

COVID-19

Health & Disability Worker Vaccinations Order

Guidance document for PCBUs and workers

This Guidance Manual is a living document. Updates and changes will be made and released as required.

Summary of Changes

| Version | Date | Section/ Appendix | Summary of Changes |
|---------|-----------------|----------------------|------------------------------------|
| 0.1 | 22 October 2021 | | Initial guidance document created. |
| 0.2 | 23 October 2021 | | Minor corrections |
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Document Approval

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| Date | 22 October 2021 |
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Introduction

1.1 Background

The New Zealand Government has responded to the global COVID-19 pandemic with a range of public health initiatives.

The Government's goal is to get everyone in Aotearoa New Zealand aged 12 and over vaccinated against COVID-19. The COVID-19 vaccination is free – it doesn't matter what your visa or citizenship status is.

The vaccine that is currently available in New Zealand is the Pfizer/BioNTech COVID-19 Vaccine.

Recognizing that some people are at higher risk of coming into contact with the virus or, because of their age or health status, are more likely to experience poorer outcomes if they do fall ill with COVID-19, the vaccine has been progressively rolled out to people, depending on which one of four groups they are in, as follows:

| Groups | Details |
|--------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <u>Group One</u> | Group 1 includes people working at the border or in MIQ, and the people they live with (household contacts). Border workers undertaking certain work at MIQ facilities, ports and airports who are at the greatest risk of exposure to COVID-19 must get vaccinated. |
| <u>Group Two</u> | High-risk frontline health workers and their household contacts, and people living in high-risk places Also includes frontline staff who interact with customers, and provide transport and logistic services directly supporting the vaccination programme. |
| <u>Group Three</u> | People aged 65 and over, and those at risk of getting very sick from COVID-19. |
| <u>Group Four</u> | Everyone else aged 12 or over, with vaccinations to be given to people in five-year age bands in descending order of age |

Table 1: Summary of COVID-19 vaccine rollout groups

A person needs to receive two doses of the vaccine to be considered fully vaccinated. The standard time for a second dose is between three and six weeks after the first dose.

The Ministry of Health has announced the COVID-19 Public Health Response (Vaccinations) Order 2021 will be updated to require a new set of workers in the health and disability sector to be fully vaccinated by 11.59pm on 1 January 2022.

Vaccination is already mandatory for high-risk roles (including health worker roles) in Border, MIF and MIQ settings. The amendment extends that requirement so that certain roles in the health and disability sector are also covered by this order.

Healthcare and disability workers are a valued and critical part of New Zealand's pandemic response, and early evidence suggests that vaccination may reduce transmission of the Delta variant of COVID-19 and reduce the risk of serious illness, which would burden New Zealand's health system.

Healthcare and disability workers have been able to be vaccinated against COVID-19 since March 2021, and District Health Boards have already achieved significant high rates of voluntary vaccination so far.

Vaccination remains our strongest and most effective tool to protect against infection and disease, and we need as many workers as possible to be vaccinated to allow our health services to respond to the pandemic and deliver everyday health services with as little disruption as possible.

1.2 Legislative context

On 11 October 2021, the New Zealand Government announced that health and disability workers will be required to be fully vaccinated against Covid-19 under the *COVID-19 Public Health Response (Vaccinations) Order 2021* ("the Order").

The Order is a legally binding health instruction which requires certain groups of health and disability workers to be vaccinated in order to undertake certain work.

1.3 Purpose

This guidance document is designed primarily for Persons Conducting a Business or Undertaking (PCBUs) that employ or engage workers who undertake certain work in settings where healthcare occurs.

This document outlines:

- the purpose and scope of the Vaccination Order
 - the timeframes under the Order
 - the responsibilities of PCBUs under the Order, including assessing whether a worker is an 'affected person'
- implications for PCBUs not meeting their responsibilities under the Order.

This document may also be used by health and disability agencies and other organisations involved in COVID-19 vaccination, or as part of ensuring monitoring and compliance.

This document aims to consolidate and make it easy to find and understand the Order. There may therefore be links to publicly available information, a consolidation of information you have already received, and new information.

This Guidance Manual is a living document. Updates and changes will be made and released as required.

Vaccination of affected persons undertaking certain work

2.1 Timeframes for compliance with the Order

The table below summarises the timeframes that workers under the Order must meet.

| | 1st dose by 11.59pm on | 2nd dose by 11.59pm on |
|-----------------------------------------------------------|-----------------------------------|-----------------------------------|
| Health & Disability Workers (Affected Persons) | 15 November 2021 | 1 January 2022 |

Table 2: Timeframes for compliance with the Order

Any worker who does not comply with any of the above vaccination deadlines must not work in a role which requires them to be vaccinated under Schedule 2 of the Order.

Accepted vaccines can be found [here](#).

2.2 Scope of the Vaccinations Order

The Government has prioritised health and disability workers for vaccination since March 2021. The Order clarifies those workers who are affected persons for mandatory vaccination from 15 November 2021.

Affected persons include:

- Health practitioners (as defined by the [HPCA](#))
- Workers who carry out work where health services are provided to members of the public by 1 or more health practitioners and whose role involves being within 2 metres or less of a health practitioner or a member of the public for a period of 15 minutes or more
- Workers employed or engaged by certified providers who carry out work at the premises at which the health care services are provided
- Care and support workers

Care and support worker means a person employed or engaged to carry out work that includes going to the home or place of residence of another person (not being the home or place of residence of a family member) to provide care and support services.

