

## NOTICE OF PROTECTED DISCLOSURE REGARDING THE COVID-19 (OR ANY OTHER) VACCINE AND/OR SARS-COV-2 TESTING

(For any South African Employee who is directly or indirectly forced to be - or coerced into being - vaccinated or tested)

**DATE** (Complete the date of this notice): \_\_\_\_\_

**TO: EMPLOYER** (Complete the full legal name of your employer):  
\_\_\_\_\_

**ATTENTION** (Complete the name and email address of the representative of your employer):

Name:

Email:

**FROM:** (Complete your full names, Identity/passport number, employee number, email address and cellular number)

Full Names:

ID/Pass. No:

Employee No:

Email:

Cellular No:

cc. ***(Remember to cc Email this completed form to us at the same time forwarded to the Employer for our record purposes)***

LFN Legal Department, Email: [legal@libertyfighters.co.za](mailto:legal@libertyfighters.co.za)

To whom it may concern,

1. As the representative of the above-mentioned Employer you are receiving this formal notice, a protected disclosure as intended in Section 6 of the ***Protected Disclosures Act, 2000 (Act No. 26 of 2000)*** – hereafter referred to as the “***PDA***” – in that the policy of this Employer to make COVID-19, and/or for any other disease, testing and/or vaccination mandatory in the workplace, is not only illegal but also discriminatory towards all of this company's employees’

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freedom of expression, right to opinion and infringes on our right to bodily integrity, but it is also in direct violation of international law, Article 6(1) of the UNESCO Universal Declaration on Bioethics and Human Rights, 2005 and the African Charter on Human and Peoples' Rights.

2. Further, the Consolidated Direction published by the Minister of Employment and Labour (GN R499 GG44700 dated 11 June 2021) is not a "law of general application" referenced in Section 36 of the Constitution of the Republic of South Africa, 1996 and merely a guideline to be followed when and if a COVID-19 vaccine is available. Besides, at no stage of this mentioned guideline by the Minister did it authorise any employer to limit any employee's constitutional rights.
3. Currently there is no COVID-19 vaccine available on the market in South Africa; merely candidate vaccines (in the process of being tested and approved). The few candidate COVID-19 vaccines which were approved for Emergency Use Listing (EUL) purposes, thus authorised to be mass clinically tested on the broader public who then become test subjects, cannot be accepted as vaccines and therefore, any mandatory COVID-19 vaccine policy by the Employer would in any event be incompetent and premature.
4. **I am under no obligation to apply for exemption from a policy which is unconstitutional and invalid from its creation. Besides, the Employer does not have any right, of whatsoever kind without my clear consent, to regulate my constitutional rights by way of "exempting" me from this infamous policy on medical, religious or other constitutional ground. Thus, there is no need for me as an employee to follow any process which flows from this illegal policy to which I have not subscribed to.**
5. By having submitted this very notice to the Employer, must not be construed in any way that I agree to this unacceptable purported policy, the discrimination against me and others flowing from it, and I am merely sending this notice to the Employer to inform it of its illegal and/or unlawful actions in relation thereto.
6. This claimed policy is clearly discriminatory on one or more of the prohibited grounds against, above others, the group of employees who chooses not to get "vaccinated" at this point in time, like myself. Further, this claimed policy may not treat this mentioned group I subscribe to any different than those who choose to participate in the EUL candidate COVID-19 vaccine clinical tests.

