Your address

Your contact details

Date of letter

Address

(Send a copy at a minimum, to the teacher, the head master and to the head of the Board of Governors)

Re: Civil Procedure Rules[1] : COVID-19 Gillick Competency, Pre-Action letter of claim:

Dear (insert teacher's name) and (insert school's name) and (insert the head of the Board of Governors)

I write in connection with concerns that I have regarding proposals to assess my child for Gillick Competency for emergency approved COVID-19 vaccination and to vaccinate my child on school premises.

The initial cause of action is that the UK Government, including Public Health England, have published guidance that makes a negligent mistake of law that Gillick Competency can occur for an experimental COVID-19 vaccinations on emergency approval that have not completed clinical trials, for minors under the age of 16. Also, the negligent suggestion that the statutory capacity of young adults above the age of 16 and under the age of 18 vitiates parental responsibility.[2]

The vaccinations in question have not completed clinical trials. This engages the standards contained in Part 4 of Schedule 1 of The Medicines for Human Use (Clinical Trials) Regulations 2004,[3] which sets the minimum of requiring parental consent for

[1] Royal Courts of Justice Practice Direction – Pre-Action Conduct and Protocols https://www.justice.gov.uk/courts/procedure-rules/civil/rules/pd_pre-action_conduct

[2] Public Health England "COVID-19 vaccination programmeInformation for healthcare practitioners" https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1009174/COVID-19_vaccination_programme_guidance_for_healthcare_workers_6_August_2021_v3.10.pdf

[3] Part 4 of Schedule 1 of The Medicines for Human Use (Clinical Trials) Regulations 2004 https://www.legislation.gov.uk/uksi/2004/1031/schedule/1/part/4/made

a minor aged under 16's. Part 2 engages the Declaration of Helsinki for all subjects participating in clinical trials, providing a more exacting test of informed consent, which must apply to emergency approval treatments that have not completed clinical trials.

Even if Gillick Competency is in our view unlawfully assumed in light of ongoing clinical trials or, even if a child is over 15 with statutory competency, I nonetheless have parental responsibility and right to be involved in the informed consent process, save for lawful reasons that vitiate trespass to the person. This is because the informed consent process has the potential of creating civil and criminal liability that a child under the age of 18 is not competent to litigate. I therefore have parental responsibility and right to oversee the informed consent process and consent to it if I have reason to believe that informed consent will not or cannot be obtained. This parental right is caused by my parental responsibility to be my child's litigant friend should they wish to make a claim and as a result of my right to nonetheless bring a claim on their behalf.

For the reasons set out below and in the summary of claim, I require that you by return confirm in writing that:

- Gillick Competency will not be assessed for my child who is under 16 years of age due to the vaccinations not yet completing clinical trials and the lack of long term data on safety and the lack of material risk covid poses for anyone under 18.
- I will nonetheless be involved in the informed consent process if Gillick Competency is assumed or if my child is above 15 years of age.
- My child will not be vaccinated with any emergency use approved COVID-19 vaccination without me the Parent providing valid informed consent in the case of a child under the age of 16 and without me being satisfied that valid informed consent has nonetheless been obtained for a child considered to be Gillick Competent or for a competent child older than 16.
- I will be informed of any date that emergency approved COVID-19 vaccinations will occur on site at school so that I can take steps to ensure that no negligent mistakes occur.

Should you fail to satisfy my concerns in writing, I will consider you have caused the civil tort and or the potential summary criminal offence of assault by intentionally, recklessly or negligently causing me, a person with parental responsibility for the child, to apprehend unlawful violence against my child; in the form of medical treatment without valid informed consent that may constitute trespass to the person and by doing so causing the tort of negligent application of law. The purpose of this letter is for you to **cease and desist** from these torts and the potential criminal offence.

This is because medical treatment and testing without valid informed consent, in causing trespass to the person, causes the civil tort and summary criminal offence of battery. The indictable offences of actual or grievous bodily harm, civil tort of wrongful death or indictable offence of manslaughter may also occur if vaccine injury occurs. You can be held responsible for these torts and offences by inducing them to occur. Financial damages in the form of vaccine injury can be recovered if a tort is confirmed by the courts.[4]

I will at a minimum sue on behalf of my child for a declaration as to legal rights and or for an injunction that will seek conditional prohibition of any vaccination and for recovery of my legal costs where permitted.

