Response from the UK Medical Freedom Alliance (UKMFA) to the Department of Health and Social Care - 19 May 2021

Re: Open Public Consultation published 14 April 2021 - Making Covid-19 Vaccination a Condition of Deployment in Older Adult Care Homes

Website with details of Consultation https://www.gov.uk/government/consultations/making-vaccination-a-condition-of-deployment-in-older-adult-care-homes/making-vaccination-a-condition-of-deployment-in-older-adult-care-homes

Website to send in a Submission https://consultations.dhsc.gov.uk/making-vaccination-a-condition-of-deployment-in-older-adult-care-homes **DEADLINE 21st May 11.45pm**

Questions (Q) and UKMFA Submitted Answers (A - in bold) follow

PROPOSED LEGISLATIVE CHANGE

Background - We are planning to implement this policy through an amendment to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. We propose to insert the requirement as a new provision in the fundamental standards in Part 3 of the Regulations, most likely into regulation 12 (which deals with safe care and treatment) as a supplement to regulation 12(2)(h), which requires that, as part of providing safe care and treatment, providers must assess the risk of, and prevent, detect and control the spread of, infections, including those that are healthcare associated. We will also be amending the Code of Practice on Infection Prevention and Control and its associated guidance, which is issued by the Secretary of State under section 21 of the Health and Social Care Act 2008 and to which providers must have regard when complying with their obligations under regulation 12 of the Regulations.

Q.1. How do you feel about the proposed requirement for workers in older adult care homes to have a COVID-19 vaccination?

A.1. Not supportive

Q.2. Please provide details to support your answer. (500 word max)

A.2. Mandating the vaccination of Care Home Workers to protect residents is fundamentally flawed – scientifically, medically, ethically, and legally. The right of all people to be able to exercise informed consent to medical treatment without coercion, is enshrined in law. The proposed vaccine mandate constitutes coercion, threatening people with the loss of their job if they do not accept an unwanted vaccine.

Informed consent and bodily autonomy is the cornerstone of good medical practice and is specifically referenced in the NHS Constitution and GMC Guidance. It is also firmly embodied in UK law following the Supreme Court decision in Montgomery v Lanarkshire Health Board (2015).

The Human Rights Court, the Parliamentary Assembly of the Council of Europe, passed Resolution 2361 on 27 January 2021, which stated that citizens must be informed that the vaccination is NOT mandatory; that no one is politically, socially, or otherwise pressured to get themselves vaccinated;

and that no one is discriminated against for not having been vaccinated, due to possible health risks or not wanting to be vaccinated.

In addition, the Universal Declaration on Bioethics and Human Rights protects an individual's bodily autonomy, the right to informed consent and the right to refuse medical interventions without penalty or restriction.

COVID-19 vaccines are still experimental and unlicensed, being used under temporary, emergency authorisation. Phase 3 vaccine trials are not due for completion until early 2023. Forcing care home workers to have a vaccine violates the Nuremberg Code, which outlaws human experimentation.

There are already serious safety concerns. The MHRA Yellow Card Scheme documents that 757,564 adverse events (many severe and life changing), including 1102 deaths, relating to COVID-19 vaccines, have been reported, as of the 6 May 2021. This far exceeds recorded adverse events from any other vaccine.

There is no medium- or long-term safety data for any of the COVID-19 vaccines, which use novel mRNA and DNA gene-based technology. It is unknown whether there will be late-onset side effects e.g., cancers, auto-immune diseases, infertility, neurological disease etc. Published research indicates that spike proteins play a key role in the pathogenicity of SARS coronaviruses, through damage to endothelial cells and clotting. The production of spike proteins is induced by all the vaccines, so has the potential to be a class effect.

Medical experts around the world are raising urgent safety concerns, especially around vaccinating the young and healthy, such as care workers, who are likely to be at insignificant risk from COVID-19 themselves (average Infection Fatality Rate is 0.05-0.25%) yet face known and unknown risks from the vaccines.

