

Submissions on the Draft Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021

- (1) Nadra Ahmed, OBE, DL, Care Provider Alliance
- (2) David Bowman
- (3) Paul Le Page
- (4) Jeremy Richardson, Chief Executive, Four Seasons Health Care Group
- (5) Neil Russell, Chairman, PJ Care Ltd

1. Nadra Ahmed, OBE, DL, Care Provider Alliance

We represent small to medium sized providers and for us this matter is crucial as we struggle to recruit staff.

We understand the argument for vaccination but are very concerned at the haste and the timescales, especially as we believe that we have done really well in the 6/7 months since vaccine became available in persuading our dedicated workforce.

We know that a small number may never be persuaded but we have a duty to try respond to their concerns. It is the existing workforce who have been critical in our response as a sector who are being discriminated against in our opinion as their counterparts, in other health and care settings are under no such compulsion.

Our members currently face substantial workforce pressures and as we are getting daily notifications of resignations in favour of NHS jobs, we're vaccine is not required. This is further challenging with isolation as we enter a third wave potentially.

We ask that there is a pause in this to enable us to work on the risks attached which will emerge from an impact report. Clearly, without that we cannot assume that all options have been explored.

2. David Bowman

I just want to express my horror that medical ethics and informed consent has been totally ignored in all of this.

No person can be forced or compelled to having a vaccination against their will. It is unethical, immoral and I believe illegal in UK law.

I would also like to refer you to an open letter signed by 1533 christian leaders concerning the ethics and immorality of "passports" <https://vaccinepassportletter.wordpress.com/>
We are slowly edging our way toward George Orwell's "1984" and it must be resisted at all costs.

3. Paul Le Page

I am writing to you to express my grave concern about this legislation and its impact on bodily autonomy, human rights and in particular religious freedom. To provide some context, my employment responsibilities mean that I could - on occasion - be asked to attend a care home to support computer systems.

I have read the submission from the Christian Science community who articulate the case for religious liberty with great skill. Nevertheless, I would like to bring to your attention that this proposed legislation will also disproportionately impact other religious communities and individuals.

All the currently available vaccines make use of foetal stem cells that were procured from an elective abortion, either at the testing or manufacturing stage. The practice of abortion is and has been considered morally objectionable from the earliest days of the Christian Church. The Didache (late first/early second century) is one of the earliest documents of the Church, it states: "Thou shalt not murder a child by abortion nor kill that which is begotten."

To benefit from a vaccine that explicitly uses foetal cells originally procured from an abortion is for many Christians incompatible with their faith. Although declining the vaccine on these grounds is not a homogenous position (indeed, many Christian leaders have encouraged vaccination) there remains a significant minority of Christian believers who hold this position, including some prominent Christian leaders around the world from all denominations. I am also one of their number.

I must emphasise that my objection is to the currently available vaccines, not to vaccination in general. It is unfortunate that those declining the vaccine have been vilified in the media and stereotyped as "crackpots" and "conspiracy theorists" when many of us hold deeply held and reasoned convictions. My stated position remains that I would accept a fully tested vaccine with no links to abortion and - under the right circumstances - would even consider volunteering to participate in clinical trials were the opportunity to present itself.

It is likely that only a small minority of those impacted by this legislation will hold a religious objection. The impact of a religious based exemption would therefore in all likelihood be negligible, although hugely significant for those such as Christian Scientists and others with moral objections to abortion. One would have expected that the draft legislation would have included some supporting statistics in the impact assessment however as both your Committee and some MPs have raised, to date no such assessment has been published. Nevertheless, legal protection against discrimination based on protected characteristics should not be measured by numbers but by the principle of the law. By definition protected characteristics are minorities and injustice for them is injustice for all.

The Control of Disease Act 1984 forbids mandatory medical treatment (including vaccination) and yet these proposals - which carry a significant scope way beyond care workers - are using

coercive methods to effectively do just that. I would humbly urge you to use your good offices to raise these matters when this legislation is brought before the Lords. Please ensure religious minorities and others who have declined vaccination have the continued protection they are due under the law.

