# Mandatory Mask Sample Letters

The masking issue is a very complicated one. These are the scenarios we have been confronted by with the masking issue:

* compulsory masking as part of your employment;
* compulsory masking to get entry or access to services as a customer;
* compulsory masking at schools;
* compulsory masking in taxis, flights, ambulances;
* compulsory masking at hospitals;
* compulsory masking on public transport.

We have provided alternative letters that you can mix and match as per your needs and requirements.

In general, if you were denied access to a shop because you are not wearing a mask and have a medical reason which would fulfill the exemption requirements, you can email the CEO or the shop manager later if you had been refused entry and/or denied service.

There are alternative grounds of argument, but we have found the discrimination and equal opportunity angle to be useful. In our experience, there are many people who are suffering from a mental health condition or an associated medical condition in terms of not being able to wear a mask. Whether or not you have obtained proof of your medical exemption is not important if you are dealing with a business as a customer or speaking to a police officer who is querying you regarding the exemption.

Under both circumstances, you don’t need to provide proof of your medical condition, you just need to state clearly that you have a legal exemption by way of a medical reason. This is sufficient and you should be left alone.

In general terms, it is mandatory to wear a face mask in some public indoor settings, on domestic flights to and from a State or Territory, and when travelling on public transport, in a taxi or ride share vehicle. There are a number of [lawful reasons to not wear a face mask](https://www.coronavirus.vic.gov.au/node/14639/#exceptions-for-not-wearing-a-face-mask), and patrons must wear a mask unless they have a lawful reason not to do so. [Businesses should not refuse service to patrons who may have a valid lawful reason for not wearing a mask. For more information on face masks and human rights, visit the](https://www.coronavirus.vic.gov.au/face-masks-when-wear-face-mask#when-do-i-need-to-wear-a-face-mask) [Human Rights website](https://www.humanrights.vic.gov.au/resources/faqs-face-masks-and-human-rights/).

In various States, there are Government guidelines that operate in relation to masking requirements.

In Victoria, the masking requirements are contained [here](https://www.coronavirus.vic.gov.au/face-masks-when-wear-face-mask#when-do-i-need-to-wear-a-face-mask) and [here](https://www.coronavirus.vic.gov.au/face-masks-and-office-workers) which effectively act as the authorisation from the Department. In general terms, masking requirements continue in certain indoor spaces. For those who work in a Health Care Setting, whereby PPE (or Masks) are required, [here](https://www.coronavirus.vic.gov.au/face-masks) are the current directions for Victoria, they cover when you have to wear a mask and when you don’t. If the Health Care Sector you are working in is breaching these policies, ensure that they are shown the current Victorian Directions [here](https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/coronavirus-covid-19-advice-for-the-health-and-disability-sector/personal-protective-equipment-ppe-for-the-health-workforce-during-covid-19#who-should-use-ppe). You do not have to wear a mask outside of these Directions.

In Western Australia, information regarding masks can be found [here](https://www.wa.gov.au/government/publications/face-masks-frequently-asked-questions) and at present there is a strict mask mandate applying across all of the state.

In South Australia, the masking guidelines can be found [here](https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/conditions/infectious+diseases/covid-19/about+covid-19/protecting+yourself+and+others+from+covid-19/face+masks) and for medical health care setting [here](https://www.sahealth.sa.gov.au/wps/wcm/connect/bfa3de40-7383-4b7a-bc74-8f14cbac21d7/20201211+FAQs+-+Direction+16+Mandatory+mask+use.pdf?MOD=AJPERES&amp;CACHEID=ROOTWORKSPACE-bfa3de40-7383-4b7a-bc74-8f14cbac21d7-npswCXM) and in general terms, the mandates have been removed in most settings.

In New South Wales common questions can be found [here](https://www.nsw.gov.au/covid-19/what-you-can-and-cant-do-under-rules/common-questions-face-masks) and for Healthcare worker settings see [here](https://www.wslhd.health.nsw.gov.au/covid-19/covid-19-update/healthcare-worker-mask-use-further-information). And the current restrictions for Queensland can be found [here](https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19/current-status/easing-greater-brisbane-restrictions):

We have found that employers are being critical of medical certificates and what is contained in them in that they are denying the employees exemptions unless the medical certificate is clear on the following topics:

1. It needs to be tailored to the directive of that State and/or Territory containing a reference to that.
2. It needs to stipulate clearly a medical condition, disease or ailment that prevents a person from wearing the mask. We have found that a statement that contains specific reference to diagnosed mental health, anxiety and/or depression, past trauma, asthma, allergies including specific allergies to dust, pollen, food allergies, claustrophobia etc helps.
3. It needs to link up that condition to how the mask will affect that person’s functionality at work hence making them not fit for work
4. It needs to specify that the person does not present or currently has any symptoms of COVID-19 and/or influenza.
5. It needs to have a generic statement that that there are no reasonable adjustments that can be made to address this issue except for not wearing the mask.

For example:

Mandy has been diagnosed with mental health disorder since 2012. The present directives that have created a mandate for wearing the mask at the workplace cannot be satisfied by Mandy. In my opinion, Mandy is legitimately exempted from wearing the mask as the mental health disorder will create feelings of disorientation and trigger past memories. Her fitness for work will be impacted by the wearing the mask and as she does present with any COVID-19 symptoms or influenza symptoms she is not to be a risk to the other employees and staff. It is sufficient for her to be attending work and socially distance. There are no reasonable adjustments that can be made for her condition to accommodate the wearing the mask.

We say the employers are acting unlawfully for questioning these medical certificates because they are neither authorised officers under the law or medical practitioners themselves. They have also not made any risk assessments on the employee to reject the medical assessment from their medical practitioner. However, we want to assist you in ensuring that you can address all the issues that may arise and hence you need to communicate clearly to your medical practitioner the requirements that best suit your condition. We also state that generic medical exemptions that refer to breathlessness are insufficient and will be rejected by the employers so ensure your visit to the medical practitioner is productive and addresses these issues.

**Letter M1**

**Denial of Access to Services and potential disability discrimination where there is active direction from Government to wear a face covering/mask**

**This could be a letter tailored to an employee writing to their employer or a customer writing to a service provider/business**

“Dear…..,

“Re: Discrimination on the ground of disability

I am writing to you as an aggrieved person to escalate my concerns and experience in relation to disability discrimination at [***insert where it occurred***].

Both the federal and state and territory frameworks in relation to disability discrimination provide for various laws that ensure that businesses and employers alike do not engage in either direct or indirect discrimination.

Given that these directions for mask wearing are issued by the Government, it is important that employers and businesses follow those directions, this includes the exemptions and allowances that have been made as part of these directions. These exemptions include exemptions from mask wearing.

Disability discrimination happens when a person with a disability is treated less favourably than a person without the disability in the same or similar circumstances. For example, it would be ‘direct disability discrimination’ if a business or service provider refused a person entry because they are not wearing a mask because of a medical condition.

I also note here that most States and Territories have allowed medical exemptions for mask wearing and it is important that businesses and service providers are also aware that once a customer alerts the business owner or staff member alerts the employer that they have a medical exemption, they are not required to provide any evidence of the same.

I bring to your attention my unique circumstances that occurred on [***insert a brief summary of your circumstances]***.

I informed the staff and/or employer that due to my health condition and/or disability; I am exempt from wearing face coverings.

I was then [***describe how staff and/or employer dealt with you briefly***].

I write this letter in good faith and put you on notice that this letter is an attempt on my part to reach out to you and resolve this matter between the parties. If I do not receive a fair/equitable and or satisfactory outcome from you in writing within seven (7) business days from the date of this letter, I will escalate the matter and seek further legal advice in relation to my rights.

In light of the above, I ask the following from you by email ***[insert date/time for compliance*]**:

1. A letter of apology from you or your Manager with respect to my treatment at your store [***this is applicable in a situation where you are customer, preferably not something you would request from an employer***];
2. An assurance that you will take all reasonable steps to review and rectify your store policy and/or employment policey to ensure that no other person(s) are discriminated in the same manner; and
3. Assure me that your staff have been informed of such policy modifications and that they will cease harassing, intimidating and/or discriminating against others who cannot wear a face covering for legitimate medical reasons;
4. That I am to be immediately returned to work with no further harassment and/or coercion to wear the mask [***this is applicable in a situation where you are an employee].***

Should you wish to discuss this matter please do not hesitate to contact me and I look forward to your response.”

**End of M1 Letter**

We have found that in States and Territories where the mask mandate has been removed, many shop owners, employers, schools and businesses are setting their own policies and are going beyond what the Government has allowed. We say that matters of quarantine and management of serious risks to public health are matters that remain within the jurisdiction of Government and employers and businesses cannot not go beyond the mandates set by Government. In those circumstances, the following letter may be useful.

# Letter M2

# Mandatory Mask Letter for School, Work or Customers where there is no continuing Mask Mandate from the Government

“Dear ……..,

I refer to your request/direction in relation to me/my child wearing a mask and/or face cover whilst at work/school/attendance at your business.

I bring to your attention that the workplace/school/business cannot set a policy or make face covering, temperature taking, testing or examination mandatory where this issue is already covered by legislation or directions from the Government and the only person that can make such a direction to me is an authorised officer under the law. An authorised officer is one that would have received written authorisation from the Secretary of the Department of Health and the Chief Health Officer. This cannot be any public servant, police officer or PSO or any other private citizen.

I note here that the current mandate directives have lapsed and are no longer applicable, therefore you have no right to deny me the service of/ employment/schooling etc [***insert relevant space***].

I request that you immediately rectify your position and allow me to [***insert your relevant demand***].

**End of M2 Letter**

In an employment situation, you may be required to provide a general medical exemption from your medical practitioner. Despite the fact that the department of health in most states and territories do not require you to provide such evidence even to your employer it may expediate the matter for you to obtain a medical exemption.

Note: The medical exemption does have to specify the exact reason. It only needs to state that you have a legitimate medical reason to be exempt. We note here that the majority of the population will experience serious breathing difficulties as a result of wearing a mask for extended periods of time. This is not rocket science. In those circumstances, we recommend that you obtain such evidence and hand it to your employer.

