

Dear Lord Hodgson,

Re: Proposed amendments to the Coronavirus Regulations 2020 mandating face coverings in shops and supermarkets in England

Further to correspondence dated 9th June 2020 outlining concerns over the messaging of face coverings on public transport, which the Scrutiny Committee kindly raised in debate, I am writing to you again to express similar unease about the Secretary of State for Health's recent extension of mask wearing to shops and supermarkets.

I welcome the Secretary of State's acknowledgement of exemptions on grounds of age, health and equality. However, my issue with this remains how exemptions are to be communicated to retailers, given the moral panic surrounding mask use whipped up by sections of the media and relentless government gaslighting (masks do not protect the user, but almost certainly shield others from infection). So far, exemptions exist only in the form of guidance published on the Department for Health's website. Yet given that non-compliance is assumed to be a summary offence, enforced by a £100 fixed penalty fine, I expect the measures to be laid as secondary legislation - albeit somewhat late in the day - for Parliamentary scrutiny.

Therefore, I ask for the Scrutiny Committee to seek clarity on the two points below, as they relate to shoppers with visual impairments, and indeed other health issues or disabilities physical or hidden.

1. The message that exemptions exist needs to be made clear to all retailers

Guidance from the Department of Health clearly mandates a general responsibility to use face coverings in shops and supermarkets from 24th July. Without getting into legal technicalities as to what constitutes a 'shop' at this stage, I fear it is only this part of the guidance (and regulations?) that will filter down to staff, unsurprisingly worried about their own safety and the need to combat Covid 19 spread by fixating upon the 'rules'. Inevitably, some retailers will take upon themselves to police mask wearing fanatically; and let us hope other customers do not weigh-in too. Yet the fact that exemptions also exist may be lost in the rush to ensure social compliance, and as such retailers - especially supermarket chains - should amplify this caveat in their in-store messaging, in parallel with - say - similar announcements on the national rail network. To date, the government has couched 'exemption' under the heading of 'reasonable excuse', which is a legally unsound term. Really, 'exemption' here implies a right, and to deny entry to someone with a genuine impairment or disability, surely means that the right is being ignored, which is discriminatory in anyone's book.

2. Retailers must be reminded of their duty to provide disabled access for exempt shoppers under the Equality Act

S20 Equality Act 2010 imposes a duty on organisation to make 'reasonable adjustments' to remove barriers to goods and services for those with impairments or related health issues. It would be a pity for this inclusive duty to be conveniently forgotten amid the frenzy to mask-up. Face coverings are, if nothing else, physical barriers with palpable health risks attached; I myself with reduced long to mid-range vision cannot easily don one without risking tripping up on uneven surfaces or walking into objects at ground level. Equally, I would be alarmed if my father, who is pushing 80 with asthma and a heart condition, was forced to wear a face covering in venturing to the garden centre. If either of us were denied entry for not sporting face coverings, then surely this

amounts to a breach of duty under the Act, since our access to products and services would be removed placing us at a substantial disadvantage. Conversely, not having to wear a covering would amount to a 'reasonable adjustment' shops could easily make.

It would be reassuring if access rights under the Equality Act were specifically protected within the updated regulations, and that retailers were reminded of their obligation in this respect. Indeed, if vulnerable shoppers were intimidated into mask compliance at their local store, and were then to suffer as a result – passing-out due to hypoxia, anxiety or shortness of breath for instance – shops may also be in breach of their duty of care under Occupiers' Liability; so again adequate safeguards need to be in place for both shoppers and shop owners alike.

I hope, then, that the Scrutiny Committee can press the Department of Health over its messaging of the latest Coronavirus Regulations, as well as its regard for a duty of care under both the Equality Act and Occupiers' Liability Act.

Indeed, in the interests of inclusion, perhaps the Department of Health could design a **catchy sign for general display along the lines of 'Mask exemptions are welcome, please shop here'**? Moving out of lockdown has proved a challenge for the nation. But I am sure you will agree that in doing so, we should not sacrifice our mutual respect and tolerance as a society, nor drive a wedge between hard-pressed retailers and their hitherto loyal customers.

Yours sincerely,
Dr Matthew Reynolds

17 July 2020