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My industry isn't here > Vaccination

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On this page:

- The national rollout of COVID-19 vaccines
- How COVID-19 vaccines work
- Vaccination and my WHS duties
- Workers, customers and visitors/clients

Employers have a duty under the model Work Health and Safety (WHS) laws to eliminate, or if that is not reasonably practicable, minimise the risk of exposure to COVID-19 in the workplace.

This page provides information about your obligations under the model WHS laws and how these relate to COVID-19 vaccines. This information will assist you to assess whether a COVID 19 vaccine is a reasonably practicable *control measure* to manage the *risks* of COVID-19 in your workplace. However, while this is a decision you will need to make taking into account your workplace, most employers will not need to make vaccination mandatory to comply with the model WHS laws.

A safe and effective vaccine is only one part of keeping the Australian community safe and healthy. To meet your duties under the model WHS laws and minimise the risk of exposure to COVID-19 in your workplace, you must continue to apply all reasonably practicable COVID-19 *control measures* including physical distancing, good hygiene and regular cleaning and maintenance and ensuring your workers do not attend work if they are unwell. You must also comply with any public health orders made by state and territory governments that apply to you and your workplace.

If you need information on COVID-19 and Australian workplace laws, go to the Fair Work Ombudsman website ↗. The Fair Work Ombudsman has information on a range of matters, including giving directions to employees, leave entitlements and termination of employment.

The national rollout of COVID-19 vaccines

The Australian Government is committed to providing all Australians with access to free, safe and effective COVID-19 vaccines. While the Government aims to have as many Australians as possible choose to be vaccinated, mandating a vaccination is voluntary. You can encourage your workers to get a COVID-19 vaccination, if they are able to.

Workplaces are recognised as a key setting for health promotion. You can help your workers find out more information about vaccines by directing them to the Department of Health website ↗. You can also develop your own informational material to support COVID-19 vaccination, provided certain conditions are met. The Therapeutic Goods Administration (TGA) has issued guidance on communicating about COVID-19 vaccines ↗.

The Australian Government's COVID-19 Vaccines National Rollout Strategy ↗ identifies priority groups for vaccination, including critical and high-risk workers. The rollout will start with older Australians and certain industries.

The Australian Government is working together with state and territory governments to implement the arrangements under the Australian Vaccination and Treatment Strategy and the Rollout Strategy. For further information, go to the Department of Health website ↗.

State and territory health agencies may make public health orders that require some workers be vaccinated against COVID-19. For example, those considered to be working in high risk workplaces. If public health orders are made, you must follow them. You should stay up to date with the advice of your health agency.

On 28 June 2021, the National Cabinet agreed that COVID-19 vaccinations are to be mandated for residential aged care workers as a condition of working in an aged care facility through shared state, territory and Commonwealth authorities and compliance measures. For further information, go to the National Cabinet Media Statement ↗.

Queensland has issued a public health direction for health workers working with diagnosed cases of COVID-19. For a link to Queensland's public health directions go to our public health orders page.

Western Australia has issued a public health direction for quarantine centre workers. For a link to Western Australia's public health directions go to our public health orders page.

New South Wales has issued a public health direction for airport and quarantine workers. For a link to New South Wales' public health directions go to our public health orders page.

How COVID-19 vaccines work

The COVID-19 vaccines will help protect people by either preventing or reducing symptoms of COVID-19 in the person who has received the vaccine.

At this stage it is too early to tell if the COVID-19 vaccines will stop a vaccinated person from being infected with the virus. This means that a vaccinated person may unknowingly carry and spread the virus to others around them, including workers and others in their workplace. For this reason, you must continue to apply all reasonably practicable *control measures*.

For more information on how the COVID-19 vaccines work, go to the Department of Health website ↗.

Vaccination and my WHS duties

The Australian Government is committed to providing all Australians with access to safe and effective COVID-19 vaccines, for those who wish to vaccinate. While the Australian Government is not making vaccination mandatory, states and territories may do so for some industries or workers through public health orders. More information is available on the public health orders page.

