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When I use a word . . . Vaccination—rights and duties

A previous benefit:harm balance analysis suggested that the UK government's declared policy of dismissing frontline healthcare workers if they continued to be unvaccinated against SARS-CoV2 would bring more harm to the NHS than benefit. This has proved to be so, and the policy has been withdrawn, a welcome move. However, the problem remains that over 5% of the frontline workforce are still unvaccinated, putting patients at increased risk of infection. Those who refuse to be vaccinated should ask themselves whether their desire to exercise their right not to be vaccinated, for any reason other than a medical contraindication, is more important than their duty of care to their patients. Both vaccinated and unvaccinated healthcare workers, out of respect for their patients, could consider wearing badges declaring their vaccination status, so that patients, knowing who was taking care of them, might decide whether they want to have a conversation about it.

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Vaccination and governmental diktat

Last year the UK government issued a diktat that healthcare workers in care homes would lose their jobs if they refused to be vaccinated against SARS-CoV2. Many did. The government estimates that just over 19 000 lost their jobs. Other estimates, more accurate one suspects, put it at 40 000. Apparently emboldened by the belief that the policy had been successful, the government then extended it to frontline healthcare workers across the whole of the NHS. Latest estimates suggest that about 80 000 (5.4% of the total) are still unvaccinated.¹

In an Opinion column on 26 November last year, I outlined an objective analysis of the pros and cons of this policy, to determine whether it was likely to be more or less beneficial than harmful.² The analysis depended on three questions:

1. What were the likely benefits from the intervention?
2. What were the potential harms from the intervention?
3. What were the potential harms from not intervening?

The answers to these questions took into account not only the nature of the possible benefits and harms, but also what the chance of each was and whether other courses of action might be equally or more beneficial and less harmful. I concluded that the policy was one that should not be followed, since it was likely to be more harmful than beneficial. In doing so, I invoked the precautionary principle, which I defined as "the principle that if a healthcare intervention, pharmacological or non-pharmacological, may cause harm to the individual, the public, or the environment, the benefit to harm balance being unfavourable or uncertain, precautionary measures should be taken, and the burden of proving that the intervention is not harmful falls on those proposing that it be implemented."³ "Precautionary measures" include not introducing the intervention.

However, by persisting in its policy, the government has now demonstrated that the benefit:harm balance

analysis was correct, and that the intervention it proposed has indeed been more harmful than beneficial and should not have been followed. They have therefore withdrawn the policy, claiming that it is right to do so, because circumstances have changed with the advent of the omicron strain of SARS-CoV2. But the analysis was highly predictive before anyone had ever considered the relevance of the 15th letter of the Greek alphabet. And the damage has already been done. It seems likely that the government's actions will strengthen resistance among those who refuse to be vaccinated, since they will feel that their position is justified.

Vaccine refusal

Those who refuse to be vaccinated are sometimes referred to as vaccine sceptics. But scepticism is only one of several possible mechanisms for the phenomenon. Whatever the reasons that different individuals have, it is refusal that characterises their position. So, "refuseniks" is a better term. This hybrid term is derived from the English verb to refuse plus "-nik," a suffix that has come into English from Russian, in which it is used to denote a member of a class or group or a supporter of a cause. About two dozen words of this type were already in use in English, mostly directly adopted from Russian plus a few hybrids, when in 1957 the launching of the first artificial earth satellite, Sputnik 1, gave the formulation wider currency. "Sputnik" literally means a travelling companion. Next up were "beatnik" and "folknik," both first recorded in 1958, describing a member of the beat generation, a dead beat, and a devotee of folk music. "Neatnik" and "sicknik" followed in 1959, and in 1962 "peacenic," a member of any pacifist organisation.

"Refusenik," a 1973 entry, has an appropriate double meaning. Originally it referred to someone whose request was to be refused; later the meaning reversed and it became someone who refused to do something. Governmental policy would have created double refuseniks—those who refused to be vaccinated would be refused employment.

