

All District Health Boards

COVID-19 (Coronavirus) FAQs: EMPLOYMENT ADVICE FOR COVID-19 VACCINATIONS Updated 19 March at 1600HRS

This advice is accurate as at **19 March 2021 at 1600HRS**.

It has been developed by 20 DHBs to provide clarity for front-line DHB managers on general employment-related questions that may arise in respect of COVID-19 vaccinations.

The advice will continue to be reviewed and may change rapidly given the nature of the Government and health system's response to COVID-19.

The Ministry of Health have provided general information on the COVID-19 vaccines, including the rollout, who household contacts are, vaccine protection and effectiveness, how the vaccines work and its safety. The Ministry's advice is regularly updated and we would encourage you to visit their [website](#).

Recent FAQ resources from the Ministry:

- [COVID-19-vaccine-FAQs-v2.pdf](#)
- [COVID-19-vaccine-FAQs-v3-Border-MIQ-Workers.pdf](#)

Ensuring your team are aware of the existence of these reliable sources.

Is the vaccine mandatory for DHB employees?

The government has confirmed the vaccination will not be mandatory – as health workers we are all keenly aware that individuals have the right to refuse medical treatment under the Bill of Rights Act.

However, getting vaccinated will save lives, and the government is encouraging everyone to take up the opportunity to get vaccinated when it is your turn. This will help us to carry on protecting our community from COVID-19. As public sector employees we are expected to adopt a leadership role for all New Zealanders.

All employers have obligations under the Health and Safety at Work Act 2015 to take all reasonable, practicable steps to eliminate, or otherwise control known risks.

I am worried about whether or not my employee will take the vaccination, what can I do to ensure that they receive it?

As a first step, we should seek to encourage employees to vaccinate against COVID-19 and provide factual information to any employee who is unsure. This information is available on the Ministry of Health's [website](#). Please ensure your employees are provided the time and space to attend information sessions which will be provided to all DHB employees through their local communication forums.

You can reassure your employees that any vaccination being delivered in New Zealand is required to be approved for use by Medsafe. Medsafe is the New Zealand Medicines and Medical Devices Safety Authority and is a business unit of the Ministry of Health. Medsafe is responsible for the regulation of therapeutic products in New Zealand.

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It is also important to recognise the role that union delegates, health & safety representatives, and peers can play in encouraging and educating employees regarding the vaccination roll out. Please ensure you are familiar with the information from official sources.

When will health workers receive the vaccination?

The vaccine roll-out will be phased with those most at risk of COVID-19 exposure receiving the vaccine first. This means that border workers, and those they live with, will receive the vaccine first. Following this, the vaccine will be rolled out in a staged manner to health workers before finally being released to the general population.

Further information on the planned vaccine roll-out can be found on the Ministry of Health website <https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-vaccines/covid-19-our-vaccine-roll-out-plan>.

Can I add vaccination as a condition of employment for existing employees?

No. You cannot retrospectively include Vaccination as a condition of employment for current employees.

Vaccination could be considered by DHBs as a condition of employment for new employees in patient-facing roles. However, in this context you do need to be aware you cannot refuse to employ someone on grounds that are prohibited from discrimination – this would include religious or health & disability related grounds. In all cases the reason given by any prospective employee about declining vaccination will need to be evaluated on a case-by-case basis. Ideological beliefs about vaccination are unlikely to be protected grounds under the Human Rights Act

It will be a condition of employment for new employees who are working on Vaccination Sites or in the Border setting (including MIF/MIQ). Exceptions in these settings are likely to be rare.

How do I determine whether or not my team member is vaccinated?

We need to know whether or not our employees are vaccinated to ensure that we can protect our employees, patients and visitors to DHB facilities.

As part of the consenting process, people will be asked to agree that their employer is advised that they have received the COVID-19 vaccination.

You are also able to lawfully ask your team member whether or not they are vaccinated.

Equally employees have the right to decline to provide this information. You need to ensure requests are made in a reasonable manner and an employee's right to privacy of their personal health information is respected.

If they decline to provide that information the DHB will need to consider the employee in the same manner as if they were not vaccinated. This is something you will need to advise the employee of.

What should I do if there is an employee in my work area that declines vaccination?

DHBs have an obligation to protect the health and safety of people who attend our worksite. This includes the employee themselves, other employees, patients, volunteers and members of the public.

Alongside this, individuals have the right to choose not to be vaccinated.

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It is important in this process that you allow time for the employee to get more information about the vaccine. Ensure that opportunities are available for employees to ask questions, to seek advice from well-respected sources, and to see the support of union delegates or health & safety representatives as appropriate.

Where an employee declines to be vaccinated, you will then need to have a conversation with them to ensure they are safe and that they can safely undertake their work.

Points for discussion may include:

- the nature of the employee's work
- the vulnerability of patients and team members they are exposed to
- the risk of exposure (to and from the employee)
- the effectiveness of other options to mitigate the risk of exposure (e.g. PPE or other)
- whether alternative duties are available
- whether reasonable adjustments can be made to accommodate the employee
- whether COVID-19 is currently present in the hospital or the community
- whether the employee deals with or is likely to deal with, patients with COVID-19

Once the above has been discussed, and if a health and safety risk is identified, you will need to work through the arrangements that can be put in place to mitigate this risk (for example, working from home or from another area, use of PPE, alternative non-patient facing duties).

You should then work through these options with the employee concerned and their union delegate/organiser as appropriate. You may wish to involve Occupational Health or H&S representatives in that discussion as well. If there are no suitable alternative duties or redeployment options exist, then you should talk with HR to ensure all reasonable steps have been exhausted.

What should I do if an employee refuses to advise whether they have been vaccinated?