Any action may also be taken against the school authority under vicarious liability. Having a third party carry out the vaccination is no defence. The Supreme Court held in Woodland v Essex County Council [2013] UKSC 66[5] that a school authority (a local authority, board of governors or trust) is responsible in situations where a duty is provided through a third party, whether on or off-site. It remains the school authority's obligation because the external agent contracted to provide the service does this on behalf of the school authority, therefore duty of care remains with the school authority and cannot be delegated.

"The work required to perform such a duty may well be delegable .... But the duty itself

[4] CPS "Offences against the Person, incorporating the Charging Standard"
https://www.cps.gov.uk/legal-guidance/offences-against-person-incorporating-charging-standard
[5] Woodland v Essex County Council [2013] UKSC 66
https://www.supremecourt.uk/cases/uksc-2012-0093.html

remains the defendant's. Its delegation makes no difference to his legal responsibility for the proper performance of a duty which is in law his own".

However, should you believe that this is not the case, please advise your reasons and provide details of who you believe does have the duty of care over my children regarding emergency use COVID-19 vaccination.

Other parents who may not be aware of their children's rights regarding trespass against the person may nonetheless take similar action within the six-year statute of limitation, with negligence claims having a three-year limitation.

I trust that none of the above are necessary and that you will provide assurances by return.

I reserve the right to apply to a County Court with or without notice for a declaration and or an injunction in the event that the written assurances are not given.

Yours sincerely

[Insert Parent or Guardian names]

Summary of claim:

In the event that you do not confirm in writing the four points detailed in the letter, I have the following claim.

The leading cases on consent by a minor for medical treatment and parental responsibility in that respect are Gillick v West Norfolk and Wisbech Health Authority [1986] AC 112[6] and Bell v Tavistock [2021] EWCA Civ 1363[7].

The following excerpt from the Tavistock judgement at paragraph 92 is helpful:

*"Clinicians will inevitably take great care before recommending treatment to a child and be astute to ensure that the consent obtained from **both child and parents** is properly informed by the advantages and disadvantages of the proposed course of treatment and in the light of evolving research and understanding of the implications and long-term consequences of such treatment. Great care is needed to ensure that the necessary consents are properly obtained. As Gillick itself made clear, clinicians will be alive to the **possibility of regulatory or civil action** where, in individual cases, the issue can be tested."*

Also see paragraph 93:

*"Those clinicians must satisfy themselves that the **child and parents** appreciate the short and long-term implications of the treatment upon which the child is embarking. So much is uncontroversial. But it is for the clinicians to exercise their judgement knowing how important it is that consent is properly obtained according to the particular individual circumstances, as envisaged by Gillick itself, and by reference to developing understanding in this difficult and controversial area. The clinicians are subject to professional regulation and oversight."*

The Tavistock ruling objected to rigid rules on age regarding competency, reinforcing the government's Green Book on vaccination, which opines that Gillick Competency is not automatic. It states in Chapter 2 that *"Where immunisations are routinely offered*

[6] Gillick v West Norfolk and Wisbech Health Authority [1986] AC 112 https://www.bailii.org/uk/cases/UKHL/1985/7.html
[7] Bell v Tavistock [2021] EWCA Civ 1363 https://www.bailii.org/ew/cases/EWCA/Civ/2021/1363.htm

*in the school setting, consent differs depending on the age and competence of the **individual** child or young person."*[8]

In this case, the principal issue regarding Gillick Competency is the experimental and novel nature of the COVID-19 vaccinations. Whereas Moderna's Spikevax and Pfizer/BioNTech COVID-19 vaccines have been provided emergency use approval by MHRA for children from 12 years of age they have nonetheless not yet completed Stage III trials[9] and there is no history of prior mRNA vaccination deployment on human subjects.

This differs substantially from the puberty blockers in the Tavistock case, that have been used extensively in other circumstances for many years, such as for precocious puberty. In Tavistock we see off label use of a medicine that itself is not experimental whereas with COVID-19 vaccinations we see emergency use of vaccines that have not completed clinical trials and that have no history of long-term human application. Under 18's are also in a low risk category, which caused the JCVI to advise against vaccinating children[10]. The Health Protection (Vaccination) Regulations 2009 place a duty on the Secretary of State for Health in England to ensure, so far as is reasonably practical, that the recommendations of JCVI are implemented.[11]

This distinction is reflected in the revised Code of Practice to court applications relating to medical treatments.[12] It states that it is highly probable that a court opinion should be sought where human rights are engaged, which may occur if informed consent is in question. Particularly where the medication is experimental or innovative, involving a significant question in an untested or controversial area of medicine.