4. Jeremy Richardson, Chief Executive, Four Seasons Health Care Group

I hope that you will excuse the direct approach, my name is Jeremy Richardson, I am the Chief Executive of Four Seasons Healthcare, one of the UK's largest residential care home providers. We operate 185 services across England, Scotland, Northern Ireland and the Channel Islands caring for close to 8,000 residents and employing in excess of 12,000 team members. The reason for writing to you is to highlight the draft Social Care Act 2008 (Regulated Activities (Amendment)) that you are being asked to vote on and which you scrutinised at your committee hearing yesterday, that will make covid vaccinations mandatory for those working in social care settings. I have watched a recording of the committee proceedings.

As Chief Executive of a large care provider I am entirely supportive of my team taking the covid vaccine. As a business we believe that taking the vaccine is the best way for individuals to bestow protection upon themselves and we have encouraged, supported and cajoled colleagues to do so. I am pleased to say that close to 80% of our workforce has now been vaccinated and in many homes that number is at 100%. Furthermore, almost our entire resident population has also been double jabbed and therefore given a substantial degree of protection from the virus.

Making the vaccine a condition of deployment is a significant step to take as it deprives individuals of the right to make choice and in our view can only be justified if the community benefit of enforcement is considered to be so overwhelmingly compelling as to justify subjugating the rights of the individual. We do not believe that this threshold test has been met and importantly we do not believe that mandating the vaccine will improve the health outcome of residents. Across our homes;

- We have a substantial negative number of excess deaths from all causes over the last 18 months (from January 1st 2020 to today) against the four year average
- The average number of deaths have been below the four year average every week bar four since June of last year, including during the second wave of the virus, during which time there were no vaccines available
- Since March 5th 2021 we have had 2 covid deaths, during which time 955 residents have passed away. Covid therefore accounts for 0.2% of all our deaths in the past 18 weeks.

Whilst we have seen infection spikes in line with outbreaks in the wider community the link between the risk of transmission and consequence of transmission has been severely weakened if not broken. On this basis alone we do not believe that mandating the vaccine as a condition of employment is necessary at this stage. We believe that the Government and public health bodies would be better advised to work collaboratively with those homes across the country where the team take up rate of the vaccine is below the recommended SAGE levels rather than pursue a course of coercive action, a point that was made by one or two of

your committee colleagues yesterday. There are approximately 120,000 estimated vacancies across the sector currently and this legislation will not make it any easier to recruit, particularly when the vaccine is not being mandated in other healthcare settings including the NHS.

Our residents are regularly in and out of hospital, where as it stands they can be treated by unvaccinated staff. Furthermore, visitors to care homes are not and under this legislation will be required to be vaccinated. The inconsistencies in approach further undermine the premise that residents will be safer as a consequence of this legislation. From July 19th residents will be able to receive unlimited visitors, none of whom, unless they work in social care will require the vaccine. The risk of transmission from the virus is either so significant that everyone in a healthcare setting should be vaccinated or it is not, it cannot be only half dangerous.

The Chief Medical Officer questioned the professional responsibilities of those who choose not to take the vaccine, but I would respectfully suggest that many of those who are not taking it are doing so for legitimate medical reasons or because they do not trust those in authority. My team have put themselves at significant, and in the early days of the pandemic, unmeasured personal risk to care for their residents. Many moved into the care homes and isolated from their own families. As a country we clapped for them every Thursday for several months. I do believe it is professionally [ir]responsible to clap for them one day and dismiss them the next, this feels deeply inappropriate.

5. Neil Russell, Chairman, PJ Care Ltd

I hope this finds you safe and well, and that you have not suffered too much over the past 18 months of pandemic. You will be aware of the recent vote to in the House of Commons to amend the Health and Social Care Act making vaccination mandatory for all care home staff and many associated professionals, and that the legislation is coming before you in the House of Lords in the next few days, but without any kind of impact assessment from the Government you may not be aware of the damage this will have not just on the care sector, but also on the NHS?

To give this some context, in 2020 there were 442,888 people in care homes in England and Wales, roughly 40 to 50 percent of these are in Nursing Homes because they require nursing care. This is care that if not provided in a nursing home would be provided by the NHS, so the care sector is keeping approximately two hundred thousand people out of hospital. When you consider there are only about 141,000 hospital beds you are only just beginning to understand the importance of the care sector.

