

I have had family members saying that they don't feel their relatives are safe if staff work and have not been vaccinated and the families themselves are saying they don't wish to visit until they have received the vaccine to keep people safe. How can I answer this?

The vaccine is just part of the armoury against the COVID virus. My suggestion would be to explain that the following measures are in place:

- You have a risk assessment in place to ensure you are following robust infection, prevention and control measures
- Your staff are being tested regularly as are the residents
- Your staff wear PPE correctly and this is audited to ensure ongoing compliance
- The regular cleaning of surfaces and high-use or communal areas continues
- Staff members who are unwell are not permitted to come into work
- Residents are vaccinated where they have consented and staff are strongly encouraged to be vaccinated
- There are clear visiting protocols in place that also include visiting professionals
- You are working closely with the local PHE team

There will undoubtedly be ongoing concerns however, good communication can be key to help manage this. While it may be upsetting for residents that their family members will not visit until they have received the vaccine themselves, that is the relative's decision. As long as you ensure the relative knows that the premises are COVID secure, there isn't much more you can do.

I have been asked to supply info on how many of my carers have been vaccinated either once, twice or none. I have not collated any info as I thought it infringed their Human Rights. Am I correct?

You don't say who is asking for this information. If this is coming from your commissioners, the local authority or the capacity tracker you should provide the information. You don't need to name the individuals who have/have not had the vaccine. As long as you are sharing the information for a legitimate reason i.e. to gain an understanding of the local picture of vaccine uptake, there is no breach of UK GDPR. Further, you would not be breaching the human rights of members of staff by providing this information to the public body who requests it. You are not, however, obliged to share this information with members of the public. If you are under an obligation to disclose this information then it would be worthwhile taking another look at your Privacy Notice to ensure that such a disclosure would be covered.

What about immunisation requirements in the NHS green book. Areas like Hep B is mandatory for care homes will COVID now be added into this mandatory requirement? We follow the Green Book guidelines under PHE.

There is at present no mandate to vaccinate care home staff. The Green Book gives information about vaccines. If or when the vaccine is mandated by the Government, I would expect more information will be added to the Green Book. The current consultation on mandating vaccines for staff working in care homes who have at least one resident over 65 is seeking views on whether the Health and Social Care Act will be changed under Regulation 12 Safe Care and Treatment and Health and Social Care Act 2008: code of practice on the prevention and control of infections. The consultation is only open for 5 weeks and anyone is free to share their views.

Does the green book relate to independent care homes that are not health care orientated?

The Green Book, the link is here for you to [look](#) at it, covers all immunisations against infectious disease. If you look at Chapter 14a on COVID, it doesn't specify whether services are independent or not. They refer to Priority Groups, Priority Workers and frontline Healthcare workers and front line social care workers.

My staff are on a zero-hours contract - am I safe to withdraw hours if no jab has been accepted? Also is mental health a legitimate reason to refuse a vaccination?

Irrespective of whether someone is on a zero-hours contract or is employed to work a certain number of hours, withdrawing hours, at present, because they haven't had the vaccine may potentially leave an employer exposed to claims of discrimination. Please note, an individual does not need to be an employee to bring a discrimination claim and so those individuals on a zero-hours contract are protected by discrimination laws. You need to be clear about the organisation's rationale for the withdrawal of work and also to understand why a worker has not had or does not want to have the vaccine before you consider withdrawing hours from these individuals. The Equality Act 2010 lists nine "protected characteristics" which can form the basis for a direct or indirect discrimination claim. Disability, race, religion, belief, age, sex and pregnancy are all protected characteristics that individuals could rely on to bring a discrimination claim regarding a mandatory vaccination policy and/or a failure to offer hours to individuals who have not had the vaccine.

An example of this could be from Vegans who oppose vaccination because of animal testing. Ethical Veganism has been previously held to be a belief worthy of protection under discrimination laws. Requiring workers to act in contravention of such a belief may disadvantage them and lead to indirect discrimination claims.

In relation specifically to mental health, it will depend on whether the condition is potentially a disability or not. Mental health may be relevant to an individual having heightened anxiety about having the vaccine but would not be the direct health reason they cannot have it. This would therefore need to be fully explored with the individual concerned.

I attended a meeting with GPs the other day and they said there wasn't any medical or religious reason why someone shouldn't have the vaccine. It will also be safe for pregnant women.

While we cannot comment on the specific medical implications of the vaccines. It is currently stated on the NHS website ([click here](#)) that, for example individuals who have a severe allergy cannot have certain vaccines and so they may need to wait until a different vaccine is available which may take time. A further example may be a person under 30 who has had the Oxford AZ vaccine and has a blood condition so now cannot have the second vaccine.

While a GP may believe there is no reason why someone cannot have a vaccine, we still need to consider the fact that people may refuse a vaccine due to their own beliefs (which is also a protected characteristic under the Equality Act 2010). A further consideration is, not all age groups have been offered a vaccine yet and therefore, there is a risk of age discrimination if we introduce mandatory vaccination in workplace at this time.