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[8] Chapter 2, Vaccination Green Book "Consent"
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/994850/PHE_Greenbook_of_immunisation_chapter_2_consent_18_June21.pdf
[9] London School of Hygiene & Tropical Medicine "COVID-19 vaccine tracker"
https://vac-lshtm.shinyapps.io/ncov_vaccine_landscape/
[10] JCVI statement on COVID-19 vaccination of children aged 12 to 15 years (3 September 2021)
https://www.gov.uk/government/publications/jcvi-statement-september-2021-covid-19-vaccination-of-children-aged-12-to-15-years/jcvi-statement-on-covid-19-vaccination-of-children-aged-12-to-15-years-3-september-2021
[11] The Health Protection (Vaccination) Regulations 2009
https://www.legislation.gov.uk/uksi/2009/38/made
[12] Applications Relating to Medical Treatment: Guidance Authorised by The Honourable Mr Justice Hayden, The Vice President of The Court of Protection.
https://www.bailii.org/ew/cases/EWCOP/2020/2.html

A person with parental responsibility[13] for the child is responsible for providing valid informed consent when a child is not Gillick Competent for a treatment. However, in AB v Tavistock, et al. [2021] EWHC 741 (Fam)[14] the High Court held that a child could nonetheless be competent to withdraw consent despite parental consent. This is because there is a need to give proper weight to the wishes, feelings, beliefs and values of patients lacking capacity.[15] In a recent ruling by the Court of Protection, SS v Richmond [2021] EWCOP 31,[16] it was found that a dementia patient who lacked capacity but who previously objected to vaccination could not be forcibly treated with a COVID-19 vaccine.

When Gillick Competency is assumed, the teacher and nurse or doctor do not obtain parental responsibility, the decision at law becomes the child's. The Parent nonetheless retains a right to oversee the informed consent This is due to the parental responsibility and right to be their child's litigant friend should they wish to make a claim and as a result of their parental responsibility and right in any case to bring a claim on their behalf if the person with parental responsibility has reason to believe that valid informed consent has not been obtained, causing a trespass against the person. This parental responsibility occurs because children under the age of 18 are not competent to instruct solicitors and take legal action on their own behalf. As set out in Gillick, with Blackstone cited, parental rights flow from parental responsibilities such as this.

The GMC[17] and Department of Health and Social Care[18] provide guidance on

[13] s.2 Children Act (1989) "Parental Responsibility"
https://www.legislation.gov.uk/ukpga/1989/41/section/2
[14] AB and CD and The Tavistock and Portman NHS Foundation Trust and University College London NHS Foundation Trust and XY [2021] EWHC 741 (Fam)
https://www.bailii.org/ew/cases/EWHC/Fam/2021/741.html
[15] Wye Valley NHS Trust v B [2015] EWCOP 60
https://www.bailii.org/ew/cases/EWCOP/2015/60.html
[16] SS v Richmond [2021] EWCOP 31 https://www.bailii.org/ew/cases/EWCOP/2021/31.html
[17] GMC Factsheet: Key legislation and case lawrelating to Decision making and consent
https://www.gmc-uk.org/-/media/documents/factsheet---key-legislation-and-case-law-relating-to-decision-making-and-consent-84176182.pdf
[18] DHSC "Reference guide to consent for examination or treatment (second edition)"
https://www.gov.uk/government/publications/reference-guide-to-consent-for-examination-or-treatment-second-edition

informed consent. The NHS also state that valid informed consent comprises the following elements.[19]

- ***Voluntary*** *– the decision to either consent or not to consent to treatment must be made by the person, and must not be influenced by pressure from medical staff, friends or family (or employer)*

- ***Informed*** *– the person must be given all of the information about what the treatment involves, including the benefits and risks, whether there are reasonable alternative treatments, and what will happen if treatment does not go ahead*

- ***Capacity*** *– the person must be capable of giving consent, which means they understand the information given to them and can use it to make an informed decision*

It is difficult to see how consent can be entirely voluntary in this climate of coercion and persuasion. A school is less likely to be an appropriate setting to conduct vaccination in this respect due to the school's role in educating children about the pandemic and as a result of peer pressure. There are also time constraints and teachers do not have automatic access to medical records or training to understand them. A more appropriate setting for a vaccination can be a GP's surgery where the GP has a knowledge of the child, where medical records are to hand and where the advice is given in the privacy of a Dr's office, potentially with a person with parental responsibility present, without teacher influence or peer pressure.

