Dear [insert name]

**Re: Vaccination of Care Home Workers**:

I write in connection with the proposal to require all care home workers to give details of their vaccination status, or details of any clinical exemption from vaccination.

Implicit in the requirement is that care workers are being required to vaccinate and any failure to vaccinate is a dismissible offence.

This requirement of vaccination is a fundamental variation to my employment contract and I reserve all legal rights in respect of that. For the avoidance of doubt I do not consent to such a variation.

Those who wish to have a vaccination should have their rights respected, those who do not wish to have a vaccination should also have their rights respected.

There is a body of evidence that suggests that testing for T cell immunity may be a better response than vaccination as [T cell immunity provides better protection than vaccination](https://www.medrxiv.org/content/10.1101/2021.06.26.21259239v1.full.pdf). [I disagree respectfully with the Equality Impact Assessment which suggests that vaccination is the only way to protect care home residents as prior infection with this or another coronavirus offers long lasting protection as well.](https://directorsblog.nih.gov/2020/07/28/immune-t-cells-may-offer-lasting-protection-against-covid-19/)

I allege any request for such medical information is an unlawful and unreasonable request. I also allege that any dismissal or forced resignation will be unfair, potentially automatically unfair and potentially a prohibited act of discrimination.

I ask you to treat this letter as a [public interest disclosure.](https://www.legislation.gov.uk/ukpga/1998/23/contents) The disclosure is made in the public interest as this affects every care home worker and potential care home worker in England and Wales.

The information provided in this letter is information that suggests that you are breaching or proposing to breach legal obligations owed to care workers by:

1. [Requiring that care workers produce personal data on their vaccination status when](https://www.legislation.gov.uk/ukpga/2018/12/section/2/enacted) [[the Regulations at 5 (5) specifically provide that the Data Protection Act 2018 applies](https://www.legislation.gov.uk/ukpga/2018/12/section/2/enacted)](https://www.legislation.gov.uk/ukdsi/2021/9780348224993/regulation/5)[. The common law and international law does not authorise disclosure.](https://www.legislation.gov.uk/ukpga/2018/12/section/2/enacted)
2. [Requiring that care workers produce personal data on any exemption from vaccination](https://www.legislation.gov.uk/ukpga/2018/12/section/35/enacted)

when [the Regulations at 5 (5) specifically provide that the Data Protection Act 2018 applies](https://www.legislation.gov.uk/ukdsi/2021/9780348224993/regulation/5). The common law and international law does not authorise disclosure.