Currently there is no peer-reviewed scientific evidence that COVID-19 vaccines prevent either infection with or transmission of SARS-CoV-2. Therefore, the Covid-19 vaccines have not been shown to have a wider public health benefit beyond the recipient and vaccinating care home workers will not reduce the risk to residents from COVID-19.

OLDER ADULT CARE HOMES

Background - The purpose of this policy is to protect people vulnerable to COVID-19, therefore we propose that the regulations would apply to any care home which has at least one person over the age of 65 living in their home.

Q.3. Do you agree with using this definition to determine which care homes this regulation would apply to?

A.3 No

Q.4 What concerns do you have about this definition? (500 word max)

A.4. **We completely oppose the implementation of this policy.**

This definition does not acknowledge that vulnerable people residing in adult care homes have all been offered a COVID-19 vaccine and are highly likely to have been vaccinated, and thus have protection from their own vaccine. All vulnerable groups have already been offered the opportunity to be fully vaccinated, which the Government claims will reduce deaths and hospital admissions from COVID-19 by 95%. There is no need or benefit to start vaccinating the non-vulnerable in a misguided attempt to further protect the vulnerable. We urge the Government to have confidence

in their own assertions that COVID-19 vaccines protect the vulnerable and to now allow a return to individual responsibility for one's own health.

There is no ethical or scientific justification to implement a public health policy of mandating a vaccine, that will inevitably directly result in deaths and injuries to a few young and healthy people, for a disease that has an average survival rate in that cohort of 99.9% or above.

In addition, the definition is far too wide and is disproportionate to any perceived benefits. The definition could extend to situations where a health or social care activity is carried out by a carer for a member of their family or someone in a personal relationship, where the care is provided in the course of that family or personal relationship for 'commercial consideration' or even potentially no consideration. The CQC registration requirements define a family or personal relationship to include people treating each other as if members of the same family, or in a relationship between friends, so long as they are living in the same household; therefore, if care is being provided to those not living in the same household, then that carer will also be subject to the mandatory vaccine scheme. There are many, alternative, precautions that can be undertaken, especially in small care homes, that would protect the vulnerable.

Background - The SAGE Social Care Working Group has advised that it is reasonable to proceed with care homes for older adults as a setting where requirement for vaccination may be appropriate. Care homes for older people have a population with a median age of over 80, with multiple co-morbidities. Some people living in care homes may have dementia and neurological and behavioural issues which impair their ability to follow infection control practices. In these closed settings, workers may provide care for, or have significant contact with, multiple residents as well as other workers. This level of interaction can lead to effective transmission of COVID-19 (and other infectious diseases) with severe outcomes for some people. Current estimates of case fatality ratio are about 20% – almost double that of individuals of similar age outside of care home settings. Vaccination is expected to significantly mitigate against severe outcomes.

Q.5. Do you have any concerns about the proposal to limit this policy to older adult care homes?

A.5. **No**

Q.6. Please explain your answer

A.6. We do not believe this policy should be implemented anywhere, including adult care homes, as it is without ethical, legal or scientific justification, has no place in a democratic and free society and would be a profoundly illiberal, undemocratic, and un-British policy. We urge you not to pursue this dangerous path.

Vulnerable adults residing in care homes are at risk from *any* of the hundreds of thousands of endemic and commensal viruses and bacteria that they are constantly exposed to through normal living, not just SARS-CoV-2. Focusing on protection from one virus, that has an IFR demonstrably in the range of a normal flu season, is nonsensical. There is no evidence to support that vulnerable adults are at any greater risk from SARS-CoV-2 than any other respiratory virus or infectious disease. The use of sensible and proportionate, long-established, infection control measures to reduce the risk of infections can continue. It is disproportionate and unnecessary to go down the route of further restrictions and loss of freedoms that a vaccine mandate would bring in, to attempt to reduce the risk to zero from one virus out of the thousands of respiratory viruses that we all live with.