# Letter M3

# Mandatory Mask Letter for Employers

“Dear…..,

I provide you notification that I have a medical reason for not wearing a mask. The medical reason is that I suffer from asthma/breathlessness/childhood trauma/previous operation/skin condition/claustrophobia/other. I am not required under the law or the government guidelines to provide you a GP certificate or otherwise for this medical reason.

This communication is all that is required for me to obtain an exemption for that purpose. You do not have the right or power to enforce anything against me in this regard.

I also assure you that I do not have any symptoms of COVID-19 or any other infectious condition or illness. I suggest that this matter be immediately resolved and there is no further need to escalate the issue.

However, in good faith, I have sought advice from my medical practitioner and I enclose proof of my medical exemption.

Masks in themselves do not provide protection but rather they are taken by the World Health Organisation as a general precautionary measure when someone has symptoms only and cannot socially distance. In this regard, it is not adequate for the employer to argue that the absence of me wearing a mask constitutes a safety risk to other employees in the absence of me having any symptoms.

Specifically, as I have a medical exemption and I do not have any symptoms of COVID-19 or any other infectious disease, there are no medical grounds or legal grounds to deny me access to my employment.

**End of Letter M3**

# Letter M4

# Masking and Children

We have also been lucky to receive the assistance from one of our associates Michelle Saminaden, who has also cleverly put together the following sample letter in relation to masking and children for you to use.

CC: Office of the Minister for Education [ome@edumail.vic.gov.au](mailto:ome@edumail.vic.gov.au)

Public Sector Commissioner

**Re: Mask Mandate**



“To the Principal,

I correspond in regard to the extraordinary decision for the Education Department to mandate masks for Victorian school children. Thank you in advance for your consideration of my concerns, as follows**.**

I bring to your urgent attention that evidence supports, that the mask mandate may be an unlawful, unsound and potentially harmful directive, which is not fit for purpose. I respectfully request that the Education department facilitate a common sense independent and evidence based approach in the best interests of students, legislative obligations, (inclusive of our constitution, and human rights considerations), to revoke the mandatory mask direction in Victorian schools. Please review appendix 3 for relevant legislative instruments that the department must consider.

Please note, this is from the federal government health website:

***Where there is low community transmission of COVID-19, wearing a mask in the community when you are well is not generally recommended***.

<https://www.health.gov.au/news/health-alerts/novel-coronavirus-2019-ncov-health-alert/how-to-protect-yourself-and-others-from-coronavirus-covid-19/masks>

I have grave concerns, and do not believe that the mask mandate enforced on Victorian Secondary students, (over 12 years of age), is in compliance with various sections of the Victorian Public Health and Wellbeing Act, (2008), numerous other legislative instruments, has been scrutinised by a rigorous risk analysis, (as detailed in Appendix 4), or is based on credible science.

The science and lawfulness supporting many Victorian public health directives is not settled. For example, the WHO changed its stance on lockdowns on 11/10/2020, and Dr David Nabarro from the WHO claimed that the only thing lockdowns achieved was poverty. Our Education System and students cannot afford to continue to rely on untested opinion.

I do not believe the decision making around the mask mandate, has adequately considered the vast majority of peer reviewed science, (which overwhelmingly support that masks are ineffective), for the purposes of reduction of community disease transmission.

The Chief Health Officer has claimed that masks reduce transmission without providing verifiable peer reviewed research.

I state that that the mask mandate is not only disproportionate to the risk, is ineffective, and according to the weight of verified science, there is an unacceptable risk that this mandate may actually increase disease transmission, (as detailed below).

I am also concerned regarding the impact of this mandate on the physical and psychological health of affected students.

Concerning reports of illness and death due to mask use are being reported globally. For example, Chinese schools have prohibited mask use during exercising, after two teenage boys died during their physical exercise class[[1]](#footnote-1). In addition a [26-year-old man suffered a collapsed lung](https://app.cyberimpact.com/click-tracking?ct=Agfpfe5HUN0csHbtAsT_sc72GiJ2I9qXMjw5HiiCp4vdwh3PiEETK0H7qW26LBzDd96MfExGzh1IUd0-b0w0GJ5AepYj26qVExfJm6hz6Fk~) after running two and a half miles while wearing a mask. *Dr Chen Baojun, a chief medic from the Wuhan hospital, suggested the 26-year-old Chinese resident was already more susceptible to the condition as he was 'a very tall man and quite thin'. But added that the face covering directly caused the sudden increase of pressure to Mr Zhang's lung due to intense running, Dr Chen said. Education authorities in China said today that they are set to ban school students from wearing face masks during PE lessons due to the health risks[[2]](#footnote-2).* The assumptions of minimal benefit, if any, due to mask use should be weighed against the strength of evidence, which indicates that they may cause more harm to health than benefit.

I am also concerned about discrimination towards exempt students. On 09/10/2020, a teacher at a school in country, Victoria, was reported by a parent to be bullying a student to wear a mask during physical exercise, despite this child’s objections. This is very concerning. The department may choose to remind teachers of very robust workplace safety laws, surrounding misconduct leading to harm, and discrimination.

**In light of the significance of the issues raised so far, I respectfully request a written response, in accordance with the Charter of Human Rights and Responsibilities Act, sec 15(2)[[3]](#footnote-3), as soon as possible, to the following:**

* Does the department intend to provide information to parents, students and teachers about lawful exemptions such as trauma, anxiety and respiratory issues?
* Have educators been offered training and health safeguards, to help them identify and adequately respond to a child suffering symptoms of illness or distress from mask use?
* How will the department honour the genuine necessity for these vulnerable students to attend school without a mask, without discrimination, pressure or consequence?
* I hold concerns the Andrews Government may have enacted the directive for students to wear masks at school in an unlawful manner. I request transparency and clarification regarding what legal advice the Education Department has received from the Solicitor-General or other legal professionals, to confirm the legality of the imposition of this directive.
* I respectfully request to be provided with the legislative authority, specific Acts and instruments, and any risk analysis relied upon, to support and enforce a school mask mandate**.**
* Are you aware if the individual who is responsible for this decision has sought and understood, independent, **verifiable** specialist medical and science research and responsible views, in a risk analysis, which also align with the best interests of students, the purpose of the Education System, and relevant legislation**?**
* I would appreciate the contact details of the person (s) in the Education Department, who is responsible for the decision to mandate masks. Alternatively, I am happy for you to forward this correspondence if you deem appropriate.
* I request clarification regarding what verifiable advice the Education Department has received from scientists, medical professionals, or the Andrews Government, to confirm and verify the belief that wearing masks is likely to reduce transmission of disease, and specifically Covid-19, if available.
* I request reassurance that the directive for students over 12 years of age to wear masks at school has been supported by verifiable, independent health advice, subject to risk analysis, supporting that this decision is aligned with the best interests of Victorian Students and is lawful. If this is not available**,** then an immediate withdrawal of this mandate must be facilitated in the interests of good governance.
* It was the Queensland Chief Health Officer’s position to close schools to send a message. I request to understand if the Victorian Education Department closed schools, or are endorsing the mask mandate, because they have been instructed by the Victorian Government, to *send a message.*
* The Charter of Human Rights and Responsibilities Act, sec 17, states that children have the right to be protected by the State as needed to uphold his/her best interests, and sec 7 which upholds scrutiny between the relationship of the limitation (mask mandate) and its purpose, in addition to a legislative instruction that the limit must be the **”***less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve”*. Will the Education Department honour this legislation, through notification to the UN Secretary General under Article 41aof the ICCPR, or notify the Human Rights Commission, for State Labor Party breaches of the State Public Health and Welfare Act, Federal Biosecurity Act, ICCPR, articles 4 and 17, which are disproportionate to the risk, unjustified, arbitrarily unreasonable, and as this document may establish, not founded on peer reviewed credible science?
* In consideration of the specific legislative conditions and due process, detailed throughout the *Compliance with legislation and Human Rights Considerations* found in Appendix 4 of this document, can the Education Department please detail the reasoning behind why they feel a mask mandate is lawful.
* In consideration of the details throughout this document, (inclusive of the meta-analysis and legislative considerations provided in the Appendix), I request that the Education Department please detail the reasoning supporting that a mask mandate is evidence based, reasonable, necessary and proportionate to the risk, and in the best interests of students, as is lawfully required even under the conditions of a State of Emergency/Disaster.

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* Occupational Health and Safety Act 2004

**What does the Science Support?**

Anaesthetist Dr Babak Amin[[6]](#footnote-6) voiced his objections to cloth, non- medical masks, with no universal standard of manufacture. He stated; "*There is a raft of high-quality data, what we call meta-analyses, studies that compile multiple other studies together, and these studies have found that non-medical masks in community settings play no role in protecting the wearer from infection or from stopping infected people passing the virus on*.”

Mr Jones pointed to a study from Dr James Meehan of Global Research which argues bacterial pneumonias are currently on the rise because “*untrained members of the public are wearing medical masks repeatedly in a non-sterile fashion*”[[7]](#footnote-7).

**Infection Control Expert Group (ICEG)**

The ICEG recommendations on the [www.health.gov.au](http://www.health.gov.au) website states that general use of masks in the community is not recommended, unless there is presence of sustained community transmission, and if so, only as an additional safeguard to physical distancing. They state that there is limited, indirect, experimental evidence that cloth masks can reduce transmission of respiratory droplets, and these masks are significantly less efficient than surgical masks.

The ICEG rely on a study of 1600 healthcare workers in Vietnam which compared the use of medical, cloth and control subjects with no covering at all[[8]](#footnote-8). The results in this study showed a significantly **higher rate of clinical respiratory infection, influenza type illness (ili), in cloth mask wearers than the control subjects. This is of great cause for alarm.** These unexpected results may be explained through variables such as dampness, prolonged use and self-contamination in the cloth mask wearers. These factors will be predictably present and are reasonably unavoidable in school students. This study raises red flags surrounding whether the use of masks can actually be of benefit in transmission reduction of ILI, at all. In fact, this study indicates otherwise, it suggests that wearing masks increases transmission, when compared with controls without masks.