1. Implicitly requiring care workers to vaccinate or lose their livelihood.
2. Failing to provide full indemnity for any losses arising out of any serious adverse event arising from vaccination.
3. Implicitly requiring care workers to give up their [common law right to free and informed consent.](https://www.supremecourt.uk/cases/docs/uksc-2013-0136-press-summary.pdf)
4. Implicitly requiring care workers to give up autonomy over their bodies.
5. Requiring care home workers to disclose their disability and any exemption discriminates directly and indirectly against disabled care workers and puts such care workers at a [substantial disadvantage.](https://www.legislation.gov.uk/ukpga/2010/15/section/19) [The Assessment acknowledged 22% of care workers](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001051/vaccination-as-a-condition-of-deployment_public-sector-equality-duty2.pdf) are disabled. Care workers have the right not to disclose their disability to their employer.
6. [Indirectly discriminating against care workers](https://www.legislation.gov.uk/ukpga/2010/15/section/19) who as an occupational group are [mainly women.](https://www.carersuk.org/news-and-campaigns/press-releases/facts-and-figures#:~:text=Facts%20%26%20figures,-1%20in%208&text=58%25%20of%20carers%20are%20women,hours%20of%20care%20per%20week.&text=As%20of%202020%2C%20Carers%20UK,people%20caring%20through%20the%20pandemic.) [Women have greater vaccine hesitancy than men](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001051/vaccination-as-a-condition-of-deployment_public-sector-equality-duty2.pdf).
7. [Directly or indirectly discriminating against pregnant women](https://www.legislation.gov.uk/ukpga/2010/15/section/18) in that [the requirement to vaccinate also puts pregnant care workers at a substantial disadvantage as none of the clinical trials for the vaccines included any pregnant women see 10.4.2 of Pfizer trial.](https://media.tghn.org/medialibrary/2020/11/C4591001_Clinical_Protocol_Nov2020_Pfizer_BioNTech.pdf) Women who were breastfeeding were also excluded.
8. [Indirectly discriminating against care workers](https://www.legislation.gov.uk/ukpga/2010/15/section/19) who do not have [English as a first language.](https://www.skillsforcare.org.uk/adult-social-care-workforce-data/Workforce-intelligence/publications/Topics/Workforce-nationality.aspx)
9. Discriminating against those care workers who hold [philosophical belief](https://www.bailii.org/uk/cases/UKEAT/2009/0219_09_0311.html)s that government should not determine what medical treatment a care worker has.
10. Discriminating against those care workers who have [philosophical beliefs](https://www.bailii.org/uk/cases/UKEAT/2009/0219_09_0311.html) based on natural remedies and or the non-use of animals in clinical trials. It is to be noted that the Equality Impact Assessment did not include the risk of discrimination against care workers holding particular philosophical beliefs.
11. Discriminating against those care workers who have a [religious belief](https://www.legislation.gov.uk/ukpga/2010/15/section/10) relating to the [constituent materials from which some vaccines are made.](https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6027112/)
12. Indirectly discriminating against members of [BAME](https://www.legislation.gov.uk/ukpga/2010/15/section/9) communities who have vaccine hesitancy based on [past injustice relating to medical treatment.](https://www.cdc.gov/tuskegee/timeline.htm) [The Equality Impact Assessment acknowledges the BAME community’s loss of trust in authority.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001051/vaccination-as-a-condition-of-deployment_public-sector-equality-duty2.pdf) It is alleged that the covid response has not rebuilt that loss of trust.
13. Directly or indirectly discriminating against younger care workers who face less risk from covid infection but risk a serious adverse event from the vaccination which is disproportionate to the risk being mitigated. It is to be noted that care home residents have their right to decline vaccines respected. [It is also to be noted that only 10% of residents have not been vaccinated.](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1001051/vaccination-as-a-condition-of-deployment_public-sector-equality-duty2.pdf) The Equality Impact Assessment acknowledges that younger female care workers have concerns over whether the vaccine may impact fertility. Those concerns are cogent as there is no long term evidence of fertility impact yet reports of adverse events from vaccination include heavier menstruation. [It is also to be noted that the bio-distribution study Pfizer supplied to Japan may have found a build up of the spike protein in the ovaries together with concerns over breast feeding mothers.](https://www.pmda.go.jp/drugs/2021/P20210212001/672212000_30300AMX00231_I100_1.pdf) [The relevant extract is here](https://www.pmda.go.jp/drugs/2021/P20210212001/672212000_30300AMX00231_I100_1.pdf#page=16). [Canadians have raised concerns on this issue](https://files.catbox.moe/k2miut.pdf). In particular where uncertainties exist on toxicity that the precautionary principle should be applied. In 2021 every person should have their right to bodily autonomy respected and those who wish to adopt a wait and see policy with regards to vaccination should not be penalised for that choice. That’s their right and a right that should be respected. The generations that came before fought for that right.

I request that the points raised in this letter are investigated and a full written response given to them. I would also request this letter is placed on my personnel file.

I would draw your attention that individuals who work for an employer who discriminates or who victimises those that make public interest disclosures can be [individually liable in law for their actions and be required to pay compensation to those that they have discriminated against or victimised.](https://www.legislation.gov.uk/ukpga/1996/18/part/IVA)

I understand that as my employer you must be seen to observe [the regulations](https://www.legislation.gov.uk/ukdsi/2021/9780348224993). However, the regulations cannot be reconciled with fundamental legal rights care workers have at [common law](https://www.bailii.org/ew/cases/EWCA/Civ/2001/1545.html) and elsewhere. As a reasonable employer you must be able to see this.

