This fact sheet is a first attempt to capture the human rights implications of coronavirus, and responses to it. We will update the fact sheet in the coming weeks as required. We hope it will be of use to government and statutory agencies – notably the City of York Council, the NHS, the police – and community and voluntary groups. For the former, the fact sheet provides guidance on addressing human rights when making the difficult policy decisions required by the pandemic; for the latter organisations the fact sheet provides frameworks to support advocacy and the monitoring of policy as it impacts on individuals, families and communities and/or on issues of concern e.g. mental health, disability, refugees. Three main human rights contributions are set out below: ensuring responses enhance dignity, the right to life and non-discrimination alongside protecting the vulnerable; using human rights when balancing priorities and making difficult decisions; and optimising the link between disease and democracy.

**Dignity, the right to life and non-discrimination**

As is often the case, neutral sounding measures to combat coronavirus can lead to inadvertent discrimination. For example, 'social distancing' means little in crowded housing conditions and prisons, and may lead to stigmatisation of already marginalised groups and increased levels of domestic violence and child abuse; mass school closings may mean some children go without the only meal they receive every day, and add to gendered care-giving burdens. In any crisis response there is the danger of the tyranny of the majority – 'herd immunity' by implication sacrifices the vulnerable minority to protect the majority. The idea that ventilators could be rationed and certain groups, e.g. elderly or disabled people, essentially sacrificed, is abhorrent. Dignity and the right to life are not subject to balance and debate in this context (see below). In the context of coronavirus, vulnerability is contextual – for example, children who are often considered a vulnerable group are not especially at risk of contracting the virus or from the virus, but are a potential and unwitting threat to more vulnerable groups such as elderly people, or people with underlying health conditions. Other groups which may be particularly vulnerable include homeless people, those with mental illnesses, self-employed workers on casual contracts, people deprived of their liberty, migrants and refugees, those at risk of domestic violence or other abuse, and key workers, including health and social care workers. Such groups need, and are entitled to, specific protection at this time.

**Balancing priorities, making difficult decisions**

Human rights are often thought of in absolute terms (see above). While some rights are absolute, many are not. Human rights law recognises that there are circumstances when the enjoyment of (qualified or non-absolute) human rights may be restricted, subject to certain conditions being met. Public health is specifically named as a legitimate reason for instituting what are termed 'public interest restrictions' on such human rights. For example, all of us are currently experiencing restrictions on our freedom of movement and assembly because of coronavirus. But other issues are more contentious. Should it be much easier to hospitalise or sedate people who are mentally ill? Policy makers are faced with numerous trade-offs and difficult decisions at present. The first way in which human rights is useful is that it acknowledges these dilemmas – these decisions are difficult - and, as the boxed text (Box 1) from Clapham suggests, provides a vocabulary for balancing, debating and prioritising interests. Should access to public spaces like parks be restricted, and if so when? When and how should restrictions on freedom of movement be eased?

> Box 1
>
> '[Qualified or non-absolute] (h)uman rights do not really resolve the tension between competing interests and various visions of how the world should be; rather, human rights ideas provide the vocabulary for arguing about which interests should prevail and how best to achieve the ends we have chosen'.
>
> (Clapham)

Human rights make a second contribution by outlining criteria on the basis of which difficult decisions to restrict human rights should be made. Any restrictions must pass a 3 part test: they must be provided by law, address a legitimate purpose, and be 'necessary in a democratic society'.

1. The 'provided by law' requirement means that restrictions to rights must be clearly formulated and be accessible to the general public (ideally in written form), so that individuals can shape their behaviour and foresee consequences if they fail to do so.
2. In order to lawfully restrict rights, governmental authorities must pursue legitimate purposes, which include the protection of health (as noted above) and public safety.
3. The phrase 'necessary in a democratic society' means that restrictions on rights should be required by and be proportionate to the threat they are designed to meet – they should not go beyond responding to the threat in scope (materially, geographically), nor be open-ended. Restrictions should not undermine the essence of democracy and human rights.

These criteria can be used by City of York Council and other statutory bodies in policy formation, and by civil society to assess whether they think the criteria have been fully and fairly applied (especially criteria 3).

**Disease and democracy**
Some governments around the world have used the crisis caused by coronavirus to curtail democracy, side-line opponents and silence civil society. Such responses would fail the 3 part test set out above. In the UK the government's response, if not always the implementation of regulations, has largely been proportionate. That said, in the coming weeks and months it is important to keep the following in mind: democracy and associated human rights provide the oxygen that will breathe life into an effective response to the virus – democracy at a local scale, as well as nationally. Those who wrongly believe that authoritarian responses are a quick fix in such crises forget the evidence from past pandemics - HIV, Zika, Ebola, H5N1, Severe Acute Respiratory Syndrome (SARS) and Middle Eastern Respiratory Syndrome (MERS). We know what is essential to managing the spread of such diseases, and we know that human rights need to inform responses: transparency and accurate information about risk, transmission and treatment (the right to information); the active engagement of populations (right to participation); and maintaining a climate that will encourage people at risk or ill to seek diagnosis and care, rather than avoid health services because they are afraid of stigma and punishment (non-discrimination, right to adequate health care, right to life).

At the heart of the current relationship between disease and democracy is the question of the kind of state we want. Coronavirus is a reminder that we need an effective and responsive state, including at local government level. No other organisation or mechanism could have responded effectively to the virus on the scale required. At its heart, human rights are rights claimed by individuals and groups from the state as duty bearer. Decades of privatisation and austerity have weakened this bond, but the state is now centre-stage. Money is being spent on health systems and infrastructure in an unprecedented manner. Human rights are needed not just as a negative shield against government interference, but also as a means to make positive claims on government. Basic social provision, including health, social security, and housing, is a fundamental human right. Lessons learned in crisis – the state matters; free health care for all is precious – should be remembered when life returns to normality, not just in the priority given to professions like nurses, doctors, and carers, but also for the ongoing responses required by crises such as climate change. A key lesson from the coronavirus response is that we can find the resources to address issues if we want to.

**Further information**
- British Institute of Human Rights: https://www.bihr.org.uk/Listing/Category/corona-virus
- Koldo Casla: https://www.opendemocracy.net/en/transformation/coronavirus-beyond-human-rights/ and https://www.acorrectionpodcast.com/phonyeconomy/allmg4lx4dsf4jx47px6wh69yt7gc
- Richard Carver: http://cendep.blogspot.com/2020/04/human-rights-in-age-of-pandemic.html