**In consideration of the abovementioned study relied upon by the ICEG, the unknown effects of long-time mask wearing and the following must be investigated;**

* Do used and loaded masks become **sources of enhanced transmission**, for the wearer and others?
* Do masks become collectors and **retainers of pathogens** that the mask wearer would otherwise avoid when breathing without a mask?
* **Are large droplets captured by a mask atomized or aerolized into breathable components?**
* What are the **dangers of bacterial growth on a used and loaded mask**?
* How do pathogen-laden droplets **interact** with environmental dust and aerosols captured on the mask?
* What are **long-term effects** on health, such as headaches, arising from impeded breathing?
* Are there **negative social consequences** to a masked society?
* Are there **negative psychological consequences** to wearing a mask, as a fear-based behavioural modification?
* What are the **environmental consequences** of mask manufacturing and disposal?
* Do the masks **shed fibres or substances that are harmful** when inhaled?[[9]](#footnote-9)

Scientific evidence shows that masks **obstruct breathing** and are not effective barriers to pathogens including Covid 19 and can have effects on the health of the individual due to bacteria and mould collecting on the mask[[10]](#footnote-10).

Masks are causing harm in our community already and are therefore present a predictable and unacceptable risk. It is commonly known that supermarket staff are forced to wear masks for 8-10 hours a day, and then again when they are out for their 2 hours of exercise.  Those subjected to wearing masks are reporting, **breathlessness, light headedness, headaches and migraines, sweat sores around their mouth nose, chin and eyes, as well as cuts to the back of their ears[[11]](#footnote-11).**

**Skin Disease**

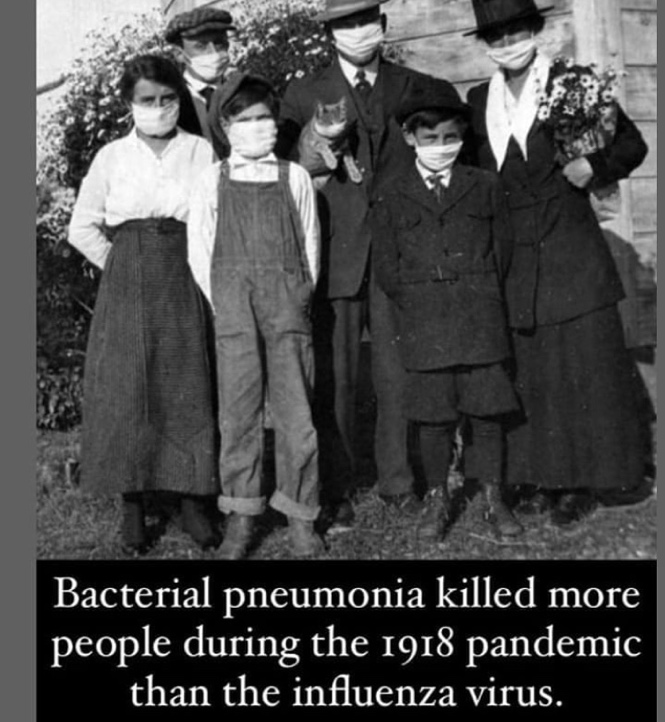
Dr James Meehanof global research who correctly argues that; “*all over the world bacterial pneumonias are on the rise why might that be? Because untrained members of the public are wearing medical masks repeatedly…in a non-sterile fashion”. They’re becoming contaminated…they’re reapplying a mask that should be worn fresh and sterile every single time”*.

**Influenza A and bacterial infection lead to most deaths in the 1918 Pandemic**

The environment a mask creates has specific effects on the normally harmless skin flora found on our face. Chiller et al, (2001)[[12]](#footnote-12). Skin usually provides a decent defence against bacterial pathogenesis, however, an altered environment “*under moist occlusive*[[13]](#footnote-13) *conditions”*, can support bacterial growth. A mask certainly provides the moisture and covering required for most bacteria to thrive.

Fauchi et al, (2008)[[14]](#footnote-14), who through review of a published autopsy series found that most deaths (96% of over 8000 cases reviewed), could be caused by a secondary bacterial pneumonia, (due to common respiratory pathogens such as pneumococci, group A streptococci, and staphylococci), and not just the virus itself. They found that the initial viral pathogenesis such viral bronchiolitis, often seemed to be resolving at the same time the secondary infection caused the death. Fauchi et al, (2008) cited Wilson et al, (1947), who found that “*In rhesus monkeys, human influenza viruses given intranasally were not pathogenic, but could be made so by nasopharyngeal instillation of otherwise non-pathogenic bacteria*”[[15]](#footnote-15). Fauchi et al concluded; “*Based on contemporary and modern evidence,* ***we conclude here that influenza A virus infection in conjunction with bacterial infection led to most of the deaths during the 1918–1919 pandemic*”.**

In consideration of the significance of bacterial infections in pandemic mortality, raised by Lubarsch O. Die, (1918)[[16]](#footnote-16) , McCuller, (2008)[[17]](#footnote-17) and Fauchi et al, (2008)[[18]](#footnote-18), and the latter’s work which supports that most 1918 pandemic deaths were caused by secondary bacterial pneumonia, (due to common respiratory pathogens such as pneumococci, group A streptococci, and staphylococci),it is critical to consider the unacceptable risk mask wearing presents to the individual, due to the increased capacity of potentially pathogenic bacteria to thrive. It may also be more productive to refocus efforts towards methods of reducing bacterial infection.



Many Victorian’s are suffering from **mask related illnesses and skin conditions**. The types of masks being recommended were never designed to be worn outside of controlled and sterile environments, thus making masks a **breeding ground for bacteria** **and mould.**

The pictures below show the detection of 82 bacterial and mould colonies, on a mask previously worn by a child in school for 8 hours.



The picture on the right, shows a schoolchild with impetigo. This is a result of the contagious ‘strep’ virus thriving in the skin environment, caused by the child being forced to wear a mask at school. Similar photographs are often seen on social media.

**Dr. James Meehan**, MD warns that mask wearing has *“well-known risks that have been well-studied and they’re not being discussed in the risk analysis.. I’m seeing patients that have facial rashes, fungal infections, bacterial infections. Reports coming from my colleagues, all over the world, are suggesting that the bacterial pneumonias are on the rise. “Why might that be? Because untrained members of the public are wearing medical masks, repeatedly… in a non-sterile fashion… They’re becoming contaminated. They’re pulling them off of their car seat, off the rear-view mirror, out of their pocket, from their countertop, and they’re reapplying a mask that should be worn fresh and sterile every single time…New research is showing that cloth masks may be increasing the aerosolization of the SARS-COV-2 virus into the environment causing an increased transmission of the disease…In February and March we were told not to wear masks. What changed? The science didn’t change. The politics did. This is about compliance. It’s not about science… Our opposition is using low-level retrospective observational studies that should not be the basis for making a medical decision of this nature.”[[19]](#footnote-19)*

Accordingly, a group of Doctors and businessmen have launched legal action against the Tulsa Health Department to repeal the mask mandate in their city[[20]](#footnote-20). In Victoria, a high court class action and judicial review regarding the mask mandate, (and other unreasonable directives that are disproportionate to the risk), is pending at the time of writing[[21]](#footnote-21).

**Verifiable research and specialist opinion**

Many doctors have spoken against using masks as a method of reducing the spread of Covid-19. Dr Lee Merritt, a medical Dr with a long list of credentials testified before the Omaha City Council and stated; **“*I became an orthopaedic spinal surgeon, did 10 years as a military surgeon and I served on a congressional committee that looked at technology for the military, the navy specifically and researched bioweapons and masks…in my professional career I have never hear of anybody actually believe that any kind of mask short of a level 4 containment suit made a difference to small particle viruses, in fact the CDC published an article in May exactly saying that, they cannot contain influenza with these masks and that’s even larger than this virus… I reviewed all this science…its online on you-tube under medical technocracy and my name…my conclusion is that people that are now purporting to scientifically prove masks work are either being payed or being played… the outcome of this is not going to be good…children learn by looking at facial expressions they socialise, we are creating a generation of people that will be afraid of normal existence…”.***

**A meta-analysis of peer reviewed research, concluded that face masks were found to have no detectable effect against transmission of viral infections. (There is a significant difference in the transmission of non-viable nucleic acids and a virulent pathogenic virus). This conclusion** **does not support mandated masks at school for healthy children[[22]](#footnote-22). Please refer to the meta-analysis found at appendix 1 of this document.**

Please note there is no verifiable peer reviewed research supporting that masks reduce disease transmission. The only research available remotely supporting they do, is a preliminary study conducted at Honk Kong Uni by recently on 100 hamsters[[23]](#footnote-23). Please note this study was published on 30/05/2020. It states that up to the date of publishing; **“Although COVID-19 is believed to be transmitted by respiratory droplet and direct or indirect contact, no clear experimental evidence for this has been reported”.** Therefore the science pro masks in relation to transmission reduction was certainly not settled as recently as May, 2020, when this paper was released and the status has not changed to this date.However there is plenty of evidence supporting the contrary.

If the Education Department’s position is to listen to the CHO’s advice it may be more accurate and beneficial to review his own research on the mask issue, where he concluded: ***The evidence for discontinuing the use of surgical face masks would appear to be stronger than the evidence available to support their continued use.*** The CHO’s meta-analysis made with verifiable evidence has more integrity than any statement the CHO has made, in preference to the political propaganda he is directed to promote by Dan Andrews.

**The Victorian CHO, Brett Sutton’s Research**

The Victorian Chief Health Officer, Brett Sutton has supported a mask mandate contrary to comments not supporting this paradigm, made through his own research[[24]](#footnote-24). He cited a 1993 survey by Leyland, which assessed views on masks by operating theatre staff. Most alarmingly he relayed that 1 in 5 admitting “*that tradition was the only reason for wearing them*”.

