

**Written submissions of the British Medical Association (BMA) for the Covid-19 Inquiry**  
**Module 3 Preliminary Hearing on 10 April 2024**

1. The BMA has focused these short, written submissions on the safety of healthcare workers during the pandemic, which is an issue that it will be essential that the Inquiry addresses in detail within its Module 3 proceedings, particularly within the hearings to commence in September 2024.
2. The lack of protection provided to healthcare workers who were exposed to the virus while treating patients is one of the most egregious failures of the pandemic.
3. These submissions highlight a number of critical safety failures, to demonstrate how individually and cumulatively, they placed healthcare workers at unnecessary risk.
4. It is essential that these failings are recognised and acknowledged by the Inquiry so that meaningful and effective improvement and reform can take place.

**The inadequate provision of appropriate PPE and RPE**

5. The BMA has already detailed its very serious concerns about inadequate PPE/RPE within statements and submissions in Modules 1 and 2. However, Module 3 will be the opportunity to address them in detail, and it will be essential that issues such as the lack of availability of FFP3 respirators and the impact this had on doctors and other healthcare workers at the frontline of care are fully explored.
6. Their significance is acknowledged within the technical report produced by the Chief Medical Officer, Government Chief Scientific Advisers, National Medical Directors and public health leaders in December 2022 (the technical report) [INQ000087225]. At INQ000087225\_0367 of the technical report it is stated, *“Management of PPE and best infection control advice in healthcare settings was very difficult. The balance between what would be ideal and what is possible was one tension which is likely to be repeated in future...This issue probably provided the greatest point of tension between individual medical practitioners and those trying to provide a standardised approach to IPC...”*
7. The BMA respectfully submits that the widespread acknowledgment within the profession of the significance of this issue requires thorough consideration by the Inquiry.

**Inadequate IPC**

8. Closely linked to the provision of PPE/RPE, is the standard of Infection Prevention and Control (IPC) within healthcare settings, and the adequacy of IPC guidance.

9. Except for a very brief period, IPC guidance recommended fluid resistant surgical masks (FRSM) as appropriate protection for the routine care of patients with confirmed or suspected Covid-19, outside of a limited list of aerosol generating procedures (AGPs) such as intubation. The BMA has serious concerns about the adequacy of this guidance. FRSM are not PPE and do not protect against aerosol transmission.
10. There was also a failure within IPC guidance to properly recognise the risk of aerosol transmission and to recommend and implement appropriate measures in response. This is an issue of serious and ongoing concern, and one which the BMA has repeatedly raised before the Inquiry.
11. Despite it being predictable in February 2020 that the virus would transmit by aerosol, the requirement for FFP3 respirators when treating patients with Covid-19 was downgraded in March to FRSM and this remains the position in England today.
12. The evidence of Professor Catherine Noakes in Module 2 supports the view that aerosol transmission was overlooked in favour of droplet transmission. Paragraph 10.11 of her witness statement suggests a number of reasons for the reluctance to fully acknowledge this risk, including the significant resource and operational implications for hospital infection control measures.
13. It is perplexing that, just at the point when airborne transmission was becoming more widely acknowledged, a stop order was placed on further procurement of FFP3 respirators from 30 June 2020, when a July 2020 survey by the BMA found that shortages of respirators remained. The failure to adequately respond to the risk of aerosol transmission has had a direct impact on the protection of healthcare workers with 40% of respondents to a BMA survey reporting, as late as July 2021, that they were not being provided with respirators despite working with Covid-19 patients.
14. Professor Dame Jenny Harries offered, in the course of her oral evidence in the Module 2 hearings, to provide written clarification about the effectiveness of FRSM and the BMA asks that this clarification is obtained by the Inquiry within the witness statement of Professor Harries to Module 3.
15. There is evidence to suggest that the safety of healthcare workers was compromised because of a failure to stockpile appropriate equipment, difficulties with procurement, and concerns about cost. The BMA asks the Inquiry to undertake a thorough investigation into these issues, particularly given the widespread concern within the profession (as acknowledged within the technical report).

## **Risk assessments**

16. All employers are subject to a legal duty to undertake suitable and sufficient risk assessments that are proportionate to the nature of the risk, and this includes a requirement to address the protection of groups of individuals who are susceptible to a higher risk to health because of factors such as gender, age, comorbidity, and ethnicity.
17. Failures to undertake suitable and sufficient risk assessments within healthcare settings were widespread and represent a serious breach of a fundamental workplace safeguard.
18. 69% of doctors responding to a BMA survey who contracted Covid-19 in 2020 told the BMA that they had not been individually risk assessed before acquiring Covid-19.
19. BMA surveys indicate that ethnic minority doctors more commonly went without PPE, felt worried or fearful about speaking out, and felt risk assessments had been ineffective. The gender bias within PPE design meant that female doctors often struggled with poorly fitting PPE leaving them exposed. Doctors with a disability or long-term health condition felt less protected than their colleagues, were more likely to experience worsening mental health and some experienced challenges with remote working.

## **Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR)**

20. Regulation 9 of RIDDOR requires the reporting of a disease attributed to occupational exposure to a biological agent. However, despite healthcare workers being at significantly higher risk of Covid-19 infection because of the nature of their work, throughout the pandemic there was significant underreporting of cases of Covid-19 in healthcare settings and, even when cases were reported, the HSE did not always investigate them.
21. Reporting is crucial to understanding infections at health service staff level, how infection spreads within healthcare settings and how to better protect staff and patients, and it can assist healthcare workers with long Covid as a result of an infection acquired at work in seeking access to benefits, such as NHS Injury Allowance or wider compensation. The considerable under-reporting that the BMA believes took place across the NHS has made access to this financial recompense even more difficult for those staff suffering from long Covid who wish to form a claim.

22. It is the BMA's view that a key factor in this under-reporting was that the HSE guidance on RIDDOR set a higher threshold than the regulations themselves and we ask the Inquiry to consider whether reporting was discouraged as a result.

### **Conclusion**

23. While these submissions contain only brief selected examples of the ways in which the safety of healthcare workers were compromised, they evidence systemic failure, which the BMA asks the Inquiry to fully examine.

24. Moreover, these are significant examples of failure that adversely impacted the BMA's members and healthcare workers more generally. Sadly, doctors and healthcare workers lost their lives due to inadequate protection at work, and others have suffered and continue to suffer significant physical and mental health impacts from working throughout the pandemic, losing far too many patients and colleagues, and feeling exposed and without adequate protection on a daily basis.

25. For doctors and healthcare workers who have contracted long Covid as a result of catching the virus at work, the impact is ongoing and potentially career ending.

26. These are extremely serious issues that require careful scrutiny by the Inquiry.

27. Finally, the BMA wishes to raise two additional points for the Inquiry's consideration.

28. In relation to the scope of Module 3, the BMA is concerned to ensure that the impact of the pandemic on all sectors of the health system and those working within in it, are considered. In particular, it is important that the significant changes and disruption to mental health services are included as well as the experience of those working in crucial roles in community healthcare settings. We seek reassurance from the Inquiry that Module 3 will look at the impact on healthcare in the round and not solely focus on hospitals providing physical healthcare services and general practice, although these are critically important.

29. The BMA encourages the Inquiry to take account of a range of views from each of the Spotlight Hospitals, including frontline staff as well as those in senior management positions, and where there are differences of opinion to ensure that they are considered and explored within the Inquiry proceedings.

27 March 2024