

Mr David Osborn BSc, CMIOSH, SpDipEM
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By email _____

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Dear Mr Osborn,

I write in response to your open letter published in the Byline Times on 9th February 2022, in which you invite HSE to investigate your allegation that members of the UK Infection Prevention and Control (IPC) Cell may have committed offences contrary to the Health and Safety at Work etc Act 1974 by issuing IPC guidance you believe to be “seriously flawed”.

We corresponded at length last year on the IPC guidance and the recommendations it makes about appropriate PPE and respiratory protective equipment (RPE) to be used by healthcare workers likely to be exposed to SARS-CoV-2 and I note you have not sought to reopen this discussion. You have instead asked for confirmation that HSE has taken your allegation seriously and to confirm whether we intend to investigate, so I will confine myself to answering those questions.

I can confirm that senior officials in HSE, including both the Chief Scientific Adviser and Director of Regulation, considered and discussed the points raised in your letter. We have carefully considered your allegation and whether we could or should investigate. We have concluded, however, that this is not a matter for HSE to investigate. The principal reason for this is that we simply do not agree with your assessment that the IPC guidance was and continues to be seriously flawed. As stated in our letter of 18th June 2021, the IPC guidance was consistent with the WHO guidance on the use of masks in healthcare. A criminal investigation of those involved in producing guidance that was in accordance with the world authority in a global pandemic is therefore inappropriate. For an investigation to take place, there would need to be a clearly identifiable contravention of health and safety at work law by an identifiable person.

Although I do not doubt the sincerity with which you hold your views, HSE cannot start an investigation based purely on an opinion, especially one which is not shared by our

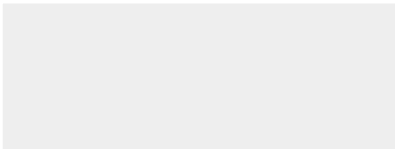
scientific advisers and the many eminent physicians and scientists comprising the UK IPC Cell.

You have also invited me to comment on your contention that HSE has acted improperly because we have not used our regulatory powers to intervene and change the RPE recommendations in the IPC guidance. As you may expect, I do not recognise this as a failing on the part of HSE. The IPC guidance has been continually reviewed as the pandemic has progressed and evidence suggests that the risk of transmission in healthcare workers fell over time. Care needs to be taken, therefore, not to see decisions made in the early months of 2020 through the lens of what we know today about the airborne transmission of COVID-19.

Throughout the pandemic, HSE's position has been that the SARS-CoV-2 virus is primarily a public health matter and as such whilst we may influence, it is not our role to lead or proscribe on matters that are centred on treatment and care such as IPC. HSE has, however, played a leading role in responding to the pandemic through developing and enforcing workplace standards, carrying out spot checks and inspections, following up concerns raised by workers and investigating outbreaks and work-related COVID deaths.

Thank you once again for bringing your views to our attention.

Your sincerely,



Sarah Albon

Chief Executive