According to the Victorian CHO Brett Sutton’s summary of his meta-analysis; “***The evidence for discontinuing the use of surgical face masks would appear to be stronger than the evidence available to support their continued use. In this climate of economic justification it would appear prudent to say that the use of surgical face masks by non-scrub operating theatre staff cannot be scientifically justified”.***

***There is little evidence to suggest that the wearing of surgical face masks by staff in the operating theatre decreases postoperative wound infections. Published evidence indicates that postoperative wound infection rates are not significantly different in unmasked versus masked theatre staff. However, there is evidence indicating a significant reduction in postoperative wound infection rates when theatre staff are unmasked. Currently there is no evidence that removing masks presents any additional hazard to the patient”.***

*Anaesthesia and Intensive Care, Vol. 29, No. 4, August 2001, page 336*

**Government Health Advice**

I hold concerns the Andrews government may have enacted the directive for students to wear masks at school without adequate peer reviewed science.

Please review the statement released by the Covidmedicalnetwork.com at https://covidmedicalnetwork.com/about-covid-medical-network/declaration-statement.aspx This represents the concern and request of thousands of medical experts, inclusive of the “*cessation of all disproportionate measures that contravene the International Siracusa Principles[[25]](#footnote-25)… where; “Children and adolescents are suffering and being needlessly harmed by the denial of normal social interactions such as play, schooling and relationships with family and friends, particularly as the virus poses an almost negligible risk. These effects on child and adolescent health will impact their future wellbeing for many years to come[[26]](#footnote-26)”.*

At present the research on the Federal government health website, (involving 1600 Vietnamese health workers), provided by the ICEG is contrary to a mask mandate, and actually supports not wearing masks.

The science supports that masks are ineffective for the purpose of reducing transmission, at best they have extremely limited value. The **health.gov.au** website, states that “*masks can help protect you and those around you if you are in an area with community transmission, and physical distancing is not possible*”. However “*where there is significant community transmission (as determined by jurisdictional public health authorities), you may choose, or be required to, wear a mask if physical distance is difficult to maintain..” [[27]](#footnote-27)*

The health.gov.au website acknowledges that the WHO ***encourages*** the use of masks however notes that:

*At the present time, the widespread use of masks by* ***healthy*** *people in the community setting* ***is not yet supported by high quality or direct scientific evidence and there are potential benefits and harms to consider.***

**World Health Organisation’s Position:**

*“However, taking into account the available studies evaluating pre- and asymptomatic transmission, a growing compendium of* ***observational*** *evidence on the use of masks by the general public in several countries, individual values and preferences, as well as the difficulty of physical distancing in many contexts, WHO has updated its guidance to advise that to prevent COVID-19 transmission effectively in areas of community transmission, governments should* ***encourage*** *the general public to wear masks in specific situations and settings as part of a comprehensive approach to suppress SARS-CoV-2 transmission.”*

The health.gov.au website reinforces that, WHO recommends a risk-based approach to use of medical vs non-medical masks in the community based on purpose of mask use, risk of exposure to COVID-19, vulnerability of population, setting in which population lives, feasibility of use (cost, availability) as outlined in extract shown in the Table below, reproduced from WHO advice on the use of masks in the context of Covid-19, 2020.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Manufactured non-medical grade face coverings including homemade (sewn) coverings (these coverings are not regulated by TGA) | Fabric face coverings; multi-layered cloth coverings made from fabric & reusable woven shopping bags | Limited evidence for protection | Wearer protection possible/Possible source control (note the cleaning advice at the top of this fact sheet) | Public use in community transmission where physical distancing cannot be achieved, **not for use with no community transmission** |

The www.health.gov.au website also shows that the infection control expert group (ICEG) have developed a fact sheet[[28]](#footnote-28), *where they state that “****where there is absent or localised Covid-19 transmission, the general use of masks in the community is not recommended. There is limited, indirect, experimental evidence that certain types of cloth mask can reduce transmission of respiratory droplets, but they are significantly less efficient than surgical Prolonged use can lead to self-contamination and infection (of the wearer).They are increasingly less effective as they become increasingly damp”.***

The health.gov.au website state that there are no randomised controlled studies of cloth masks in community or household settings.

**Messaging**

The Queensland Premier stated that schools were shut to send a message.

Dr Young told Ms Palaszczuk to shut down schools on March 26. She says while evidence showed schools were not a high-risk environment for the spread of the virus, closing them down would help people understand the gravity of the situation. "*If you go out to the community and say, 'this is so bad, we can't even have schools, all schools have got to be closed', you are really getting to people,"* Dr Young says. "***So sometimes it's more than just the science and the health, it's about the messaging.***" *So my advice to the Premier was, 'we've got to do it. It'll be awful, but we've got to do it'*. "But that was critical, decreasing the number of kids who go to school”.[[29]](#footnote-29)

It is prudent to ask, at what health cost to our students, is the Education system supporting the mask directive in classrooms? This must surely be based on sound evidence and not just messaging. A risk analysis is critical before any decisions are made to mandate masks in classrooms.

**State Government v Educational Policy, and Best interests of Students**

The Andrews State Government does not appear to have facilitated optimal educational or health policy, in the best interests of Victorian students, in consideration of accepted peer reviewed evidence. The science is certainly not settled on whether masks are beneficial in reducing transmission.

Verifiable, peer reviewed science has been inadequately reviewed by the Andrews government in decision making to support various other policies, school closures, in the absence of risk. For example, the decision to close schools does not concur with *The Great* *Barrington Declaration[[30]](#footnote-30)*. The Education department is obligated to facilitate policy which is lawful, based on sound information, and in the best interests of Victorian students. This must not digress due to political paradigms or messaging. Over 6,301 **Medical doctors** and 92466 public members have signed agreement to this statement. The infectious disease epidemiologists and public health scientists involved declared;

* Grave concerns about the damaging physical and mental health impacts of the prevailing COVID-19 policies, and recommend an approach called Focused Protection.
* Current lockdown policies are producing devastating effects on short and long-term public health…the working class and younger members of society carrying the heaviest burden.
* Keeping students out of school is a grave injustice.
* Keeping these measures in place until a vaccine is available will cause irreparable damage, with the underprivileged disproportionately harmed.
* For children, COVID-19 is less dangerous than many other threats to health, including influenza.
* As immunity builds in the population, the risk of infection to all – including the vulnerable – falls.
* We know that all populations will eventually reach herd immunity – i.e. the point at which the rate of new infections is stable – and that this can be assisted by (but is not dependent upon) a vaccine. Our goal should therefore be to minimize mortality and social harm until we reach herd immunity.
* The most compassionate approach that balances the risks and benefits of reaching herd immunity, is to allow those who are at minimal risk of death to live their lives normally to build up immunity to the virus through natural infection, while better protecting those who are at highest risk. We call this Focused Protection.
* Those who are not vulnerable should immediately be allowed to resume life as normal.
* Simple hygiene measures, such as hand washing and staying home when sick should be practiced by everyone to reduce the herd immunity threshold.
* Schools and universities should be open for in-person teaching.
* Extracurricular activities, such as sports, should be resumed. Young low-risk adults should work normally, rather than from home. Restaurants and other businesses should open. Arts, music, sport and other cultural activities should resume. People who are more at risk may participate if they wish, while society as a whole enjoys the protection conferred upon the vulnerable by those who have built up herd immunity”.

**Sensible measures**

Have the Education Department assessed if available measures such as physical distancing where possible, instructing symptomatic or exposed children to stay home, adequate supply of soap and hand dryers in toilets, and general cleanliness around the school is enough too reasonably and proportionately respond to covid-19? One suggestion is to teach some classes outside, weather permitting, and smaller class sizes to facilitate distance. After all, the Victorian government (who has cost our business economy 400m a day), may be approached to fund portable classrooms. In the Victorian CHO’s 2001research he references filtered air as follows; “Australian *Standards require operating theatres to have at least 20 air changes per hour, reducing the bacterial count by one twentieth every three minutes. With this degree of filtration, the chance of airborne transmission between staff and patient is minimal”.* Our CHO then detailed air filtration systems such as *Laminar* air flow using HEPA filters, which can remove particles less than .5 micron with 99.7% efficiency, or using *Steriflow* systems which could be focused on the teacher, both options are much more efficient and less harmful than a mask mandate.

Have these less invasive, and more reasonable child focused ideas even been considered?

**Community Consultation**

Community collaboration surrounding the cost-benefits of mandated masks is pertinent. Concerns from the public can be found at this petition organised by Liberal Federal Member Mr Craig Kelly at this link; <https://thevoiceoftheaustralianpeople.com/nomorefacemasks/>

Please detail what community consultation and review has been facilitated, to inform the decision to mandate masks in schools for children over 12 years of age.

**Unreasonableness**

There is no possible health reason for the direction of mandatory masks while walking alone, in family groups or small groups such as school classroom groups outdoors.  Children present negligible transmission of disease towards each other, **it is more sensible to protect the vulnerable, such as older teachers, with a plastic shield. If any child chooses to learn behind a shield, then that should be a voluntary choice also.** A person/people, who are walking and are not in close contact with other people pose no health risk to anyone including themselves. Wearing masks in the future months of summer will be extremely unpleasant, will increase the health concerns and the symptoms detailed throughout this document. The current response is totally impractical, unreasonable and disproportionate to the risk.

**Unnecessary Financial Cost**

Many Victorians are unable to afford the cost of masks and are therefore not using them as single use disposable masks, changing them every 2 hours as recommended. In a climate of high unemployment, this adds a financial strain on families. If you change your mask every 2 hours as recommended, it would be in excess of $25 per week in the cost of masks, or $100 for a family of 4. People are dangerously re-using masks because they simply can’t afford to purchase them. This cost, if worn by the Education department could be better spent on more efficient air filtration systems, such as those detailed in the studies discussed further in this document.

