

Paul Robinson

From: Carter Howard <[redacted]>
Sent: 15 July 2021 20:11
To: andybyford
Cc: Heidi Alexander; andylord [redacted]; Powell Gareth; LilliMatson; Hayward Siwan (Director of CPOS); vernoneveritt [redacted]; Keane Kate; Ella.Tagg; Branks Kirsten; Clarke Andrea (Exc); McConochie Mark; [redacted]@tfl.gov.uk; [redacted] (Legal Support)
Subject: TfL Conditions of Carriage and Byelaws - Face Coverings post 19 July 2021- Memo to the Commissioner - Letter from the Covid Liability Committee
Attachments: TFL Notice to Cease and Desist.pdf

Andy

Further to my previous e-mail, today we received the attached letter from the Covid Liability Committee, and I asked you to hold off making a decision on mandating face coverings via conditions of carriage on the basis of the Memo sent to you earlier today until we had considered the letter and the points that it raises.

Having now considered the letter, I believe that the Memo contains all the information you need to consider before you make a decision on face coverings. Nevertheless I think it is appropriate for you to be aware of this letter and to take it into account in reaching your decision.

[Large redacted block of text]

Notwithstanding the above, we would suggest you consider the Letter and the above points before you consider the Memo and take the decisions requested in the Memo on face coverings.

Just let me know if you have any questions or require any further information before taking a decision.

Howard

TfL RESTRICTED

From: Carter Howard
Sent: 15 July 2021 13:01
To: Byford Andy [redacted]
Cc: Heidi Alexander [redacted]; Lord Andy [redacted]; Powell Gareth [redacted]; Matson Lilli <[redacted]>; Hayward Siwan (Director of CPOS) [redacted]; Everitt Vernon [redacted]; Keane Kate [redacted]; Tagg Ella (ST) <Ella.Tagg@TfL.gov.uk>; Branks Kirsten <KirstenBranks@Tfl.gov.uk>; Clarke Andrea (Exc) [redacted]; McConochie Mark [redacted]; [redacted] (Legal Support)

Subject: TfL Conditions of Carriage and Byelaws - Face Coverings post 19 July 2021- Memo to the Commissioner
Andy

Please find attached a memo seeking your approval to retain the requirement under TfL's Conditions of Carriage for customers to wear face coverings on our network from 19 July 2021, when the national regulations end.

The main changes from the draft you have already seen are at:

- 3.75 (text added to explain outcome of updated Equality Impact Assessment (EQIA);

- 4.3 (to mention taxi and private hire); and
- attaching the updated EQIA as Appendix 4.

There are four appendices to the Memo, which are attached.

Appendix 1: Memo dated June 2020 to the former Commissioner, concerning the introduction of face coverings last year

Appendix 2: Advice from the London COVID-19 Scientific and Technical Advisory Cell (STAC) on the public use of face masks in the context of Step 4 of the national roadmap

Appendix 3: TfL Risk Assessment

Appendix 4: Updated EQIA.

Please can you consider the note and attachments and confirm whether you agree with the recommendations and take the decisions requested.

Just let me know if you have any questions or require any further information before taking a decision.

Howard

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To: Transport For London - Legal Department

15th July 2021

NOTICE TO CEASE AND DESIST

Dear Sirs

The Covid Liability Committee is a group of legally qualified persons and interested parties working in a pro bono capacity to notify and remind public and private bodies of their legal obligations and potential liabilities arising from their response to the Covid-19 pandemic, and to record evidence which may be used in future legal actions.

We write in response to the recent announcement that the Mayor of London Sadiq Khan intends to retain the requirement to wear facemasks throughout the Transport For London network.

It is quite clearly unlawful for any organisation, and particularly a public service, to impose such a policy for the reasons we shall set out below:

Facts and evidence concerning Covid-19 and facemasks

The facts concerning facemasks are as follows:

There is no clear medical consensus in favour of the efficacy of facemasks being worn in the community. At the start of the Covid pandemic, when the disease was feared to be a far greater threat than it transpired to be and when no one was vaccinated, medical agencies including the WHO, CDC, PHE, Drs Fauci, Whitty, Vallence, Harries, Van Tam etc. gave very clear advice against facemask use in the general population based upon years of studies on the subject.

