

19<sup>th</sup> November 2021

The Office of Robin Swann MLA, Minister for Health  
[robin.swann@mha.niassembly.gov.uk](mailto:robin.swann@mha.niassembly.gov.uk)

By email only

Re: *The introduction of regulations relating to Covid-status certification in Northern Ireland*

Dear Minister for Health, Robin Swann MLA,

We are writing to urge you to ensure that a vote on the introduction of mandatory Covid-status certification is held prior to the coming into force of any regulations. As a civil liberties and privacy rights NGO, we are deeply concerned by mandatory Covid pass proposals, which are discriminatory and illogical. It is crucial for democratic scrutiny and accountability that the Assembly is able to vote on these plans.

On 17<sup>th</sup> November, it was announced that the Department of Health would seek to pass regulations introducing a mandatory Covid-status certification policy for hospitality venues and large events in Northern Ireland. Such a significant measure, one that would require venues and event operators to discriminate on the grounds of health status, must not be introduced without the prior approval of the Assembly.

Since March 2020, multiple sets of Health Protection Regulations, made via the Public Health Act (Northern Ireland) 1967, have introduced restrictions and requirements in relation to the spread of Covid-19 in Northern Ireland. Almost all of these Regulations were passed without a draft having been laid before, and approved by a resolution of, the Assembly, in accordance with section 25Q of that Act. Section 25Q permits this only "by reason of urgency". A procedure which swerves democratic accountability must only be used in the most urgent of situations.

The use of section 25Q to pass regulations relating to the introduction of mandatory Covid-status certification cannot be justified. There is no legitimate reason to exclude the Assembly from such significant decision-making, particularly when proposals for the introduction of a mandatory Covid pass system in Northern Ireland were first discussed by the Executive in September.<sup>1</sup> Bringing a Covid pass scheme into law by ministerial decree would be an assault on democratic principles.

The Bingham Centre for the Rule of Law firmly states that any vaccine certification policy should be subject to the highest form of parliamentary scrutiny:

"Democracy requires that rules should be not simply imposed, but decided by elected representatives. When it comes to something as important as vaccine passports, it is insufficient for the law to come solely from ministers. Instead, it needs to be made through primary legislation: debated, scrutinised, justified and then enacted by parliament."<sup>2</sup>

It is critical that the Assembly is given a vote on the introduction of a scheme that would fundamentally reshape Northern Irish society.

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<sup>1</sup><https://www.belfasttelegraph.co.uk/news/northern-ireland/covid-19-vaccine-passport-scheme-to-be-discussed-by-stormont-executive-40889474.htm>

<sup>2</sup><https://binghamcentre.biicl.org/comments/114/vaccine-passports-must-be-legislated-for-properly-through-parliament?cookieset=1&ts=1631115331>

The introduction of a Covid-status certification scheme is unnecessary, discriminatory and will lead to a checkpoint society. Members must be given the chance to reject such a scheme before it becomes law.

Yours sincerely,

Madeleine Stone  
Legal and Policy Officer, Big Brother Watch