**PCR-RT TESTING**

For completion, concerns surrounding PCR driven policy requires further consideration by the Education department. If the tests are unacceptably inaccurate, it follows that policy derived from these tests will be flawed. Englebrecht and Demeter,(2020)[[31]](#footnote-31), found them scientifically meaningless.

The premier Daniel Andrews appears to have cherry picked his preferred specialists in his response, backed by a multimillion-dollar advertising campaign, to coerce the public to participate in testing.

The inventor of the PCR test has stated that this test is not capable of diagnosing an infectious disease[[32]](#footnote-32). Biochemist, Kary B. Mullis invented the PCR process in the 80’s and got the noble prize in chemistry for it a decade later. He discussed that the interpretation of the PCR is the problem[[33]](#footnote-33). He stated the PCR process allows you; *“to get a miniscule amount of anything and make it measureable*. ..*If you do it well you can find almost everything in anything…If you can amplify a single molecule to something you can measure, which PCR can do, there’s very few molecules that you don’t have as one single one of them…****PCR is a process to make a whole lot of something out of something. It doesn’t tell you that you’re sick or if the thing you end up with really was going to hurt you”*.**

This does not have the capacity and should not be used as a diagnostic test to determine false or positive test results. It can’t determine the difference between virus particles and an actual live virus. Positive tests do not equal cases. The **PCR test** RT-PCR identifies viral RNA and cannot determine whether infectious virus is present**, it can’t be used to diagnose infective disease.** Lower PCR cycle values indicate higher viral load and **imply** higher infectiousness **[[34]](#footnote-34).**

Dr Thomas Cowan[[35]](#footnote-35) explained that Kary Mullis specifically stated that you can’t use this test to prove infectious aetiology or diagnose infectious disease. Where we are trying to demonstrate causation through a surrogate test, science must be able to compare with a **gold standard**, (absolute identification), through using isolation purification, replicated copies, which are reliable 100% of the time.

He details this further; *They take a sequence unique to the new strain of covid-19, when it has amplified through 36 cycles you will start to see a colour change. At 40 cycles there are a lot more positives,* ***at 60 times it will be positive with everybody, 100% of the people. Therefore, all people have this sequence of rna somewhere in their genome, all you need to do is amplify it enough****.*

He extrapolated; *“We don’t know how many false positives or false negatives there are, as there is nothing to compare it to. If you test 30 million people and have, for example, a 1% false positive then 300,000 will test positive to support that there is an epidemic. To demonstrate the epidemic got better all you need to do is lower the cycles to 35. All countries have different amplification cycles”.*

Researcher Morgan Jonas has recently released a meta-analysis of current verifiable research, supporting that **PCR testing does not provide an appropriate, accurate or ethical response with identification of Covid-19[[36]](#footnote-36).**

The RT-PCR or viral load test, is the driver to justify restrictions and directives imposed on all Victorians, inclusive of the school community. This is a concerning and requires immediate scrutiny.

**Conclusion**

I strongly state that the science is not conclusive enough to force the mandating of masks in schools, for the purpose of reducing transmission of Covid-19. Masks are overwhelmingly not useful in preventing disease transmission, outside specific transient high risk circumstances by vulnerable individuals, as per the preliminary systemic review of Brainard, (2020)[[37]](#footnote-37) who also concluded that; “*The evidence is not sufficiently strong to support widespread use of facemasks as a protective measure against COVID-19… Further high-quality trials are needed to assess when wearing a facemask in the community is most likely to be protective”.* There is an unacceptable risk of harm to Victorian students inclusive of the evidence detailed in this correspondence.

Accordingly, I respectfully suggest that the Victorian Education Department withdraw its instruction to Victorian schools to enforce the wearing of masks for school children and teachers, pending a rigorous impartial and verifiable, evidence based review, and comprehensive discussion with the CHO and Emergency Management Commissioner, so that they may direct, as is their duty, the premier Andrews to act with verifiable evidence, integrity and impartiality.

Educational policy must not be influenced by messaging, propaganda, disingenuous political agenda or unsound, negligent and harmful directives. The mask mandate increasingly appears to be contrary to scientific evidence and medical opinion, is disproportionate to the risk, unreasonable, absent of human rights considerations and the best interests of children, which (as the curfew directive also indicated), may be also unlawful without legal basis.

I further suggest that a productive step to uphold the integrity of the Education System, would be to create a State-wide school community survey to assess views and invite collaboration. A cost-benefit review, involving the entirety of the school community, and independent medical and scientific research, and legal opinion is critically required.

Please respectfully repeal the mask mandate in schools, until these unacceptable risks of harm and grave human rights breaches presented throughout this document, have been resolved.

Kind regards

***Concerned Parent***

**Appendix 1 - A 2020 Meta-Analysis**

***Masks are neither effective or safe a summary of the science, are masks effective at preventing transmission of respiratory pathogens?***

[Colleen Huber, NMD via PrimaryDoctor](https://www.primarydoctor.org/masks-not-effect) July 14, 2020, at: <https://www.technocracy.news/masks-are-neither-effective-nor-safe-a-summary-of-the-science/> **Technocracy News and Trends, sourced online on 10/10/2020**

A review of the peer-reviewed medical literature examines impacts on human health, both immunological, as well as physiological.  The purpose of this paper is to examine data regarding the effectiveness of facemasks, as well as safety data.

In this meta-analysis, face masks were found to have no detectable effect against transmission of viral infections. (1)  It found: “Compared to no masks, there was no reduction of influenza-like illness cases or influenza for masks in the general population, nor in healthcare workers.”

This 2020 meta-analysis found that evidence from randomized controlled trials of face masks did not support a substantial effect on transmission of laboratory-confirmed influenza, either when worn by infected persons (source control) or by persons in the general community to reduce their susceptibility. (2)

Another recent review found that masks had no effect specifically against Covid-19, although facemask use seemed linked to, in 3 of 31 studies, “very slightly reduced” odds of developing influenza-like illness. (3)

This 2019 study of 2862 participants showed that both N95 respirators and surgical masks “resulted in no significant difference in the incidence of laboratory confirmed influenza.” (4)

This 2016 meta-analysis found that both randomized controlled trials and observational studies of N95 respirators and surgical masks used by healthcare workers did not show benefit against transmission of acute respiratory infections.  It was also found that acute respiratory infection transmission “may have occurred via contamination of provided respiratory protective equipment during storage and reuse of masks and respirators throughout the workday.” (5)

A 2011 meta-analysis of 17 studies regarding masks and effect on transmission of influenza found that “none of the studies established a conclusive relationship between mask/respirator use and protection against influenza infection.” (6)  However, authors speculated that effectiveness of masks may be linked to early, consistent and correct usage.

Face mask use was likewise found to be not protective against the common cold, compared to controls without face masks among healthcare workers. (7)

**Airflow around masks**

Masks have been assumed to be effective in obstructing forward travel of viral particles.  Considering those positioned next to or behind a mask wearer, there have been farther transmission of virus-laden fluid particles from masked individuals than from unmasked individuals, by means of “several leakage jets, including intense backward and downwards jets that may present major hazards,” and a “potentially dangerous leakage jet of up to several meters.”  (8) All masks were thought to reduce forward airflow by 90% or more over wearing no mask.  However, Schlieren imaging showed that both surgical masks and cloth masks had farther brow jets (unfiltered upward airflow past eyebrows) than not wearing any mask at all, 182 mm and 203 mm respectively, vs none discernible with no mask.  Backward unfiltered airflow was found to be strong with all masks compared to not masking.

For both N95 and surgical masks, it was found that expelled particles from 0.03 to 1 micron were deflected around the edges of each mask, and that there was measurable penetration of particles through the filter of each mask. (9)

**Penetration through masks**

A study of 44 mask brands found mean 35.6% penetration (+ 34.7%).  Most medical masks had over 20% penetration, while “general masks and handkerchiefs had no protective function in terms of the aerosol filtration efficiency.”  The study found that “Medical masks, general masks, and handkerchiefs were found to provide little protection against respiratory aerosols.” (10)

It may be helpful to remember that an aerosol is a colloidal suspension of liquid or solid particles in a gas.  In respiration, the relevant aerosol is the suspension of bacterial or viral particles in inhaled or exhaled breath.

In another study, penetration of cloth masks by particles was almost 97% and medical masks 44%. (11)

**N95 respirators**

Honeywell is a manufacturer of N95 respirators.  These are made with a 0.3 micron filter. (12)  N95 respirators are so named, because 95% of particles having a diameter of 0.3 microns are filtered by the mask forward of the wearer, by use of an electrostatic mechanism. Coronaviruses are approximately 0.125 microns in diameter.

This meta-analysis found that N95 respirators did not provide superior protection to facemasks against viral infections or influenza-like infections. (13)  This study did find superior protection by N95 respirators when they were fit-tested compared to surgical masks. (14)

This study found that 624 out of 714 people wearing N95 masks left visible gaps when putting on their own masks. (15)

**Surgical masks**

This study found that surgical masks offered no protection at all against influenza. (16) Another study found that surgical masks had about 85% penetration ratio of aerosolized inactivated influenza particles and about 90% of Staphylococcus aureus bacteria, although S aureus particles were about 6x the diameter of influenza particles. (17)

Use of masks in surgery was found to slightly increase incidence of infection over not masking in a study of 3,088 surgeries. (18)  The surgeons’ masks were found to give no protective effect to the patients.

Other studies found no difference in wound infection rates with and without surgical masks. (19) (20)

This study found that “**there is a lack of substantial evidence to support claims that facemasks protect either patient or surgeon from infectious contamination**.” (21)

This study found that medical masks have a wide range of filtration efficiency, with most showing a 30% to 50% efficiency. (22)

Specifically, are surgical masks effective in stopping human transmission of coronaviruses?  Both experimental and control groups, masked and unmasked respectively, were found to “not shed detectable virus in respiratory droplets or aerosols.” (23) In that study, they “did not confirm the infectivity of coronavirus” as found in exhaled breath.