Key responsibilities under the Vaccinations Order

3.1 Details of roles

The table below outlines the roles and responsibilities of PCBUs, affected persons, MoH and DHBs under the Order in relation to keeping vaccination records and ensuring only vaccinated workers undertake certain work.

| | PCBUs/Employers | Affected persons | MoH/DHBs |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In relation to the Order | <ul style="list-style-type: none"> • Must determine whether a person is a health and disability worker • Must assess whether a worker is an affected person | <ul style="list-style-type: none"> • Must get vaccinated if they fall into one of the affected groups listed in Table 2 (in order to begin, continue or resume working in their present role) • Health workers must have had their 1st dose by 11.59pm on 15 November 2021 and 2nd dose by 11.59pm on 1 January 2022 • After the dates above, any new workers covered by the Order will need to have their 1st dose before starting work. | <ul style="list-style-type: none"> • MoH has developed the COVID-19 Immunisation Register (CIR) to keep records of COVID-19 vaccinations • MoH must provide PCBU/employer with worker vaccination status information if Privacy Act obligations have been met |
| In relation to vaccination records | <ul style="list-style-type: none"> • Maintain a safe, confidential way to record the vaccination status of workers covered by this Order • Seek assurance of the vaccination status of affected persons within their | <ul style="list-style-type: none"> • Receive factsheets from employer about the information they will share about workers • Must provide and maintain their contact details (telephone and email address) to their employer | <ul style="list-style-type: none"> • Receive and maintain accurate worker information from PCBUs/Employers for inclusion in the centralised register |

| | PCBUs/Employers | Affected persons | MoH/DHBs |
|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>responsibility employed by other PCBUs.</p> <ul style="list-style-type: none"> • Provide factsheets for workers which outline the information that PCBUs will share about them • Ensure the contact details of affected persons are captured before they carry out certain work • Check vaccination status of workers by sighting copies of an individual's COVID-19 immunisation status from My Covid Record or other suitable evidence of vaccination • Maintain records where there is a change of employment status. • Provide accurate worker information to MoH for inclusion in the centralised register if required by MoH • Complete a risk assessment with exempted workers to identify and agree risk mitigations for those workers to continue to do their role safely. • Can contact MoH for advice, support or clarification on: healthorders@health.govt.nz | <ul style="list-style-type: none"> • Advise the employer after they have received their first and then second doses of the vaccine • Register on the My Covid Record website and/or provide other suitable evidence of vaccination to provide to the employer. • If an exemption has been sought, provide employer with written confirmation where a suitably qualified health practitioner certifies that it is inappropriate for them to be vaccinated • Note that worker information will be held and managed in accordance with the Privacy Act 2020 and Health Information Privacy Code 2020. • Note that worker information can only be accessed by the employer and authorised enforcement officers • If exempted, must commit to adopting all necessary risk mitigations agreed with the PCBU/employer to ensure their safety and the safety of those they work with. | <ul style="list-style-type: none"> • Provide compliance reporting to PCBUs/Employers and WorkSafe. |
| In relation to getting a vaccination | <ul style="list-style-type: none"> • Notify, educate and support workers and affected persons of their responsibility to get vaccinated. • Not prevent any worker from being vaccinated if their appointment to be vaccinated falls within their working hours. • We encourage employers to pay employees should they need to be vaccinated during working hours | <ul style="list-style-type: none"> • Speak to employer, peers, union, vaccination provider (e.g.: general practice, community pharmacy, urgent care, Hauora Maori, Pacific provider) to find out more about getting vaccinated, the vaccination process or the vaccine itself • Speak to employer about any special vaccination arrangements that have been made with the DHB in their region | <ul style="list-style-type: none"> • DHBs may make special arrangements with PCBUs for vaccinating their workers where required • DHBs will prioritise health and disability workers for a vaccination |

| | PCBUs/Employers | Affected persons | MoH/DHBs |
|--|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| | | <ul style="list-style-type: none"> Book their vaccine by going onto the Book My Vaccine website, by calling the COVID Vaccination Healthline on 0800 28 29 26 8am-8pm, 7 days a week, or attend a drive-through or walk-in vaccination clinic without a booking. | |

Table 5: Summary of key responsibilities

3.2 Note about protecting the privacy of worker information

Keeping worker health information secure is important, and the MoH takes this responsibility very seriously. Access to the CIR is limited to those with logon access rights, and all access is recorded and can be audited.

Only PCBUs/employers and the MoH CIR support team can see information about health workers. On a “need to know” basis, some other MoH staff can see anonymised information from the CIR to assist with the COVID-19 response.

Workers’ information is held and managed in accordance with the [Privacy Act 2020](#) and the [Health Information Privacy Code 2020](#). In addition, all information stored in the CIR is held securely in compliance with [Ministry of Health standards](#).

Any worker wanting to know what information is held about them on the CIR can contact the MoH at: information@health.govt.nz.

Exceptions and Exemptions

The Government wants everybody who is carrying out work in health to be vaccinated. There are very few exceptions to this. Process maps for exceptions and exemptions can be found in Appendix 5.