There is information [here](#) for various faiths' views on the vaccine.

You can also see from the NHS website that the vaccine is not being routinely offered to pregnant women. Therefore, we still need to take this into consideration as pregnant women may not have access to the vaccine. The latest advice from the Joint Committee on Vaccination and Immunisation (JCVI) is that COVID-19 vaccines should be considered for pregnant women when their risk of exposure to the virus is high and cannot be avoided, or if the woman has underlying conditions that place her at high risk of complications from COVID-19.

COVID-19 vaccines should only be considered for use in pregnancy when the potential benefits outweigh any potential risks for the woman and her baby. The latest information from the Royal College of Obstetricians and Gynecologists can be read [here](#). Pregnant or Breastfeeding workers should seek advice from their GP or midwife.

For the above reasons, each case should be considered on its individual facts.

Existing staff would never be forced to have the vaccine, and no disciplinary action would be taken should they choose not to. How do you think we would fare legally?

This is an interesting question and the current consultation launched on 15 April is intending to address the issue of whether staff in care homes with at least one resident over 65 should be required under the revised Health and Social Care Act 2008, Regulation 12 Safe Care and Treatment will be required to have the vaccine. The consultation extends the discussion to include catering staff.

Currently, it is not mandatory for staff in the care sector to be vaccinated and as such, you do not need to force staff to be vaccinated nor do you need to commence disciplinary action if a member of staff refuses to have the vaccine. You should, however, ensure that you are complying with the requirements regarding health and safety in the workplace as a result of COVID-19.

If vaccination is up to the employee how can the Local Authority tell you that you have to have 85% of the workforce vaccinated?

This is a challenge for managers. As a manager, you should promote the uptake of the vaccine amongst staff. As part of your evidence of providing safe care, you will need to evidence regular testing, PPE, and all the IPC measures required by CQC. Vaccination uptake is an important indicator for identifying risks in the local area.

A local authority requirement can feed into your business rationale for encouraging or strongly encouraging the uptake of the vaccine and can support a justification for potentially implementing a no-jab, no-job policy.

How can we consider making social care staff vaccinate working in a residential setting without insisting on residents, relatives and any resident visitor and any visiting professional?

This is an interesting question. The consultation on mandatory vaccination is seeking to gather views on this issue. There are several views on whether vaccines should be mandated. There is an argument that mandating vaccines will put people off working in care homes and there is a potential to lose staff as a result. There is the argument that it should be up to the individual to choose whether to have the vaccine or not. There is also the view that if you are working in front line care you should be making sure that you protect yourself and the people you work with and care for. It is going to be interesting to see how this complex issue is going to play out over the coming weeks and months.

Further, as an employer you can put rules and procedures in place to ensure employees are vaccinated due to the element of control in the employment relationship. However, you will still need to consider each individual's personal situations. You do not, however, have any authority over what members of the general public do/do not do. You would simply be required to take this into account when risk assessing the working environment.

Ethically, can sickness pay be amended (following consultation) to remove any paid sick leave to those that refuse a vaccine? Maybe this could be seen as deliberate/self-harm.

If an employee is eligible for Statutory Sick Pay, you cannot remove their right to receive it (unless the Government legislates to change the position which is unlikely). Employers may consider removing the right to contractual sick pay if someone falls ill with COVID not having been vaccinated. However, you still need to ensure that exercising that discretion does not discriminate any individual who does not wish to have the vaccine due to a protected characteristic.

Even if all current staff agree to this change following consultation, we still need to be mindful of new starters who may have a differing view.

I would like to introduce a no pay sickness for those who don't have the vaccine and develop COVID, also they have increased testing per week.

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Even if all current staff agree to this change following consultation, we still need to be mindful of new starters who may have a differing view.

Increasing testing for those who are not vaccinated is something you may wish to consider as part of your policy regarding vaccination in the workplace. However, again, you will need to be mindful of potential indirect discrimination arising from such a policy as it is likely that those who have not been vaccinated will have a protected characteristic. On the other hand, there may be an argument that those with the protected characteristic are not at a disadvantage to others and/or the policy may be objectively justified as a proportional means of achieving a legitimate aim.

I find staff who have been vaccinated seem to be more blasé with PPE, mainly face masks and social distancing, with their colleagues. Could I discipline on this due to breach of PPE policy?

This is one of the risks the Government Scientists repeatedly raise. The full benefits of the vaccines remain unknown and it is also not clear the impact the vaccine has on the transmission of the virus. Recent reports indicate that the R rate is lower because of the lockdown and there is concern that there may be a rise or a third wave as the lockdown measures ease. There are further concerns about the new variants and how the vaccine will protect against these. For these reasons, the Government has clearly stated that employers and their staff must continue to operate in a COVID secure way which includes the continued use of PPE and practising social distancing. It is therefore important that you revisit the need to follow all the health and safety measures in the workplace with all

members of staff and remind them that vaccination rollout has not currently reduced the need to follow the strict health and safety measures.

If members of staff are not following the requirements you can, and you should, follow your discipline procedure to commence disciplinary action.