

# NOTICE OF LIABILITY

*Address of Recipient*

*Date*

Dear

**RE: COVID-19 social measures and vaccinations for children 0-18 years**

We are writing to you as a collective of parents and citizens to raise our concerns about the current government Covid-19 measures and policies which deal with our children. We have sought both legal and medical opinions in relation to government responses and measures to Covid-19 including (i) government policy in relation to vaccinations and the exclusion of unvaccinated parents and/or children from activities (ii) mandatory PCR and RAT testing of children and (iii) mandatory mask wearing and social distancing. This letter is being sent to put you on notice immediately.

This notice informs you of potential organisation and personal legal liability you might encounter should you or the board of your organisation fail to appropriately uphold your statutory, common law and equitable duty of care when dealing with families and children. It also informs you of our intention to report any breaches of existing statutory obligations contained in current federal laws such as the MyHealth Records Act, The Privacy Act, the Australian Immunisation Register Act, the Biosecurity Act and of the Constitution particularly Section 51 and our intention to refer to police together with this notice evidence of any of your decisions that result in the occasioning of assaults and/or bodily harm to our children.

We are aware of the Department of Health and the Department of Education and other governing bodies giving directions requiring you to impose mandatory Covid testing and vaccinations that will be conducted by the schools on site. Likewise, we are aware if these are not already in place then they are foreseeable into the future. These tests are invasive and will be reported to the police as child abuse and assault, likewise any vaccinations conducted by the school on site without fully informed parental consent (noting both parents in the case of separated parents) will also immediately be reported to police as an assault and litigated through the courts for negligence.

Coercing parents or children or staff to consent to provide their private and confidential medical information to the school is contrary to the MyHealth Records Act, the Privacy Act and the Australian Immunisation Register Act, the Biosecurity Act 2015 as well as section 51 of the Constitution. Firstly, as a public servant or member of the community and not a medical professional you do not have the right to access children's, parents or staff medical history outside the terms of what is required for adequate care. You also have significant

obligations regarding the collection and storage of this information which we suggest you quickly obtain legal advice on whether or not your collection, storage and use of this information is in compliance with your statutory obligations. Coercing students or staff or parents to provide their consent by refusing access to activities or an education or to perform their job is not valid or informed consent. These issues are currently being litigated in various courts in Australia and it will take just one case to invalidate every act of coercion that has been undertaken by you in carrying out the mandate directives. You may not realise but you will be personally liable for this and you cannot rely on the mandates because the way the mandates are drafted means that legal liability is on you for following the mandates without informing yourself of your own legal obligations and responsibilities under the Statutes cited above and well-established principles of law.

We appreciate that the last two years have been a highly politicised and controversial landscape. No doubt it has been difficult to discharge your duties to act with the highest ethical, moral and legal conduct. As you would already be aware these duties have been at the forefront of public scrutiny in relation to children for some time after the airing of abhorrent behaviours which were uncovered through the National Enquiry and Royal Commission into Institutional Responses to Abuse of Children. A dark period of Australian history and one which we are certain no institution wants to return to in any way. One where the “laws” at the time were not clear and protections were not adequately in place to safeguard our children.

You have been told by media and politicians that the benefits of testing, vaccines, mask wearing, and social distancing outweigh any risks. In addition, the Therapeutic Goods Administration, the majority of politicians and then National and state Chief Health Officers continue to declare the vaccines are “safe and effective”, the testing is safe and necessary, and masks are safe and necessary. Nevertheless, you are likely unaware that there are numerous legal actions currently being litigated, in Australia and elsewhere, that strongly refute this premise. We are now 2 years down the track and the political narratives have not changed despite the post marketing surveillance of these vaccine products, mask wearing and testing products providing clear evidence that they are of little benefit and present a significant risk. There is a growing body of independent peer reviewed scientific papers that indicate that the vaccines, mask wearing, PCR/RAT testing and social distancing are dangerous and the risks of these both singly and together far outweigh the benefits. There are also several criminal investigations in relation to these measures currently occurring globally and evidence is urgently being collected to present to police for these criminal investigations to be conducted here in Australia.