4.1 Health exemptions

Workers may be exempt from the requirement to be vaccinated if, after examination:

- a suitably qualified health practitioner considers that the vaccination is clinically contradicted for the person; and
- a suitably qualified health practitioner provides written confirmation of that assessment.

A general practitioner (GP) is an example of a suitably qualified health practitioner who could examine the worker and make an assessment for exemption. A worker who obtains a health exemption from getting vaccinated must notify and provide written confirmation of the exemption and the PCBU must ensure there are appropriate control measures in place to mitigate risk, and provide details of this to the Ministry of Health on request.

Information regarding acceptable clinical reasons for exemption will be available from The Royal New Zealand College of General Practitioners, the Immunisation Advisory Centre, and Ministry of Health.

A worker may not exempt themselves, even if they are suitably qualified health practitioner.

Workers who receive a health exemption may continue to work in their role.

4.2 Significant health service disruption exceptions

A PCBU may apply to the Minister for COVID-19 Response for an exception to allow a named unvaccinated worker to work if it is necessary to promote the purpose of the COVID-19 Public Health Response Act 2020 and prevent significant disruption to essential health services.

The application must be submitted by a PCBU for a named worker. The Minister for COVID-19 Response decides if an exception should be granted to a worker. The process is administered by the Ministry of Health. Learn more about applying for a service disruption exception in Appendix 5.

The table below outlines the information we expect PCBUs will need to evidence for the matters the Minister must consider before granting an exemption.

| What must the Minister take into account in considering an application? | Information that PCBUs could provide to assist the Minister in making their decision |
|-----------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| The potential for significant service disruption if the work carried out by a particular person does not occur | <ul style="list-style-type: none"> • What is the service disruption that would result from the worker being unable to perform the role? • How significant would the service disruption be? • Is the service essential? • What is the extent of the risk to the public interest from the service disruption? |
| The extent to which the work is necessary | <ul style="list-style-type: none"> • What efforts have been made to make the worker aware of the vaccination requirement, including the deadline for getting vaccinated? • Has the employer/PCBU offered the worker the opportunity to receive the vaccine during their usual working hours? • What is the reason the worker has decided not to be vaccinated at this time (including any identified barriers to the worker being vaccinated)? • Has the worker been briefed on the vaccine by a suitably qualified health practitioner? • Can the individual worker not be replaced with another existing worker, by another function, or by training of other/new staff in the short term? • Can the employer/PCBU operate without the role, even while recruitment or retraining is underway (noting any qualifications required and how long training will take)? • How necessary are the work activities, including whether they could reasonably be delayed to facilitate vaccination of the worker needed to perform the role? |

The Minister may make an exception for the worker for a specified period provided that the extent of the exception is not broader than is necessary to address the matters that gave rise to the exception.

No class or group exceptions will be considered. However, if appropriate, a PCBU may seek exceptions for more than one worker at a time. In this situation, the PCBU should outline the cumulative effect of that group not being vaccinated.

A separate application for each worker is required.

<https://health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-response-planning/covid-19-exemptions-mandatory-vaccination>

Before applying, you must:

- have a worker that is not vaccinated
- have the agreement of that worker to apply for an exception
- be able to demonstrate that you can meet the criteria of the exception.

If the application is declined, the worker will either need to be vaccinated within the timeframes specified in the Order or will be unable to perform the role.

Employers/PCBUs can resubmit an application with additional information, however, the timelines for mandatory vaccination specified in the Order still apply.

4.3 Other exceptions

An unvaccinated person may be permitted to enter and carry out work covered by this Order, if the work is unanticipated, necessary and time-critical and cannot be carried out by a person who is vaccinated; and it must be carried out to prevent the workplace from ceasing operations.

Exceptions in these circumstances may only be granted by the responsible government chief executive. In all cases, appropriate personal protective equipment must be used in line with Ministry of Health guidelines.

A person who is not vaccinated may enter a workplace without approval if they need to enter to preserve or protect a person’s life, health or safety in an emergency; or they are authorised or required to by law.

Specific responsibilities in relation to monitoring and compliance under the Vaccinations Order

5.1 If an affected person does not get vaccinated

Affected persons who remain unvaccinated after the requirements come into effect will need to discuss options with their employer. They will not be able to continue working in a role that is subject to this Order until they are vaccinated.

| | PCBUs/Employers | Affected persons | MoH | Worksafe |
|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| In relation to compliance | <ul style="list-style-type: none"> • From 11.59pm on 15 November 2021, PCBUs must not allow an affected person to carry out certain work unless satisfied that the affected person has had the 1st | <ul style="list-style-type: none"> • From 11.59pm on 15 November 2021, health and disability workers who are affected persons must not continue working in a | <ul style="list-style-type: none"> • MoH will work with PCBUs to confirm compliance of health workers (process still under development) • Where unvaccinated | <ul style="list-style-type: none"> • From 11.59pm on 15 November 2021, Worksafe may issue a PCBU with an infringement fee or fine of up to \$1,000 for every worker found to |