A study of aerosol penetration showed that two of the five surgical masks studied had 51% to 89% penetration of polydisperse aerosols.  (24)

In another study, that observed subjects while coughing, “neither surgical nor cotton masks effectively filtered SARS-CoV-2 during coughs by infected patients.”  And more viral particles were found on the outside than on the inside of masks tested. (25)

**Cloth masks**

Cloth masks were found to have low efficiency for blocking particles of 0.3 microns and smaller. Aerosol penetration through the various cloth masks examined in this study were between 74 and 90%.  Likewise, the filtration efficiency of fabric materials was 3% to 33%. (26)

Healthcare workers wearing cloth masks were found to have 13 times the risk of influenza-like illness than those wearing medical masks. (27)

This 1920 analysis of cloth mask use during the 1918 pandemic examines the failure of masks to impede or stop flu transmission at that time, and concluded that the number of layers of fabric required to prevent pathogen penetration would have required a suffocating number of layers, and could not be used for that reason, as well as the problem of leakage vents around the edges of cloth masks. (28)

**Masks against Covid-19**

The New England Journal of Medicine editorial on the topic of mask use versus Covid-19 assesses the matter as follows:

“*We know that wearing a mask outside health care facilities offers little, if any, protection from infection.  Public health authorities define a significant exposure to Covid-19 as face-to-face contact within 6 feet with a patient with symptomatic Covid-19 that is sustained for at least a few minutes (and some say more than 10 minutes or even 20 minutes).  The chance of catching Covid-19 from a passing interaction in a public space is therefore minimal.  In many cases, the desire for widespread masking is a reflexive reaction to anxiety over the pandemic.*” (29)

**Are masks safe during walking or other exercise?**

Surgical mask wearers had significantly increased dyspnoea after a 6-minute **walk** than non-mask wearers. (30)

Researchers are concerned about possible burden of facemasks during physical activity on pulmonary, circulatory and immune systems, due to oxygen reduction and air trapping reducing substantial carbon dioxide exchange.  As a result of hypercapnia, there may be cardiac overload, renal overload, and a shift to metabolic acidosis. (31)

**Risks of N95 respirators**

Pregnant healthcare workers were found to have a loss in volume of oxygen consumption by 13.8% compared to controls when wearing N95 respirators.  17.7% less carbon dioxide was exhaled. (32)  Patients with end-stage renal disease were studied during use of N95 respirators.  Their partial pressure of oxygen (PaO2) decreased significantly compared to controls and increased respiratory adverse effects. (33)   19% of the patients developed various degrees of hypoxemia while wearing the masks.

Healthcare workers’ N95 respirators were measured by personal bioaerosol samplers to harbor influenza virus. (34)  And 25% of healthcare workers’ face piece respirators were found to contain influenza in an emergency department during the 2015 flu season. (35)

**Risks of surgical masks**

Healthcare workers’ surgical masks also were measured by personal bio aerosol samplers to harbour for influenza virus. (36)

Various respiratory pathogens were found on the outer surface of used medical masks, which could result in self-contamination.  The risk was found to be higher with longer duration of mask use. (37)

Surgical masks were also found to be a repository of bacterial contamination.  The source of the bacteria was determined to be the body surface of the surgeons, rather than the operating room environment. (38)  Given that surgeons are gowned from head to foot for surgery, this finding should be especially concerning for laypeople who wear masks.  Without the protective garb of surgeons, laypeople generally have even more exposed body surface to serve as a source for bacteria to collect on their masks.

**Risks of cloth masks**

Healthcare workers wearing cloth masks had significantly higher rates of influenza-like illness after four weeks of continuous on-the-job use, when compared to controls. (39)

The increased rate of infection in mask-wearers may be due to a weakening of immune function during mask use.  Surgeons have been found to have lower oxygen saturation after surgeries even as short as 30 minutes. (40)  Low oxygen induces hypoxia-inducible factor 1 alpha (HIF-1). (41)  This in turn down-regulates CD4+ T-cells.  CD4+ T-cells, in turn, are necessary for viral immunity. (42)

**Weighing risks versus benefits of mask use**

 Homemade and store-bought cloth masks and surgical masks or N95 masks are being used by the public especially when entering stores and other publicly accessible buildings.  Sometimes bandanas or scarves are used.  The use of face masks, whether cloth, surgical or N95, creates a poor obstacle to aerosolized pathogens as we can see from the meta-analyses and other studies in this paper, allowing both transmission of aerosolized pathogens to others in various directions, as well as self-contamination.

It must also be considered that masks impede the necessary volume of air intake required for adequate oxygen exchange, which results in observed physiological effects that may be undesirable.  Even 6- minute walks, let alone more strenuous activity, resulted in dyspnoea.  The volume of unobstructed oxygen in a typical breath is about 100 ml, used for normal physiological processes.  100 ml O2 greatly exceeds the volume of a pathogen required for transmission.

The foregoing data show that masks serve more as instruments of obstruction of normal breathing, rather than as effective barriers to pathogens. Therefore, masks should not be used by the general public, either by adults or children, and their limitations as prophylaxis against pathogens should also be considered in medical settings.

**Conclusion**

By making mask-wearing recommendations and policies for the general public, or by expressly condoning the practice, **governments have both ignored the scientific evidence and done the opposite of following the precautionary principle**.

 In an absence of knowledge, governments should not make policies that have a hypothetical potential to cause harm. **The government has an onus barrier before it instigates a broad social-engineering intervention or allows corporations to exploit fear-based sentiments.**

Furthermore, individuals should know that **there is no known benefit arising from wearing a mask in a viral respiratory illness epidemic**, and that scientific studies have shown that any benefit must be residually small, compared to other and determinative factors.

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**Appendix 2 - ‘The Great Barrington Declaration’**

Could **6,301 medical doctors** and 92466 public members be wrong?

“As infectious disease epidemiologists and public health scientists we have grave concerns about the damaging physical and mental health impacts of the prevailing COVID-19 policies, and recommend an approach we call Focused Protection.

Coming from both the left and right, and around the world, we have devoted our careers to protecting people. Current lockdown policies are producing devastating effects on short and long-term public health. The results (to name a few) include lower childhood vaccination rates, worsening cardiovascular disease outcomes, fewer cancer screenings and deteriorating mental health – leading to greater excess mortality in years to come, with the working class and younger members of society carrying the heaviest burden. **Keeping students out of school is a grave injustice.**

Keeping these measures in place until a vaccine is available will cause irreparable damage, with the underprivileged disproportionately harmed.

Fortunately, our understanding of the virus is growing. We know that vulnerability to death from COVID-19 is more than a thousand-fold higher in the old and infirm than the young. **Indeed, for children, COVID-19 is less dangerous than many other harms, including influenza.**

As immunity builds in the population, the risk of infection to all – including the vulnerable – falls. We know that all populations will eventually reach herd immunity – i.e. the point at which the rate of new infections is stable – and that this can be assisted by (but is not dependent upon) a vaccine. Our goal should therefore be to minimize mortality and social harm until we reach herd immunity.

**The most compassionate approach that balances the risks and benefits of reaching herd immunity, is to allow those who are at minimal risk of death to live their lives normally to build up immunity to the virus through natural infection, while better protecting those who are at highest risk. We call this Focused Protection.**

**Adopting measures to protect the vulnerable should be the central aim of public health responses to COVID-19.** By way of example, nursing homes should use staff with acquired immunity and perform frequent PCR testing of other staff and all visitors. Staff rotation should be minimized. Retired people living at home should have groceries and other essentials delivered to their home. When possible, they should meet family members outside rather than inside. A comprehensive and detailed list of measures, including approaches to multi-generational households, can be implemented, and is well within the scope and capability of public health professionals.

**Those who are not vulnerable should immediately be allowed to resume life as normal. Simple hygiene measures, such as hand washing and staying home when sick should be practiced by everyone to reduce the herd immunity threshold**. Schools and universities should be open for in-person teaching. Extracurricular activities, such as sports, should be resumed. Young low-risk adults should work normally, rather than from home. Restaurants and other businesses should open. Arts, music, sport and other cultural activities should resume. People who are more at risk may participate if they wish, while society as a whole enjoys the protection conferred upon the vulnerable by those who have built up herd immunity”.

Sourced at [https://gbdeclaration.org](https://l.facebook.com/l.php?u=https%3A%2F%2Fgbdeclaration.org%2F%3Ffbclid%3DIwAR0VucZVbz2lDrCRRHlUAiv1i8roLbgNLfXhOo_zaLKTJrMUQzOhJ_mLQ_8&h=AT0A7Bg1mt-5MoQshwnT-i7lEXivjw55QPwcyRA5weZiooU81guzjEX_gEACFr6IfgcdNW3P3bgcrFZC-jyx_ZnBW5KZUAd2sJyblWlzXU2AGQyy8NYlKjmk-D-PHj9f&__tn__=-UK-R&c%5b0%5d=AT0JGDYjg6GxyZjTfqYw7Qc6asEYJD26i72rspwI3ySuCUyZNamgYY3yBvm3kmg8AtphAAdPRQTTYyNKcqiKWSi0_S0EWTFkD3igbSStPoiU1edVdvZ__1aSRSGUvS_PgQYnKa_WoRbYekuyfi2VO1hEDGKNma0IC6ueY2zfyy8oRT3gR6sOGPaeyJ8b) on 10/10/2020

**Appendix 3 - Compliance with Legislation and Human Rights Considerations**

**Legislative Authority for Mask Mandate?**

The current response to inquiries surrounding the mask mandate appears to be following the Chief Health Officer’s directives as per the State Public Health and Wellbeing Act, (2008)[[38]](#footnote-38). This Act should be read as a whole, with understanding of how the various sections interact. It is clear in section 111 and 112, that the least restrictive measure must be chosen, with minimal restrictions on the rights of the individual that is necessary.

The Federal Biosecurity Act, (2015),[[39]](#footnote-39) also requires necessity to combat the risk and can only be authorised by the Commonwealth Chief Medical Officer or Biosecurity officer in relation to a person who may have a listed disease, including Covid-19.This demonstrates that even the Federal Act is subject to a reasonable belief by an appropriately designated person, that the individual affected by the measure poses some element of risk of having the disease. These Act’s do not have the authority to be arbitrarily applied to healthy people that do not pose a risk.