If the vaccines "significantly mitigate against severe outcomes" as claimed, then the care home residents are protected by their own vaccines, not by others' vaccines.

PERSON REQUIRING VACCINATION

Background - The proposed regulations would apply to any care home which has at least one person over the age of 65 living in their home in England and which is registered with the Care Quality Commission. This is estimated to be approximately 10,000 care homes.

This would include all workers employed directly by the care home or care home provider (on a full-time or part-time basis), those employed by an agency and deployed by the care home, and volunteers deployed in the care home. It would include those providing direct care and those deployed in care homes doing other roles, for example cleaners and kitchen staff. This is consistent with our approach to COVID-19 testing in care homes.

There is further consideration needed about whether we extend the requirement to include to those people who come to the care home to provide professional services, or other care and support, as well as visiting professionals. We are also carefully considering the situation of 'essential care givers' – those friends or family who have agreed with the care home that they will visit regularly and provide personal care. We understand that there are key considerations here for the range of people who may come into care homes and welcome your views in the consultation questions below.

We do not intend to extend this policy to friends and family members who visit people living in care homes – other than essential care givers, where we are considering carefully what approach is best. The SAGE Social Care Working Group has advised there is a balance to be struck between the risk of a loved one visiting and transmitting virus, against the wellbeing benefits to those who live in a care home. We would of course encourage friends and family members who are visiting the care home to access vaccination as soon as they are able however, as long as visitors carefully follow the advice in our guidance, we do not think it necessary to extend the requirement to family visitors.

Q.7**.** Which people working or visiting in an older adult care home should be covered by the scope of the policy?

Q.7. No -to all choices

Q.8. Any other?

A.8. **No one should be required by law or contract to take any of the COVID-19 vaccinations as no vaccine is 100% safe or 100% effective so inevitably some care home workers will be injured or killed by the jabs. All medical treatments should be voluntary with an understanding of risk versus benefit analysis for that individual. As described above the vaccines are still experimental, use novel technologies, and the long-term safety profile is not known so this potentially carries more risk than well-established and tested vaccines. No-one should have their job and livelihood threatened or removed for choosing not to accept this vaccine. The benefit to young, healthy care home workers from the vaccine are minimal to none, and many are young women of childbearing age, who are yet to start or complete their families. With no data to prove definitively that these vaccines do not affect fertility, there is good reason that many may wish not to take up the offer of one.**

There should be no infringement of the right to family life and right to bodily autonomy imposed on either care home workers or visiting family members, who should be freely admitted to visit their relatives with no conditions applied, especially the requirement to take a vaccine.

EXEMPTIONS

Background - There will be a small number of people where the clinical advice is that the COVID-19 vaccination is not suitable for them. We will ensure that the regulations allow for exemptions on medical grounds. The regulations will be drafted in line with the Green Book on Immunisation against infectious disease (COVID-19: the green book, chapter 14a) and The Joint Committee of Vaccination and Immunisation (JCVI) which reflect clinical advice. Individuals will be exempt from the requirement if they have an allergy or condition that the Green Book lists (Chapter 14a, page 16) as a reason not to administer a vaccine, for example prior allergic reaction to a component of the vaccine, including polyethylene glycol (PEG). Some individuals have an allergy or condition where the Green Book or the JCVI advises seeking medical advice, before proceeding with vaccination, where a professional medical opinion should be sought on whether the individual should be exempt. Both nationally and internationally, no concerning safety signals have been identified so far in relation to the vaccination of women who are pregnant. JCVI is continuing to review data on the risks and benefit of vaccination for women without significant underlying health conditions who are pregnant. As evidence becomes available, it will be reviewed, and advice offered as appropriate.

Q.9. Do you agree or disagree with the groups of people who would be exempt from this requirement?

A.9. Strongly disagree

Q.10. Who else should be exempt from this requirement?