| | PCBUs/Employers | Affected persons | MoH | Worksafe |
|--|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| | <p>dose and then the 2nd dose no later than 1 January 2022.</p> <ul style="list-style-type: none"> • Must make the records it makes under the Order available to an enforcement officer (MoH or Worksafe) for investigation and enforcement purposes • Need to work with an unvaccinated employee to consider any other work they could undertake within their organisation while meeting the conditions of the Order • After the above dates, if the PCBU allows unvaccinated workers to carry out certain work they are committing an offence under the COVID-19 Public Health Response Act 2020. • Seek guidance from HR or employment law professionals to ensure a fair and appropriate process is undertaken | <p>role subject to this Order until vaccinated</p> <ul style="list-style-type: none"> • Need to work with their employer to consider any other work they could undertake within the organisation or other options such as taking a period of annual or unpaid leave • If an agreement can't be reached, the employment relationship will end. • <i>Note – this is not a mandated process rather an indication of options</i> | <p>health workers have been identified, MoH will contact the relevant PCBU about the accuracy of data and actions required to comply</p> <ul style="list-style-type: none"> • Must make any records of non-compliant affected persons available to Worksafe | <p>be non-compliant</p> <ul style="list-style-type: none"> • NOTE: The Order also provides for heavier penalties for intentionally failing to comply with a COVID-19 order |

Table 6: Summary of specific responsibilities in relation to monitoring and managing compliance

Appendix 1 - Summary of Vaccinations Order and amendments

| Vaccinations Order | Commencement date | Summary |
|--------------------|------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Original | 22 October 2021 (Gazetted) 25 October 2021 (Commencement) | The COVID-19 Public Health Response (Vaccinations) Order 2021 ("the Order") has made it a requirement for health and disability workers to be vaccinated against COVID-19. |

Appendix 2 – Fact Sheet for PCBU Managers

Who is required to be vaccinated under the Health Order?

A PCBU means a Person Conducting a Business or Undertaking. It's a broad concept used throughout the Health & Safety at Work Act to describe all types of modern working arrangements which we commonly refer to as businesses. Most New Zealand businesses, whether large corporates, sole traders, or self-employed, are classed as PCBUs.

PCBUs are accountable under the COVID-19 Public Health Response (Vaccinations) Order 2021 ("the Order") to ensure workers within the scope of the Order are vaccinated for COVID-19.

Affected persons ("workers") include:

- Health practitioners (as defined by the [HPCA](#))
- Workers that carry out work where health services are provided to members of the public by 1 or more health practitioners and whose role involves being within 2 metres or less of a health practitioner or a member of the public for a period of 15 minutes or more
- Workers employed or engaged by certified providers who carry out work at the premises at which the health care services are provided
- Care and support workers as defined in the Order

Care and support worker means a person employed or engaged to carry out work that includes going to the home or place of residence of another person (not being the home or place of residence of a family member) to provide care and support services.

What must employers do between now and 15 November 2021?

Write to all workers within your PCBU who perform work within the scope of the Order, advising them of the Order and the need to be vaccinated by 15 November 2021.

EXAMPLE LETTER: WHERE VACCINATION STATUS IS UNKNOWN

Dear xx

COVID-19 Public Health Response (Vaccinations) Order 2021 – Health & Disability Workers

We are writing to you following the NZ Government's announcement on 11 October 2021, that health & disability workers will be required to be fully vaccinated against Covid-19 under the COVID-19 Public Health Response (Vaccinations) Order 2021 ("the Order").

This means that anyone in NZ who is employed to work in a healthcare setting is required to have at least one dose of the Covid-19 by 15 November 2021, and to have their second dose of the vaccine by 1 January 2022.

We consider that your role of [insert] is a role which is required to be performed by a vaccinated worker under the Order.

Our records show that you are not vaccinated against Covid-19 and/or you have not confirmed your vaccination status.

Please can you let us know your vaccination status by [insert date]. If you are vaccinated, please provide [insert manager's name] with written confirmation of this (by registering on My Covid Record <https://app.covid19.health.nz/> and providing a screen-shot or print out of the result) by [insert date].

If you are unvaccinated, we are happy to help you make arrangements to be vaccinated in order for you to comply with the Order.

If we do not receive written confirmation from you that you are vaccinated by [insert date], we will assume you are unvaccinated. In this event, you will not be able to work in your role as [insert] from 11.59pm on 15 November 2021. From this date you will be temporarily stood down from your duties, or we will agree to you taking annual or other leave until [insert date] whilst we work through the impact of your vaccination status on your ability to perform the role, and whether any alternative arrangements or accommodation can be considered.

If you have any queries about the content of this letter, or if you do not consider you are covered by the Order referred to above, please contact [insert name] immediately. You should also feel free to seek independent advice, including from your union, if you are a member.

We realise that this may be an unsettling time for you and would like to remind you that free, confidential counselling and support is available to you. You can contact our Employee Assistance programme [contact details] to make an appointment. This is a confidential service, and no details are placed on your employee file.

Ngā mihi

What do I do if a worker is not vaccinated by 15 November 2021?

All people covered by the Order must have received their first dose of an approved COVID-19 vaccine by 11.59pm on 15 November 2021 and provide you with evidence, such as My Covid Record.

