



**COVID-19:**  
**WORKING THROUGH THIS TOGETHER**

**A Practical Guide to the COVID-19  
Vaccination and the Workplace**

May 2021

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**DISCLAIMER:** This guidance is for general information purposes and does not constitute legal advice. Specific advice should be sought in respect of particular cases. While the information is considered to be accurate at the date of publication, the COVID-19 pandemic is continually changing and government guidance is being updated as the situation develops and more data on vaccination is published. This guidance may be updated as information becomes available.

## Key Takeaways

- Employers should think carefully about compiling a 'COVID-19 vaccination in the workplace' policy document.
- Employers should approach the issue in a voluntary and encouraging perspective.
- Employers should be aware of a variety of legal issues that underpin the policy.
- Employers should always take into account fact sensitivities when applying a policy.
- Employers should strive to retain effective and harmonious employment relations regarding the implementation of a policy.

## About this Guide

A few months ago, if we cast our minds back we didn't know if there could be a safe vaccine to protect people, now there are several vaccines approved as a safe and effective way to reduce the risk of contracting COVID-19. On 8<sup>th</sup> December 2020 the first COVID-19 vaccine was administered in Northern Ireland. The mass vaccination programme is well underway and hope is finally on the horizon, at long last. However, it is worth bearing in mind that it will be some time, taking us into the middle of 2021 before the working age population beyond vulnerable groups have been immunised. Going forward it is clear the vaccines will play a huge role in helping to drive down infection rates and protect people from disease. Information on the COVID-19 vaccination programme in Northern Ireland, including employees who may not be able to be vaccinated for medical reasons, can be found [here](#).

The rollout of the COVID-19 vaccination programme and its impact on the workforce is uncharted territory for everyone. Employees will undoubtedly have concerns; there are serious challenges employers will need to respond to; and HR professionals and trade union representatives are likely to grapple with multiple questions, such as:

- What are the legal obligations of an employer?
- Can an employer encourage employees to take up the vaccine when it becomes available?
- How can an employer deal with vaccine hesitancy or signpost employees to accurate information so that they can make a properly informed decision?
- Can an employer legally compel employees to take the vaccine?

In helping to address these questions, this guide sets out some of the key considerations that every employer will potentially need to take care of in the months ahead, including how to tackle some of the ethical, legal and practical challenges for workplaces. There are signposts to additional information at appropriate stages throughout the document.

The guide also includes a sample COVID-19 vaccination policy for employers that wish to encourage and support staff in getting the coronavirus vaccine once it is offered to them. The policy should be adapted to suit specific business needs, where appropriate.

However, it must be remembered that the vaccine is just one measure of protection and employers must follow the public health advice and comply with the relevant Regulations

as they continue to apply. They will still need to question whether bringing employees into the workplace is essential especially in the early days of the vaccine rollout. Preventative measures such as general cleaning and hygiene, social distancing, wearing of face coverings, ventilation and so on must continue to be an essential part of an employer's COVID-secure steps in conjunction with vaccination, to reduce the risk of COVID-19 transmission in the workplace. Guidance on COVID safety in the workplace is available [here](#). A health and safety risk assessment to deal with COVID-19 in the workplace should be carried out – a sample template for this is available [here](#).

The status of COVID-19 vaccines and related guidance is rapidly evolving and it is important that employers stay up to date with the latest government advice and adjust their plans accordingly. This will include fact sensitivities around things such as – underlying health conditions of employees, evolving COVID-19 variant strands and potential unforeseen developments.

## Key Considerations

### Legal Obligations

Employers have a legal duty under the Health and Safety at Work (Northern Ireland) Order 1978 to make the workplace safe and eliminate or control risks to health; this duty gives employers justification for encouraging their employees to be vaccinated to not only protect themselves but everyone else in the workplace. It should be borne in mind that it is not just as simple as having a “no job, no job” approach because this belies the fact sensitivities around each person and each workplace. Assumptions should not be made and core principles such as **voluntary** informed consent, reasonableness and exceptions should always be the starting point of any approach.