You would also have to assess the impact of wider sources of coercion. For example, advertisements are encouraging vaccine take up for reasons unrelated to an individual's health but to protect others[20] and vaccine passports are being proposed for access to basic rights and liberties such as international travel and large events.

[19] NHS UK "Consent to treatment" https://www.nhs.uk/conditions/consent-to-treatment/
[20] New campaign launches urging the public to get COVID-19 vaccine https://www.gov.uk/government/news/new-campaign-launches-urging-the-public-to-get-covid-19-vaccine

This social pressure, not properly taken into account, could be found to cause a person to lack capacity if it were found to cause duress, the threshold for which will be lower for impressionable children. This is because "Duress, whatever form it takes, is a coercion of the will so as to vitiate consent.".[21]

The leading case on the nature of informed consent is Montgomery v Lanarkshire Health Board [2015] UKSC 11,[22] where the Supreme Court held that doctors are under a duty to take reasonable care to make sure that the patient is aware of any material risks involved in any recommended treatments. The test for materiality was whether a reasonable person in the patient's position would be likely to attach significance to the risk, or that the doctor was or should have been reasonably aware that the particular patient would be likely to attach significance to it.

A doctor's advisory role involves making sure that the patient understands the anticipated benefits and risks of the proposed treatment and any reasonable alternatives, so that they can make an informed decision. Doctors must not withhold information because they think it might cause the patient to opt for treatment that the doctor does not consider is in the patient's best interests or because they think it might cause the patient to opt out of treatment contrary to recommendation.

There is also a duty to remove or minimise jargon, so that the information given to patients is clear and can be understood[23]. This is increasingly challenging the younger the person, with children being unlikely to be able to pronounce let alone understand relevant medical conditions such as myocarditis.

Once informed, a mentally competent patient has an absolute right to refuse to consent to medical treatment for any reason, rational or irrational, or for no reason at

[21] Hirani v Hirani: [1982] EWCA Civ 1 https://www.bailii.org/ew/cases/EWCA/Civ/1982/1.html
[22] Montgomery v Lanarkshire Health Board [2015] UKSC 11
https://www.supremecourt.uk/cases/docs/uksc-2013-0136-judgment.pdf
[23] Thefaut v Johnston [2017] EWHC 497 (QB)
https://www.bailii.org/ew/cases/EWHC/QB/2017/497.html

all, even where that decision may lead to their death.[24] [25] That refusal can be against the advice of doctors who should not allow the question of mental capacity to be confused with the consequences of a decision. The doctor must not allow their emotional reaction to or strong disagreement with the decision of the patient or person with parental responsibility to cloud their judgment in answering the question of whether the patient has the mental capacity to make the decision.[26] [27]

A more exacting test of informed consent is also required in this case due to the vaccines having emergency authorisation, with clinical trials remaining incomplete. This engages the standards set out in The Medicines for Human Use (Clinical Trials) Regulations 2004. Part 4 of Schedule 1[28] applies to minors enrolled in clinical trials. It requires that a person with parental responsibility has had an interview where they are provided opportunity to understand the objectives, risks and inconveniences of the trial and conditions under which it will be conducted. They must be informed of the right to withdraw their child from the trial at any time and no form of incentive can be given. Gillick Competency cannot therefore apply for experimental treatments where clinical trials are not yet complete. In such circumstances a person with parental responsibility has reasonable expectation that they will be afforded the same rights as if the treatment were being used as part of the ongoing clinical trials.

