

## COVID-19 vaccinations: Q+A for employers

Our last article about COVID-19 vaccinations and employees generated a lot of questions from you, so we called in the experts to answer some of them: Jo Gibbs, National Director, COVID-19 Vaccination and Immunisation Programme at the Ministry of Health and Katherine MacNeill, General Manager of Employment Services at the Ministry of Innovation and Employment.

### Opening comments from our experts

**Katherine MacNeill, General Manager of Employment Services at the Ministry of Innovation and Employment:** While as a small business owner you may be looking forward to getting vaccinated, you need to be sensitive to the fact other people in your team may hold different views. Even if you want your team to be fully vaccinated, you can't push anyone into getting vaccinated, unless it's a requirement of their role. Very few roles will have this requirement. You can't discriminate against your employees if you disagree with their stance on vaccinations. It's important to know what you can and can't do. If you're in any doubt get legal advice and make sure you're doing everything by the book.

**Jo Gibbs, National Director, COVID-19 Vaccination and Immunisation Programme at the Ministry of Health:** Getting vaccinated is a really important step towards keeping our workplaces, workmates, our whānau, and our communities safe. We also have to keep ourselves safe and well by keeping up those good habits like washing hands, staying home if we're unwell and using the COVID Tracer app with Bluetooth turned on.

### Your questions

#### **I respect people's right to say no to being vaccinated, but I would rather not employ them in my business. Can I change my employment agreements to add in a clause to require people to be vaccinated?**

**Katherine MacNeill:** Even if you have strong personal views about vaccination, you can't decide you only want to employ vaccinated people and just add a vaccination clause to existing employment agreements. The only time you can make getting a COVID-19 vaccination a term of employment is if it's reasonable for the role. For example, for health and safety reasons.

In that case, you'd need to first assess the role's COVID-19 exposure risk. You'll need to involve workers, and if relevant, their unions and other representatives, in the risk assessment process, and when deciding how to eliminate/minimise risks.

There aren't many jobs that will only be able to be done by a vaccinated employee, but if, after an exposure risk assessment, you've found that a role does fit that criteria, you'll need to negotiate any variations to an existing agreement with your employee (or their unions, for a collective agreement).

If you're looking to hire new staff, it's also really unlikely you'll be able to add a vaccination clause to their employment agreement. Even for new roles, vaccination can only be required if it's reasonable for the role, for example for health and safety reasons.

[More information on changing employment agreements and work arrangements\(external link\)](https://www.employment.govt.nz/leave-and-holidays/other-types-of-leave/coronavirus-workplace/changing-an-employees-work-arrangements/) (<https://www.employment.govt.nz/leave-and-holidays/other-types-of-leave/coronavirus-workplace/changing-an-employees-work-arrangements/>) — Employment New Zealand

[More information on workplace policies\(external link\)](https://www.employment.govt.nz/workplace-policies/) (<https://www.employment.govt.nz/workplace-policies/>) — Employment New Zealand

[How to do a COVID-19 exposure risk assessment\(external link\)](https://www.worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid/assessing-whether-a-specific-role-needs-to-be-performed-by-a-vaccinated-worker/)  
(<https://www.worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid/assessing-whether-a-specific-role-needs-to-be-performed-by-a-vaccinated-worker/>) — WorkSafe

[Public health guidelines from the Ministry of Health for businesses and services\(external link\)](https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-information-specific-audiences/guidelines-businesses-and-services)  
(<https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-information-specific-audiences/guidelines-businesses-and-services>) — Ministry of Health

## **Can I choose which vaccination I get? I don't want Astra Zeneca or Johnson & Johnson.**

**Jo Gibbs:** The only COVID-19 vaccination currently available in New Zealand is the Pfizer/BioNTech vaccine.

[More information about COVID-19 vaccines\(external link\)](https://www.immune.org.nz/covid-19-vaccines) (<https://www.immune.org.nz/covid-19-vaccines>) — The Immunisation Advisory Centre

[What you need to know about getting your COVID-19 vaccination\(external link\)](https://www.health.govt.nz/system/files/documents/pages/covid-19-vaccine-what-you-need-to-know-30042021.pdf)  
(<https://www.health.govt.nz/system/files/documents/pages/covid-19-vaccine-what-you-need-to-know-30042021.pdf>) — Ministry of Health

## **Are we able to book vaccinations at our business premises, so we can vaccinate all staff who want to get vaccinated at the same time, and they don't need to take time off work?**

**Jo Gibbs:** The Pfizer/BioNTech COVID-19 vaccine has very specific 'cold-chain' requirements for both storage and transportation. The vaccine needs to be stored at -70 degrees centigrade for the majority of the time. While the vaccine can be stored at -20 degrees centigrade for up to two weeks at a time, which will add some flexibility to the distribution model, the main storage model is in the ultra-cold freezers.