### Encouraging Vaccine Take-Up

Given that, for public health reasons, and to help build protection, it is desirable to have as many people vaccinated against COVID-19 as soon as possible, to prevent the spread of infection, reduce hospitalisation and mortality, employers can play a crucial role in publicising the benefits to improve and encourage take-up. Open and honest communication is key. Proactively engaging with employees, workplace trade union representatives and/or employee representatives to help employees make informed decisions regarding their vaccination should go some way towards dispelling any myths that exist. Employers can assist understanding by explaining and sharing accurate, credible and reliable information with helpful links to evidence-based sources of guidance that are available through the government, Health and Social Care Northern Ireland and Public Health Agency websites. This will help employees keep up to date and informed about the workplace impact and risks of COVID-19.

### Workplace Virus Testing

Some employers may consider introducing regular virus testing as a recommended, necessary precaution in addition to other COVID safety measures to minimise the spread of the virus and protect those employees from infection who cannot work from

home. Virus testing, as with approaches to vaccination, should be **voluntary** in nature and it should be noted that there is no legal requirement for staff to be tested for COVID-19 and in most situations it is not necessary. However, some employers may want to introduce testing as part of their workplace policy and it is appropriate to devise a distinct policy on this matter which is currently under consideration at government level and information and advice in this area is still at a formative stage. Further information on the emerging availability of workplace testing can be found [here](#).

### **‘Vaccine Hesitancy’**

Whilst the majority of people will be keen to take up the opportunity to be vaccinated against COVID-19, there will be a minority who will be reluctant to have the vaccine or refuse. The reasons for this so called ‘vaccine hesitancy’ could be many and varied on the part of people in the workplace. Some may not be able to have it for genuine medical reasons. There is specific advice for pregnant women around issues such as the preferred vaccine, for example see page 17 [here](#) and a HSCNI factsheet is available [here](#). Some may have a phobia of needles and others may refuse on religious or other grounds. Others, while not necessarily refusing, may be nervous or reluctant for a range of different reasons. They may be apprehensive about vaccines generally, or nervous about this vaccine in particular, worried perhaps about its efficacy. It is primarily the role of government and the health service to combat vaccine hesitancy, however, the employer can also play a vital role in helping to promote a persuasive case for COVID-19 vaccinations as custodians for the health and safety of their employees. It is possible differences of opinion are likely to arise both remotely and in the workplace with pro-vaccine employees and those more sceptical and refusing to have the vaccine. Employers should proactively intervene in such disputes and take steps to avoid potential conflict.

Ultimately, it is personal choice as to whether or not any individual wishes to take the vaccine. Any reluctance at the moment has to be appreciated in the wider context of what people have been living through for the past year. There is a sense of heightened anxiety due to the pandemic and the challenges many people are experiencing. This requires careful and sensitive management and extends to how an employer approaches the issue of vaccination. It should also be remembered that a person not being vaccinated could be for a variety of other concerns such as - ability to travel to a vaccine centre, to afford the time out to get vaccinated, or fear that side-effects might mean losing days of work and therefore income. If an employee is hesitant or refuses the vaccination it is really important that an employer listens to their concerns with empathy, takes those seriously and respects the need for confidentiality. In the case of point blank refusal, alternative solutions will have to be explored within the context of the current government guidance on working from home, social distancing within the workplace, use of screens and use of personal protective equipment. All of these mitigations may be with us for some time as vaccination does not replace them.

### **Risk Assessments**

Risk assessments should be updated and also include alternative safety measures to receiving the vaccination. It may also be prudent to retain copies of all communications to encourage vaccination in the event that a complaint is made that the employer has taken inadequate steps to comply with health and safety obligations.

## Recording Vaccination Data

Whether an employee has been vaccinated is their private health information and therefore special category data protections apply. Before deciding to collect employees' vaccination status, employers should be clear about what they are trying to achieve and how recording vaccination status will help this. The reason for recording vaccination status must be clear and compelling, and communicated to employees. Due regard must be given to data protection.

More information on recording vaccination status is available from the Information Commissioner's Office [here](#).