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Do I have to make sure my workers are vaccinated under WHS laws?

Under WHS laws, you have a duty to eliminate or if not possible, minimise, so far as is reasonably practicable, the risk of exposure to COVID-19 in the workplace. You may not be able to completely eliminate the risk of workers being exposed to COVID-19 while carrying out work. However, you must do all that is reasonably practicable to minimise this risk and vaccination should be considered as one way to do so in the context of a range of COVID-19 *control measures*.

It is unlikely that a requirement for workers to be vaccinated will be reasonably practicable.

To reduce *risks* such as COVID-19 in the workplace, you must:

- undertake a risk assessment for your business (more information is available on the risk assessment page)
- consider the available *control measures* and how they will help manage the *risks* of COVID-19. Including any available vaccines, taking into account available evidence
- consult with workers and HSRs about COVID-19 and relevant *control measures*, including the COVID-19 vaccines (more information on your consultation obligations is available on the consultation page)
- determine what *control measures* are reasonably practicable for you to implement (more information on the meaning of reasonably practicable is available on the risk assessment page)

Do I need to include mandatory vaccination as a control measure to comply with my WHS duties?

It is unlikely that a requirement to be vaccinated will be reasonably practicable.

This is because, for example:

- at present, public health experts, such as the Australian Health Protection Principal Committee has not recommended a vaccine be made mandatory in your industry
- there may not yet be a vaccine available for your workers, or
- some of your workers have medical reasons why they cannot be vaccinated.

However ultimately whether you should require your workers to be vaccinated will depend on the particular circumstances at the time you are undertaking your risk assessment.

Some factors you should consider on an ongoing basis include:

- Is the Australian Health Protection Principal Committee recommending COVID-19 vaccinations for all workers in your industry?
- Will your workers be exposed to the risk of infection as part of their work? For example, hotel quarantine workers will be at higher risk of exposure when their work duties place them in contact with people who may be infected with COVID-19.
- Do your workers work with people who would be vulnerable to severe disease if they contract COVID-19?
- What is the likelihood that COVID-19 could spread in the workplace? For example, some work tasks may require your workers to work in close proximity to each other.
- Do your workers interact with large numbers of other people in the course of their work that could contribute to a super-spreading event if your workers contract COVID-19?
- What other *control measures* are available and in place in your workplace? Do those *control measures* already minimise the risk of infection, so far as is reasonably practicable?
- Would a requirement to be vaccinated be unlawful in the circumstances? For example, would it discriminate against a class of employees? If you need information on COVID-19 and Australian workplace laws, go to the Fair Work Ombudsman website ↗.

More information on the meaning of reasonably practicable is available on the risk assessment page and in the guide How to determine what is reasonably practicable to meet a health and safety duty.

Get advice

You should get advice if you are considering requiring your workers to be vaccinated, as it will not usually be reasonably practicable to require your workers to be vaccinated. There are lots of issues to think about - workplace relations, discrimination and privacy issues will also be relevant. Talk to your WHS regulator, the Fair Work Ombudsman ↗, your employer organisation or other legal service before implementing any vaccination policy or program in your workplace.

Remember, public health orders in your state or territory about COVID-19 vaccines may apply to your workers. You should keep up to date with what's happening in your jurisdiction. More information is available on the public health orders page.

Workers, customers and vaccinations

Can I require customers and visitors to prove they have been vaccinated before entering my workplace?

It is unlikely that WHS laws require you to ask customers and visitors for proof of vaccination.

If you want customers and visitors to be vaccinated as a condition of entry to your premises you should seek advice before you take any action as there may be privacy and discrimination issues that apply.

For more information on privacy go to the Office of the Australian Information Commissioner website ↗. For more information on anti-discrimination laws, go to the Australian Human Rights Commission website ↗.

Can my workers refuse to come to work because another worker isn't vaccinated?

