[Your Address and contact details]

[Their address and contact details]

[Date}

Dear Sir/Madam

**PRELIMINARY LETTER – REFUSAL OF MEDICAL TREATEMENT**

**URGENT**

I write following your refusal to carry out [Inset details of the medical treatment you were refused] (“the Medical Treatment”) until such time as I agree to receive a vaccine for Covid-19. I am deeply disturbed by the breach of your legal, moral and professional obligations and you have given me no choice but to write this Preliminary Letter to you.

Should you continue to refuse to carry out my Medical Treatment on these grounds, then I will have no option but to carry out the actions set out at the conclusion of this letter and will seek all my costs of doing. In the circumstances, you are asked to forward a copy of this letter to your Professional Indemnity insurers.

**BACKGROUND**

1. On [insert full details of your medical condition, what you were told about having to have the vaccine, and by whom. Set out what you said and how matters were left].
2. I was very shocked and distressed following this refusal to carry out my Medical Treatment. I have since carried out further investigations and am now aware that this refusal is unlawful and potentially may constitute Professional Misconduct and Negligence. I am surprised that I am having to write to you in these terms given that you should be fully familiar with the law and ethics surrounding treatment and informed consent.
3. Before fully setting out the law and ethics on this matter, I first wish to briefly address my concerns over the vaccine that you require me to have. I must state here that I am not “anti-vax” (a term which I find most derogatory) but I do have legitimate concerns about the Covid-19 vaccines, especially in my present state of health, and do not wish to accept one at this time.

**THE VACCINE**

1. I do not propose to set out in detail here the concerns that I, along with many medical and other professionals have, with the vaccine. The same are set out comprehensively in a fully referenced Open Letter from UKMFA to the MHRA, JCVI and Mr Hancock dated 23 November 2020[[1]](#footnote-1). Despite this letter having been sent over 3 months ago, MHRA, JCVI and Mr Hancock have failed to respond to the same and deal with any of the issues raised.
2. All the Covid-19 vaccines are still in Phase 3 clinical trials[[2]](#footnote-2) [[3]](#footnote-3), which are not due to complete until early 2023. Thus, these Covid-19 vaccines are experimental medical products with only limited short-term and no long-term safety data. In addition, the Covid-19 vaccines are using novel technologies (mRNA vaccines and viral vector DNA vaccines) which have no or limited historical safety data.
3. There is no peer reviewed evidence that any of the Covid-19 vaccines currently available prevent infection with or transmission of SARS-C0V-2[[4]](#footnote-4). Therefore, the benefit of the vaccine is limited to the vaccinated individual, in reducing symptoms, not to the wider public.
4. Based on the above, and as set out in the UKMFA Open Letter dated 23 November 2020, there is no medical justification for making the vaccine a condition of my Medical Treatment.

**THE RIGHT TO MEDICAL TREATMENT**

1. The NHS Constitution (“the Constitution”) sets out several Legal Rights that patients are entitled to[[5]](#footnote-5). The Legal Rights that I am entitled to are:
	1. *You have the right to receive NHS services free of charge, apart from certain limited exceptions sanctioned by Parliament;*
	2. *You have the right to access NHS services. You will not be refused access on unreasonable grounds;*
	3. *You have the right to receive care and treatment that is appropriate to you, meets your needs and reflects your preferences;*
	4. *You have the right to expect your NHS to assess the health requirements of your community and to commission and put in place the services to meet those needs as considered necessary, and in the case of public health services commissioned by local authorities, to take steps to improve the health of the local community;*
	5. *You have the right to be treated with a professional standard of care, by appropriately qualified and experienced staff, in a properly approved or registered organisation that meets required levels of safety and quality;*
	6. *You have the right to be treated with dignity and respect, in accordance with your human rights;*
	7. *You have the right to be protected from abuse and neglect, and care and treatment that is degrading;*
	8. *You have the right to accept or refuse treatment that is offered to you, and not to be given any physical examination or treatment unless you have given valid consent. If you do not have the capacity to do so, consent must be obtained from a person legally able to act on your behalf, or the treatment must be in your best interests;*
	9. *You have the right to be given information about the test and treatment options available to you, what they involve and their risks and benefits.*
2. I believe the aforementioned Rights to be Legal Rights. By making the Vaccine a condition of my Medical Treatment you are infringing on my Legal Rights and your actions are thus unlawful.
3. In addition, the Constitution sets out 7 Principles that guide the NHS. I have set out below a selection of these Principles:
	1. *The service is designed to improve, prevent, diagnose and treat both physical and mental health problems with equal regard. It has a duty to each and every individual that it serves and must respect their human rights;*
	2. *Respect, dignity, compassion and care should be at the core of how patients and staff are treated not only because that is the right thing to do but because patient safety, experience and outcomes are all improved when staff are valued, empowered and supported;*
	3. *NHS services must reflect, and should be coordinated around and tailored to, the needs and preferences of patients, their families and their carers. …..Patients, with their families and carers, where appropriate, will be involved in and consulted on all decisions about their care and treatment.*
4. In addition to the Rights and Principles, the Constitution has several Values. I set out below the relevant Values:

*Patients come first in everything we do. We fully involve patients, staff, families, carers, communities, and professionals inside and outside the NHS. We put the needs of patients and communities before organisational boundaries. We speak up when things go wrong;*

*We earn the trust placed in us by insisting on quality and striving to get the basics of quality of care – safety, effectiveness and patient experience – right every time.*

*We ensure that compassion is central to the care we provide and respond with humanity and kindness to each person’s pain, distress, anxiety or need.*

1. Your refusal of my Medical Treatment until I take a vaccine is a further breach of the Principles and Value set out in the Constitution and is thus unlawful.