## Mandatory Vaccination

It is understandable that employers will want as many employees vaccinated as possible to help build that protection along with all the other measures in terms of having a COVID-19 secure workplace. However, imposing a mandatory vaccination requirement gives rise to a number of issues. It is important to review the contract of employment, as some may have a clause requiring the employee to have vaccinations relevant to their role, but without such a clause, compulsion should be avoided.

## Legal Risks - Unfair/Constructive Dismissal

Mandatory vaccination could potentially give rise to claims of unfair/constructive dismissal. This may be particularly risky whether an employee is dismissed for failing to have a vaccination or resigns in response to an employer's attempt to change the contract or make the vaccination an occupational requirement unilaterally. Any approach must be justified by the particular circumstances as the hurdle is likely to be high. There must be clear evidence of the benefit and need to vaccinate the workplace. In the case of dismissal the management instruction must be reasonable and the employee's refusal must be unreasonable. If you do dismiss always remember the need for a reasonable and fair process and to comply with the statutory discipline and dismissal procedures as per the Employment (Northern Ireland) Order 2003 and the requirements of the Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures available [here](#).

## Potential Discrimination Issues

An employee may have valid reasons to refuse a vaccine relating to, for example, pregnancy, pre-existing medical conditions, or religious belief. In these circumstances compelling an employee to take the vaccination is likely to be covered by anti-discrimination law and depending on the specific facts of their case, they may be able to seek legal remedies. Further information in relation to discrimination is available through the Equality Commission for Northern Ireland. You can access their website [here](#).

## Employee Relations

There is also potential to damage employee relations, whereby an employee's trust in the employer may be affected if they are required to accept a vaccination against their wishes. Whilst the vaccine is safe for use, in the unlikely event that an employee had an adverse reaction, where an employer made it a mandatory requirement, may place an employer at

risk of a personal injury claim or claims in potential jurisdictions not yet tested by the courts and tribunals such as philosophical belief.

### **Data Protection Implications**

There are likely to be data protection implications of requiring employees to provide information on their vaccination status, verifying its accuracy and retaining that data. More information is available from the Information Commissioner's Office [here](#).

It is unlikely that compelling employees to get vaccinated will ever be a necessary part of meeting statutory obligations for most employers, subject to any consideration in certain sectors, such as care homes and in job-specific roles for example, healthcare providers, those working with vulnerable groups, close contact services, posts involving international travel. Further information on COVID-19 Vaccination: Guide for Healthcare Workers is available [here](#) and Guide for Social Care Staff available [here](#). International Travel Advice can be found [here](#).

In the UK, generally, vaccination has not been mandatory and there is no indication that this will change for COVID-19 any time soon.

An alternative approach without the risks of a mandatory vaccination programme is to consider introducing a COVID-19 vaccination policy which encourages employees to take up the offer of a vaccine against COVID-19 when it becomes available to them.

### **Benefits of Introducing a COVID-19 Vaccination Policy**

Having a vaccination policy:

- Sends a consistent and clear message across the workplace encouraging employees to take the COVID-19 vaccination.
- Provides employees with knowledge about what is expected of them in relation to adhering to health and safety measures and arranging time-off for vaccination.
- Demonstrates an employer's good faith that employees will be treated fairly and equally with dignity and respect.
- Provides a means of communicating information to employees about the vaccination programme and the safety and health benefits.
- Provides an accepted method of dealing with differences of opinion, complaints and misunderstandings to help prevent conflict and avoid claims of bias and favouritism.
- Ensures an employer is better equipped to defend potential claims of a breach of statutory obligations for example, health and safety.

## COVID-19 Vaccination Policy

It may be the case that a policy already exists that deals with for example, the seasonal flu jab vaccine and it could be extended to include COVID-19 vaccinations. Alternatively, an employer may consider developing a vaccination policy within its framework for COVID-secure steps towards maximising the number of employees who can attend work safely.

The sample vaccination policy below **encourages** employees to be vaccinated against COVID-19. It is a **voluntary** policy and does not, therefore, contain provisions for mandatory vaccination given the associated legal risks, discussed above.