Under WHS laws, a worker can only cease or refuse to carry out work if the worker has a reasonable concern that to carry out the work would expose the worker to a serious risk to the worker's health or safety from an immediate or imminent exposure to a hazard. In most circumstances, a worker will not be able to rely on the WHS laws to cease work simply because another worker at the workplace isn't vaccinated, however this will depend on the circumstances.

There is currently insufficient evidence about the impact of COVID-19 vaccines on the transmission of COVID-19. Therefore, there is no reason to suspect workers who are currently attending workplaces with other people should stop doing so because of the vaccine rollout. For vulnerable workers, you should continue to implement other working arrangements where you reasonably can, such as working from home.

You should also talk to your workers to understand their concerns and assure them that you are continuing to implement all other *control measures* which are known to reduce the spread of the virus in the workplace, such as physical distancing, good hygiene and increased cleaning. These measures must remain in place even if your workers are vaccinated.

Some of my workers cannot be vaccinated because of medical conditions. How do I protect my unvaccinated workers from COVID-19?

A safe and effective COVID-19 vaccination is only one part of keeping the Australian community safe. You must continue to implement all reasonably practicable *control measures* in your workplace, such as such as physical distancing, good hygiene and increased cleaning and maintenance.

You must also conduct a risk assessment to determine whether particular working arrangements should be put in place for workers who cannot be vaccinated. You should take into account the worker's specific characteristics, the nature of your workplace and the type of work the worker performs. More information can be found on the vulnerable workers page.

Will I be held liable under WHS laws if I don't make my workers get vaccinated and one of them gets COVID-19?

There is currently insufficient evidence about the impact of COVID-19 vaccines on transmission of the virus which means that a worker could get COVID-19 even if they are vaccinated. It is therefore unlikely that you have breached model WHS laws simply because you don't require your workers to get vaccinated. More information on compliance and enforcement of WHS laws during the pandemic is available on the Statement of Regulatory Intent page.

A safe and effective COVID-19 vaccination is one part of keeping the Australian community safe and you can encourage your workers to get vaccinated, if they can. But you must continue to implement all reasonably practicable *control measures* in your workplace, such as such as physical distancing, good hygiene and increased cleaning and maintenance. Your workers should not come to work if they are unwell - even if they are vaccinated.

What about my obligations under workers' compensation Laws?

Under workers' compensation laws workers may be entitled to workers' compensation if they contract COVID-19 while at work, regardless of how they contracted it. Workers' compensation laws differ in each state and territory so you should seek advice from your workers' compensation authority. Contact details and more information on workers' compensation is available on the workers' compensation page.

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To ensure this information is as accessible and easy to understand as possible, we refer to 'employers' and their responsibilities.

However, under the model WHS laws, duties apply to any person conducting a business or undertaking (PCBU) which includes employers, but also others who engage workers. For more information about who is a PCBU see our Interpretive Guideline – model Work Health and Safety Act – the meaning of 'person conducting a business or undertaking'.

The model WHS laws have been implemented in all jurisdictions except Victoria and Western Australia.

Safe Work Australia does not regulate or enforce WHS laws or the recently introduced COVID-19 restrictions on business operations. If you want to know how WHS laws apply to you or need help with what to do at your workplace, contact the WHS regulator in your jurisdiction. If you want to know what restrictions on business operations apply to you or your workplace, go to your relevant state and territory government website for information.

Related information

- National guide for safe workplaces - COVID-19
- National COVID-19 safe workplace principles
- Small business hub
- How to clean and disinfect your workplace
- Workplace checklists
- Signage and posters
- Translated information
- Office duties
- Manufacture of hand sanitiser
- Travel information
- COVID-19 resource kit
- COVID-19 Public health directions and COVIDSafe plans
- COVIDSafe app guidance
- Transitioning back to usual workplaces
- Heating, Ventilation and Air Conditioning (HVAC) Systems

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Safe Work Australia acknowledges the traditional owners and custodians of country throughout Australia and acknowledges their continuing connection to land, waters and community. We pay our respects to the people, the cultures and the elders past, present and emerging.