Part 2 applies to all clinical trials. It requires amongst other things that any clinical trial be conducted in accordance with the ethical principles that have their origin in the Declaration of Helsinki.[29] [30] This followed the UK adopting EU Directive 2001/20/EC that acknowledges the Declaration of Helsinki as the accepted basis for the conduct of clinical trials in humans to protect human rights and the dignity of the human being

[24] Sidaway vs Bethlem [1985] AC 871 https://bailii.org/uk/cases/UKHL/1985/1.html
[25] Ms B v An NHS Hospital Trust [2002] EWHC 429 (Fam) (22nd March, 2002) https://www.bailii.org/ew/cases/EWHC/Fam/2002/429.html
[26] Ms B v An NHS Hospital Trust [2002] EWHC 429 (Fam) (22nd March, 2002)
[27] Kings College Hospital NHS Foundation Trust vs C [2015] EWCOP 80 https://www.bailii.org/ew/cases/EWCOP/2015/80.html
[28] Part 4 of Schedule 2 of Medicines for Human Use (Clinical Trials) Regulations 2004 https://www.legislation.gov.uk/uksi/2004/1031/schedule/1/part/4/made
[29] Word Medical Association "Declaration of Helsinki – Ethical Principles for Medical Research Involving Human Subjects" https://www.wma.net/policies-post/wma-declaration-of-helsinki-ethical-principles-for-medical-research-involving-human-subjects/
[30] "Declaration of Helsinki" means the Declaration of Helsinki adopted by the World Medical Assembly in June 1964, as amended by the General Assembly of the Association in October 1975, October 1983, September 1989 and October 1996.

and with regards to data protection.[31] This requirement is also found in EU Directive 2005/28,[32] which states that "Clinical trials shall be conducted in accordance with the Declaration of Helsinki on Ethical Principles for Medical Research Involving Human Subjects, adopted by the General Assembly of the World Medical Association (1996).". This higher standard underscores the importance of nonetheless affording a person with parental responsibility a right to oversee the informed consent process.

The declaration requires amongst other things that each potential subject must be adequately informed of the aims, methods, sources of funding, any possible conflicts of interest, institutional affiliations of the researcher, the anticipated benefits and potential risks of the study and the discomfort it may entail, post-study provisions and any other relevant aspects of the study. s.16 requires that provision has been made for insurance or indemnity to cover the liability of the investigator and sponsor which may arise in relation to the clinical trial.

Failure to comply with the conditions and principles in Schedule 1 of the 2004 Act cause a person involved in conducting a trial to commit the summary or indictable offence set out in s.48. Sentencing can include an unlimited fine, imprisonment for a term not exceeding two years or both. Whereas this may not apply directly in the case of emergency use of the experimental treatment outside of a clinical trial, the standards within the 2004 regulations will nonetheless assist the courts regarding whether valid informed consent has been obtained and with regards to sentencing.

For a child to be capable of Gillick Competency they would need to understand the vaccine's mode of action, its experimental nature, its known effects and potential known and unknown risks. UK Government's Vaccine Green Book, Chapter 14a[33] states that:

"The Pfizer BioNTech and Moderna COVID-19, vaccines are nucleoside-modified messenger RNA (mRNA) vaccines. mRNA vaccines use the pathogen's genetic code

[31] https://ec.europa.eu/health/sites/default/files/files/eudralex/vol-1/dir_2001_20/dir_2001_20_en.pdf
[32] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:091:0013:0019:en:PDF
[33] UK Government "Green Book; Immunisation against infectious disease" Chapter 14A "Coronavirus (COVID-19) vaccination information for public health professionals."
https://www.gov.uk/government/publications/covid-19-the-green-book-chapter-14a

as the vaccine; this then exploits the host cells to translate the code and then make the target spike protein. The protein then acts as an intracellular antigen to stimulate the immune response."

These vaccines are therefore complex experimental gene therapies that many teachers, let alone pupils, will struggle to understand. The complex interactions that occur in such technology alongside the effects of diverse ingredients and the potential toxicity of the spike protein could explain the volume and severity of adverse events presently being reported on an ongoing basis to MHRA's Yellow Card reporting system.[34]

The Green Book raises concerns about Contraindications including anaphylaxis, allergies and paediatric multisystem inflammatory syndrome. It states that patients with PEG allergy should not be vaccinated with Pfizer BioNTech or Moderna vaccines, except on the expert advice of an allergy specialist. That as a result, the vaccine should be administered in a setting with full resuscitation facilities (e.g. a hospital), and a 30 minute observation period is recommended. A challenge with vaccinating children in this respect is that the likelihood of an undiagnosed allergy increases the younger the child.