Where they are unable to provide this evidence, you must take immediate steps to stand down the employee while you consult with them to establish if they have access to a medical exemption, or to discuss any suitable redeployment options for this employee to move to an alternative role where vaccination is not required. If no redeployment options are available, then you will need to bring the employment relationship to an end, by giving formal notice of termination. Employees wishing to take leave or leave without pay can apply through your normal leave approval process and approval is at the employer's discretion. Employees will need to be vaccinated before they return to work if the leave period ends after 11.59pm on 15 November 2021 (for those without a first dose) or 11.59pm on 1 January 2022 (for those without a second dose).

You are advised to seek support from an appropriate human resources or employment law professional to ensure you conduct the process in line with your legal obligations.

Other employment reference information

<https://www.employment.govt.nz/resolving-problems/steps-to-resolve/disciplinary-action/suspension/>
<https://www.employment.govt.nz/ending-employment/giving-notice/>
<https://www.employment.govt.nz/assets/Uploads/tools-and-resources/documents/dbe57165f5/Sample-letter-termination-of-employment-dismissal-on-notice.docx>

Fact Sheet for Health & Disability Workers

Who is required to be vaccinated under the Vaccination Order?

You are required to have received your first dose of an approved COVID-19 vaccine by 15 November 2021, and the second dose no later than 1 January 2022, if you are a paid or unpaid worker whose role comes within the scope of the Vaccination Order.

Affected persons (“workers”) include:

- Health practitioners (as defined by the [HPCA](#))
- Workers who carry out work where health services are provided to members of the public by 1 or more health practitioners and whose role involves being within 2 metres or less of a health practitioner or a member of the public for a period of 15 minutes or more
- Workers employed or engaged by certified providers who carry out work at the premises at which the health care services are provided
- Care and support workers

Care and support worker means a person employed or engaged to carry out work that includes going to the home or place of residence of another person (not being the home or place of residence of a family member) to provide care and support services.

What must I do between now and 15 November 2021?

You must supply the PCBU (your employer) with evidence that you have received at least your first dose of an approved COVID-19 vaccine. You can do this by registering on My Covid Record <https://app.covid19.health.nz/> and providing the result to your manager or employer. Employers may temporarily accept a copy of your purple record card until you are able to supply official proof of vaccination. If you were vaccinated overseas, you will need to provide acceptable evidence of your vaccinations.

What happens if I am not vaccinated by 15 November 2021?

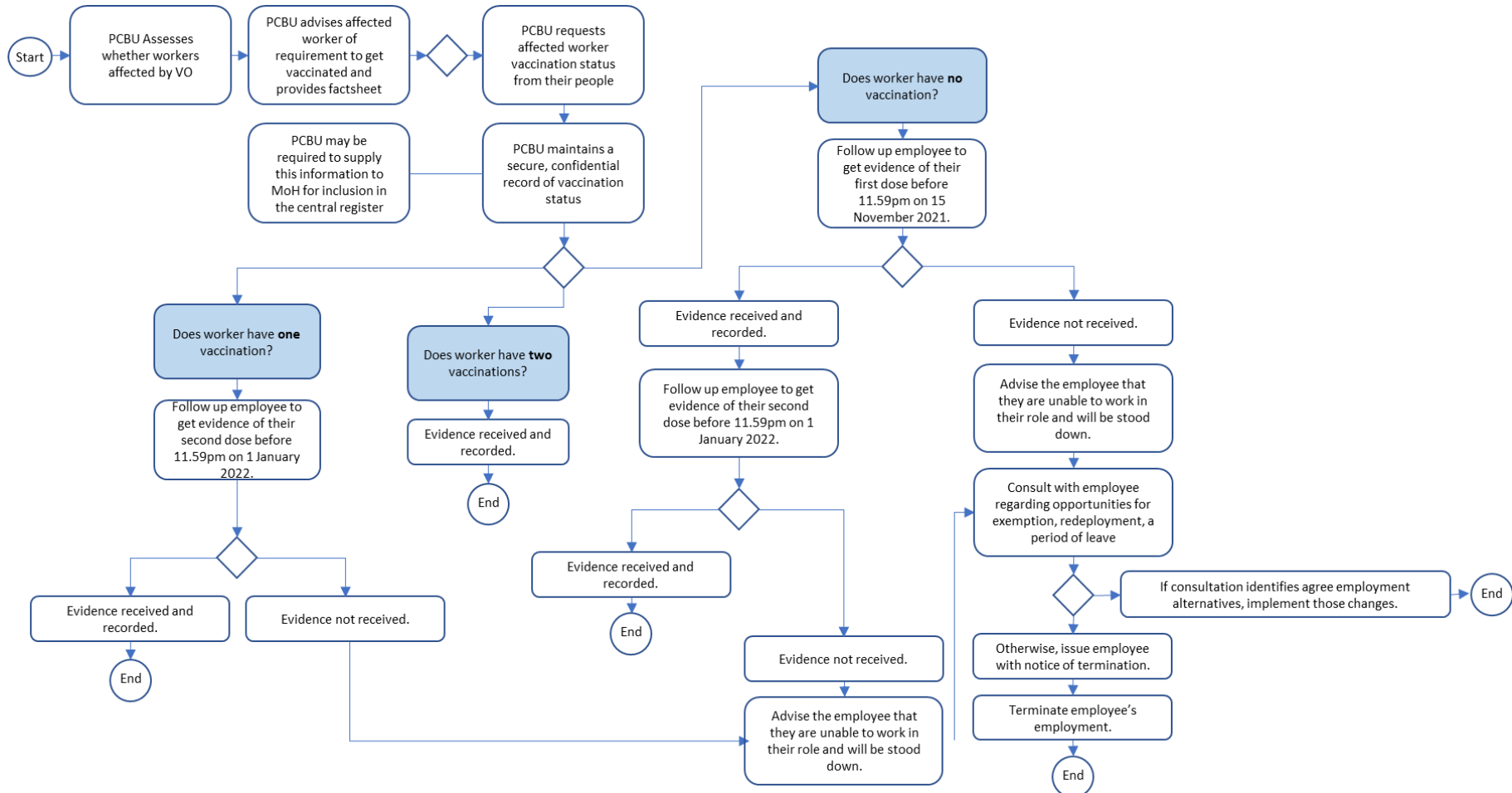
Your employer is required by law to ensure that all affected persons have received at least their first dose of vaccine for COVID-19 by 11.59pm on 15 November 2021. If they do not receive confirmation from you that you are vaccinated by then, they will assume you are unvaccinated. In this event, you will not be able to work in your health worker role from 16 November 2021 and you will be temporarily stood down.

