlough-scheme-too-early-could-damage-recovery-say-trade-unions>

<sup>17</sup> Richards, X., *Extend furlough scheme or face more than 100,000 redundancies, Tories warned*, The National, 6 June 2021, available at: <https://www.thenational.scot/news/19353347.extend-furlough-scheme-face-100-000-redundancies-tories-warned/>

<sup>18</sup> Rawlinson, K., *Lack of sick pay for all threatens Covid plan, UK thinktank warns*, 8 July 2021, available at: <https://www.theguardian.com/world/2021/jul/08/lack-of-sick-pay-for-all-threatens-covid-plan-uk-thinktank-warns>

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## EDUCATION

10. **Remove the easements allowing local authorities to depart from their duties to arrange the special education needs and disabilities (SEND) provision necessary for disabled children and young people in schools and colleges**, as contained within the Coronavirus Act 2020 under Schedule 17. In addition, implement statutory guidance on remote education provision that includes minimum and universal standards of accessible and inclusive remote education for disabled children and young people.<sup>19</sup>

## HOUSING AND BENEFITS

11. **Ensure everyone has access to safe and secure accommodation**, including by reinstating the eviction ban which ended in England at the end of May,<sup>20</sup> suspending 'No Recourse to Public Funds' conditions so that migrants can access housing support,<sup>21</sup> and providing appropriate accommodation to meet the need of different communities, including survivors of domestic abuse,<sup>22</sup> rough sleepers and homeless people,<sup>23</sup> and asylum seekers.<sup>24</sup>
12. **Ensure everyone is able to safely self-isolate for their own health and the health of their communities by extending the Universal Credit £20 uplift beyond September**, so as to prevent millions of families from being left with less than half of the income required to have an acceptable standard of living.<sup>25</sup> **In addition, extend the uplift to people on legacy benefits – which includes 1.9 million disabled people – so that they are able to access proper support.**<sup>26</sup>

The pandemic has laid bare the ways the effects that socio-economic inequality and structural injustice can have on people's ability to seek and access healthcare, safely self-isolate, and protect themselves and those around them. The Government has had ample opportunities to implement a public health approach – and in Liberty's view, there remains significant work to be done in this regard. The Government, and society at large, would benefit greatly from taking account of the

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<sup>19</sup> ALLFIE, *Restore Disabled People's Rights: Letter to the Secretary of State for Education*, 31 March 2021, available at: <https://www.allfie.org.uk/news/briefing/restore-disabled-peoples-rights-letter-to-the-secretary-of-state-for-education/>

<sup>20</sup> Hetherington, G., *As 400,000 renters face eviction, JRF warns the UK risks a 'two-tier recovery'*, Joseph Rowntree Foundation, 31 May 2021, available at: <https://www.jrf.org.uk/press/400000-renters-face- eviction-jrf-warns-uk-risks-%E2%80%99two-tier-recovery%E2%80%99>

<sup>21</sup> Gardner, Z., *Migrants with No Recourse to Public Funds' Experiences During the Covid-19 Pandemic*, The Joint Council for the Welfare of Immigrants, March 2021, available at:

<https://www.jcwi.org.uk/Handlers/Download.ashx?IDMF=17805c35-d3bc-4251-9ada-6dfdae8dbca6>

<sup>22</sup> Davies, E., *"It's challenging and it's not going away": Stockport's domestic abuse services face 'alarming' demand*, Manchester Evening News, 13 July 2021, available at: <https://www.manchestereveningnews.co.uk/news/greater-manchester-news/its-challenging-its-not-going-21034084>

<sup>23</sup> Heath, L., *Government tells councils to close 'Everyone In' hotels as a condition of rough sleeper funding*, Inside Housing, 6 July 2021, available at: <https://www.insidehousing.co.uk/news/news/government-tells-councils-to-close-everyone-in-hotels-as-a-condition-of-rough-sleeper-funding-71426>; Taylor, T., *Home Office drops plan to evict thousands of migrants during pandemic*, The Guardian, 25 May 2021, available at: <https://www.theguardian.com/uk-news/2021/may/25/home-office-drops-plan-to-evict-thousands-of-migrants-during-pandemic>

<sup>24</sup> Taylor, D., *Napier barracks staff feared asylum seekers might die from Covid*, The Guardian, 11 July 2021, available at: <https://www.theguardian.com/uk-news/2021/jul/11/napier-barracks-staff-asylum-seekers-die-covid-health>

<sup>25</sup> Bulman, M., *Universal credit cut set to leave millions with less than half of 'acceptable' living standards income*, The Independent, 14 July 2021, available at: <https://www.independent.co.uk/news/uk/home-news/universal-credit-cut-income-standards-jrf-b1883124.html>

<sup>26</sup> Pring, J., *Universal credit 'basic fairness' £20 uplift case given high court go-ahead*, Disability News Service, 6 May 2021, available at: <https://www.disabilitynewsservice.com/universal-credit-basic-fairness-20-uplift-case-given-high-court-go-ahead/>

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learnings of the last year, and representations from a wide range of groups, especially from people most likely to be disproportionately impacted by the virus.

We welcome the reduced reliance on criminal justice measures to deal with the pandemic that may result from the lifting of national restrictions. Nonetheless, I would reiterate a point that Liberty made to all Parliamentarians in July 2020: to maintain public trust and protect public health, the Government must consider what measures must be put in place to enable people to be protected as the pandemic remains ongoing, and to pave the way for a future in which we might all be protected.

I remain at your disposal should you wish to discuss any of these recommendations further.

Yours sincerely,

Gracie Bradley  
Interim Director, Liberty