Other conditions raised as potential concern in the Green Book include thrombosis, myocarditis, pericarditis, Guillain-Barré syndrome, Lymphadenopathy in the axillary, supraclavicular or cervical nodes and capillary leak syndrome. Subjects should also be informed of exclusion criteria for the ongoing trials, in case they have a risk factor that is not being assessed. Clinical trials have for example excluded those who have had COVID-19, pregnant and breast-feeding women and the immunocompromised including HIV positive.[35] [36] [37]

[34] UK Government "A weekly report covering adverse reactions to approved COVID-19 vaccines" https://www.gov.uk/government/publications/coronavirus-covid-19-vaccine-adverse-reactions
[35] Pfizer COVID-19 Vaccine Study GENERAL ELIGIBILITY CRITERIA UPDATE September 2020 http://www.careidresearch.com/documents/General_Eligibility_Criteria_r2_TPMedits_09172020.pdf
[36] A Study to Evaluate Efficacy, Safety, and Immunogenicity of mRNA-1273 Vaccine in Adults Aged 18 Years and Older to Prevent COVID-19 https://clinicaltrials.gov/ct2/show/NCT04470427
[37] Oxford COVID-19 vaccine to begin phase II/III human trials https://www.ox.ac.uk/news/2020-05-22-oxford-covid-19-vaccine-begin-phase-iiiii-human-trials

Alternative treatments must be discussed. For example, lifestyle changes related to obesity[38] and vitamin D status[39] as alternatives to vaccination in at risk groups. Other prophylactic and therapeutic treatments should also be discussed along with evaluation of all of the vaccines that are available.

A person must be advised of what happens if the treatment does not go ahead. In Thefaut v Johnston [2017] EWHC 497 (QB)[40] , the High Court held that the option of not under having a treatment must be set out. This requires discussion of the very low risk of COVID-19 for anyone under the age of 44. For example, Table 1 of Chapter 14A of the Government's Green Book shows a zero percent case infection fatality ratio for 15 to 44 year olds. The Green Book states that "Fewer than 5% of COVID-19 cases are amongst children and in general they appear to exhibit mild disease" and that "they are also unlikely to be key drivers of transmission at a population level". Therefore with material risk from COVID-19 being negligible for children, the material risk from the vaccine means that the precautionary principle must apply.

Parents and pupils also ought to be made aware that COVID-19 has been downgraded from High Consequence Infection Disease (HCID) status since 19/03/20 by the 4 nations public health HCID group. They determined that several features had changed; in particular, more information being available about mortality rates (low overall), and that there is now greater clinical awareness and a specific and sensitive laboratory test, the availability of which continues to increase.[41] The Advisory Committee on Dangerous Pathogens (ACDP)[42] was also of the unanimous opinion that COVID-19 should no longer be classified as an HCID.[43]

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[38] UK PHE "Excess weight and COVID-19: insights from new evidence" https://www.gov.uk/government/publications/excess-weight-and-covid-19-insights-from-new-evidence
[39] UK DHSE "Vitamin D and clinically extremely vulnerable (CEV) guidance" https://www.gov.uk/government/publications/vitamin-d-for-vulnerable-groups/vitamin-d-and-clinically-extremely-vulnerable-cev-guidance
[40] Thefaut v Johnston [2017] EWHC 497 (QB) https://www.bailii.org/ew/cases/EWHC/QB/2017/497.html
[41] Public Health England "Status of COVID-19" https://www.gov.uk/guidance/high-consequence-infectious-diseases-hcid#status-of-covid-19
[42] UK Government "Advisory Committee on Dangerous Pathogens" https://www.gov.uk/government/groups/advisory-committee-on-dangerous-pathogens
[43] ACDP meeting minutes 13/03/20 https://www.whatdotheyknow.com/request/677059/response/1616791/attach/html/5/ACDP%20COVID%2019%20M02.pdf.html

There is also only "increasing evidence that vaccines prevent infection and transmission." according to Public Health England.[44] Pupils should not therefore be misinformed that vaccination guarantees protection from them for friends and family. That information would be in any event impermissible third-party pressure.

As referenced by the Court of Appeal in the Tavistock case, Gillick itself made clear that clinicians will be alive to the possibility of regulatory or civil action where, in individual cases, the issue of valid informed consent can be tested. In R Wilkinson v Broadmoor [2001] EWCA Civ 1545, [45] Lady Justice Hale, Referencing Richardson v LCC (1957),[46] warned of negligent mistake of law as to the extent of the legal authority conferred by a Statute. She stated with regards to medical intervention where valid informed consent had not been obtained, in this case forcibly injecting the sectioned plaintiff with anti-psychotic drugs, that:

"The people who carry out such assaults, and in particular the responsible medical officer who requires it to be done, may be sued in the ordinary way for the tort of battery. The fact that those response are exercising statutory powers makes no difference".

