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Mandatory covid-19 vaccination for care home workers

Unnecessary, disproportionate, and misguided

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In a profound departure from public health norms, new law will remove the right of care home staff in England to choose whether to be vaccinated against covid-19.¹ The intended next step is a rapid and massive expansion of compulsory vaccination legally to require covid-19 and flu vaccination of all frontline health and social care workers, subject to consultation.²

Official claims that “we are not forcing anyone to take the vaccine” are disingenuous.¹ Care home workers who reject covid-19 vaccination will be dismissed from employment without compensation and be barred from access to their occupation. A regulatory amendment will make it unlawful for care homes to permit care workers to enter the care home premises without proof of full vaccination.¹ This will impose a new duty on all registered providers of residential care to verify the medical status of each worker, including full time and part time agency staff, staff employed directly by a care home, and volunteers. It will give responsibility for compliance and enforcement to the Care Quality Commission (CQC).

The providers’ associations Care England and the National Care Forum, as well as trade unions, have expressed concern that coercion is not the best way forward.³⁻⁶ Vaccination is not a panacea for safety. Safety, according to current regulatory law, is achieved through adequate staffing levels, training, equipment, cleanliness, personal protective equipment, risk assessment, and consultation with staff and residents.⁷ Care home residents accounted for 40% of all covid-19 deaths in the first wave and 26% in the second wave, as a result of long term problems with care home provision, including staff shortages, but also deficiencies in the pandemic response.⁸

Vaccination protects individuals from covid-19 and reduces the risk of transmission of disease to others.⁹ Vaccine efficacy against reinfection after two doses is around 85-90%, efficacy against risk of hospital admission and death from covid-19 is even higher.^{9,10} Crucially, previous infection affords immunity against reinfection and provides comparable protection to vaccination.^{11,12} However, the duration of protection (particularly against new variants) remains unknown after either vaccination¹³ or infection.

The “liberty of non-vaccination” is a principle established in UK law since 1898. It followed vigorous and widespread protest about compulsory vaccination for smallpox that was imposed by the Vaccination Act 1853. Amendments to the Vaccination Act in 1898 and 1907 provided legal recognition of conscientious objection for those who were “honestly opposed” to vaccination and noted, too, the

contribution of improved sanitation to the drop in smallpox.¹⁴

Compulsory vaccination has not been attempted since in the UK. The Coronavirus Act 2020 was careful to avoid changes to the Health and Social Care Act 2008, which excluded mandatory medical treatment, including vaccination, from the secretary of state for health and social care’s power.¹⁵

Wales and Scotland have rejected compulsory vaccination for care workers. Vaccine uptake for care workers in Wales is over 96% for the first vaccination and 85% for the second.¹⁶ “Virtually all” care home staff in Scotland have been vaccinated.¹⁷ Wales and Scotland have invested in systems of mandatory registration for care workers. Care worker registration aims to professionalise the sector, increase access to training, and embed a culture of continuous professional development. In England, successive ministers have rejected national care worker registration. The Department of Health and Social Care and the CQC therefore don’t know who England’s care workers are, and training of the care workforce is woefully inadequate. The Scientific and Advisory Group for Emergencies has recommended a threshold for minimum protection in residential care homes of 80% of care workers and 90% of residents to have had a first vaccination.¹⁸ By 20 June 2021, over 90% of care home residents in England had received two doses of a covid-19 vaccine, 84% of care workers in England had received a first dose, and 72% of care workers had received a second dose.¹⁹

The government’s decision on compulsory vaccination for care home workers was based on claims of low vaccine take-up in some care homes that were subsequently echoed in media reports.²⁰ However, closer scrutiny of most recent data shows that uptake of the first dose of covid-19 vaccination among care workers is below 80% (68-74%) in only three upper tier local authorities in England, but these numbers are an artefact of very low numbers of staff employed by care homes in these three. For instance, the lowest uptake of the second vaccine is in Haringey, with only 355 eligible staff in its older adult care homes compared with many thousands of staff in other local authorities.²¹ Moreover, the government’s own methodology note warns that the numbers of staff and residents who have not received the vaccine cannot be directly derived from its data.²²

Civil liberty is a necessary component of strong public health. Mandatory vaccination is unnecessary and disproportionate. It will not remedy the serious shortcomings of the care sector in England. Safety can be assured only by taking steps to build trust and to mitigate outbreaks. Care workers need paid time in which to access vaccination and good training,

decent wages (including sick pay), personal protective equipment, and strong infection control measures. Mandatory vaccination in residential care is unnecessary, disproportionate, and misguided.

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