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7. Any preventive, diagnostic and therapeutic medical intervention is only to be carried out with the prior, free and informed consent of the concerned employees, based on adequate information provided. The consent should, where appropriate, be express and may be withdrawn by the concerned employee at any time and for any reason without disadvantage or prejudice.
8. **Taking paragraph 7 above into consideration, the fact that I also choose not to participate in any clinical trials for any candidate COVID-19 vaccine, may also not result in me having to be forced to get tested for COVID-19, either at my own costs or paid by the Employer.**
9. Any current or future choice to refuse to be vaccinated or tested, for any cause whatsoever, may not lead to any occupational detriment committed against me as defined in the **PDA**.
10. You are hereby notified in terms of Section 3B of the **PDA** to conduct a proper investigation into this *bona fide* protected disclosure made to you, the Employer, and are to report back to me within a period of not more than 21 days from date of this notice.
11. As the Employer you are required to, in writing, acknowledge receipt of the disclosure by informing me of the decision—
  - (i) to investigate the matter, and where possible, the time-frame within which the investigation will be completed;
  - (ii) not to investigate the matter and the reasons for such decision; or
  - (iii) to refer the disclosure to another person or body.
12. Kindly note that as a result of me having made this *bona fide* protected disclosure, I may not face any occupational detriment which includes:-
  - (a) being subjected to any disciplinary action;
  - (b) being dismissed, suspended, demoted, harassed or intimidated;
  - (c) being transferred against my will;
  - (d) being refused transfer or promotion;
  - (e) being subjected to a term or condition of employment or retirement which is altered or kept altered to my disadvantage;
  - (f) being refused a reference, or being provided with an adverse reference, from my Employer;
  - (g) being denied appointment to any employment, profession or office;

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- (h) being subjected to any civil claim for the alleged breach of a duty of confidentiality or a confidentiality agreement arising out of the disclosure of—
    - (i) a criminal offence; or
    - (ii) information which shows or intends to show that a substantial contravention of, or failure to comply with, the law has occurred, is occurring or is likely to occur;
  - (i) being threatened with any of the actions referred to in paragraphs (a) to (h) above; or
  - (j) being otherwise adversely affected in respect of my employment, profession or office, including employment opportunities, work security and the retention or acquisition of contracts to perform work or render services.
13. As the Employer you are further notified that if I am in any way subjected or may be subjected, to an occupational detriment in breach of Section 3 of the **PDA**, or anyone acting on my behalf, may—
- (a) approach any court having jurisdiction, including the Labour Court established by Section 151 of the Labour Relations Act, 1995 (Act No. 66 of 1995), for appropriate relief; or
  - (b) pursue any other process allowed or prescribed by any law.
14. I hereby appoint **Liberty Fighters Network (LFN)**, to be my lawful representative organisation to pursue this matter further, either in a court having jurisdiction or other forum, against my Employer on my behalf and to do everything required in law to protect my non-negotiable human rights and to claim on my behalf any damages I might directly or indirectly suffer as a result of the discrimination and/or occupational detriment committed against me.
15. Kindly further note that if I at any stage after having made this *bona fide* protected disclosure reasonably believe that I may be adversely affected on account of having made that disclosure, the Employer must, at my request and if reasonably possible or practicable, transfer me from the post or position occupied by me at the time of the disclosure to another post or position in the same division or another division of my Employer or to another organ.
16. I am willing to, at the expense of the Employer, receive professional guidance from any registered health practitioner or nurse in respect of both advantages and disadvantages of being vaccinated with any approved vaccine and/or tested and that it will remain my own free choice to accept or not to accept such advice.
17. Meanwhile, I further choose not to undergo any test for COVID-19 or any other illness, unless I am advised by my own chosen medical practitioner to be tested or an order of court

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legitimately obtained directs me to be tested. **In the event I am being denied access to the workplace for either refusing to be vaccinated or tested, the Employer will remain responsible for my full remuneration and other benefits for such period I am denied access or otherwise prevented from undertaking my full work responsibilities as a result of such refusal of entry.**

18. The Employer is welcome to communicate directly with my chosen representative organisation LFN with contact details as follows:-

LFN Legal Department

Telephone: +27 (0) 12 023 1976

Email: [legal@libertyfighters.co.za](mailto:legal@libertyfighters.co.za)

19. Kindly inform me by return email about the Employer's decision in relation to this *bona fide* protected disclosure having been made, within the allotted period of 21 days.
20. **In the event that the Employer fails to adequately respond within the 21 days, I will accept that the Employer will not proceed to force me to be vaccinated and/or tested and that I will accept in good faith that this matter had been sufficiently dealt with.**
21. My rights remain fully reserved.

Yours Sincerely,

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Employee (Signature)

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