

31 March 2020

Sarah Albon
Chief Executive
Health and Safety Executive
Redgrave Court
Merton Road
Bootle
L20 7HS

Via email: sarah.albon@hse.gov.uk

Dear Sarah

As the Chief Executive and General Secretary of the largest nursing union and professional body in the world with 450,000 members, I am writing to you as a matter of urgency to report the ongoing lack of personal protective equipment (PPE) supplied to RCN members during this pandemic.

I continue to receive reports of a lack of suitable and sufficient PPE available to all nursing staff including hospitals, GP surgeries, care homes, hospices, and community nurses visiting people in their homes. In particular, our members cannot obtain equipment such as face masks, eye protection and hand sanitisers.

I am concerned that some NHS and social care employers are failing to follow statutory obligations in relation to the provision of PPE.

Our members are reporting a number of organisations which are in fundamental breach of:

- Health & Safety at Work Act 1974
- Regulation 4 of the Personal Protective Equipment at Work Regulations 1992
- Control of Substances Hazardous to Health Regulations 2002
- Management of Health and Safety at Work Regulations 1999
- The implied terms to provide a safe place of work and reasonable support in all our members' contracts of employment.

Regulation 4 states:

Every employer shall ensure that suitable personal protective equipment is provided to his employees who may be exposed to a risk to their health or safety while at work except where and to the extent that such risk has been adequately controlled by other means which are equally or more effective.

The accompanying guidance states:

Employers should, therefore, provide appropriate personal protective equipment (PPE) and training in its usage to their employees wherever there is a risk to health and safety that cannot be adequately controlled by other means.

In order to provide PPE for their employees, employers must do more than simply have the equipment on the premises. The employees must have the equipment readily available, or at the very least have clear instructions on where they can obtain it.

By virtue of Section 9 of the Health and Safety at Work etc Act 1974, no charge can be made to the worker for the provision of PPE which is used only at work. Section 9 of the Health and Safety at Work etc. Act 1974 states: "No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions". Section 9 applies to these Regulations because they impose a 'specific requirement' - i.e. to provide PPE.

Nursing staff across the country are rising to the challenge of this unprecedented situation. RCN members are coming out of retirement, students interrupting their studies, and nursing staff are deploying from non-clinical settings, all to support the frontline in the battle against COVID-19 and yet they lack access to basic health and safety equipment in order to do so.

I expect you to issue instructions to all providers of care where patients are being treated for, or are suspected of COVID -19 infection. I am willing to supply you with specific examples to support addressing this issue immediately if required.

The situation is unconscionable.

With this letter, I call on the Health and Safety Executive to intervene.

I look forward to receiving your response.

Yours Sincerely



Dame Donna Kinnair
Chief Executive & General Secretary