A.10. Everyone should be entitled to claim an exemption from this requirement – for medical, health choice, religious or philosophical reasons, or due to pre-existing immunity from natural infection.

None of the vaccine trials have included pregnant women and participants were screened to rule out most chronic illnesses and conditions. Therefore, there is little or no short-term safety data on many chronic medical conditions and no-one whose condition has not been specifically studied in sufficient numbers in the trials, and proven to be safe, should be compelled to take the vaccine. There is no long-term safety data on healthy or sick people after taking the vaccine which makes everyone eligible to claim a valid exemption.

There is the potential that such a mandate may be considered indirect discrimination, as many people may be unable to have the vaccine due to "protected characteristics" such as disability, age, sex, race, pregnancy, or certain medical conditions falling under the Equality Act 2010, or other health concerns not currently listed under the Green Book. Consenting to the vaccine must be a personal, voluntary choice by that particular individual and under *NO* circumstance should this choice be overridden by any professional medical opinion, as would be required under the proposed policy. Discrimination under the Equality Act 2010 applies equally to existing employees and to job seekers. We also urge you to read the contents of Paragraph 7.3.2 of the Resolution passed by the Council of Europe that states "no one is [to be] discriminated against for not having been vaccinated, due to possible health risks or not wanting to be vaccinated".

Those subject to the policy and their families may justifiably believe these policies discriminate against individuals who: aren't trial candidates for this vaccine; have pre-existing conditions; previous COVID-19 disease; cite religious or philosophical objections (e.g. due to use of aborted fetal cells in the manufacturing process or presence of these cells in the vaccine); choose to actively support their natural immunity through good nutrition and lifestyle choices; or are otherwise exercising their free will by choosing not to participate in this mandatory vaccine experiment. Refer to the Nuremberg code from WWII, which requires individuals, "to be able to exercise free power of choice, without the intervention of any element of force."

IMPLEMENTATION

Background - Care home managers are ultimately responsible for the safety of people living in their care. Under the proposed change to regulations, it would therefore be their responsibility to check evidence that workers deployed in the home are vaccinated, or medically exempt from vaccination. This means that workers would need to provide evidence to the manager that they have been vaccinated.

The government is carefully considering the best way for people to prove that they have been vaccinated to their employer. This may involve, for example, showing vaccination status on a mobile phone app.

The government is considering what would be an appropriate grace period for new and existing care home workers before they are required to be vaccinated.

It is our expectation that care home managers would keep a record of vaccinations as part of their staff employment and occupational health records.

Q.11. How easy will this policy be for managers in older adult care homes to implement?

A.11. **Very difficult**

Q.12. Please provide details to support your answer.

A.12. Using your own (unverified) statistics from your open consultation you claim that as of "4 April 2021, 78.9% of all eligible workers in all older adult care homes had received at least their first vaccination. While vaccination uptake rates are increasing slowly week on week, the overall figure of 78.9% for staff masks significant variation at a regional, local, and individual care home level. As of 8 April 2021, 89 local authorities have a staff vaccination rate under 80%, including all 32 London Boroughs. 27 local authorities have a staff vaccination rate under 70%." Consequently, it can be stated that at least 20-30% of eligible workers have declined vaccination for various reasons, many of whom will likely take legal action against making the COVID-19 vaccines mandatory for them. In some adult care homes, those opposing mandatory vaccination could make up most of their staff, leaving the care home in a vulnerable position that may ultimately result in the care home being unable to operate safely, putting the lives and welfare of those care home residents at risk.

Adult care home providers are employers who have a duty of care to their employees, and legal responsibilities to them. As employers they should consider whether they might be liable for damages, in case of harm or death suffered by their employees from COVID-19 vaccines, due to mandatory COVID-19 vaccination policies. It is worth noting that the manufacturers are exempt

from liability for harm, so employees who are injured under a mandatory vaccination policy may have no choice but to seek damages from the employer.