In your current leadership role, it is important that you consider your legal, ethical and moral duty of care towards those staff, students and families who may suffer due to your judgments not just now but in the future. These duties include your Fiduciary Duty of Care for the children in your care, your Non-Delegable duty of care to Prevent harm, Duty to ensure that you obtain fully informed consent from the Children’s parents/guardians, Indemnity Insurance Risks you may encounter by following the mandates, liability when you have Knowledge of Risk, Harm and Non-Action to Mitigate Risks. Each of these legal liabilities are more fully discussed and contextualised below. We strongly suggest you read the whole notice given that you are at risk of personal liability, but, in short, receipt of this letter puts you on notice of the legal, moral and ethical information you are required to

consider when making any decision in relation to our children as well as our intention to refer your actions to the police should you pursue any testing and vaccination on site now or in the future. As a result, should future litigation arise in relation to any harms that have occurred to our children we will not only be relying on this notice to prove your “state of knowledge” we will also be seeking all information and documentation to evidence your decision-making processes and we will use this when referring your actions to police for investigation of assault and bodily harm to our children.

In order to actively pursue all options towards legal proceedings whether that be individually or by group and class actions, we are also maintaining a register of individuals and groups to which this notice has been served and are gathering evidence and collating data as to the conduct, policies, procedures and practices of organisations that deal with children across Australia. There are many groups across Australia that as a result of suffering significant harm or witnessing the suffering of significant harms have raised significant funds in order to pursue these matters. Another reason why you are being put on notice.

### 1. Fiduciary Duty of Care

You are in a position of authority and responsibility for the care of children. Children are vulnerable and are at the mercy of your decision-making. This relationship contributes to an imbalance of power in cognitive and emotional capacity, personal authority, freedom and expression. As a result, you have a fiduciary duty of care. A fiduciary duty of care is a legal obligation originally stemming from principles of equity but also now enforced through statutes, contracts and at common law. The standard of a fiduciary in all that they do is to act in the best interests of and take the utmost care to prevent and avoid harm to those whom they are responsible for. A fiduciary also has a legal and ethical responsibility to put the interests of the person to whom they are responsible for ahead of their own and must always act in good faith without breaching that person’s trust and confidence.

When an individual or organisation takes on the responsibility and care for a child, this relationship is also seen as one constituting something akin to a parent/child relationship. This special relationship requires the fiduciary to act with a proper purpose, to exercise the utmost due care and diligence, to avoid conflicts of interest, to proactively manage and prevent abuse from occurring and to protect the child from physical, psychological and spiritual harms.

A fiduciary duty of care is a positive duty. It is not enough to demonstrate reactive actions, decisions, policies or procedures. Breach of the fiduciary duty of care can result in **personal liability** and will almost certainly always void an individual’s or organisation’s indemnity insurance policies. It is not enough to prove a matter was not considered, was not known about, was half acted upon or was not reported. A fiduciary duty of care is not one that can be “delegated” to an agent, employee or someone else acting within your authority or with your approval. A fiduciary duty of care is also not able to be abrogated during, for example, times of political uncertainty, where there is an adverse culture towards the child such as a culture of abuse or non-reporting, where guardians cannot be located or during a war.

The discharge of ethical conduct by a fiduciary is also fundamental to the legal requirement to act with utmost care. For example, a fiduciary must be able to prove at any given time

that the decisions and actions that have been taken are in the best interests of the child. This is exemplified when it comes to fiscal matters, for example, if there was a threat that a school would lose funding, but the measure comes at the potential of harm to the children and the school chooses to keep the funding at the expense of the child's well-being then this would fall short. It goes without saying that higher principles of love, respect and care hold value over an organisation's fiscal policy or financial endeavours. The same can be found in relation to political alignments or motivations.

