

Our Ref: IK/MC/Misc-2020

8<sup>th</sup> December 2020

The Honourable L. D. Skelly MHK  
Minister  
Department of Enterprise  
1<sup>st</sup> Floor  
St. George's Court  
Upper Church Street  
Douglas, IM1 1EX

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### **Open Letter**

Dear Mr Skelly

#### **RE: Border Control and Inoculation Certificates**

We write to you in relation to your attributed comments in the Isle of Man Examiner dated 1<sup>st</sup> December 2020.

We have been contacted by a number of persons who are alarmed about your express suggestion that there could be a formal Covid-19 vaccine requirement for entry into the Isle of Man.

The concern relates to two categories of persons.

#### i) Manx Residents

We are not aware of any provision in Manx legislation including Emergency Regulations, requiring persons to be vaccinated. Indeed we are not aware of any Manx legislation compelling any person to undergo specific treatment (excluding testing/isolating) for any medical condition at all. In any event, we note the comments of the Health Minister Mr Ashford that vaccination for Covid-19 will be on a voluntary basis.

However, there are a number of different groups who either cannot be vaccinated or do not wish to be vaccinated at the present time or at all.

The manufacturer's guidance in relation to the new Pfizer vaccine is currently that it should not generally be given to pregnant women, children under the age of 16, breastfeeding women or persons with certain pre-existing medical conditions. In addition, there are members of faith groups who are opposed to vaccine on religious grounds.

(2)

There are also those fundamentally opposed to vaccination on philosophical grounds for example giving primacy to individual free will and freedom of choice over State dictat. Part of that philosophy is that what a person puts in their body is his or her sovereign personal decision alone. There are also those who hold alternative health beliefs who are of the sincere opinion that the Covid-19 vaccine is not only unnecessary but may indeed be harmful to the human body. To this latter group your rhetorical question "*Will anyone have the confidence to travel without a vaccine?*" is regarded as misguided.

Obviously there are also persons who whilst not opposed in principle to vaccination have understandable concerns at the current time as to whether rushed Covid-19 vaccines are entirely safe. Additionally, there is a spectrum of scientific opinion with dissenting expert views on the pathology of the disease and its treatment.

So there is potentially a broad range of people on the Island who either cannot or do not wish to be vaccinated.

#### Border Control

A compulsory vaccine requirement for entry into the Isle of Man would mean that although all of the above persons would be free to leave the Island, they would not be allowed to return (unless subject to exemptions).

This clearly raises very significant legal issues around civil liberties and citizenship.

A statutory framework would need to be approved by Tynwald and we would suggest that any such draconian legislation would be immediately susceptible to credible challenge on human rights grounds, particularly in relation to Article 8 (right to respect for private and family life) and Article 9 (freedom of thought, conscience and religion) European Convention on Human Rights.

The genuine concern expressed by those who have contacted us is that a vaccine requirement for entry into the Isle of Man by Manx residents would amount to nothing less than a form of indirect mandatory inoculation.

For those declining to be vaccinated, this would in effect create a colony of second-class citizens marooned on this Island perpetually faced with Hobson's Choice. Moreover, it is only a short extension of such coercive control for there to be a Covid inoculation certificate requirement for entry into all public establishments such as schools, hospitals and Government buildings. This manifestly raises serious concerns around discrimination and access to public services, particularly for those most in need.

#### ii) Non-Island Residents

The position in respect of vaccination in England is covered by the Public Health (Control of Disease) Act 1984 S. 45 E, under which it is explicitly stated that regulations may not include provisions requiring persons to undergo medical treatment including vaccination.

(3)

Recent opinion polls in the UK have suggested that around a third of the public have stated they are presently unlikely to take the Covid-19 vaccination when it becomes available. At that rate the Island would be closing its borders and tourist industry to very many residents of the United Kingdom. This is even before considering nationals of other countries.

We also note that Public Health Scientists have indicated that although the vaccine is designed to prevent persons becoming unwell with Covid-19, it is unlikely to stop such persons spreading the virus. Therefore, a certificate of inoculation would allow into the Island persons who could still be virus spreaders, which would appear to defeat the object of such border policy. There are also practical difficulties in respect of how long an immunity certificate would be valid for and how any such scheme could be policed for authenticity of documentation.

In conclusion, although undoubtedly there will be many Island residents who agree with you on this matter there are others who profoundly disagree. We trust that the forthcoming Government media campaign actively promoting Covid-19 vaccination will not unfairly demonise reasonable dissenting voices nor label their opinions as misinformation or disinformation.

Please note that the specific issue we raise with you is not whether Covid-19 vaccination is good or bad but whether an "immunity passport" should be an obligatory requirement for entry into the Isle of Man.

Those individuals and potential litigants who have contacted us raise perfectly legitimate concerns which we raise in the public interest and which have the right to be freely debated and ought to be properly taken into consideration when formulating a humane and proportionate border policy.

We would welcome your comments on this matter and look forward to hearing from you.

Yours sincerely

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CC: For Media Circulation