The regulations may not be in accordance with international law or [other domestic law](https://www.bailii.org/eu/cases/ECHR/2004/103.html) with which they conflict.

The regulations may conflict with the [Human Rights Act 1998](https://www.legislation.gov.uk/ukpga/1998/42/contents) and [the Equality Act 2010](https://www.legislation.gov.uk/ukpga/2010/15/contents) as well as [internationally observed conventions on free and informed consent](http://portal.unesco.org/en/ev.php-URL_ID=31058&URL_DO=DO_TOPIC&URL_SECTION=201.html) and bodily integrity. The regulations have had an equality impact assessment as required under the Equality Act 2010 but the assessment does not deal with the issues as fully as it could and completely ignores anyone who has cogent philosophical beliefs connected to bodily autonomy or other vaccine related beliefs.

It is not clear which legal rights are supreme and until it becomes clear the legal status quo of every individual must be respected in full, in particular the common law right to [free and informed consent and bodily autonomy.](https://www.rcseng.ac.uk/news-and-events/blog/the-right-to-autonomy-of-treatment-is-a-common-law-right/)

I claim the following rights at common law, under domestic law and as human rights recognised internationally.

1. [The right to decline any medical intervention without any penalty](https://www.supremecourt.uk/cases/docs/uksc-2013-0136-judgment.pdf).
2. [The right to autonomy over my own body](https://www.rcseng.ac.uk/news-and-events/blog/the-right-to-autonomy-of-treatment-is-a-common-law-right/).
3. [The right to keep my medical records confidential.](https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/lawful-basis-for-processing/special-category-data/) This includes:
   1. My vaccination status.
   2. Any medical reason why I should not be vaccinated.
4. The right to full indemnity in the workplace for losses sustained from any requirement imposed on me by my employer.
5. [The right to respect for my private life](https://www.legislation.gov.uk/ukpga/1998/42/schedule/1).
6. The right [not to suffer dismissal or detriment](https://www.legislation.gov.uk/ukpga/1998/23/section/1) for upholding and asserting my legal rights and bringing matters relating to alleged breach of legal obligations to your attention.
7. The right not to be discriminated against where such discrimination relates to a [protected characteristic.](https://www.legislation.gov.uk/ukpga/2010/15/section/4)

I remain committed to my job and to you as my employer. I also remain committed to those that I care for and such commitment is not undermined by refusing to give any medical information to my employer as is my legal right. There is a viable option, should I wish to take it, of having a T cell immunity test.

Can you come back to me in writing within 28 days confirming that my legal rights are respected and that the status quo relating to free and informed consent and bodily autonomy is preserved pending clarification on the obvious conflicts that the regulations raise between individual and collective rights and responsibilities.

[It should also be noted that an application for an injunction has been filed in the United States requesting that emergency use authorisation for the vaccines is revoked immediately.](https://magainstitute.com/wp-content/uploads/2021/07/Motion-for-Preliminary-Injunction-file-stamped.pdf) One of the medical expert witnesses in the application has stated in his expert opinion those with prior infection from coronavirus have an antigenic fingerprint in their tissues and a vaccination may give rise to a risk of tissue injury and death owing to the risk of a hyperimmune response.

Mandating a vaccine in these circumstances is highly irresponsible and grossly negligent.

An employer acting in accordance with its legal obligations should wait until the outcome of such an application is determined.

If the application is successful it is likely that the UK will follow suit and withdraw the emergency use authorisation for all UK vaccines. Part of the legal and factual basis for the application is the bio-distribution study referred to above.

I am sure that we can both agree that the issue of which laws and rights are supreme is not an easy question to answer, although common law rights are longer established than the regulations relating to care home workers.

Many thanks in advance for your careful and conscientious consideration of the very important points raised in this letter.

Yours sincerely

[insert name]