Evidence from SAGE confirms that mask mandates were subsequently introduced last summer as an extremely misguided psychological reminder that there was a virus present and that people should be cautious. It was also purportedly to give confidence to those who were scared although this appears to have had quite the opposite effect.

A few laboratory studies suggest masks may be effective in stopping droplets, but Covid 19 is predominantly spread by aerosols and widescale real world studies over several decades do not find masks to be effective in preventing viral spread. It appears that many masks may in fact aerosolise droplets through the fabric, increasing transmissibility.

Studies of many comparable and proximate regions and countries that do and do not have widespread mask use show no meaningful statistical difference in infection and death rates from Covid-19 between different areas.

Even if masks were effective in reducing infection rates the threat of Covid-19 to the vast majority of people is no greater than that of flu and is, in fact, lower amongst the young. The overall infection fatality rate estimated in studies by Professor John Ioannidis and published by the WHO is only 0.15 - 0.2% worldwide. SARS-CoV-2 is not fundamentally different from numerous other respiratory pathogens that we have lived with throughout history.

The mortality rate for the first six months of 2021 is lower than the ten year average. The large majority of the UK 's population is now protected by vaccines or natural immunity. The recent increase in recorded "cases" has not been followed by a commensurate increase in hospital admissions showing that the vaccines are working and/or SARS-CoV-2 is becoming less virulent. Total all cause mortality for the first half of 2021 is lower than the ten year average.

Even if there were compelling evidence in favour of the efficacy of facemasks their use would be entirely unnecessary by this point in the pandemic.

Therefore, given that

- Covid-19 is a relatively low risk disease
- There is a lack of evidence for the effectiveness of masks
- There is substantial evidence of the harms they cause
- There is minimal evidence of significant viral spread on the transport network

requiring the public to wear masks is unnecessary, perverse, harmful and an infringement of the right to bodily autonomy.

The Equality Act 2010

The Equality Act protects people from discrimination on the basis of many criteria, including their philosophical and moral beliefs.

In defining what is or is not a philosophical belief the principles are set out in the case of *Grainger PLC & Others v Nicholson*.

This confirmed that such a belief must:

- Be genuinely held
- Be a belief and not an opinion or viewpoint dependent upon the present state of information available
- Concern a weighty and substantial aspect of human life and behaviour
- Have a certain level of cogency, seriousness, coherency, and importance
- Be worthy of respect in a democratic society, not be incompatible with human dignity, and not conflict with the fundamental rights of others

For a large number of people, the requirement to cover one's face in the absence of any compelling and proven reason to do so is fundamentally contrary to their deeply held moral beliefs which may arise from one or more of the following points:

Bodily Autonomy

The fundamental right to personal body autonomy and integrity is a well recognised belief which, we submit, many or most people would claim to agree with. If that belief is to be respected it means allowing individuals to choose what they wear or attach to their bodies, especially if such attachments affect their physical functions, health and dignity.

It is not an exaggeration to say that the requirement to wear a facemask constitutes psychological torture for some people.

It is frequently the poorest and most vulnerable in society who suffer most from wearing facemasks given their reliance on public transport, deference to authority and reticence in standing up for their rights.

Religion

Mask wearing is closely associated with satanism and other occult practices which are anathema to many religions. For many, but not all, adherents of those religions masks are abhorrent. Making people wear symbols contrary to their religious principles is a breach of their religious freedoms just as much as preventing them from wearing symbols of their own religion.

Politics

Mask wearing has become closely associated with political belief, both on party political lines but also on ideological principles and in particular the policies pursued in response to Covid 19. Mask wearing is closely associated with support for lockdowns and other highly politicised restrictions.

People on social media and elsewhere often advertise the fact that they wear a mask in order to express a set of political values or world view. A mask has become the epitome of a "virtue signal": It symbolises that the wearer wishes to be regarded as a "good" or "moral" person over and above the matter of whether the action undertaken or symbol worn is of any practical use or benefit whatsoever (or may indeed be harmful or counterproductive).