The keeping of sensitive medical information by employers may also conflict with the right to privacy and confidentiality around medical care decisions that employees are entitled to.

IMPACT AND IMPLICATIONS OF THE POLICY

Background - Our initial Public Sector Equality Duty (PSED) analysis indicates that making vaccination a condition of deployment in older adult care homes could have a more significant impact on certain groups. In particular, the adult social care workforce has a high proportion of women and people from black, Asian and minority ethnic communities. There is some evidence to suggest these groups may be more hesitant about vaccination more generally and the COVID-19 vaccine specifically given it is a new vaccine. There continues to be a significant programme of work to address these concerns as part of the ongoing work to support uptake specifically within the adult social care workforce and the wider population. We are very interested to understand what more we can do to ensure these groups, and any other, would not be differentially impacted by this new policy and how we can manage this to achieve our ambition to protect all those deployed and being supported in care home settings.

Q.13. Are there particular groups of people, such as those with protected characteristics, who would particularly benefit from this policy?

A.13. **No**

Q.14. Which particular groups might be positively impacted and why?

A.14. **None**

Q.15. Are there particular groups of people, such as those with protected characteristics, who would be particularly negatively affected by this policy?

A.15. Yes

Q.16. Which particular groups might be negatively impacted and why and what could we do to make sure they are not negatively impacted?

A.16. Younger women of childbearing age may be at risk for adverse events affecting fertility or pregnancy loss following administration of the experimental COVID vaccinations currently available. There is a credible scientific data that the spike protein antibodies induced by the COVID-19 vaccines could cross-react with the placental protein syncytin-1, leading to impaired fertility and impaired reproductive and gestational outcomes. In addition, women are widely reporting as having irregular menstrual cycles after getting the coronavirus vaccine, and 95 miscarriages and 4 still births have been reported to the UK Yellow Card Scheme as of April 21, 2021.

All of the current COVID-19 vaccines are associated with a risk of clotting disorders, rare clots in the brain associated with low platelets and bleeding have been identified as a specific risk, as well as more general clotting conditions. This is not isolated to one manufacturer or to one age group. Several deaths have been reported from these conditions in healthy young adults with no secondary comorbidities, following COVID-19 vaccination. All workers must be given the option to refuse the vaccination without penalty due to the serious nature of the risks associated.

In addition, those people who might be unable or unwilling due to a protected characteristic, those having pre-existing conditions, previous COVID-19 disease, religious objections or otherwise would

be negatively impacted if they were forced to have the COVID-19 vaccine or lose their employment, both of which will also negatively affect their families.

It is very highly likely, from a clinical and immunological perspective, that the vast majority of naturally immune people have robust and long-term immunity, superior to that acquired through vaccination and not requiring constant boosters that are expected to be needed to maintain vaccine-induced immunity. Indiscriminate vaccination of those with naturally acquired immunity is an *unnecessary* medical treatment, exposing these people to no benefit and only risks (acutely and chronically) from the vaccines e.g. blood clots, neurological damage, anaphylaxis, myocarditis, etc. The fact that these complications may only occur in a "minority subset" of vaccinated people does not justify indiscriminate vaccination of those persons, who do NOT benefit from it.

Background- It is recognised that some people may choose not to be vaccinated, even if the vaccination is clinically appropriate for them. In these circumstances they will no longer be able to be deployed in a care home setting and providers will need to manage this in a way which does not destabilise the provision of safe, high quality care. We are asking a question in this consultation about the possible impact on staffing levels, if workers chose to leave the care home workforce rather than be vaccinated. This may be a particular issue in some local areas where uptake is lower.

Q.17. Do you have any concerns about the impact of the policy on the ability of older adult care homes to maintain a safe service?

A.17. **Yes**

Q.18. Which of the following are concerns that you have about the impact of the policy on the ability of older adult care homes to maintain a safe service? (tick all that apply).

