

Doctors head legal challenge to UK government on health care deaths and PPE

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Doctors, lawyers, and campaigners for older people's welfare have launched a High Court legal action against the Johnson government. It challenges the refusal to hold an "urgent inquiry into its failures to get adequate PPE [personal protective equipment] to NHS staff and care workers," to protect the lives of health and social care workers from COVID-19.

At least 181 health workers and 131 social care workers have died while working on the frontline.

The action was launched by the Doctors Association UK (DAUK)—a campaign group of doctors and medical students—the Good Law Project, a pressure group on legal matters, and the charity Hourglass, which campaigns against neglect and abuse of older people.

Crowdfunding for the legal challenge has already raised more than £62,000 out of a £75,000 target and a petition calling for a public inquiry has attracted more than 120,000 signatures.

In May, the group's legal team wrote to Health Secretary Matt Hancock, demanding an investigation into failings in procurement, stockpiling, distribution, and provision of PPE.

A pre-action Protocol Letter, dated May 9, stated, "Those failures have contributed to the death and serious illnesses of healthcare and other care workers, as well as patients and others for whom they care."

The letter insisted that an inquiry was necessary, "as a matter of law," under the Human Rights Act 1998 and Article 2 of the European Convention on Human Rights (ECHR).

An independent inquiry, according to the campaigners, "is necessary to learn lessons as speedily as reasonably practicable from the current crisis in order to enable adequate provision of PPE to be made during the current crisis and, in any event, in time for any second or third wave of COVID-19 or similar pathogen."

Hourglass Chief Executive Richard Robinson said, "As lockdown restrictions ease, it is vital that lessons are learned from our response to the pandemic before we encounter a second wave." He warned, "There can be no excuse for a

repeat of the carnage we've seen in our care homes over the last few months."

In response to the pre-action letter, Conservative government lawyers claimed there was "no arguable case" that the health secretary had breached Article 2 of the ECHR. They argued that deaths from COVID-19 were already being investigated through existing mechanisms, such as medical examinations and inquests.

The government's claim regarding examinations and inquests is preposterous. Guidance from the chief coroner issued in April excludes investigation of the PPE issue from the scope of coroner's inquests into the deaths of health care workers.

On this question, the crowdfunding appeal states, "This is also about getting answers for the families of the individual NHS and social care workers who have lost their lives. Each death will be investigated by a coroner, but without an independent inquiry, it is likely different coroners' courts will reach inconsistent or conflicting views on the role PPE played in their deaths. The families deserve better."

The government lawyers' letter stated, "In the context of a national emergency and pandemic of this kind, there are many ways in which the government is properly held to account, including in Parliament."

The government can state this safe in the knowledge they can rely on Her Majesty's Most Loyal Opposition to prop them up and collaborate in a state cover-up. Sir Keir Starmer, as soon as he became Labour Party leader in April and as the pandemic death toll was rising exponentially, offered to "work constructively with the government." He has been true to his word.

The government is seeking to conceal its failures regardless of all the evidence, proof and facts arrayed against them. Any objective examination of events and how they unfolded during the pandemic exposes its criminal actions. The pre-action letter draws attention to these issues, although it does not call for any prosecutions.

The World Health Organisation (WHO) was first informed by the Chinese government in December that people were

suffering from pneumonia caused by a possible unknown virus in central China. On January 9, WHO identified and announced the virus affecting people in Wuhan, China, as Novel Coronavirus SARS-CoV-2, 2019 (COVID-19). On January 30, the WHO emergency committee alerted the world of a possible global pandemic of COVID-19.

The government had enough time to prepare but ignored all the warnings from scientists and experts. Instead, it based all calculations on a “herd immunity” strategy—centred on allowing tens of millions among the population to contract the disease, with the real possibility that up to 500,000 could die as a result. Those who would face the full brutal impact of such a policy would be the elderly and infirm and those caring for and treating the sick.

By early March, there were more than 100 confirmed COVID-19 patients, but the government went on with “business as usual,” in the words of Prime Minister Boris Johnson, knowing the tragedy already unfolding in Italy was soon to follow in Britain.

According to experts, consistent use of full-body PPE—along with other infection-control measures—can diminish the risk of infection for health care workers. But the Tories ignored this advice and WHO guidelines.

When the pandemic began to tear through the population, there was a severe shortage of the required PPE. This was a result of years of underfunding the National Health Service (NHS) and social care. Between 2013 and 2016, the national stockpile of PPE was slashed by 40 percent as a part of £20 billion in NHS “efficiency savings.”

Regardless of the lack of general availability of PPE, the government refused to join a joint procurement scheme with the European Union in March, although it attended the European Health Security Committee.

Instead of fulfilling demands for PPE, the Tories and Public Health England—along with the Health and Safety Executive—changed the guidelines amid the outbreak. The government downgraded COVID-19 to a non-High Consequence Infectious Disease (HCID) from March 19, 2020—reducing the level of what constitutes safe PPE required for staff in treating it. A month later, on April 17, the government amended guidelines for Cardiopulmonary Resuscitation (CPR) to cut down on the use of filtering face masks (FFP3, FFP2)—again in breach of WHO recommendations.

None of the health unions, including the Royal College of Nursing (RCN) and British Medical Association (BMA), whose members have been the victims of the lack of PPE and the government’s criminal negligence, raised a finger against the Johnson administration. They made a few token criticisms to appease the growing anger of their members but have organised next to nothing to protect them from the

dangerous conditions they face. The RCN and BMA have 450,000 and 88,000 (including 19,000 medical students) members, respectively. Unison, Unite and GMB also have tens of thousands of members working in the health and social care sectors. Their recent surveys reveal a significant section of their membership are working without adequate protection from COVID-19.

The RCN found that more than a third of nursing staff (34 percent) “say they’re still under pressure to care for patients with possible or confirmed COVID-19 without adequate personal protective equipment (PPE).”

A recent BMA article, “PPE: a problem yet to be fixed,” reported findings from a survey to which 8,455 doctors responded. It stated that “a significant proportion of doctors still report struggling to access basics: masks, gowns, and protective glasses. The supply problem now seems chronic and months of struggle are now hitting staff mental health.”

No faith whatsoever can be placed in the unions, which function as an extended arm of the government and the employers.

The refusal by the government to sanction even a toothless inquiry—in which the British ruling elite are past masters—is the clearest indication of their aims. The representatives of the ruling elite intend to get away with social murder on a scale far greater than that of the Grenfell Tower inferno in 2017, which killed 72 people. It has been three years since the fire, but none of those responsible—including Johnson, who slashed the fire service as London mayor—has been arrested, let alone prosecuted, even as a whitewash inquiry has dragged on over months.

Any genuine exposure of the crimes committed by the government, and the bringing of those responsible to justice, requires a unified struggle of the working class based on a socialist strategy. Last month, the Socialist Equality Party issued a call for health workers to take matters in their own hands through the building of “Rank-and-file safety committees, to demand and implement measures to protect workers’ lives.”



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