We're working closely with DHBs to establish the best ways to offer the COVID-19 vaccine to a wide range of people living in different communities right across the country. It's going to be really important to ensure the vaccine can be offered in a variety of different settings, at different times, to make getting vaccinated as easy as possible. This will include through Māori and Pacific providers, GPs, pop-up centres, pharmacies, medical and hauora centres and community clinics.

We're also exploring opportunities to work with larger businesses to offer workplace vaccinations. This is likely to be when people in Group 4 (the general population) are offered their vaccinations, later in the year.

We'll give you more information on this as soon as we can.

## **If I encourage a worker to get vaccinated and they have an adverse reaction to the vaccine, eg they end up in hospital, are off work for a few weeks, or can't work again, who will pay for their extended sick leave?**

**Jo Gibbs:** Like all medicines, the vaccine may cause side effects in some people. These are common, usually mild and don't last long and won't stop you from having the second dose or going about your daily life. The most common reported reactions are pain at the injection site, a headache and feeling tired or fatigued. Muscle aches, feeling generally unwell, chills, fever, joint pain and nausea may also occur. This shows that the vaccine is working. These are more commonly reported after the second dose.

**Katherine MacNeill:** If an employee has an adverse reaction that requires time off work, they'll be able to use any sick leave they've built up to cover their time off. If they suffer a reaction that means they can't carry out their normal work duties for more than seven days, they might be eligible for ACC cover.

## **How will I find out how, where and when I can get vaccinated?**

**Jo Gibbs:** The Unite Against COVID-19 website has a tool you can use to check when you or your staff are likely to be vaccinated. Most people are likely to fall into the general population group (referred to as Group 4) and can expect vaccinations to start from late July.

## Are working holiday visa holders and other visa holders entitled to a free vaccine?

**Katherine MacNeill:** Yes. The vaccine is free to everyone in New Zealand, regardless of their visa status.

## How do you deal with a situation where a worker doesn't want to get vaccinated, but other workers have said they don't feel comfortable working alongside them if they aren't vaccinated?

**Katherine MacNeill:** We know that vaccinations can be a touchy subject, especially if people have different views. If there are tensions at work about vaccines, getting an outside perspective might help. MBIE's Early Resolution Service offers a free, informal process for you and your team to work through issues.

From a workplace safety perspective, although other workers might be uncomfortable working next to someone who has not been vaccinated, in general, unless they're in a role where vaccination is needed for health and safety reasons, work is unlikely to be unsafe just because it is done around unvaccinated workers.

Respecting your employees' privacy around vaccination could go a long way to avoiding workplace tensions. You can't share information about your workers' vaccination status unless you have their permission. It's treated as personal information under the Privacy Act. This means even in small, tightknit teams, you need to be careful to protect everyone's privacy.

Privacy issues mean you may not even know everyone's vaccination status. Generally, a worker doesn't have to tell you if they've been vaccinated, or if they intend to get vaccinated. You can ask them about it if a role can't be done by someone who's unvaccinated. If they then choose not to tell you or can't offer proof they've been vaccinated, you can treat them as unvaccinated, but you have to tell them that's what you're doing.

[Early Resolution Service\(external link\) \(https://www.employment.govt.nz/resolving-problems/employer-and-employee-must-dos/good-faith/\)](https://www.employment.govt.nz/resolving-problems/employer-and-employee-must-dos/good-faith/) — Employment New Zealand

## Are we allowed to exclude unvaccinated customers or visitors from our workplace to minimise the risk of infecting our staff?

**Katherine MacNeill:** You're unlikely to know if a customer or visitor has been vaccinated, as they don't have to tell you. You wouldn't be able to discriminate against them. If you're worried, encourage physical distancing, make sure your NZ COVID Tracer app QR codes are prominently displayed, and have hand sanitiser readily available.

## In a job interview, can I ask a candidate if they're vaccinated, or planning to get vaccinated?

**Katherine MacNeill:** You can only ask a candidate if they are vaccinated if the role they're applying for has to be carried out by a vaccinated person, for example for health and safety reasons. That decision can only be made after you've done a COVID-19 exposure risk assessment.

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