### 1. Introduction and Overview

1.1 As an employer, we are committed to maintaining a safe and healthy workplace and are taking additional measures to protect our staff from contracting and spreading COVID-19 in accordance with legal requirements and government guidelines.

1.2 COVID-19 vaccines have been approved for safe use and are being offered to members of the general public, on a phased basis, by order of priority. This policy is part of our overall COVID-secure steps to ensure a safe working environment.

The vaccination policy is **NOT** a substitute for other health and safety measures.

1.3 The UK government has not made the taking of the vaccine mandatory and therefore this is a **voluntary** policy and it is your decision whether or not to receive the vaccine.

1.4 The COVID-19 vaccination is extremely important in protecting and preventing the spread of disease. In accordance with public health advice and as an integral part of our health and safety measures, we strongly encourage all eligible staff to participate in ongoing vaccination programmes where it is safe to do so in individual circumstances.

1.5 As an employer, we respect the wishes of those who choose not to be vaccinated, whether this be for health reasons or other reasons.

1.6 **[Insert name of organisation]** will ensure that in operating this policy all staff will be treated with dignity and respect in relation to their decision to take the vaccine or not. In situations where differences of opinion arise with pro-vaccine employees and those refusing to have the vaccine, we will proactively intervene and take steps to avoid potential conflict. Any form of bullying or harassment, allegations of ostracising, or other unwanted behaviour taken against any employee because of their decision will be robustly challenged by the employer.

1.7 This policy has been **[agreed OR implemented following consultation]** with the **[name of trade union(s), staff representative]**. Amend as appropriate.



## 2. Scope and Application of the Policy

- 2.1 The purpose of this policy is to provide information about the dIS-19 vaccination and to encourage staff to take up the opportunity to have the vaccine when it is offered to them, to provide a greater level of personal safety against serious illness. It should be read in conjunction with the Health and Safety Policy and any other COVID-19 specific protocols.
- 2.2 The policy applies to all **[employees, agency workers, consultants, contractors, volunteers, casual workers]** in order to limit transmission risk. Amend as appropriate.
- 2.3 This policy does not form part of any contract of employment and may be amended at any time.

## 3. Roles and Responsibilities

- 3.1 The **[Board of Directors OR Position OR Committee]** has overall responsibility for the effective operation of this policy. Delegated responsibility for overseeing its implementation has been given to the **[Director OR Head of HR Department OR Position]**. Suggestions for change should be reported to **[Director OR Head of HR Department OR Position]**. Amend as appropriate.
- 3.2 Overall responsibility for the day-to-day management of this policy within **[insert name of organisation]** rests with the **[Line Manager OR the HR Department]**. Amend as appropriate.
- 3.3 This policy is reviewed annually by **[Head of HR Department OR Position]** in consultation with the **[Name of Trade Unions(s), Staff Representative]**.

There is no government guidance on how often a policy should be reviewed. However, given the constant changes employers are likely to review this policy regularly. Note: Employers have a legal duty to consult with employees on matters relating to health and safety at work.

## 4. Making an Informed Decision

- 4.1 The COVID-19 vaccination is currently only available through Health and Social Care Northern Ireland to eligible groups and is a free vaccination. It is given as two doses as an injection into your upper arm. The Public Health Agency have produced a guide for adults. It can be viewed [here](#).

An important part of a **voluntary** vaccination policy is educating employees about the safety and health benefits and addressing their concerns. Employers are well placed to disseminate information at a workplace level. This may help to:

- Reassure employees about the employer's commitment to worker health and safety.
- Increase employee participation in the vaccination programme.
- Provide access to current knowledge about the virus and the vaccine as it evolves.

Also consider a dedicated COVID-19 vaccination guidance page on the intranet.