## **2. Non-Delegable Duty of Care to Prevent Harm**

Like a fiduciary duty of care, any person who is in a position of authority by way of relationship, by legislative instrument or by a contractual agreement whether that be express or implied has a duty of care to prevent harm to the child. This duty cannot be contracted out and extends to ensuring that any third parties that deal with the child will not harm the child. The most common example of this duty is in relation to physical injury and is expressed through State and Territory personal injury legislative schemes. For example, a school has a duty that they cannot delegate out to ensure that children stay safe and that best standard systems and procedures are in place to prevent foreseeable harms. For example, a child being hit by a car or bus near the school gate would likely show a lack of safety systems in place.

This is also endorsed through federal legislative instruments. This duty also arises as part of the contractual arrangement between the child and the organisation. A non-delegable duty of care also involves acting ethically whilst placing the best interests of the child or children above other matters such as finances. Where a harm has occurred which was foreseeable and best standards were not applied an individual and/or organisation will be liable. The extent of the breach of liability may not just extend to the child itself but any onlookers and family and friends that have also suffered injuries as a result of the harms. It goes without saying that the penalties, reputational damage and flow on effects for such damage can be far reaching and are often devastating especially in community settings involving children.

## **3. Fully Informed Consent**

Covid-19 and the resultant government policies and mandates have raised issues about a child's capacity to consent. For example, at what age is a child able to consent to a novel medical procedure and can a child consent to being excluded and restricted from activities? It is a parent or guardian's responsibility to ensure that a child has all the available information and is aware of the physical, social, psychological and spiritual consequences of a child's decision-making. Where a child is too young to engage in such decision-making and the parent is legally able, they will make the decision for the child. Where another person or organisation has the responsibility of the care for the child either full-time or for part of the child's time then consent at minimum entails detailed engagement with the child's guardians to obtain authority for that consent. However, consent is not just a check box form, consent is about creating the circumstances of openness and transparency and ensuring the child and/or their guardian has access to all the information to be fully informed.

In a context where “health” and “social engagement” have become highly politicised and are being driven by controversial government policy and mandates the duty to take additional measures to ensure fully informed consent becomes higher not lower. For example, where a government mandates restrictions from activities then there is a higher duty to ensure that the child and their guardians are fully aware of reasoning behind the mandate, the consequences of this and that consent is obtained. At minimum the organization should ensure that the science is not driven by ulterior motives and that they are not carrying out measures that could actually harm the children. For example, in the early 1900s in Australia the Government legislated for the “protection” and “removal” of Indigenous children from their parents, removal of Indigenous children to working camps and enforced systems of apartheid based on race. At the time government schools, religious institutions and other organisations that dealt with children were responsible for fulfilling the mandates and policing the government agendas. This was in the name of “care”. We have since learnt over many decades the abuse, suffering, degradation and harm that these supposedly “right” mandates have caused.

Where a child has been told that they are able to consent to a medical procedure, or is being encouraged to do so based on a series of incentives there is also a higher duty to ensure the child is fully aware of the medical procedure including the risks and benefits and additional care must be taken to ensure there is no harm. If a child feels pressured, coerced, threatened, doesn’t understand the full short-term and long-term ramifications for what they are undertaking or is misinformed and physical, psychological or spiritual harm occurs then liability will ensue. Contrary to policy espoused by the government, consent to medical procedures under adult age is currently legally extremely complex and has not been settled through legislation or common law. Again, an area that you may be at risk of liability should you actively engage in advertising or encouraging vaccinations or arranging or facilitating vaccination providers to utilise your school grounds or school resources. Providing fully informed consent is not a responsibility that can be delegated or a measure that can simply be deferred by saying, “I was following government orders.” The government is not a person’s doctor, nor are you. Fully informed consent requires a complex analysis of the risks and benefits of a procedure in the context of an individual’s own unique medical circumstances and the assurance that the parents or guardians have fully understood the implications of such a procedure. This onus of obtaining fully informed consent is higher, not lower, in the context of a medicine which is still in a trial experimental phase.