A mask has demonstrably become a symbol of collectivism which some people support but many people vehemently oppose.

It is not politically neutral. Wearing a mask is personally compromising for a large number of people in the same way that wearing a party political symbol would be.

Personal integrity

For people who know or believe that facemasks are of no meaningful medical value and are being used for purposes of psychological manipulation, collaborating in such a deception by wearing a mask is morally compromising for the wearer. They are, in effect, supporting a lie and spreading disinformation by being forced to pretend that there is any compelling scientific need to be wearing a mask in a public setting in response to Covid.

Wearing a mask is not "kind" to someone who fears Covid: It is enabling and prolonging hugely exaggerated fear which is causing immense psychological and societal harm. If someone has a genuine fear of someone else not wearing a mask then they are suffering from an irrational phobia. Such people should be helped to overcome such phobias. It is irresponsible to pander to and reinforce such fears.

Masks are a constant visual reminder of a "deadly" disease which, in reality, is deadly only for a tiny proportion of those who catch it, most of whom are only susceptible because of serious pre-existing comorbidities.

Constant fearmongering, supported by masks, has increased fear of Covid out of all proportion with all other potential causes of death.

Human Dignity

Historically mask wearing has been and is closely associated with:

- Silencing, subjugation and humiliation
- Slavery and imprisonment
- The muzzling of animals
- Sexual perversion, hence the frequent use of masks in BDSM practices

A great many people feel humiliated and degraded by having to wear a mask.

Requiring someone to unnecessarily wear an invasive piece of quasi-medical equipment against their will is quite clearly a breach of medical and bodily autonomy.

European Convention on Human Rights

For the reasons set out above, the mandate also clearly contravenes many of the articles of the ECHR, in particular:

Article 3: *Which includes the prohibition of inhuman and degrading treatment*

Article 8: Right to respect for private and family life

Article 9: Freedom of thought, conscience and religion

Article 10: Freedom of expression

Physical and psychological injury

There are many physical dangers to wear masks, many of which were warned of at the start of the pandemic when the public were advised not to wear masks:

- Mask wearing can significantly raise respiratory CO2 levels
- Poor quality masks have been found to contain particulates and chemicals which may be harmful
- Masks can cause facial abrasions and skin complaints
- Masks obscure lower peripheral vision making trips and falls more likely
- Masks can also cause disorientation

The psychological harms are even more significant as they can result in

- Exaggerated and prolonged irrational fear of Covid
- Low mood and depression
- Increased suggestibility
- Loss of self respect and agency

Have extensive and sufficient risk assessments been conducted for the significant and wide ranging harms caused by enforced mask use?

By forcing customers and staff to wear masks you are exposing yourselves to employers' and public liability claims for physical and psychological injuries caused.

The announcement that facemasks will continue to be compulsory has already caused many people who struggle to wear them or who are morally opposed significant distress.

Public service

The transport system is not a private business that is free to do as it pleases. It is operating under a charter to provide a service to the whole of the public.

It is blatantly obvious from the way this policy has been announced that politics plays a very significant part in it. Your organisation is demonstrably compromising people's human rights, bodily integrity, health and wellbeing for political purposes.

Summary

For the above reasons and many others it is, in the absence of any clear and compelling scientific or medical evidence that their use is necessary, beneficial or proportionate, entirely unlawful that you should require the wearing of masks as a condition for using your public service.

It is not sufficient to merely allow limited exemptions to the facemask requirement as these will inevitably not cover everyone whose principles and personal integrity will be violated by such measures. Neither would it be lawful to question or harass customers over their exemptions. Many people over the last year have been too afraid to exercise their legitimate exemptions provided under the national government's mask mandates for fear of confrontation and harassment.

We require that you urgently review and withdraw these unlawful and discriminatory proposals.

We will provide appropriate assistance to parties bringing inevitable legal actions against you should these measures be imposed.

Yours faithfully

Chair of the Covid Liability Committee