

# How has COVID-19 changed UK health care law, and what does it mean for citizens?

Edward Dove (University of Edinburgh), Rhiannon Frowde (University of Edinburgh), John Harrington (Cardiff University), Erin Thomas (Cardiff University), John Coggon (University of Bristol), Anne-Maree Farrell (Queen's University Belfast), Thérèse Murphy (Queen's University Belfast), Farhang Tahzib (UK Faculty of Public Health), Leah Treanor (Queen's University Belfast), and Bonnie Venter (University of Bristol)



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## COVID-19: The UK's legal response

In March 2020, the UK and devolved governments created laws to respond to the COVID-19 pandemic. There were two key aims. First, to limit the spread of the virus; for example through laws to enforce nationwide and local 'lockdowns'. Second, to stop the NHS being overwhelmed. The most important new law is the [Coronavirus Act 2020](#). This Act works alongside other laws, as well as government guidance. There are also specific measures that apply only in England, Northern Ireland, Scotland, and Wales. More details on the laws on 'lockdowns' can be found [here](#).

In this document, we look at health care laws.

Governments have had to provide clear messages on matters such as striking a balance between limiting the spread of the virus and limiting access to services. They have also had to decide how to share out limited resources fairly, such as personal protective equipment (PPE) to key workers. Providing clear messages is challenging because laws and guidance may vary across the UK.

The diagram in this brief explains key public health and health care laws. The rest of the text summarises how law and health care regulation work in the UK. It also looks at the law and arrangements around death and bereavement. This is a changing area and the following is based on the law as it stood on 7th July 2020.

# UK PUBLIC HEALTH & HEALTH CARE LAW, REGULATION, AND GUIDANCE

## Overarching law

### **Human Rights Act 1998 and Equality Act 2010** **in England, Scotland, and Wales**

These Acts respectively codify fundamental rights and prohibit discrimination. Both remain in force throughout the pandemic, requiring all measures enacted to be proportionate and necessary to their aims, and for consideration to be afforded to unequal effects.

Northern Ireland has a different framework for human rights and equality, which may be found [here](#).

### **The Coronavirus Act 2020**

This Act introduces new powers, and amends (or provides the power to amend) existing legislation, aiming to slow the spread of the virus, protect the capacity of public bodies, and limit the impact of potential staff shortages in health care.

## Nation-level public health laws

### **Public Health (Control of Diseases) Act 1984; Public Health (Northern Ireland) 1967; Public Health etc. (Scotland) Act 2008**

These Acts allow for wide-ranging measures to be taken to prevent, protect against, or control the spread of contagious disease. Powers under these Acts are broad and include creating Regulations to respond to the pandemic.

While Scotland and Northern Ireland have their own public health statutes, the Public Health (Control of Diseases) Act 1984 applies to both England and Wales.

### **Health Protection (Coronavirus Restrictions) Regulations 2020**

These Regulations provide for 'lockdowns' and other measures to prevent person-to-person transmission in each of the four nations of the UK. They have placed restrictions on individual, commercial, and other freedoms, and granted the police enforcement powers. Each nation has created its own distinct regulations. They are reviewed and amended frequently and may be found here: [England](#), [Northern Ireland](#), [Wales](#), [Scotland](#).

## Official guidance

### **Statutory Agencies**

Each of the four nations has agencies which, alongside the NHS, issue guidance and reports about the pandemic. They are Public Health England, Northern Ireland Public Health Agency, Public Health Scotland, and Public Health Wales. Guidance includes information on access to care, on how to interpret the legal measures described in this document, and what a person should do if they or someone they have had contact with has COVID-19 symptoms.

## The effects of COVID-19 laws in key areas of health and social care

Some of the UK's COVID-19 measures limit individuals' rights and the duties owed to them. This means that the standards that people would usually expect, such as to be seen by a GP in person or within a certain time frame, may be affected. In a public health emergency, the main focus is to protect people's health and wellbeing. But public authorities and services must also continue to respect principles of human rights. Four key areas are outlined with further information available [here](#).

### Access to health care:

Treatment remains available to everyone without discrimination. However, some non-urgent medical appointments are being postponed or delivered in a different way, to release NHS staff to critical services. Where an individual is unsure if their condition requires urgent attention, they are advised to contact 111 via phone or the [NHS 111 online service](#) for advice. People are advised that if they need to contact a GP, not to visit a surgery in person unless told to do so.

### Social care:

Local authorities no longer have a duty to carry out health assessments or provide community care in cases where it is impractical or causes an unnecessary delay. The only exception to these new powers is where failing to provide care would breach human rights, such as the [right to life](#), [not to suffer inhuman or degrading treatment](#), or [respect for private and family life](#). Duties to promote well-being and safeguarding remain the same.

### Mental health care:

The Coronavirus Act changes mental health

laws. With the exception of Northern Ireland, these changes have not yet come into force and will do so only if needed and on a temporary basis. These would include fewer procedural requirements for sectioning and treatment. There may be changes as well to where care would ordinarily be provided, such as delay in reviews or the use of video assessments. The [Human Rights Act 1998](#) continues to apply, protecting the rights mentioned above and also rights of [liberty and security](#), and [to a fair trial](#).

### Managing death and bereavement:

The pandemic means that it will not always be possible to follow standard processes or to respect the wishes of people who have died as would normally be expected. Burial and cremation services are currently working as normal, but with limited access for the public. There may be limits on how many people can attend a funeral. Mourners showing symptoms or awaiting test results should not attend. However, special arrangements to attend can be discussed with funeral organisers.

### Further information and resources

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For further briefings and resources on the law and regulation in all four UK nations, please see the project website: <https://bit.ly/3eaM1Sg>

### Contact for further information:

John Coggon: [John.Coggon@bristol.ac.uk](mailto:John.Coggon@bristol.ac.uk)