#### **4. Indemnity Insurance Risks**

With legal obligation there almost always comes legal risk. Individuals and organisations often mitigate that risk by holding applicable indemnity insurance policies. Recently, a group of doctors met to discuss whether the consent that they were able or not able to provide to consumers seeking access to Covid-19 vaccines was adequate given a directive issued by the Australian Health Practitioner Regulation Agency (AHPRA). In effect the AHPRA directive stated that medical practitioners were not allowed to actively engage in discussion or provide information counter to the governments national Covid-19 vaccination rollout. Some doctors felt like this was in effect a “silencing” order where the integrity of the science was being compromised and where they would not be able to discharge their fiduciary duty of care to their patients especially in a heightened political environment which involved

mandatory medical directives for an experimental medicine to which the future effects, adverse effects or potential harms are still largely unknown.

As a result, some of these doctors have also examined their insurance indemnity policies and felt that they would not be adequately covered and would be held personally liable if they were not able to provide the necessary information so that their patients could exercise fully informed consent. This placed them in a very difficult position, to continue practicing taking the risk that on one hand they would be reprimanded or at worst have their registration revoked or on the other hand if a patient suffered harm, they would be personally liable. To which several doctors have found no viable option except to close their practice. You and your organisation should be aware that your indemnity insurance may not adequately cover you should you act outside your legal duties of care regardless of how controversial or unclear you may feel they are or how strongly you feel you must follow government policy. Your organisation's trust assets may also be at risk as has been found in some instances and endorsed through legislative changes as a result of the recent Institutional Abuse of Children legal claims.

## **5. Controversial Policy Making and Medical Evidence Regarding Covid-19 Vaccines for Children and Lock Out Measures for the Unvaccinated**

Children are at low risk of serious illness from Covid-19. They have a higher than 99% recovery rate. To the contrary, there is now considerable evidence which shows children are vulnerable to myocarditis and other serious conditions from mRNA vaccinations. The risk/benefit ratio is not in favour of children receiving the vaccine, also, many of the long-term effects are still unknown along with the efficacy and durability of the immunity that can be achieved by such vaccines as compared to natural immunity. Over 100 conditions are listed in adverse event reports data in the UK, USA, Europe and Australia such as cardiac disease, haematological conditions, renal conditions, auto-immune disorders and neurological conditions. The policy in support of vaccine mandates for children originally centred around reducing risk of hospital admissions, reducing transmission to others and more recently for their own protection in returning to school.

The data in relation to whether vaccination reduces transmission of Covid-19 is now clear. Data now reveals that in highly vaccinated populations such as Australia, transmission remains high. Covid transmission and variations continue despite high vaccination rates. A recent study showed that, in 145 countries, COVID vaccines make things worse (cases and deaths). Initially the political and media messages were to take the vaccines to reduce transmission to protect the elderly and vulnerable, but now that vaccines have proved ineffective even the Government health websites now tell you that they don't reduce transmission, they don't reduce infection rates but maybe they reduce severity of disease. Children don't need to be protected from severity of Covid as it is already established without controversy that children rarely suffer severe covid infections and this being the case it should be up to the parents to decide if their child requires a vaccination to reduce severity of disease not you or the Government or coercive measures aimed at pressuring parents or children to take the vaccine.

Note the following:-

Reference: [https://vector-news.github.io/editorials/CausalAnalysisReport\\_html.html](https://vector-news.github.io/editorials/CausalAnalysisReport_html.html)

“The statistically significant and overwhelmingly positive causal impact after vaccine deployment on the dependent variables total deaths and total cases per million should be highly worrisome for policy makers. They indicate a marked increase in both COVID-19 related cases and death due directly to a vaccine deployment that was originally sold to the public as the “key to gain back our freedoms.”

Latest data released by the UK Government shows that vaccination may actually have negative efficacy in regard to transmission in all age groups and the World Health Organisation now states that repeating booster shots is not a viable strategy against emerging variants. The agency's Technical Advisory Group on COVID-19 Vaccine Composition (TAG-CO-VAC) released a report in mid January 2022 saying that planning to regularly roll out Covid boosters “is not sustainable”.

The International Association of Physicians and Medical Scientists released their Rome Covid Declaration on 29th October 2021, where over 15,000 doctors and scientists agreed .....