**INFORMED CONSENT**

1. I am most concerned that I am having to explain to you, a medical professional, the law concerning Informed Consent. I urge you to read the GMC Publication entitled “Decision Making and Consent”[[6]](#footnote-6). The purpose of the Publication is to cover *“the exchange of information between doctor and patient is essential to good decision making. Serious harm can result if patients are not listened to, or if they are not given the information they need - and time and support to understand it - so they can make informed decisions about their care”.*
2. In addition, please read the Fact Sheet - “Key Legislation and Case Law relating to Decision Making and Consent”[[7]](#footnote-7). This sets out the established legal principles that EVERY PERSON MUST abide by. It is UNLAWFUL to breach the requirements of Informed Consent and will leave any medical professional so doing open to legal proceedings for Negligence, Misconduct, and a report to their Regulatory body. I deal with this further below.
3. For present purposes I consider it necessary to set out verbatim the following from the Supreme Court case of Montgomery v Lanarkshire (which is referenced in the Fact sheet). The Supreme Court is the highest court in the UK and derogation from this decision is not an option open to you:

*“An adult person of sound mind is entitled to decide which, if any, of the available forms of treatment to undergo, and her consent must be obtained before treatment interfering with her bodily integrity is undertaken. The doctor is therefore under a duty to take reasonable care to ensure that the patient is aware of any material risks involved in any recommended treatment, and of any reasonable alternative or variant treatments”*

*Furthermore, Lady Hale stated in this judgment that:*

*“...it could now be stated “with a reasonable degree of confidence” that the need for informed consent was firmly part of English law.*

*“It is now well recognised that the interest which the law of negligence protects is a person’s interest in their own physical and psychiatric integrity, an important feature of which is their autonomy, their freedom to decide what shall and shall not be done with their body.*

 *“An important consequence of this is that it is not possible to consider a particular medical procedure in isolation from its alternatives. Most decisions about medical care are not simple yes/no answers. There are choices to be made, arguments for and against each of the options to be considered, and sufficient information must be given so that this can be done: see the approach of the General Medical Council in Consent: patients and doctors making decisions together (2008), para 5, quoted by Lord Kerr and Lord Reed at para 77 and approved by them at paras 83 to 85.*

1. In addition, The United Nations Educational, Scientific and Cultural Organisation (UNESCO) Universal Declaration on Bioethics and Human Rights (2005) states, at Article 6.1 (Consent) that: “*Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the person concerned, based on adequate information”*.[[8]](#footnote-8)
2. Furthermore, The Public Health (Control of Disease) Act 1984 (section 45E) provides that Regulations made under certain sections of that Act *“may not include provision requiring a person to undergo medical treatment …. “Medical treatment” includes vaccinations and other prophylactic treatment”*.
3. Finally, the Parliamentary Assembly of the Council of Europe passed Resolution number 2361 of 2021[[9]](#footnote-9) on 27 January 2021 which stated that:

Paragraph 7.3.1 - *ensure that citizens are informed that the vaccination is NOT mandatory and that no one is politically, socially, or otherwise pressured to get themselves vaccinated, if they do not wish to do so themselves;*

Paragraph 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*;

1. It is clear from the above legal principles, the Publication, and the Fact Sheet that by requiring the vaccine as a condition of my Medical Treatment you are committing an unlawful act, against which I am entitled to take the necessary action.

**STEPS REQUIRED**

1. I require urgent and pressing medical treatment. Without this medical treatment I will suffer irreparable harm, for which I will hold you, personally, liable.
2. For the reasons set out in this Preliminary Letter, I require your confirmation **within 3 days of the date of this letter** that you will proceed with my Medical Treatment, irrespective of my decision to have the vaccine. With your response I will require you to set out the steps to ensure that my Medical Treatment is carried out as promptly as possible and having regard to my Legal Rights and the Principles and Values set out in the Constitution. The short deadline is necessary given the urgency of my Medical Treatment.
3. If I fail to receive the confirmation sought at paragraph 19 above, and within the timescale, then I will have no option but to instruct solicitors to ensure I receive my Medical Treatment. I will seek all my costs of doing so.
4. A report of Professional Misconduct will also be made against you to your Professional and Regulatory Body.

Yours faithfully

1. https://uploads-ssl.webflow.com/5fa5866942937a4d73918723/5fbd13488af2de09d68bd61c\_UKMFA\_Letter\_to\_MHRA\_JCVI.pdf [↑](#footnote-ref-1)
2. https://clinicaltrials.gov/ct2/show/NCT04368728 [↑](#footnote-ref-2)
3. https://clinicaltrials.gov/ct2/show/NCT04516746# [↑](#footnote-ref-3)
4. https://www.businessinsider.com/who-says-no-evidence-coronavirus-vaccine-prevent-transmissions-2020-12?r=US&IR=T [↑](#footnote-ref-4)
5. https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england [↑](#footnote-ref-5)
6. https://www.gmc-uk.org/ethical-guidance/ethical-guidance-for-doctors/decision-making-and-consent [↑](#footnote-ref-6)
7. https://www.gmc-uk.org/-/media/documents/factsheet---key-legislation-and-case-law-relating-to-decision-making-and-consent-84176182.pdf [↑](#footnote-ref-7)
8. http://portal.unesco.org/en/ev.php-URL\_ID=31058&URL\_DO=DO\_TOPIC&URL\_SECTION=201.html [↑](#footnote-ref-8)
9. https://pace.coe.int/en/files/29004/html [↑](#footnote-ref-9)