Unvaccinated workers will be temporarily stood down from their duties, or your employer may agree to you taking annual or other leave while they consult with you whether any alternative arrangements or accommodation can be considered – including potential for redeployment, or if you believe you may have grounds, to allow time for you to be examined to establish your right to a medical exemption.

If, following a fair process, no alternatives are identified, your employment is terminated and you will receive notice of termination in accordance with your employment agreement, and any outstanding holiday pay entitlements.

You should seek independent advice, including from your union, if you are a member.

Appendix 3 – Health Worker Vaccination Order Process



Appendix 4 – Common questions

When will the Order be in place?

The Order will be approved by the Minister on 22 October 2021, with a view to it being legally in force from 11.59pm on 25 October 2021.

How will the Order work?

The Order will require that affected persons who fall within its coverage must be vaccinated against COVID-19 by specified dates (first dose by 11.59pm on 15 November 2021 and second dose by 11.59pm on 1 January 2022). It will be an offence for an affected person to continue to carry out work without being vaccinated after the stated dates, and an offence for an employer to allow an affected person to undertake that work. Infringements and fines will apply.

Why are we doing this?

Health and disability workers are a valued and critical part of New Zealand's pandemic response, and early evidence suggests that vaccination may reduce transmission of the Delta variant of COVID-19 and reduce the risk of serious illness, which would burden New Zealand's health and disability system.

Health and disability workers have been able to be vaccinated against COVID-19 since March 2021, and some employers, such as DHBs, have already achieved significant high rates of voluntary vaccination so far.

Vaccination remains our strongest and most effective tool to protect against infection and disease, and we need as many workers as possible to be vaccinated to allow our health services to respond to the pandemic and deliver everyday health services with as little disruption as possible.

Who is an affected person?

Affected people

- Health practitioners (as defined by the [HPCA](#))
- Workers who carry out work where health services are provided to members of the public by 1 or more health practitioners and whose role involves being within 2 metres or less of a health practitioner or a member of the public for a period of 15 minutes or more
- Workers employed or engaged by certified providers who carry out work at the premises at which the health care services are provided
- Care and support workers

Care and support worker means a person employed or engaged to carry out work that includes going to the home or place of residence of another person (not being the home or place of residence of a family member) to provide care and support services.

The coverage of the Order is broad, and in most cases will apply to a large number of workers employed by DHBs and other public and private health care settings, no matter the role or job you do. The Order will cover employees, contractors, service providers, casuals, students, temps, volunteers and others who 'work' as an employee or service provider in setting where healthcare is provided.

How do we know who has been vaccinated?

Start by asking your workers to confirm their vaccination status and record it securely as part of their employment record. They can do this by registering and showing you their vaccination record on the My Covid Record app. Employers may temporarily accept a copy of the purple record card until your worker can supply official proof of vaccination. If they have vaccinated overseas, they will need to show formal evidence of their vaccination.

<https://www.health.govt.nz/our-work/diseases-and-conditions/covid-19-novel-coronavirus/covid-19-vaccines/covid-19-requesting-proof-vaccination/my-covid-record>

The Ministry of Health will advise if they can provide PCBU's with a service to match employee data with records on the COVID-19 Immunisation Register (CIR).

A Border Workforce Testing Register has been developed over the last twelve months iteratively as each version of the Required Testing Order and Vaccinations Order have come into effect, and this tool will be extended for use for Health & Disability workers under the Order. Onboarding new PCBU's is a repeatable and scalable process but is a person-based process. Ministry of Health will work with employers over the coming weeks to ensure records are complete and accurate to manage compliance.

What does this mean for me?

As many workers in health & disability settings are likely to be affected persons as defined by the Order, you will most likely be required to have been vaccinated against COVID-19 by the specified dates. If you have not been vaccinated by those dates, then you will probably not be allowed to continue to work in your current role after 15 November 2021.

How does the Order apply to people who have accepted, but not yet commenced employment?

People who are intending to work in a health care setting will be required to have at least one vaccination before their commencement date if their start date is after 11.59pm on 15 November 2021, and two vaccinations if their start date is after 11.59pm on 1 January 2022.

Will contractors and volunteers be required to be vaccinated?

