**CEO: NHS Trust**

**Re: Ensuring the health, safety and welfare of healthcare workers**

I am writing to you on behalf of the British Medical Association following the publication of the most recent update to the national infection prevention control guidance. We know that you share our aim of ensuring that healthcare workers are properly protected at work and share our appreciation of how acute the situation within healthcare settings is at present, as we move into winter and with the emergence of the new Omicron variant.

As an employer it is your responsibility to ensure the safety and wellbeing of your employees when at work. Employers have a duty, laid out in the Health and Safety at Work Act 1974, to *‘ensure so far as is reasonably practicable the health, safety and welfare at work of all of his employees’.* This means that it is a statutory responsibility for employers to identify any hazards to their employees’ health at work and to take steps to mitigate these hazards; this legal responsibility remains paramount over and above any national guidance - a fact which is acknowledged within the IPC guidance itself. There is also relevant secondary legislation such as the Management of Health and Safety at Work regulations that further emphasise this responsibility. Employers also have a duty to make reasonable adjustments for any employee or worker who has a disability for the purposes of the Equality Act 2010.

While the updated IPC guidance now recognizes that use of RPE may be necessary where transmission risk remains unacceptably high following risk assessment, it still does not ensure that healthcare workers are provided with the appropriate level of RPE at all times and therefore does not ensure their safety at work. Given the apparent increased transmissibility of the omicron variant the BMA would like to strongly encourage you the provide RPE for all healthcare workers working with or around COVID positive patients. There is significant and constantly growing evidence that airborne transmission of SARS COV 2 is a major driver of infection. In our letter of 7 July 2021, we notified you of the significant evidence that surgical masks – such as those routinely offered to healthcare staff working with COVID patients outside of AGPs – do not offer adequate protection against this route of transmission. Proper respiratory equipment such as regular use of FFP3 masks (respirators) is required to provide adequate protection and may substantially reduce the risk of infection to employees. These measures have been adopted by a number of Trusts and have since demonstrated that this is feasible and indeed reasonably practicable. We attach a copy of our 7 July 2021 letter for ease of reference. Failure to provide adequate protection exposes healthcare staff to a substantial and avoidable risk.

It also appears that protection against symptomatic disease from vaccination is reduced in the case of Omicron, as such we believe it is important to reconsider the type and levels of non-pharmaceutical interventions in healthcare settings. Employers’ responsibilities have not been suspended or altered in any way by national guidance on infection control principles. In particular you should ensure that all healthcare workers in your employ have access to the appropriate level of respiratory protective equipment, when working in an environment likely to involve COVID positive patients this invariably means FFP3 masks.

We remind you of your legal obligation 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. These measures are likely to range from ventilation and high efficiency filtration to remote working where appropriate.

We would be grateful if in response to this letter you could outline the steps you intend to take to ensure that healthcare workers in your employ have the necessary level of protection at work and in particular respiratory protective equipment and if FFP3 masks or equivalent (or better) are not to be provided, the reasons why the protection offered is sufficient to comply with your duties as an employer to adequately mitigate the risks to staff.