“That Healthy Children Shall Not be Subject to Forced Vaccination”

Reference: <https://doctorsandscientistsdeclaration.org/>

As early as May 2021, Dr Lucas De Toca warned on the Australian Federal Government Department of Health website that “we know that the vaccines are not 100 % effective at preventing getting Covid at all”.

Reference: <https://www.health.gov.au/news/top-3-covid-19-vaccine-questions-vaccines-and-stopping-transmission-virus-mutation-and-people-who-want-to-wait-for-vaccination-0>

Also in Australia, a recent Open Letter to All Australians dated December 2021 has been issued to All Australians by six Medical Professional and Nursing Associations – again warning of the dangers to children from Covid vaccinations. “The risk/benefit ratio in children, which was not in favour of Covid-19 vaccination originally, is now very likely to be very negative by any reasonable assessment. A Physicians and Medical Scientists Declaration lists 38 scientific papers as supporting evidence for this view.”

Reference: <https://www.covidmedicalnetwork.com/open-letters/Open-letter-TGA.pdf>

On January 5th an Update from the World Health Organisation's (WHO) Strategic Advisory Group of Experts on Immunization (SAGE) noted that “There are currently no efficacy or safety data for children below the age of 12 years. Until such data are available, individuals below 12 years of age should not be routinely vaccinated”.

Reference: <https://www.who.int/news-room/feature-stories/detail/who-can-take-the-pfizer-biontech-covid-19--vaccine>

This statement has since been changed to “This vaccine is safe for use for those aged 5 and above, with an adjustment in the recommended dosage for those aged 5-11.” So which is it? Has sufficient research data been collected in such a short period of time to change the advice so radically? These are our children, remember. We still have no medium term or

long term data to sufficiently assess safety over the long haul for these precious young people who are our future and who are at almost no risk of death from the Sars CoV 2 virus.

Couple that with serious concerns that have been raised by other worldwide organization such as The Global Council for Health and you should be able to see that there is substantial evidence worldwide questioning the efficacy or need of this vaccine in children.

Reference: <https://worldcouncilforhealth.org/wp-content/uploads/2021/12/cease-and-desist.pdf>

Reference The Global Covid Summit: <https://doctorsandscientistsdeclaration.org>

Reference NZDSOS: <https://nzdsos.com/2022/01/17/position-statement-on-the-covid-19-experimental-vaccines/>

There is also medical evidence to suggest that the vaccines alter the natural immune system's response to disease and as a result can alter the immune response to other non-covid pathogens. There is little if any evidence to show how this may affect the spread or transmission of non-covid diseases to which populations may become more susceptible. In essence, the government policy encouraging children to be vaccinated to return to school has no scientific basis in support of providing any "safety" to the child nor the community.

Government mandates to exclude unvaccinated people from the community have largely been made on the basis that the hospital systems will suffer stress. Whilst there may have been some basis to this claim in the early phases when less was known, the evidence now alternatively suggests that being unvaccinated has little if any significance to the contraction or transmission of the virus and its variants. However, the evidence does show that locking unvaccinated people out of society does cause psychological pressure, a multitude of harm, financial detriment, unnecessary isolation and continues to reinforce a system of alienation which has very little scientific support. Such policy also has the hallmarks of causing significant discrimination and vilification based on an "us" and "them" or a "superior" and "inferior" mentality. Is this the community that you envisaged being a leader of?

Your duty is to consider what is in the best interests of the child NOT to support policies that prioritise others at their expense or worse make them feel victimised because they or their guardians and carers are excluded.

## **6. Knowledge of Risk, Harm and Non-Action to Mitigate Risks**

The state of knowledge of a fiduciary or an organisation that holds itself out as caring for a child is closely examined when harm occurs to one of its children. It is not enough to state, "I was told to act this way or I would suffer a fine if I didn't do it". It is therefore vitally important that you take additional measures during this time to leave aside your own personal views and do your own research from all available evidence to ensure that you are at all times truly acting in the best interests of those to whom you are holding yourself out as caring for. If it is the case that you have knowledge, or should have had knowledge of risks of harm whether that be physical, emotional or spiritual and you fail to mitigate those risks or worse you pursue a fiscal policy over the best-interests of the child then you will be at risk of personal liability.