I strongly state that as a risk assessment of each individual Victorian student, as required in the Federal legislation, has not been conducted to permit the required reasonable belief that each individual child poses a risk. If it had been, Sec 478,( 3a-d), could not been adhered to anyway, in relation to a position of reasonable necessity to order a mandated mask directive, as the science simply does not support the argument that masks reduce disease transmission.

In any event, Sec 478, (5), places limits on interference with State and Territory bodies and officials, unless the direction is in accordance with an agreement between the Commonwealth and the State, Territory or body. The Andrews government has strayed far from the intergovernmental agreement, which also did not explicitly agree to a mask mandate in Victorian secondary schools. Therefore, the State does not have authority under the provisions of either the State or Federal Act, to demand that the Education Department support enforcement of the mask mandate, using health as a health measure. This permits the department to make their own evidence-based decisions.

As[Section 198,(9),](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/) implicitlyprovides that a declaration of a State of Emergency **does not derogate from or limit any provisions** in relation to the declaration of an emergency under any other Act, it can be demonstrated that the authority to invoke a mask mandate even under a State of Emergency is not apparent or likely to be lawful.

Therefore if the mask mandate is not authorised for health reasons, under the Emergency Act, and is enforced under the broader State of Disaster powers, it can reasonably be purported that the mask mandate is not invoked for the purposes of health, but instead for control.

The Minister can only exercise powers under a State of Disaster if they believe compliance by a government agency with the provisions of an Act or instrument that prescribes the agency’s duties or responsibilities, would inhibit its response to the disaster. Where the State Government has not responded to a disaster lawfully, through wilful ignorance of human rights, the due process required (as discussed above), in the State Public Health and Wellbeing Act, (2008), and Federal Biosecurity Act, (2015), and does not comply with Articles in the ICCPR[[40]](#footnote-40), the Education department is certainly under no obligation to become complicit in stated unlawful response.

*“If States purport to invoke the right to derogate from the Covenant during, for instance, a natural catastrophe, a mass demonstration including instances of violence, or a major industrial accident, they must be able to justify not only that such a situation constitutes a threat to the life of the nation, but also that all their measures derogating from the Covenant are strictly required by the exigencies of the situation”[[41]](#footnote-41).*

I respectfully request clarification of the Education departments’ position surrounding the legislative source of authority relied upon to enforce the mask mandate. I further request that the department scrutinise stated legislation and refuse to facilitate what are very likely to be unlawful measures, devoid of legislative authority, on students.

The State Public Health and Wellbeing Act , **Sec 198 (2)**, (2008), permits the Minister Andrews to revoke his directive, after consultation with the Emergency Management Commissioner, (EMC), as per Emergency Management Act, (2013)[[42]](#footnote-42). It may be necessary for the Education Department to approach the Chief Health Officer and EMC, to facilitate review, as it appears the Minister has failed to collaborate effectively even within his own party, as reported by his former departmental economist Sanjeev Sabhlok[[43]](#footnote-43).

Numerous State Government leaders are under current investigation through inquiry, and various Supreme and High Court Actions for negligence, acting disproportionately unreasonably and unlawfully in their response to the risk, inclusive of workplace breaches surrounding manslaughter. I respectfully request that the Education department distance itself from unsound, potentially harmful directives, and potentially criminal State actions that have already cost 768 deaths, and 18,418, between May and the end of September, 2020, due to decisions made during the hotel quarantine disaster.[[44]](#footnote-44)

It is critical the department independently consider the interests of our students and teachers, and rely on verifiable science, as opposed to political propaganda, to manage health issues. The *Coates* Public inquiry has demonstrated the absolute necessity, that decisions surrounding education and the health of our school community, must be challenged, qualified, verified, and made with integrity, appropriate expertise, accountability and oversight.

It is highly inappropriate to permit critical decisions surrounding public health by politicians, that some may say, have such *poor memory recall and integrity*. The possibility of the compromised status of officials is an unacceptable risk. This could present a very foreseeable and catastrophic liability surrounding nonfeasance, to the detriment of the school community. Please assert required authority, to facilitate an urgent withdrawal of the mask mandate.

Included for your consideration below, are relevant legislative requirements that should be a consideration in any decision-making surrounding mask mandates, as follows:

**The Federal Biosecurity Act, (2015)[[45]](#footnote-45)**

Before giving a direction under sec 478, (1), of the Federal Biosecurity Act, the Health Minister must be satisfied of all of the following:

a) that the direction is likely to be effective in, or to contribute to, achieving the purpose for which it is to be given;

b) that the direction is appropriate and adapted to achieve the purpose for which it is to be given;

(c) that the direction is no more restrictive or intrusive than is required in the circumstances;

(d) if the direction 5is to apply during a period--that the period is only as long as is necessary.

**Section 112[[46]](#footnote-46) of the Victorian Public Health and Wellbeing Act, (2008),**

Section 112 clearly states;

**Least restrictive measure to be chosen**

*“If in giving effect to this Division alternative measures are available which are equally effective in minimising the risk that a* [*person*](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person) *poses to public health, the measure which is the* ***least restrictive*** *of the rights of the* [*person*](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person) *should be chosen”.*

It is critical that the wording of Sec 112 is understood. Person means an individual, not an entire group, class or school.

**Section 111 of the Public Health and Wellbeing Act, (2008)[[47]](#footnote-47),**

This applies to the management and control of [infectious diseases](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) it appears 111,(a) has been inadequately reviewed by decision makers, as this document will support that a mask mandate is schools is not applying a **minimum restriction** necessary, on the rights of any person., as follows;

**PUBLIC HEALTH AND WELLBEING ACT 2008 - SECT 111**

**Principles**

The following principles apply to the management and control of [infectious diseases](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease)—

(a) the spread of an [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) should be prevented or minimised with the minimum restriction on the rights of any [person](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person);

(b) a [person](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person) at risk of contracting an [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) should take all reasonable precautions to avoid contracting the [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease);

(c) a [person](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person) who has, or suspects that they may have, an [infectious](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) [disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) should:

(i) ascertain whether he or she has an [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) and what precautions he or she should take to prevent any other [person](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person) from contracting the [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease); and;

(ii) take all reasonable steps to eliminate or reduce the risk of any other [person](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person) contracting the [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease);

(d) a [person](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#person) who is at risk of contracting, has or suspects he or she may have, an [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) is entitled:

(i) to receive [information](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#information) about the [infectious disease](http://classic.austlii.edu.au/au/legis/vic/consol_act/phawa2008222/s3.html#infectious_disease) and any appropriate available treatment;

(ii) to have access to any appropriate available treatment.

**Risk Assessment Analysis**

Accordingly, as the Chief Health Officer has not specifically mentioned a risk analysis for Education in documents produced to the *Coates* inquiry[[48]](#footnote-48), it must be asked;

**What risk analysis of health and human rights considerations, if any, provides the foundation for the mask mandate in schools?**

Economist, Sanjeev Sabhlok, has authored over 17 articles on the pandemic response, resigned in protest from his position as economist for the Andrews government, due to the lack of risk assessment and gravely inadequate response to the disease. He strongly stated that, despite his own team specialising in regulation, the precautionary principle, policy of minimal regulation for business, were ignored. His discussions with global health leaders and understanding that the Neil Ferguson predictive model was abominably inaccurate, and that risk was minimal, were ignored by the Chief Health Officer. The Andrews government attempted to censor his further concerns surrounding abuse of power, (inclusive of police brutality).

Victorian students and the Education department deserve better consultation and overall governance. It is critical that the department facilitate communication with the CHO. This should be inclusive of critical questions such as why the cost/benefit effect of the State of Emergency on the Education system, was not specifically reviewed as per requirements of the Public Wellbeing and Health Act, Sec 198, (8A), (a), (2005).

The following legislative considerations and principles should also be factored into any risk analysis, in the best interests of the school community, and adherence to democratic principles. As follows;

**Principles of Equity[[49]](#footnote-49)**

Incidentally, part (d), (ii), of section 111 of the Public Health and Wellbeing Act, (2008), is also relevant in light of any proposed vaccine mandates, is law and must be respected. The entitlement, choice and consent, of ‘appropriate available treatment’ is clearly required and should under long held *Principles of Equity* otherwise known as *maxims of equity[[50]](#footnote-50)*, surrounding transparency and *clean hands*, good conscience, etc, be based on verifiable cost benefit analysis for the individual it affects.

Equity includes in wider sense, a breach of an obligation as acknowledged in equity. Equitable remedies arise where there is a “significant possibility of conflict”[[51]](#footnote-51) such as the Victorian governments mask mandate, (which this document will support is unacceptably harmful to students).

Equity includes abuse of power founded in fraudulent misrepresentation. It is relevant that one of the *Principles of Equity*, states that a statute must not be used as an instrument of fraud. The High Court Supports these Principles must be upheld in every Australian court.

The High Court of Australia has affirmed the vitality of traditional equitable doctrines, as supported by Muschinski v Dodds [1985] HCA 78, 160 CLR 583[[52]](#footnote-52).

To see this upheld in practice you may review; The High Court position, held in Australia Taylor v. Taylor (1979), as follows:

“…So far as material to this case s. 79A (1) of the Family Law Act 1975 (Cth) provides that "When, on application by a person affected by an order made by a court under section 79, the court is satisfied that the order was obtained by fraud, by duress, by the giving of false evidence or by the suppression of evidence, the court may, in its discretion, set aside the order. Section 83 provides, inter alia, that "in proceedings with respect to the maintenance of a party to a marriage, if there is 2in force an order with respect to the maintenance of that party, the Court may (c) discharge the order."

In effect fairness, transparency and honesty must be upheld in decision making. It is therefore unlawful to follow directives that are not founded on these principles. The question surrounding liability, due to harm and nonfeasance, inflicted on children through the enforcement of unlawful directives is unacceptably grave.

