



6 May 2022

By email to sullivanc@csp.org.uk

Ms Claire Sullivan, Non-Executive Director, Health and Safety Executive

Dear Ms Sullivan

Respiratory Protective Equipment for Health Care Workers potentially exposed to Covid-19 infectious patients

We write to you in your capacity as a Non-Executive Director of the HSE Board, but also recognising your role as a healthcare professional and former health and safety officer in the Chartered Society of Physiotherapy. It is pleasing to see a healthcare professional committed to supporting members and promoting their interests at such a prominent national level.

We write to you as an Alliance on behalf of bodies committed to, or experts in the health at work of Health Care Workers (HCW). We are sure that you will recognise that clear, unambiguous and competent guidance for employers is paramount to good health and safety standards and best practice.

Above all, we recognise the particular COVID-related hazards faced by physiotherapists at the front line of the pandemic and it is for this reason that the CSP is represented in CAPA, our Alliance. This should not present you with any conflict of interests in respect of your position on the HSE Board, since all that is expected is to present your honestly-held opinions to your colleagues on the Board about the matters set out in this letter.

We welcome the reassurance given by your Chair Sarah Newton, to whom we had written on 25 November 2021. On 15 December 2021 she replied saying that in respect of health and social care workers "We will however continue to provide, on request, DHSC and other government departments with information and advice on workplace and workforce issues... Their health and safety is and continues to be a priority for us."

However we remain very concerned that DHSC and UK-HSA policy, guidance and practice in relation to Respiratory Protective Equipment (RPE) for HCWs is leaving workers at significant risk. It is at odds with the scientific evidence as well as the most recent WHO guidance and fails to "ensure so far as reasonably practicable" the health and safety of HCWs.

We have therefore written again to Sarah Newton expressing our concerns and raising some fundamental questions relating to the legal status of the DHSC/UK-HSA guidance in respect of RPE. We attach this letter, together with our previous correspondence, for your information.

Sir Chris Whitty on 4 January 2022 considered these matters to be 'technical issues'. It would not be acceptable for workers in the construction industry, or the car manufacturing industry to have such "technical issues" guided solely by their own employers' guidance on RPE for example for asbestos or di-isocyanates, while the HSE stayed silent. In fact the HSE has an excellent and internationally enviable track record of publishing Guidance and Approved Codes of Practice (ACoP) on protection from hazards such as these. Correspondingly it is not acceptable for these "technical issues" to just be discussed behind the scenes by HSE and DHSC without HSE publishing its own guidance on the subject.

Ideally this guidance would be published as an ACoP, given the quasi-legal status of an ACoP. This would be consistent with other high-risk hazards to health such as asbestos, legionella, pesticides, lead etc for which ACoPs are published. With the HSE's legally mandated duties, its strong track record in these matters (eg RR619, HSG53), and now two years into the pandemic, HCWs and the public consider that such an HSE publication is long overdue.

The lack of any such specific statutory guidance from HSE on respiratory protection of workers during the pandemic is likely to come under close scrutiny at the forthcoming public inquiry. The draft terms of reference for the inquiry include an item to "consider the impact on health and care sector workers during the pandemic". High amongst the most "significant impacts" are the mortality rates of clinical and non-clinical HCWs, closely followed by the legacy of Long-Covid from which many continue to suffer. The inquiry panel will receive representations that this is directly attributable to the lack of respiratory protection whilst providing direct care to infectious patients as is required by health and safety legislation but not enforced by the HSE.

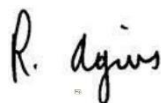
However, we do not believe that these matters should wait for the public inquiry which may take years to conclude. The lack of RPE presents a very real and present danger to HCWs both now and in the immediate future. Lest there be any complacency on this matter, we should all heed the warnings given by Sir Patrick Vallance to MPs at the recent Science and Technology Select Committee (30 March 2022) that the "virus has not stopped evolving. It is in quite an unstable period. The virus is changing rapidly and it has quite a lot of space to evolve into". He further warns of the risk that, unlike omicron, the virus could yet evolve into a variant which has even greater severity.

It is foreseeable that, in line with the Inquiry Rules 2006, you and your colleagues on the HSE Board will be called upon to explain why the Executive has remained silent when it knew, or should have known, that the safety of HCWs was being severely compromised by the use of equipment (surgical masks) that is unsuitable for respiratory protection. We suggest that it would be more pro-active for the HSE Board to act decisively now, and direct the Executive to take a public position through Guidance and/or an ACoP on the health and care sector employers' approaches to the management of risk to worker health as a result of COVID-19, especially with regard to RPE. It is, after all, the responsibility of the HSE Board to set and deliver HSE's strategic aims and objectives.

Yours sincerely,



Dr Barry Jones MD FRCP, Chair of CAPA*
Covid Airborne Protection Alliance



Prof Raymond M. Agius
Emeritus Professor of Occupational and Environmental Medicine

*CAPA

- ARTP - Association for Respiratory Technology & Physiology
- BAPEN – British Association for Parenteral and Enteral Nutrition
- BIASP – British and Irish Association of Stroke Physicians
- BDA – British Dietetic Association
- BOHS - British Occupational Health Society
- BSG - British Society of Gastroenterology
- College of Paramedics
- CSP – Chartered Society of Physiotherapy
- FreshAir NHS
- GMB Union
- HCSA - Hospital Consultants and Specialists Association
- MSDUK Med Supply Drive UK
- NNNG - National Nurses Nutrition Group
- QNI - Queen's Nursing Institute
- RCSLT – Royal College of Speech and Language Therapists
- Unite the Union
- Doctors Association UK