
All District Health Boards

1 November 2021

The Health Workforce and the COVID-19 Vaccination Order Guidance for Community Health Providers

This guidance has been prepared by the 20 District Health Boards to assist community healthcare providers contracted by DHBs in the following sectors:

- *primary care*
- *community pharmacy*
- *maori health*
- *aged residential care*
- *home and community support*
- *mental health and addiction*
- *disability support*
- *oral health*

It is intended to support these sectors to implement the COVID-19 Public Health Response (Vaccinations) Order 2021, which took effect on 25 October 2021.

It includes links to useful FAQs, templates and other Guidance.

The Order requires workers in the health and disability sector (as set out below) to be fully vaccinated against COVID-19 before 11.59 pm 1 January 2022, and to have received their first vaccination by 11.59 pm 15 November 2021

Timeframes

An *affected person* is required to have had their first vaccination dose by 11:59 pm on Monday 15 November to be able to continue working in their current role and to have had their second dose by 11:59 pm on Saturday 1 January 2022.

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

After the dates above, any new worker covered by the Order commencing employment after 15 November 2021 and before 1 January 22 will need to have their first dose before starting work and have both doses by 1 January 2022.

A copy of the Order can be accessed [here](#).

Key responsibilities

The key responsibilities of the *affected person* under the Order are as set out above.

Employers/PCBUs (persons conducting a business or undertaking) and the Ministry of Health have specific responsibilities under the Order.

Employers

It is a key responsibility of employers/PCBUs to firstly determine whether a person is a health and disability worker and assess whether they are an “*affected person*”.

They have a duty to notify each *affected person* of their duty to be vaccinated and cannot allow an *affected person* to carry out certain work unless satisfied that the *affected person* is vaccinated. They are required to keep and maintain particular records relating to the vaccination status of *affected persons* who are employed or engaged by them.

They must maintain a safe and confidential way to record the vaccination status of workers covered by the Order. They should also check and record their vaccination status by sighting copies of an individual’s COVID-19 vaccination status from [My COVID Record](#) or other suitable evidence of vaccination.

Ministry of Health

The Ministry of Health has developed the COVID-19 Immunisation Register (CIR) to keep records of COVID-19 vaccinations.

The Ministry of Health must provide employers/PCBUs with worker vaccination status information provided Privacy Act obligations have been met. They must receive and maintain accurate worker information from employers/PCBUs for inclusion in the centralised register and provide compliance reporting to employers/PCBUs and WorkSafe.

DHBs

DHBs are required to prioritise access to vaccinations, putting in place special arrangements if required, for health and disability workers. They are to offer support and advice to Employers/PCBUs as required to meet their responsibilities under the Order.

DHBs supporting contracted service providers

The impact of non-compliance with the Order could have a significant impact on communities and the health sector generally, including putting the health and safety of service users and communities at risk of greater community transmission.

Therefore, DHBs should:

- ensure that contracted service providers clearly understand their responsibilities under the Order; and
- provide support to service providers, particularly those who may be at the greatest risk of non-compliance, or whose workforce (or a significant proportion) is less likely to choose to be vaccinated.

In addition, each DHB should determine how it will respond if it becomes aware that a contracted service provider is not complying with the Order. It is anticipated that a DHB would, in the first instance, discuss the situation directly with the contracted service provider in order to encourage and assist with compliance (while ensuring the DHB does not consent to the non-compliance). Its other options would be to notify an enforcement officer, as notified in the Order, of the non-compliance and/or enforce its rights under the relevant contract (if appropriate).

DHB contracts and non-compliance with the Order

DHBs, as funders of community services, are not considered relevant PCBUs under the Order. Rather, the Providers themselves are the relevant PCBUs. Therefore, there are no direct obligations on DHBs under the Order to comply with the specified duties in relation to Providers, or, for example, to check the vaccination status of affected persons who are employed or engaged by those Providers.

DHBs' Contracts for Services generally contain a contractual obligation on Providers to comply with all statutory, regulatory, and other legal requirements that are applicable to the performance of its obligations under the Agreement. This means contractual obligations on Providers to comply with the Order already exist.

If a DHB is aware that a Provider is not complying with the Order, the DHB should discuss the non-compliance with the Provider and support the move to compliance forthwith. If compliance is not imminent, a DHB could advise an enforcement officer as defined in the COVID-19 Public Health Response Act. The DHB could enforce its rights under the Agreement including termination of the Agreement should the Provider fail to comply with the Order within the period stated in the Agreement.

Exemptions

Government wants everybody who is carrying out work in health to be vaccinated. There are very few exceptions to this.

A worker 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 provides written confirmation of that assessment.

It is worth noting, District Health Boards are adopting a process that requires a worker seeking an exemption to be assessed by a DHB appointed health practitioner. The same or similar requirement could be adopted by other employers. If intending to do so, templates to assist in this process are available [here](#).

Workers who receive a health exemption may continue to work in their role. The employer must ensure there are appropriate control measures in place to mitigate risk and provide details of this to the Ministry of Health on request.

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 Minister decides if an exception should be granted.

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. The process is administered by the MoH.

Further information on exemptions and exceptions from mandatory vaccination is available [here](#).

Other exceptions

Whilst the Order provides for “other exceptions”, in respect to Health, these exceptions do not apply to affected persons who belong to a group specified in Part 7 or 9 of the table in Schedule 2 of the Order. This includes:

- Health Practitioners
- 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 who are employed or engaged by certified providers and carry out work at the premises at which health services are provided
- Care and support workers

Unvaccinated workers

An affected person who has not received a first vaccination before the end of Monday 15 November 2021 must be stood down immediately from their role.

A formal Notice to Stand Down should be provided to the person. The Notice should set out information that the person should know and understand leading up to the serving of the Notice, as well as the next steps in the process. A copy of a Notice to Stand Down is accessible [here](#).

The employer should then follow guidelines in respect to process and next steps. Guidelines to assist managers on implementation of the Order for unvaccinated staff are available [here](#).

Notice of termination of employment

Having followed a fair and reasonable process, including exploring suitable work alternatives with the affected person, and confirmed that no suitable alternative employment is available, and if the person has no intention to receive a COVID-19 vaccination imminently, termination of employment may well follow.

An example of a Notice of Termination of Employment letter that lists the process steps to be followed is available [here](#).

FAQs and follow-ups

A number of questions about implementation of the Order have been considered and responses to these questions can be found in a FAQs [here](#).

Follow-up

Should you have questions that are not answered through the linked documents, guidelines or FAQs, please contact the appropriate Portfolio Manager at your local DHB in the first instance.