A.18. **Check all**

- ✓ Some staff may refuse the vaccine and leave their current job
- ✓ Some staff may leave in protest at the policy, if this conflicts with their personal beliefs
- ✓ Remaining staff may resent the requirement, reducing morale
- ✓ Staff may seek to challenge care homes in court
- ✓ The impact it could have on other measures affecting staff, such as reducing movement between health and care settings
- ✓ The supply of alternative trained staffing available
- ✓ The cost of short-term staff cover
- ✓ The cost of recruiting new permanent staff
- ✓ The time it will take to recruit new permanent staff
- ✓ Other (please specify) -**Vaccines give a false sense of being protected as they have been shown not to prevent infection with or transmission of the virus, but may lead to reduced or no symptoms thus creating an asymptomatic carrier, which could led to a lack of adherence to other more important safety measures being applied. e.g. proper cleaning**

Q.19. Please share any evidence and your sense of the scale of these impacts.

A.19. **Severe impact**

Q.20. Please provide details to support your answer.

A.20. **There is a potential for 20-30% or more of staff leaving their current jobs, many of whom will pursue legal claims against the adult care homes. Moral will suffer and staff shortages will make it difficult for adult care homes to provide the necessary standards of care. Mandating COVID-19 vaccines will result in: injury and deaths; psychological harm from loss of bodily autonomy; social breakdown and division in places of employment; unemployment and poverty to families affected. These consequences may lead to further legal challenges being made against adult care homes which will severely impact their finances may lead to closure.**

Q.21. How do you think we can minimise the impact of this new policy on the workforce? (tick all that apply)

A.21**. None** – on 'other' write -**Do not implement this policy for mandatory vaccination**.

Q.22. Do you think this new policy could cause any conflict with other statutory requirements that care homes must meet?

A.22. Yes

Q.23. Please give further detail on other statutory requirements that this new policy could conflict with. (500 word maximum)

A.23 This new policy will be in breach of existing laws on Informed Consent, which applies to all medical interventions. The principle of consent is an important part of medical ethics and is enshrined in national and international law. It is UNLAWFUL to breach the requirements of Informed Consent and will leave any medical professional so doing open to legal proceedings for Negligence, Misconduct, and a report to their Regulatory body.

The following national law applies:

1. THE PUBLIC HEALTH (CONTROL OF DISEASE) ACT 1984 (section 45E) provides that Regulations made under certain sections of that Act "may not include provision requiring a person to undergo medical treatment .... "Medical treatment" includes vaccinations and other prophylactic treatment". Only Parliament may enact Acts of Parliament and any such Acts are superior to all other sources of law and may not be challenged in the courts.

International laws which would be breached:

1. PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE, 27 January 2021: Paragraph 7.3.1 – "ensure that citizens are informed that the vaccination is NOT mandatory and that no one is politically, socially, or otherwise pressured to get themselves vaccinated, if they do not wish to do so themselves"; and Paragraph 7.3.2 – "ensure that no one is discriminated against for not having been vaccinated, due to possible health risks or not wanting to be vaccinated."

2.THE UNIVERSAL DECLARATON ON BIOETHICS AND HUNMAN RIGHTS 2005 ("UNESCO") – any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free, and informed consent of the person concerned, based on adequate information and special protection should be provided to persons who do not have the capacity to consent. More specifically in relation to the experimental vaccines, scientific research should only be carried out with the prior, free, express, and informed consent of the person concerned. Further – individual(s) or group(s) should not be discriminated against or stigmatised on any grounds, in violation of human dignity.

3. 1949 GENEVA CONVENTION IV Article 32, “mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person” are prohibited. According to Article 147, conducting biological experiments on protected persons is a grave breach of the Convention.

4. NUREMBERG CODE - The “vaccine” fails to meet at least five requirements to be considered a vaccine and is by definition a medical “experiment”. The “experimental” vaccine is in violation of all 10 of the Nuremberg Codes.