If an employee refuses to confirm whether they've been vaccinated, either through consenting to this information being provided to the DHB or refusing to answer the question when asked, you should have the same discussion as for an employee who declines to be vaccinated, but note to the employee that you are doing this on the assumption that they are not vaccinated, and in order to ensure their safety.

What happens if my employee is unable to be vaccinated based on religious or health reasons?

You cannot discriminate against employees on grounds of their religious beliefs, their health status or any other prohibited grounds under the Human Rights Act.

Again, it will need to be determined whether or not it is possible to adequately protect the employee, other employees, and patients from exposure to COVID-19. You should consider and refer to the redeployment advice below.

You will need to consider whether or not the employee's decision not to vaccinate will unreasonably disrupt the DHB's activities. In order to determine whether the activities of the employer are unreasonably disrupted you should consider if you can redeploy the worker, if other employees can do the employee's tasks, what other health and safety mitigations you can put in place, and if you are able to make any accommodations for the employee.

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You should work through these options with the employee concerned and their union delegate/organiser as appropriate. If no suitable accommodations exist, then you should talk with HR to ensure all reasonable steps have been exhausted.

What if my employee is considered vulnerable and declines vaccination?

While there is no intention to make vaccination mandatory, existing employees should be encouraged to vaccinate in order to protect themselves and their families against COVID-19.

If you have employees that have been assessed as vulnerable under the Vulnerable Workers Framework, and they decline vaccination, you may need to consider whether or not it is safe for them to continue working in frontline, patient facing, or high-risk roles. You should refer to our guidance “Protecting Vulnerable DHB Employees During COVID-19” guide, which you can access [here](#) for more information about which employees are vulnerable.

Where an employee's member is vulnerable, and either declines vaccination or refuses to confirm their vaccination status, you will need to consider what this means for their ability to do their job safely.

There are a number of factors that you need to consider. These are broadly:

- 1) The presence of COVID-19 in the community
- 2) The presence of COVID-19 in the worksite
- 3) The effectiveness of other options to mitigate the risk of exposure (e.g. PPE)
- 4) The potential for exposure to COVID-19 in their role. This includes the frequency of exposure and the risk their particular work gives them of developing COVID-19.
- 5) Any Infection Prevention Controls that we can put in place
- 6) Any physical or other preventions for infection
- 7) The vaccination status (or otherwise) of people they will come into contact with.

If having considered the above, you do not believe the employee can be safely protected from COVID-19 at work, you should consider whether they can be redeployed. You should work through these options with the employee concerned and their union delegate/organiser as appropriate. You may wish to also seek advice from Occupational Health or H&S representatives for that discussion.

How do I redeploy a vulnerable worker who declines vaccination?

In order to redeploy a worker, you will need to discuss this redeployment with them, and their union delegate/organiser as appropriate.

Where there is a genuine health and safety risk you do not ultimately need to obtain their agreement, providing their terms and conditions of employment are not breached

In identifying an area for redeployment, you should redeploy to an area where their risk of contracting COVID-19 is lower. For example, if the risk was caused because they work in a MIQ facility, you could consider moving them to a back-office role.

Depending on a person's skills and expertise, there may be more or less redeployment opportunities for them.

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What if I cannot redeploy an employee?

If you believe it is not possible to redeploy an employee, you should seek further advice from your HR department.

Do I tell the rest of the team if there is someone in the team who I know is not vaccinated?

As with other health records, this information is private and is not something you are able to discuss with others.

What happens if an employee has a reaction to the vaccination and can't attend work?

Some people may experience a mild reaction to the COVID-19 vaccination. Where they are injected they may experience soreness, redness, warmth and slight swelling. These effects usually last less than two days and should not stop an employee from attending work.

However, if an employee requires time off work due to the effects of the vaccine, this should be on paid special leave.

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APPENDIX ONE: Aotearoa DHB Occupational Physicians

Statement on COVID-19 Vaccination and the Healthcare Workforce

We expect all healthcare workers to be vaccinated unless they have medical contraindications.

Rationale:

- There is an effective and safe vaccination for Covid-19 now available.
- Vaccination will reduce likelihood of the worker developing Covid-19 infection and is likely to reduce the severity of any Covid-19 infection.
- Health and safety legislation requires workplaces to identify and implement any available and suitable means to eliminate or minimise health and safety risks insofar as is reasonably practicable.
- Vaccination has been identified as both available and generally suitable means to minimise the risk of COVID-19.
- Legislation also requires workers to ensure their own health and safety, to ensure nothing they do (or don't do) puts others at risk, to follow reasonable and lawful instructions given for the purpose of ensuring health and safety.
- Measures to reduce infection risk in healthcare settings such as ventilation, hand washing, PPE etc. are not 100% effective and do not reduce severity of Covid-19 infection in an individual once infected
- Healthcare workers will be more at risk of exposure to Covid-19 than the general public will be.
- Covid-19 can unknowingly be spread whilst the affected individual is asymptomatic.
- Healthcare workers infected by Covid-19 may expose vulnerable patients, colleagues (threatening their safety and viability of the health service), family and the wider community to Covid-19.
- Healthcare workers have a professional responsibility to protect their vulnerable patients from Covid-19.

Where a healthcare worker refuses Covid-19 vaccination or is unable to be vaccinated for medical reasons, risk management options include but are not limited to:

- alternative work placement / redeployment
- work adjustments
- work restrictions
- requirement to wear a mask or face covering whilst in the workplace
- requirement to undergo regular testing for Covid-19
- where other measures have been exhausted or are impractical, referral to HR will be made for an assessment of what next steps are appropriate.

Notes:

- i) Where the unvaccinated healthcare worker has been identified to be a **vulnerable worker** on the basis of their health and demographic risk, then the risk management actions should reflect the higher potential consequence.
- ii) Some DHB employment contracts already require appropriate vaccination as a condition of employment.