Any person coming in to carry out work in a setting where health care is provided (including a person's home or place of residence such as a rest home, retirement village, and residential care facility), who perform their work in close proximity to health practitioners or members of the public will be required to be vaccinated in order to perform that role. Exceptions can be made with Chief Executive approval to address work that is urgent, unanticipated, necessary and time-critical and cannot be carried out by a person who is vaccinated; and it must be carried out to prevent the workplace from ceasing operations.

Will the Order affect visitors or guests?

We do not expect that most visitors or guests would be covered by the Order, however each organisation will have their own visitor policy relating to visitors to the premises, and you should consider the scope of the Order to ensure your policy reflects any new requirements.

What if I do not want to disclose my vaccination status?

It is preferable for workers to have open conversations with their employer around their vaccination status and their reasons for not being vaccinated. This is to ensure that organisations can comply with the Order, and provide for the health and safety of staff, clients and patients.

However, employers may seek approval to access vaccination status information directly from the Ministry of Health COVID-19 Immunisation Register.

What information do employers need to hold?

A PCBU must, for each affected person employed or engaged by the relevant PCBU, keep and maintain a record of the following information:

- the affected person's full legal name and date of birth
- a telephone number and email address by which the affected person may be reached
- the dates by which the affected person is required to be vaccinated
- the dates on which the affected person has received vaccinations and the type of vaccination(s) received
- any applicable exemption provisions for affected persons and written evidence of any exemption

The record must be in writing or kept in a form or in a manner that allows the information in the record to be easily accessed and converted into written form; and be made available as soon as practicable to MoH, WorkSafe or other authorised enforcement officer who requests access to the record. The PCBU must also work with affected people to ensure records are actively maintained for ongoing accuracy.

Can I get a medical exemption?

The medical evidence to date suggests that there are only very rare circumstances a person will be clinically unable to receive the Pfizer vaccine. This is because the Pfizer vaccine is not a live vaccine. The medical advice we have received is that the vaccine is safe for people who:

- Are pregnant or breast feeding;
- Have pre-existing health conditions;
- Are on treatments that weaken the immune system (such as cancer and HIV treatments); and
- Have had severe reactions to other vaccines in the past.

Health and disability workers may be exempt from the requirement to be vaccinated if, after examination:

- a suitably qualified health practitioner considers that the vaccination is medically contradicted for the person; and
- a suitably qualified health practitioner provides written confirmation of that assessment.

A general practitioner (GP) is an example of a suitably qualified health practitioner who could examine the worker and make an assessment for exemption. A worker who obtains a health exemption from getting vaccinated must notify and provide written confirmation of the exemption and the PCBU must ensure there are appropriate control measures in place to mitigate risk, and provide details of this to the Ministry of Health on request.

Information regarding acceptable clinical reasons for exemption will be available from The Royal New Zealand College of General Practitioners, the Immunisation Advisory Centre and Ministry of Health.

A worker may not exempt themselves, even if they are suitably qualified health practitioner.

Workers who receive a health exemption may continue to work in their role.

Are there other alternatives to being vaccinated? E.g. additional PPE and regular surveillance testing.

The Order requires that no affected person may carry out their role unless they are vaccinated. We anticipate that there will be no exceptions (other than health exemptions) to being vaccinated, so steps such as additional PPE, social distancing, surveillance testing, and other measures will not be available as alternatives to being vaccinated. The most likely outcome is that if you are an affected person and are not vaccinated, you will not be allowed to perform your current role.

What if I can do my job from home - will I be covered?

Employers will need to consider all options for employees on a case by case basis. However the Order does not offer a provision remote working as an alternative to vaccination for affected persons.

What will happen if I do not get the first dose by the date in the Order?

Employers will work with you to determine the reason you have not been vaccinated by the required dates. However, no affected person can perform their role from the dates specified if they are not vaccinated. You may explore other options, including unpaid leave or taking annual leave, if you are intending to receive your vaccination shortly after the dates set out in the Order.

What if my preference is to wait for a different (non-RNA) vaccine to become available?

Your employer may discuss with you the options, including whether it is practicable to hold your job open in the meantime. This is likely to depend on the level of certainty and timeframes within which alternative vaccines may become legally available for use in New Zealand.

If I do not wish to be vaccinated, will my organisation redeploy me to a new role?

If you are not vaccinated by the dates in the Order, your employer will consider redeployment options for you. However, given the broad coverage of the Order, it is very unlikely that any roles will exist that you may be redeployed to that will not also require you to be vaccinated. Each situation will be assessed on a case-by-case basis.

What will happen to me if I do not receive the vaccine and there are no suitable redeployment options?

After working through a fair process with you, if no suitable redeployment alternatives are identified then your employer may terminate your employment.

If my employment is terminated, what are my entitlements?

If, following a fair process, your employment is terminated, you will receive notice of termination in accordance with your employment agreement, and any outstanding holiday pay entitlements.

What is the HR process if a person refuses vaccination and can't be redeployed?

You are advised to seek support from an appropriate human resources or employment law professional to ensure you conduct the process in line with your legal obligations. You may also find the following sites useful:

<https://www.employment.govt.nz/resolving-problems/steps-to-resolve/disciplinary-action/suspension/>

<https://www.employment.govt.nz/ending-employment/giving-notice/>

<https://www.employment.govt.nz/assets/Uploads/tools-and-resources/documents/dbe57165f5/Sample-letter-termination-of-employment-dismissal-on-notice.docx>

What happens if I am on leave when the required vaccination dates occur?