*Thorne v Kennedy[[53]](#footnote-53)* presented the High Court with a unique opportunity to clarify the doctrines of undue influence, duress and unconscionable dealing. Duress, undue influence and unconscionable conduct are all discussed in the reasoning of the High Court, however, importantly, with regards to unconscionable conduct, their Honours stated at [38]:

“*A conclusion of unconscionable conduct requires the innocent party to be subject to a special disadvantage "which seriously affects the ability of the innocent party to make a judgment as to [the innocent party's] own best interests".  The other party must also unconscientiously take advantage of that special disadvantage.  This has been variously described as requiring "victimisation", "unconscientious conduct", or "exploitation".  Before there can be a finding of unconscientious taking of advantage, it is also generally necessary that the other party knew or ought to have known of the existence and effect of the special disadvantage. […]*

Accordingly, I hold concerns that the Education department has been exploited through the unconscionable conduct of decisions made by the Andrews government, which has in my view, seriously affected the ability of the Education department to make judgements in the interests of the department, primarily surrounding the best interests of student health, and general operational procedures in educational delivery. The Education department not only has a duty to protect its own objectives under ministerial order, but also a responsibility to uphold this for the wellbeing of students.

In my opinion, the mask directive for schools requires an immediate injunction, as it has infringed upon the Education departments overreaching responsibility to act in the best interests of its students. The Education department is obliged to challenge unsound mask mandates and protect the best interests of its own system and its students.

**Ministerial Order**

In August 2016 registered schools and those seeking registration with the [Victorian Registration and Qualifications Authority](http://www.vrqa.vic.gov.au/) (VRQA), became subject to the Child Safe Standards[[54]](#footnote-54) to remain in compliance with [Ministerial Order No. 870 – Child Safe Standards – Managing the risk of child abuse in schools](https://www.safeguardingservices.com.au/wp-content/uploads/2017/06/ministerial_order_870.pdf). Schools must comply with Schools **must** comply with the prescribed standards:

1. Strategies to embed an organisational culture of child safety;
2. A child safe policy or statement of commitment to child safety;
3. A child safety code of conduct;
4. Screening, supervision, training and other human resources practices that reduce the risk of child abuse;
5. Procedures for responding to and reporting suspected child abuse;
6. Strategies to identify and reduce or remove risks of child abuse; and
7. Strategies to promote child participation and empowerment.

As the mask mandate significantly holds relevance to the mentioned standards it is urgent and critical that a risk analysis is conducted for each, as many members of the community perceive this mandate as child abuse. I anticipate your reply as soon as possible as this issue has potential to affect your registration status.

**The Australian Constitution**

There is no higher law than our constitution. It clearly states in Section 118 of the constitution, recognition of laws of States; *Full faith and credit shall be given, throughout the Commonwealth to the laws, the public Acts and records, and the judicial proceedings of every State.* The *Principles of Equity* cannot be ignored.

The mask mandate is inflicted on Victorian children. It is clear that Section 117 of the constitution, rights of residents it States; *A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State*.

Therefore the Education Department must immediately cease its mask mandate in Victorian schools, which is not equally applied to residents in other States.

**International Covenant on Civil and Political Rights**

***Article 4***

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant **to the extent strictly required by the exigencies of the situation,** provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs I and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

**Article 17 of the ICCPR[[55]](#footnote-55),**

This was ratified by Australia in 1980[[56]](#footnote-56) is a further consideration and highlights the proportionality and necessity to the end sought.

In this case the end sought is to apparently lower transmission of disease, specifically Covid-19. I will discuss further in this document that the mask mandate does not contribute in any significant way to the *end sought*, in fact verifiable peer reviewed science supports that this mandate is contrary to the *end sought*.

**ICCPR Article 17[3]**

“1. *No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.*

*2. Everyone has the right to the protection of the law against such interference or attacks*”.

The United Nations Human Rights Committee (the HRC) supports that ‘reasonableness’ in this context means that; ‘***any interference with privacy must be proportional to the end sought and be necessary in the circumstances of any given case’*.**

8. In its General Comment on article 17, the HRC states that the "*concept of arbitrariness is intended to guarantee that even interference provided for by law should be in accordance with the provisions, aims and objectives of the [Covenant] and should be reasonable in the particular circumstances".*

Based on this and the Committee's jurisprudence on the concept of "reasonableness", the State party interprets "reasonable" interferences with privacy as measures are **based on reasonable and objective criteria, in proportion to the purpose for which they are adopted**.

The Human Rights Commission can investigate violations of the ICCPR[[57]](#footnote-57).

***ICCPR, Article 41a***

If the Education Department considers that another State Party is not fulfilling its obligations under the present Covenant. Article 41a provides remedy.

“*Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:*

*(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;”*

**Human Rights Considerations**

An increasing number of legal professionals such as Dr Reiner Fuellmich, and Victorian Human Rights lawyer Serene Teffaha, (who have both put out many videos surrounding this online), have expressed concern in regards to potential crimes against humanity and unlawfulness of directives endorsed by the Andrews government. I request that the Education department consider these significant statements to maintain the integrity, purpose and function of the Education system.

Under a State of emergency, the ICCPR, Article 4 and human rights remain a consideration. The Charter of Human Rights and Responsibilities Act, 2006 supports that we must consider that a human right may only be subject to 'reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom' [(s 7(2)).](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s7.html) In considering whether a limit is reasonable and demonstrably justified, all relevant factors must be taken into account, including, but not limited to, five factors listed in [s 7(2)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s7.html) of the Charter:

* the nature of the right;
* the importance of the purpose of the limitation;
* the nature and extent of the limitation;
* the relationship between the limitation and the purpose; and
* **any less restrictive means reasonably available** to achieve the purpose that the limitation seeks to achieve.

**Purpose and Proportionality Assessment of the Limits.**

**Relevant human rights in respect of the decision to issue the Directions**

Relevant human rights, which are discussed below:

a. right to liberty [(s 21)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s21.html);

b. humane treatment when deprived of liberty [(s 22)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s22.html);

c. freedom of movement [(s 12)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s12.html);

d. freedom of religion [(s 14)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s14.html)and cultural rights [(s 19)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s19.html);

e. freedom of peaceful assembly and association [(s 16)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s16.html) and freedom of expression [(s 15)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s15.html);

f. right to equality [(s 8)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s8.html);

g. rights to privacy, family and home [(s 13)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s13.html); and

h. protection of families and children [(s 17).](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s17.html)

**CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 - SECT 17 Protection of families and children**

1. Families are the fundamental group unit of society and are entitled to be protected by society and the State.
2. Every [child](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s3.html#child) has the right, without [discrimination](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s3.html#discrimination), to such protection as is in his or her best interests and is needed by him or her by reason of being a [child](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s3.html#child).

The proper consideration you must give to these rights:

The Charter provides that a human right may only be subject to 'reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom' [(s 7(2)).](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s7.html) In considering whether a limit is reasonable and demonstrably justified, all relevant factors must be taken into account, including, but not limited to, five factors listed in [s 7(2)](http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s7.html) of the Charter:

a. the nature of the right;

b. the importance of the purpose of the limitation;

c. the nature and extent of the limitation;

d. the relationship between the limitation and the purpose; and

e. any less restrictive means reasonably available to achieve the purpose that the limitation seeks to achieve.

The document then referred to a number of Charter rights including the rights to liberty, freedom of movement, freedom of religion and cultural rights, freedom of peaceful assembly and association and freedom of expression, the right to equality, the right to privacy, family and home, and protection of families and children.

**Occupational Health and Safety Act 2004**

Prosecution of the Victorian Government is pending by Small Business director Mr Ken Phillips and others due to the government abrogating their responsibility and duty to provide a safe workplace, surrounding hotel quarantine, regarding alleged failure of core administrative function and foreseeable negligence in their responsibilities to facilitate a safe workplace and mitigate risk.

To avoid similar issues, it is critical that the Education system uses a common sense response to Covid-19, which is sound and minimises risk. Mandated masks will likely cause predictable and clear unacceptable risk of harm to students. There is sufficient evidence to support that the enforcement of mandated masks presents unacceptably high risk to students. The department has a responsibility to minimise risk to students.

The management of a system has a responsibility to provide safe systems at work or be in contravention of the OH &S Act, 2004. Worksafe authorities can investigate and prosecute contraventions, or after 6 months the DPP can be requested to prosecute by any public member under section 130. The contracting out of services does not absolve responsibility from providing a safe system of work.

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2. Reported via Kelly-Ann Mills on 13th May, 2020, sourced at https://www.mirror.co.uk/news/world-news/man-26-suffers-collapsed-lung-22018788 [↑](#footnote-ref-2)
3. Charter of Human Rights and Responsibilities Act, sec 15(2),Sourced at <http://www.austlii.edu.au/cgi-bin/viewdoc/au/legis/vic/consol_act/cohrara2006433/s15.html> on 23/10/2020 [↑](#footnote-ref-3)
4. Public Health and Wellbeing Act, (2008), (sec 112), http://classic.austlii.edu.au/au/legis/vic/consol\_act/phawa2008222/s112.html [↑](#footnote-ref-4)
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11. ‘Ibid’ [↑](#footnote-ref-11)
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    [↑](#footnote-ref-12)
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41. # General Comment 29, Art. 4 (ICCPR) (States of Emergency)

    **Human Rights Committee, General Comment 29, States of Emergency (article 4),   
    U.N. Doc. CCPR/C/21/Rev.1/Add.11 (2001) sourced at** <http://aldeilis.net/english/general-comment-29-art-4-iccpr-states-of-emergency/> **on 23/10/2020** [↑](#footnote-ref-41)
42. Emergency Management Act, (2013), sourced online at http://classic.austlii.edu.au//au/legis/vic/consol\_act/ema2013190/ [↑](#footnote-ref-42)
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53. Thorne V Kennedy, Kennedy v Thorne [[2016] FamCAFC 189](http://www.austlii.edu.au/au/cases/cth/FamCAFC/2016/189.html) [↑](#footnote-ref-53)
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