## 5. Maintaining a COVID-19 Secure Workplace

- 5.1 This policy is a key part of our overall strategy and commitment to maintaining a COVID-19 secure workplace in accordance with government guidance. It has been developed for use together with, and not as a substitute for other COVID-19 measures, including our Health and Safety Policy.
- 5.2 All staff must adhere to the following health and safety measures to reduce the risk of transmission of COVID-19 in the workplace, whether or not they have been vaccinated:
- Practice social distancing
  - Wash your hands carefully and frequently
  - [Wear a face covering] Optional – depends on nature of business.
  - Follow current government COVID-19 guidance on [nidirect.gov.uk](https://www.nidirect.gov.uk) website [here](#)
  - [In addition, to the above preventative measures, we will be carrying out regular testing in the workplace to help protect staff from infection] Optional –not feasible in all circumstances.

## 6. Time-Off for Vaccination

There is generally no requirement for employers to provide employees with paid time off to attend COVID-19 vaccination appointments. However, this could be an effective way of encouraging employees to be vaccinated.

- 6.1 We will allow reasonable paid time off for you to attend COVID-19 vaccine appointments during your working hours. You will be paid your normal rate of pay for the time spent getting vaccinated during working hours, up to [Number] hours [per dose].
- 6.2 If you are prevented from working due to any side effects of being vaccinated against COVID-19, you will be paid your normal rate of pay up to [number] days, after which you will receive Statutory Sick Pay.
- 6.3 Any vaccine-related absence will not be recorded as sickness absence or count towards your absence levels for the purposes of triggering our sickness absence procedure.

### OR

Vaccine appointments are to be treated in the same way as other medical appointments so, where possible, employees should attempt to secure an appointment outside of their normal working hours, or as close to the start or end of the working day as possible. **[Where time is taken off work to attend the appointment, this will be unpaid.] OR [Employees are required to make up time taken off work to get the vaccine, as agreed with the employee's line manager.]**

### OR

Employees should attempt to secure a vaccine appointment outside of their normal working hours, or as close to the start or the end of the working day as possible.

[Where time is taken off work to attend an appointment, this will be paid to a maximum of [Number] hours per appointment. Time taken in excess of this on each separate occasion will be unpaid.] OR [Time taken off work to attend an appointment will be paid.]

## 7. Incentives for Vaccination

If an employer finds that there is a low take-up in the workplace, they may consider offering a monetary or other incentive to staff who get vaccinated.

Note of caution: There is a potential risk of discrimination claims from staff who cannot be vaccinated.

7.1 As an incentive for getting vaccinated, we will provide you with:

- A one-off bonus of £ [Amount].
- Gift card or voucher of £ [Amount].
- [Other Incentives – additional annual leave, corporate gifts].

## 8. Proof of Vaccination

Evidence of employees' vaccination is private health information and therefore special category data protections apply. Before decided to record employees' vaccination status, employers should be clear about what they are trying to achieve and how recording vaccination status will help this. The reason for recording vaccination status must be clear and compelling, and communicated to employees. Due regard must be given to data protection.

8.1 Employees should notify [**Line Manager OR HR Department**] of their appointment time on each occasion, giving as much notice as possible if time off work is required.

Employees must provide written evidence of the appointment date and time to their [**Line Manager OR HR Department**].

8.2 Employee vaccination details will be kept confidential and only shared with your line manager and the HR Department. Records will be retained for [Number] years, in accordance with our Data Retention Policy, which is available from [the intranet and] [your line manager **OR** HR Department].

8.3 This information will be used to ensure [insert reasons for recording vaccination data]. Any information provided will be handled in accordance with our Data Protection Policy, which is available from [the intranet and] [your line manager **OR** HR Department].

## 9. Changes to this Policy

9.1 Government guidance and public health advice on all COVID-19 related matters including vaccinations is constantly changing as new information becomes available. The employer reserves the right to modify this policy at any time in our sole discretion to adapt to changing circumstances and business needs, consistent with our commitment to maintain a safe and healthy workplace.

Signed: \_\_\_\_\_  
On behalf of the Management

\_\_\_\_\_  
On behalf of the Trade Union(s)/Employee  
Representative Amend as appropriate

Date: \_\_\_\_\_

\_\_\_\_\_