Lord Keith of Kinkel stated in Airedale N.H.S. Trust v Bland [1993] AC 789,[47] citing F. (Mental Patient: Sterilisation) [1990] 2 AC 1[48] that "it is unlawful, so as to constitute both a tort and the crime of battery, to administer medical treatment to an adult, who is conscious and sound of mind, without his consent. Such a person is completely at liberty to decline to undergo treatment, even if the result of doing so will cause death."

There is also no need to prove vaccine injury to prosecute. In Chester v Afshar [2004] UKHL 41[49] The House of Lords decided that a doctor's failure to fully inform a patient

[44] Public Health England (09/09/21) "COVID-19 vaccine surveillance report Week 36" https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1016465/Vaccine_surveillance_report_-_week_36.pdf
[45] R Wilkinson v Broadmoor: [2001] EWCA Civ 1545 https://www.bailii.org/ew/cases/EWCA/Civ/2001/1545.html
[46] Richardson v London County Council [1957] 1 WLR 751
[47] Airedale N.H.S. Trust v Bland https://www.bailii.org/uk/cases/UKHL/1993/17.html
[48] F. (Mental Patient: Sterilisation) [1990] 2 AC 1 https://www.bailii.org/uk/cases/UKHL/1991/1.html
[49] Chester v Afshar [2004] UKHL 41 https://www.bailii.org/uk/cases/UKHL/2004/41.html

of all surgery risks vitiated the need to show that harm would have been caused by the failure to inform.

The principle of valid informed consent and bodily integrity is found in all common law jurisdictions due to it originating from ancient fundamental rights relating to trespass to the person. This can be tracked all the way back to the earliest known written English laws, the 7th century Kentish laws of King Æthelberht[50] that amongst other things classified and recommended civil penalties for various types of battery to provide an alternative to feuds.

In Cardozo J in Schloendorff v Society of New York Hospital 105 NE 92 (NY, 1914),[51] Justice Benjamin Cardozo, subsequently an influential Associated Justice of the US Supreme Court wrote the following opinion in the New York Court of Appeals that:

"Every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without his patient's consent commits an assault for which he is liable in damages. This is true except in cases of emergency where the patient is unconscious and where it is necessary to operate before consent can be obtained."

In Reibl v. Hughes, [1980] 2 S.C.R. 880, the Canadian Supreme Court upheld a trial decision to award John Reibl civil damages in both battery and negligence from an operation that left him paralysed on the grounds of informed consent not being obtained.[52]

In Rogers v Whitaker (1992) the High Court of Australia upheld a trial decision to award Christopher Rogers damages for negligence where eye surgery caused blindness without informed consent being obtained.[53]

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[50] Law of Æthelberht https://en.wikipedia.org/wiki/Law_of_Æthelberht
[51] Schloendorff v Society of New York Hospital 105 NE 92 (NY, 1914) https://biotech.law.lsu.edu/cases/consent/schoendorff.htm
[52] Reibl v. Hughes, [1980] 2 S.C.R. 880 https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2563/index.do
[53] Rogers v Whitaker [1992] HCA 58; (1992) 175 CLR 479(19 November 1992) http://www.paci.com.au/downloads_public/court/12_Rogers_v_Whitaker.pdf

Similar rulings can be found from the courts of record in all other common law jurisdictions.[54]

The Council of Europe, who are responsible for the European Convention and Court of Human Rights, has confirmed that human rights are engaged regarding COVID-19 vaccinations. In Resolution 2361 (2021),[55] the Council "urged member States to":

7.3.1 ensure that citizens are informed that the vaccination is not mandatory and that no one is under political, social or other pressure to be vaccinated if they do not wish to do so;"

7.3.2 "ensure that no one is discriminated against for not having been vaccinated, due to possible health risks or not wanting to be vaccinated"