Employees who are returning from leave are expected to have at least one vaccination before they return if this is after 11.59pm on 15 November 2021 and two vaccinations if this is after 11.59pm on 1 January 2022. Where this means that an employee will be unable to return on their previously expected return date, employers will discuss the options, including considering extending the leave period or granting a period of special leave. This is at the employer's discretion.

In the case of employees who are about to take parental leave and would prefer not to take the vaccine until after the baby is delivered, employers may consider the available options, including the early commencement of the leave period. Note that vaccination in pregnancy is highly recommended for the safety of the pregnant person and baby.

If I am feeling hesitant about taking the vaccine, what can I do?

We appreciate that some people will have questions and will want to seek reassurance that taking the vaccine is safe. Please refer to <https://covid19.govt.nz/covid-19-vaccines/get-the-facts-about-covid-19-vaccination/covid-19-vaccination-your-questions-answered/>, speak to your trusted health professional such as your GP, Nurse Practitioner or Pharmacist, or call the COVID Vaccination Healthline on 0800 28 29 26 (8am to 8pm, 7 days). Translators are available if English is not your first language.

If I feel unwell after being vaccinated, can I take sick leave?

In most instances people who take the vaccine suffer only mild side effects. If, however, you feel unwell, then the sick leave provisions of your employment agreement will apply.

Will I be able to be vaccinated during work time?

Most employers will support you to be vaccinated during paid work time, and will provide release time for this to occur.

I have had COVID-19 already and have a natural immunity as a result. Do I need to be vaccinated?

Yes, you should be vaccinated regardless of whether you already had COVID-19 because research has not yet shown how long you are protected from getting COVID-19 again after you recover from COVID-19 and vaccination helps protect you even if you've already had COVID-19.

Evidence is emerging that people get better protection by being fully vaccinated compared with having had COVID-19. One study showed that unvaccinated people who already had COVID-19 are more than 2 times as likely than fully vaccinated people to get COVID-19 again. If you were treated for COVID-19 with monoclonal antibodies or convalescent plasma, you should wait 90 days before getting a COVID-19 vaccine. Talk to your doctor or trusted medical professional if you are unsure what treatments you received or if you have more questions about getting a COVID-19 vaccine.

Can there be exceptions where there is risk to the delivery of a service?

A PCBU may apply to the Minister for COVID-19 Response for an exception for a named worker if it is necessary to promote the purpose of the COVID-19 Public Health Response Act 2020 and prevent disruption to essential health services.

The application must be submitted by a PCBU for a named worker. The Minister for COVID-19 Response decides if an exception should be granted. The process is administered by the Ministry of Health.

Are COVID-19 vaccinations covered by ACC (as a treatment injury)?

Yes

Will vaccination become part of an APC requirement?

That is a decision for the responsible authorities.

Can an exemption be secured on religious grounds?

No major organised religious group has officially discouraged the vaccine, and many have explicitly encouraged them.

Will an alternative vaccine be available or approved?

Alternative vaccines are being considered by MedSafe and some have already been approved. It is not confirmed when access to vaccines will other than Pfizer be available in New Zealand. Exemptions will not be granted to those who choose to wait for an alternative vaccine.

Who will be liable if health & disability employees continue to work while unvaccinated?

Both employees and the PCBU/employer may receive infringements or fines of up to \$1000 per person if they do not comply with the Order.

What if I have been vaccinated overseas with a Vaccine other than Pfizer?

To comply with this Order, you will need to provide evidence that you have been vaccinated by the due dates with an accepted vaccine. Accepted vaccines can be found [here](#).

Do family members providing health care to whānau at home need to be vaccinated?

Current public health measures are considered adequate given the potential for the person receiving care to be a lower risk vector for transmission to the community, and therefore family members providing care to other family members within their home are not included as affected persons in the Health Order.

Who can help workers who are unable to continue working in their current roles to find new employment?

The Ministry of Social Development (MSD) is able to support impacted workers who are unable to continue working in their current roles and are unable to be redeployed by their employer. The regional teams can support people to look for and prepare for other work, by assisting them to update CVs and find jobs that match their skills. MSD also has a range of services and products that can also help people when they do find new work. PCBUs are encouraged to contact MSD to discuss employment support for those who they are unable to redeploy. MSD's regional teams can meet with people individually, or as a group if you have a large number of workers who may want to hear about the support MSD can provide before engaging with MSD one-to-one. If you get permission from your workers to pass on their details to MSD, we can make direct contact with them to discuss their individual situation and options. Email BWVO_Employment_Support@msd.govt.nz to be connected with the team in your region.

MSD also works closely with Te Kawa Mataaho, the Public Service Commission through its Workforce Mobility Hub to support public sector employees to identify other potential jobs within the public sector in their area that match their skills and interest. Public Service employers, who have unvaccinated workers who are unable to be redeployed or reach agreement do have a requirement to engage with the Public Service Commission.

How can I raise other questions?

You can send additional questions to healthorders@health.govt.nz

Appendix 5 – Exception and exemptions process map

Exemptions & Exceptions

