



**Mental Health and Addiction NGO and Community Sector
COVID-19 Vaccination Rollout**

Update#3

This advice and information is accurate as at 2pm Tuesday 6 April 2021.

It has been developed by representatives from the Aged Care, Disability, and Mental Health and Addiction sectors to provide clarity for front-line 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 and disability system's response to COVID-19.

Further advice will be provided to the home and community support services on this matter.

Employers should engage early and constructively with workers and unions when considering vaccination issues at their workplace.

The Ministry of Health (the Ministry) has provided general information on the COVID-19 vaccines, including the rollout, 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](#).

Frequently Asked Questions

Is the vaccine mandatory for employees?

The government has confirmed vaccination for COVID-19 will not be mandatory; as frontline health (incl. mental health and addiction) and disability support 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 continue protecting our community from COVID-19. With this in mind, employers and Unions are expected to encourage and support workers to access vaccines as they become available in-line with MOH advice.

The Ministry recognises the valuable contribution all support workers bring to the provision of necessary supports to the people we serve. In the interests of the employee and the people they support, the Ministry wishes to highlight that every effort should be made to allow this provision to continue uninterrupted.

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

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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, all employers should encourage employees to vaccinate against COVID-19 and provide official information to all employees. This information is available on the Ministry of Health's [website](#). In instances where people may express hesitancy about the vaccine, it is usually because they have questions or concerns that haven't been addressed. The Ministry has a range of resources that can help with this and can provide more specific support (such as vaccine briefings or question and answer sessions) where needed as well.

You can reassure your employees that any vaccination being delivered in New Zealand has been approved 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.

It is also important to recognise the role that union delegates, health & safety representatives, and peers 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 (incl. mental health and addiction) and disability support workers receive the vaccination?

The vaccine roll-out is being phased with those most at risk of COVID-19 exposure receiving the vaccine first. This means that border workers, and those they live with, have received the vaccine first. Following this, the vaccine is being rolled out in a staged manner to health (incl. mental health and addiction) and disability support workers, residential care settings and those at greater risk in our communities 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/covid19-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 employers 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.

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

As part of the vaccination 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.

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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. This includes disclosing vaccination information to any other party. The employer cannot require an employee to provide reasons why they are not vaccinated.

If they decline to provide that information the employer 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?

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

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

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 seek the support of union delegates or health & safety representatives as appropriate.

Step 1: support and assess risk

The first step in the process is supporting the vaccination process and ensuring employees are able to access these opportunities.

Employers also need to conduct a risk assessment to determine the degree of risk their workers may be exposed given the nature of their roles. The *COVID-19 Vaccination Worker Engagement Guidance* prepared by MBIE includes a risk assessment framework that provides a useful reference point (although this was developed for the border context, the framework is useful in any setting). Employers should discuss the risk assessment process with their workers and involve relevant union delegates and representatives as they work through the assessment framework.

Step 2: support, inform and educate

In instances where an employee declines to be vaccinated, the next step is to help support, inform, and educate them about the vaccines with reliable information from trusted sources. There are a range of resources available on the Ministry of Health and Unite Against COVID-19 websites and more tailored support can also be made available where required. Employees need to be given time to absorb this information and have any remaining questions and concerns addressed.

Step 3: explore implication and accommodations

Should an employee then still decline to be vaccinated, the third step is to have a conversation with them (and/or their union representatives) to explore any implications and accommodations that could be made to ensure they can safely undertake their work.

This conversation should be informed by the shared risk assessment, and points for discussion may include:

- the nature of the employee's work

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- the vulnerability of clients 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 community
- whether the employee deals with or is likely to deal with, clients 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 and 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 your Occupational Health or H&S representatives in that discussion as well. You may seek further guidance from you HR team, or if you don't have capability seek advice from MBIE.

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 you 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, in order to ensure their safety.

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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 clients 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 activities of your organisation. 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, including mitigating risk of exposure by using PPE, you can put in place, and if you are able to make any accommodations for the employee.

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 your HR expert, MBIE or other relevant professional bodies 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.

The DHBs have developed some guidance for their sector which may also provide some helpful guidance, noting it was developed for the DHB context, though you can [find this resource here](#).

Where an employee's family 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.

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Can I share the vaccination status of clients and health (incl. mental health and addiction) and disability support workers?

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 discussed with their employer.

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