Mechanisms

That healthcare workers of all people, including doctors and nurses, should refuse to be vaccinated is a puzzle. One would have expected them to have been at the front of the queue. Excluding medical contraindications, the mechanisms are undoubtedly complex. They include the effects of misinformation. They include scepticism about the evidence and misinterpretation of it. They include religious scruples. In some groups they include deep historically rooted mistrust of the motives of those who are encouraging them to be vaccinated. And they include fear of adverse outcomes, which is at least a rational factor, although not sufficient to tip the balance.

The arguments that the refuseniks put up are largely hollow. The benefit:harm balance of vaccination is demonstrably highly favourable. Vaccination reduces the risk of infection and reduces its intensity if it occurs, reducing the need for hospitalisation. Common adverse effects are mild and transient. Serious adverse reactions are exceptionally rare,^{4,5} and the risks, even the unknown long term possibilities, need to be set against the well described adverse effects of SARS-CoV2 infection, including the serious effects of long covid.⁶ Furthermore, rare adverse effects are not detected in conventional clinical trials but emerge from voluntary reporting systems, which are affected by publicity.⁵

Vaccination—rights and duties

People are often heard to claim that they have rights of one sort or another. Rarely do they mention the complementary duties that accompany those rights.

For example, journalists have the right to report news items. However, they also have a complementary duty to report them accurately. Hence fact checking departments in major newspapers.⁷ The case of Stephen Glass, whose fictional news-reporting activities have again recently been highlighted,⁸ illustrates this. However, there is a more subtle duty, that of avoiding misrepresentation, for example by reporting relative risks of therapeutic interventions rather than absolute risks, a technique called mismatched framing.⁹ This might include, for example, reporting an increased risk of an adverse effect from 1 in 100 000 to 2 in 100 000 as a 100% increase.

The philosophical framework in which rights and duties exist is complex.¹⁰ Not all rights have complementary duties; for example, animals have no duties in relation to us, but we nevertheless confer rights upon them. Rights are not necessarily absolute; Justice Oliver Wendell Holmes, in the case of *Schenck v United States* in 1919, famously stated his opinion that “The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic.” This dictum, which has often been misquoted and misinterpreted, nevertheless illustrates that there are limits to free speech: the First Amendment to the US Constitution is not absolute. Some rights conflict. For example, a patient’s right to expect treatment for whatever condition they have may conflict with the similar rights of other patients when funding is limited; hence the concept of cost-effectiveness of treatments, as assessed by the UK’s National Institute for Health and Care Excellence (NICE), restricting some patients’ access to treatments that are considered too expensive for the quality of care that they provide. It may not be possible in such cases for the complementary duties of healthcare to be fulfilled.

Many other nuances could be discussed, but the point here is that those who are accorded the privilege of being frontline healthcare workers, with the various rights that that privilege implies, have what is generally referred to as a duty of care. This includes ensuring that diagnostic processes are properly followed, that therapeutic

interventions are carefully administered with regards to patient safety and their effects monitored, that communication with the patient is of high quality, and that the patient’s views and wishes are respected. Some of these are subject to legal definition, others are parts of professional codes.

Conclusions and a suggestion

The right of frontline healthcare workers not to be vaccinated conflicts with their duty of care. Refuseniks should ask themselves whether their desire to exercise their right is more important than their duty of care to their patients.

Meanwhile, Michael Baum has suggested that all healthcare staff might wear some sign on their badges that they are vaccinated,¹¹ fulfilling their duty of respect for the patient. Patients would then know who was taking care of them, which might help them decide whether they want to have a conversation about it. I suggest a picture of a syringe for each jab; there must be an emoji for that.

Competing interest: I have received two doses of the ChAdOx1 nCoV-19 vaccine and one booster dose of tozinameran.

Provenance and peer review: not commissioned; not peer reviewed.

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