

RESEARCH

There is blood in the state's hands.

For a while, the press and news companies in the UK have been reporting concerns about the unlawful use of Do not Resuscitate orders (DNRs) based on protected characteristics under the Equality Act 2010, such as age and disability:

- **24th April, 2020:** [HJS](#) raises the concern that unprecedented number of DNRs are being given to patients with learning disabilities.
- **13th June, 2020:** [The Independent](#) reports that DNRs are being placed on people with learning disabilities. It states charities are challenging dozens of these.
- **3rd December, 2020:** The [BBC](#) reports that complaints about DNR forms being handed to particular patient clusters were increasing. The article made mention of care home residents being automatically placed as DNR. Also that some health organisations received a blanket policy instructing to place those with learning disabilities on DNRs. It claims that some people only found out about this after they, or their relatives got the virus and were placed on such orders. Their research is based on information obtained from the Care Quality Commission (CQC).
- **3rd December, 2020:** [The Guardian](#) reports the wrongful use of DNRs during the COVID-19 pandemic caused potentially avoidable deaths.
- **25th January, 2021:** [Learning Disability Today](#) explains that when resources (e.g. ventilators) are under pressure (i.e. scarce), it is people with learning disabilities that are chosen as disposable. They state such guidelines were given for triage, and by health providers. These orders were made based on the wrongful use of intelligence tests, and the subsequent wrongful interpretation of these to make decisions about 'frailty'.
- **13th February, 2021:** [The Guardian](#) reports that DNRs are still being ordered against people with learning difficulties during the second wave of the pandemic.
- **14th February, 2021:** The [Morning Star](#) reports that there are already campaigners outraged at this fascism. Disability groups have already correctly labeled the situation as discrimination.
- **14th February, 2021:** [Business Insider](#) reports that Mencap, an organisation which advocates for people with disabilities had stated that they were receiving a lot of individual reports from people about DNRs.

Regulatory Report and Fact Checking

In November, 2020 the [Care Quality Commission \(CQC\)](#) published a report which indeed highlighted concerns in regards to DNRs. Among the many points raised were that:

- DNRs were being ordered based on groups, categories, and clusters of patients rather than assessing individual circumstances.
- Compelling evidence exists of wrongful use of DNRs during the pandemic.
- Such a wrongful use of DNRs constitutes undeniable human rights violations.
- Potentially avoidable deaths might have happened as a result of this situation.

Proposed collaborative focus:

- It is unclear whether the UK has followed its procedural obligations in order to tackle the de facto discrimination occurring in the health industry. If there are missing policies in regards to how to address the de facto discrimination against disabled and elderly people, then the UK is responsible for such a failure to comply with substantive and procedural obligations.
- It is unclear whether these decisions were based on specific new legislation introduced under the national emergency blanket, or whether these decisions were made against and despite the Equality Act 2010 and the Human Rights 1998.
- The pandemic is not a legitimate excuse for the violation of non-derogable human rights. International legislation specifically warns international states against using 'emergencies' as an excuse to prevent citizens from enjoying their life, health, and dignity.
- If health professionals and providers made the decision being aware that they were depriving a human being of their opportunity to live (actus reus), and having received accreditation and training in regulatory standards for equality and human rights (standardised training); then this means that such decisions were conscious and premeditated (mens rea). In order to clarify individual cases, the question: "Did the person who chose to follow the illegal orders know that doing so would constitute a potentially avoidable loss of life (i.e. death)?" If the answer is yes, then it can be concluded that destructive obedience similar to the holocaust has occurred at a broad level. Factors such as aiding and abetting death, and pressure from superordinate bodies must be taken into account too. Regardless, a crime against humanity has been committed and evidenced.