The Government admits in its consultation document that the decision to enforce vaccination on the care sector will cause damage through the loss of staff and that these losses will affect female staff and those from ethnic minorities more than others. Vaccine hesitancy is at its highest amongst these groups for understandable reasons, such as fertility concerns and cultural history.

I am proud of the fact that I received my vaccination on the first day it was made available, and firmly agree with the Government that vaccination is the right way forwards and am

pushing vaccination for all my staff. However, we have to understand that many individuals do not believe this, and they will choose to leave their jobs rather than be forced to do something they fundamentally disagree with. In many cases they will be vaccinated once they are happy the evidence of its safety is strong enough to meet their concerns, for example many young female care workers are concerned about effects on future fertility and despite assurances that it is probably safe and unlikely to cause harm, they are aware that the vaccine has only been used in large numbers for less time than the length of a pregnancy, so evidence that is strong enough to overcome their concerns is simply not available yet.

Leaving aside the potential discrimination issues, and the fact that the majority of respondents to the Governments Consultation, including 62% of Care home residents, were unsupportive of the proposal, the fact that a large number of care staff will be forced to leave their jobs will cause potentially irreversible damage to an already underfunded sector.

At present 84.1% of care staff have been vaccinated and this number will continue to grow as care home providers work with their staff to convince them of the vaccine's safety, but if just 5% continue to refuse, and this may be higher, 75,000 staff will end up leaving a sector that is already struggling to fill the existing 100,000 vacancies. The implications of this massive loss in the workforce, shortly after losing the ability to easily recruit from Europe, will be horrific.

The Government's consultation document says they will carry out an extensive recruitment campaign but considering the recent CIC report that care staff earn considerably less than colleagues elsewhere with similar responsibilities, and that current vacancy levels are not decreasing, I do not see how this will fill the new vacancies.

The industry will need to attract staff new to the sector at the same time as many other industries are trying the same thing. Hospitality, retail and delivery companies are also struggling to fill vacancies, but they can control their income and can readily increase wages to make their positions more attractive, the majority of the care sector is funded by Local Authority and CCGs that set fees at the lowest possible level. As I mentioned earlier minimum wage increased by 2% this year and inflation is around the same mark, yet many care providers only received a 0.1% increase in fee income. This means they are already struggling to pay wage bills and would find it impossible to increase wages to a level that will attract new staff.

Larger providers supported by big investment houses, those receiving higher private fees and those offering specialist services will be able to increase their wages and will be able to attract staff from homes that cannot afford to do so, leaving many homes with next to no staff, or if they do try to compete in extreme financial difficulty.

Some homes may do their best to continue to operate with dangerously low staffing levels, putting residents at increased risk; some homes will close altogether, and we could see a loss of up to 50,000 beds. Half of these are likely to be nursing beds, with residents needing care that cannot be provided at home and without care home beds to provide the care these residents will have nowhere else to go but to hospital. It would be questionable whether the NHS could manage this increase in need in normal circumstances, but now is most definitely not the time to be increasing the pressure on the NHS.

It is also worth noting the Government's claims that this is to protect the most vulnerable, but while those in care homes are vulnerable, when they get acutely ill (e.g. chest infection) they often have to be transferred to hospital, where they are now more vulnerable because of their illness. And while in hospital it is likely that they will be cared for by nurses, carers, ancillary staff and even doctors that have not been vaccinated.

This proposal is a blunt instrument, SAGE have recommended that 80% of care home staff need to be vaccinated to protect residents (most of whom have been vaccinated as well), so why mandate for all staff to be vaccinated if it is not necessary? PPE that is currently in use is protecting staff and residents.

We have to accept that this decision has been made and for whatever reason the Government is determined to put it in place, however, I would be grateful for your support either to delay the legislation until a full and proper impact assessment is in place, or to amend the legislation to provide exemptions that are in line with current Equality Act legislation, allowing staff with strong beliefs not to lose their livelihood as a result of those beliefs. Or for reducing the levels of required vaccination to those proposed by the Government's own advisory body (i.e. 80% of all staff).

Finally, this may be an opportunity to initiate the care review the Government has been promising for years, or at least to review fee levels to enable the industry to compete fairly for staff with other sectors.

I am happy to discuss these issues with you in more detail, I am working with my colleagues in the care sector to collate more definitive data and, if you wish, can share this as and when it becomes available.

19 July 2021