## **Effect of this Notice of Liability**

Receipt of this notice now puts you on notice as to the types of legal, moral and ethical information you are required to consider when making any decision in relation to our children. As a result, should future litigation arise in relation to any harms that have occurred to our children we will not only be relying on this notice to prove your “state of knowledge” we will also be seeking all information and documentation to evidence your decision-making processes.

In order to actively pursue all options towards legal proceedings whether that be individually or by group and class actions we are also maintaining a register of individuals and groups to which this notice has been served. Every day we are gathering evidence and collating data as to the conduct, policies, procedures and practices of organisations that deal with children across Australia.

### **What if you or your Organisation has Concerns about the Government Measures?**

We have been advised by many organisations that they have concerns about the effects that government measures already taken to date have had on our children and their families physically, psychologically and spiritually. Measures that continue to be put in place that so far have not been found to be medically justified or are ethically unsound and are legally questionable. As stated above there are currently a number of cases being litigated throughout Australian courts. There is much legal uncertainty at present despite the campaigns being run by governments at this time, especially leading into a national election which would tend to suggest otherwise and likely so for political motivations.

Some organisations feel that they have been backed into a corner where they simply must “comply” or will be punished, shut down, fined or that integral funding will discontinue. Perhaps there is a political alignment and some organisations have also felt obliged to follow their groups decision-making.

In some states and territories organisations have been asked to effectively uphold a system of division which medically can be found to be nonsensical or is designed to “punish” non-compliance. Organisations have seen the effects this is causing psychologically or are extremely uncomfortable or disagree with coercing those that are vulnerable into positions where they feel disempowered, traumatised and afraid. Organisations are suffering an ethical crisis and are now questioning “am I ok with this?”, or, “am I now actively complicit in this harm?” Unfortunately, the answer is “yes”, your organisation may be found responsible for applying, policing and punishing in order to “comply”. The policy has been designed that way. You may be asking is that ok? You may also be starting to question whether you or your organisation is actually ok.

Whilst decisions may have been made on the basis of, “the government has told us and therefore we must”, it is actually your duty to question whether they have been made with the best interests of the children at the forefront of all decision-making processes. If you cannot evidence this then you may in fact already be in breach of your fiduciary duty and the legal obligations as outlined above. Relying on uncertain government policies in uncertain times in a state of world instability around an uncertain pandemic is not a defence

when there has been a breach of your duties which are much higher in certainty. A duty isn't one that just comes and goes. As stated, this is not the first time in Australian or world history where government policy making has been controversial, has the potential to cause mass harm and may actually be detrimental to those vulnerable groups to which they adamantly claim to be "helping".

In our view, history actually demonstrates that it is in these controversial times that those of us who are in positions of authority, power and responsibility must seriously question, critically examine and seek out all information and avenues to ensure that those that are vulnerable and cannot defend themselves are not harmed. Instead, it is your duty of care to offer a safe haven where there is no protection until there is stability.

There are a number of organisations who have legitimate concerns and are actively discussing these matters by seeking further medical evidence, legal advice and deeply questioning the current state of politics and knowledge. We urge you to critically examine your role and responsibilities during this time and as a start provide the following resources where you can find more information and organisations that are proactively seeking to address these issues:

<https://parentswithquestions.com.au>

<https://www.healthallianceaustralia.org>

[www.legalgeneralpractice.com.au](http://www.legalgeneralpractice.com.au)

[www.avn.org.au](http://www.avn.org.au)

[www.concernedlawyersnetwork.net](http://www.concernedlawyersnetwork.net)

[www.advocateme.com.au](http://www.advocateme.com.au)

[www.vaccinechoiceaustralia.com.au](http://www.vaccinechoiceaustralia.com.au)

Kind Regards,