Section 6(1) of the Human Rights Act (1998)[56] provides that "It is unlawful for a public authority to act in a way which is incompatible with a Convention right". The articles which are engaged are 2, 3, 8, 9, 12 and 14. There are also no derogations or reservations for any emergency in the UK because Article 15 ECHR was not incorporated into the 1998 Human Rights Act.[57]

Article 2 "Right to life" is engaged because as at 01/09/21, 1,625 deaths have been reported to the MHRA's Yellow Card Scheme as being associated with COVID-19 vaccinations. There have been 357,956 total reports and 1,186,837 total reactions reported.[58] Whilst it is too early to conclusively connect COVID-19 vaccines with deaths and reported adverse events, the Yellow Card scheme is beginning to show worrying correlation. We must also adjust these figures in context with MHRA's own position only 10% of serious reactions and 2–4% of all reactions are reported. Further,

[54] Common law legal systems in the present day https://en.wikipedia.org/wiki/Common_law

[55] Council of Europe Resolution 2361 (2021) "Covid-19 vaccines: ethical, legal and practical considerations" https://pace.coe.int/en/files/29004/html
[56] Human Rights Act (1998) https://www.legislation.gov.uk/ukpga/1998/42/section/6
[57] Human Rights Act (1998), Schedule 3 "Derogation and Reservation" https://www.legislation.gov.uk/ukpga/1998/42/schedule/3
[58] HMRA Yellow Card Scheme https://yellowcard.mhra.gov.uk

Chapter 14A of the government's Green Book on vaccination states that COVID-19 vaccine side effects increase the younger the patient.

The duty to protect life engaged by Article 2 cannot be relied upon to support any coercive vaccine rollout. It requires public officials taking reasonable steps, not all possible steps. Action to uphold the right to life therefore does not mean that other civil rights are unimportant or diminished and any mandate must be in accordance with the rule of law. Nothing in the Human Rights Act (1998) allows for the suspension of other statutes and common law, with any express derogations applying solely to ECHR articles.

Article 3 "Prohibition of torture or to inhuman or degrading treatment or punishment." is engaged because the injection of an unwilling patient or a patient that has not provided valid informed consent must constitute at the very least degrading treatment. In the Wilkinson Court of Appeal ruling Lady Justice Hale reaffirmed this principle at common law, ruling that *"forcible measures inflicted upon an incapacitated patient which are not a medical necessity may indeed be inhuman or degrading. The same must apply to forcible measures inflicted upon a capacitated patient."*

Article 8 (Right to respect for private and family life) is engaged if a person with parental responsibility is wilfully obstructed from engaging in the informed consent process. There is also no sufficient justification under article 8.2 for so fundamental an invasion of autonomy and bodily inviolability regarding valid informed consent, which is a basic ingredient of the right to privacy and to the civil right to valid informed consent.

Article 12 "Right to marry and start a family" is engaged. Whereas the official position of the NHS is presently that there is no evidence the COVID-19 vaccines have any effect on chances of becoming pregnant, MHRA's Yellow Card scheme is recording an alarming number of pregnancy conditions. As at 01/09/2021 the Yellow Card scheme has reported 537 spontaneous abortions and 12 fatalities. It is therefore right for children and parents to be concerned about future fertility issues.

Article 9 “freedom of thought, conscience and religion” and 14 “Prohibition of discrimination” are also engaged along with Equality Act 2010.[59]

Finally, due to the UK not incorporating Article 15 ECHR into the 1998 Human Rights Act, [60] there are no emergency derogations to the Human Rights Act for any purpose relating to an emergency in the UK and the right at common law to valid informed consent has no emergency derogations. The courts cannot therefore lawfully use the pandemic to claim that any of the human rights engaged should be derogated for the purpose of the pandemic emergency.

“the executive (government) cannot change law made by Act of Parliament, nor the common law”.[61] Therefore government guidance claiming that Gillick Competency applies and that parental rights are vitiated cannot over-ride the statutes and common law set out in this letter.

For these reasons I require you to confirm the four points in writing set out in the letter by return.

[59] Government Equalities Office and Equality and Human Rights Commission “Equality Act 2010: guidance” https://www.gov.uk/guidance/equality-act-2010-guidance
[60] Schedule 3 (Derogations), Human Rights Act (1998) https://www.legislation.gov.uk/ukpga/1998/42/schedule/3
[61] R Miller v DExEU [2017] UKSC 5 https://www.supremecourt.uk/cases/docs/uksc-2019-0192-judgment.pdf