**Ms XX**

**CEO: NHS Trust**

**Re: Statutory risk assessments to ensure the health and safety of Trust staff with respect to Covid-19 risks.**

**Dear XX**

I am writing to you because we both share the common goal of protecting the health of our colleagues by minimising the spread of SARS COV-2 within healthcare settings.

As you will know, employers have a statutory responsibility to protect the health and well-being of their employees at work. These legal responsibilities – promulgated in both The Management of Health and Safety at Work Regulations (1999)[[1]](#endnote-2) and Control of Substances Hazardous to Health Regulations (COSHH)[[2]](#endnote-3) – precede and remain paramount despite any central guidance on infection prevention and control (including that published by PHE).

Both regulations clearly indicate that employers are legally required to carry out suitable and sufficient risk assessments in the face of a potential hazard to health in order to identify the risks to employees and to third parties. These risk assessments must be specific to the groups of employees, i.e., identifying those that may be particularly exposed or vulnerable for whom additional measures should be taken. Having identified the risks, measures must be identified and implemented to minimise and mitigate those risks.

Assessing employees’ risk is an ongoing process and must be updated in the face of evidence of new or developing risks, as often as required. For example, following evidence of changing exposure or of alternative control measures. This should be done in consultation with workers and representatives. These legal responsibilities were not suspended during the pandemic and have applied throughout, including at present and are explained clearly in the BMA’s recently updated infection control guidance.[[3]](#endnote-4)

This is particularly important when considering the appropriate level of Respiratory Protective Equipment to offer employees. There is mounting evidence of airborne transmission of SARS COV-2 outside of "Aerosol Generating Procedures" and this is a risk that employers – given the statutory responsibilities we have laid out above - must account for in their decision regarding provision of PPE, notwithstanding PHE guidance.

We would therefore be grateful if you could send us the most recent suitable and sufficient risk assessment that has been carried out in relation to the management of infection risk to staff and in the workplace generally. A suitable and sufficient risk assessment is one in which workers and their representatives have been consulted[[4]](#endnote-5), as such I or other representatives of my trade union would be happy to liaise with you regarding COVID-19 risk assessments. Equally, if there is not a sufficiently up to date risk assessment, we request that one is carried out with the utmost urgency and sent to us along with confirmation of when the risk mitigation measures it has identified will be implemented.

We look forward to hearing from you.

Yours Sincerely,

XX

1. UKGOV – ‘The management of Health and Safety Regulations at Work 1999, <https://www.legislation.gov.uk/uksi/1999/3242/regulation/3/made> [↑](#endnote-ref-2)
2. Health and Safety Executive – ‘How to carry out a COSHH risk assessment’

   <https://www.hse.gov.uk/toolbox/harmful/coshh.htm> [↑](#endnote-ref-3)
3. BMA ‘Reducing Infection in Healthcare Settings’, <https://www.bma.org.uk/media/4376/bma-covid-19-reducing-infection-risk-to-staff-in-healthcare-settings-august-2021.pdf> [↑](#endnote-ref-4)
4. Health and Safety Executive, ‘What the Law says about assessing risks’, <https://www.hse.gov.uk/managing/delivering/do/profiling/the-law.htm> [↑](#endnote-ref-5)