

# COVID-19 PROTECTION (VACCINATION) POLICY



<b>Approved by:</b>	Executive Leadership Team		
<b>Sponsor:</b>	Chief Executive Officer		
<b>Department responsible:</b>			
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## INTRODUCTION

The New Zealand Government has signalled the introduction of a new **COVID-19 Protection Framework (CPF)**, also known as the “Traffic Light System” commencing 29 November 2021.

Key elements of that framework include:

- Vaccination certificates or proof of vaccination will be required from visitors and workers for entry to certain businesses.
- Employers are required to undertake risk assessments for roles within their businesses and decide whether vaccination certificates will be required for entry.
- The commencement of the CPF relies upon District Health Boards in New Zealand to achieve at least 90% full vaccination status of their eligible population.

Under the **Health and Safety at Work Act 2015 (HSWA)** Persons conducting a business or undertaking (PCBU)s must identify whether there is a risk to the health of their workers and other people from exposure to COVID-19 at the workplace.

Under HSWA, workers and any other persons at a workplace also have responsibilities to ensure their acts or omissions do not affect the health and safety of anyone else, and that they comply with reasonable instructions from the PCBU to allow the PCBU to comply with HSWA.

Where a risk of injury or illness is identified, employers must eliminate the risk, so far as is reasonably practicable. When elimination is not possible, they must reduce the risk so far as reasonably practicable.

## PURPOSE

The purpose of this policy is to establish and communicate DCC’s position regarding COVID-19 vaccination and its implications for our workers and other people in our workplaces.

We have an obligation to provide a work environment without risks to health and safety, so far as is reasonably practicable. This obligation includes eliminating or minimising, the risks associated with exposure to disease/s where the harm of that disease can be minimised by vaccination.

## DEFINITIONS

Term	Definition
<b>Affected person</b>	Means a person who belongs to a group (or whose work would cause them to belong to a group).
<b>Vaccinated</b>	Means the person has received all of the doses of a COVID-19 vaccine or combination of COVID-19 vaccines specified in the first column of the table in <a href="#">Schedule 3</a> of the COVID-19 Public Health Response (Vaccinations) Order 2021 administered in accordance with the requirements specified for that vaccine or combination of vaccines in the second column of that table.
<b>Have contact with</b>	in relation to persons who belong to different groups, means: (a) having face-to-face contact within 2 metres of each other for 15 minutes or more; or (b) being in a confined space within 2 metres of each other for 15 minutes or more.
<b>Worker</b>	A worker, as defined in the Health and safety at Work Act 2015 means any individual who carries out work in any capacity for a PCBU, including work as: <ul style="list-style-type: none"><li>• an employee; or</li><li>• a contractor or subcontractor; or</li><li>• an employee of a labour hire company who has been assigned to work in the business or undertaking; or</li><li>• an outworker (including a home worker); or</li><li>• an apprentice or a trainee; or</li><li>• a person gaining work experience or undertaking a work trial; or</li><li>• a volunteer worker; or</li><li>• a person of a prescribed class.</li></ul>
<b>Workplace</b>	Means a place where work is being carried out, or is customarily carried out, for a PBCU; and Includes any place where a worker goes or is likely to be while at work. <b>Place</b> includes: a vehicle, vessel, aircraft, ship or other mobile structure; and any waters and any installation on land, on the bed of any waters, or floating on any waters

Any undefined words, phrases or expression in this policy have the same meaning as in the Health and Safety at Work Act 2015, unless the context plainly requires another meaning.

## COVID-19 VACCINATIONS

DCC will take all reasonably practicable steps to provide protection of its workers and visitors from COVID-19 and maintain its capacity to deliver services to the community.

DCC may require that certain work must only be done by vaccinated workers, or require that anyone entering DCC premises is vaccinated, where there is risk of contracting and transmitting COVID-19 to others. This risk will depend on the COVID-19 situation domestically and the COVID-19 exposure risk associated with the role.

We recognise and respect that some people may be unable to have, or decide against, vaccination. However, if this is the choice of the individual, it must be recognised that as part of this policy this decision may inhibit a worker's ability to perform their role, or, if they are not a worker, it may inhibit their ability to access DCC premises, and as such the DCC reserves the right to take appropriate action as outlined in this policy.

## **1 SUPPORTING AND ENCOURAGING VACCINATIONS**

- 1.1 We recognise that vaccination against COVID-19 represents a significant opportunity to assist in bringing the impact of the disease under control. The COVID-19 vaccines will help protect people by either preventing or reducing symptoms of COVID-19 in the person who has received the vaccine.
- 1.2 For this reason, we strongly encourage our workers and other people to receive the vaccine as part of the national COVID-19 vaccination programme.
- 1.3 We have put in place measures to support people to get vaccinated, as soon as possible, including allowing workers paid time during working hours to receive the vaccination.

## **2 WORK THAT MAY ONLY BE CONDUCTED BY A VACCINATED PERSON**

### ***Roles covered by the Government's mandatory vaccinations order (COVID-19 Public Health Response (Vaccinations) Order 2021)***

- 2.1 The Government introduced the COVID-19 Public Health Response (Vaccinations) Order 2021 ("**the Vaccination Order**") in April 2021, which mandated that "affected persons" were not able to continue performing their role, unless vaccinated.
- 2.2 From 1 January 2022, relevant PCBUs who engage or employ affected persons will need to maintain a register and ensure only vaccinated staff and support people carry out certain work covered by the Vaccination Order. Those who are affected persons under the Vaccination Order and who are not fully vaccinated in the period leading up to 1 January 2022 will be required to undergo weekly COVID-19 testing.
- 2.3 Some DCC workers are covered by the Vaccination Order (e.g. DCC workers who enter schools during school hours). These workers must be vaccinated against COVID-19 to be able to continue to perform work covered by the Order.
- 2.4 DCC is obliged to identify all specific roles and consult with each of these individuals as well as advising each individual of the information as set out in the Vaccination Order.

### ***Vaccination for all roles where customers need to show COVID-19 Vaccination Certificates***

- 2.5 Cabinet has signalled that vaccinations may be mandated for everyone who works in any workplace where a vaccination certificate is required for entry.
- 2.6 If legislated, DCC will:
  - Comply with requirements regarding mandated premises; and
  - DCC may designate premises or sites that are only accessible to vaccinated people and where vaccinations certificates should be required. This will be based on a risk assessment.

***Roles not covered by the Vaccination Order but where workers may need to be vaccinated based on risk assessment***

- 2.7 DCC will identify which roles should only be conducted by a vaccinated person.
- 2.8 Identification of the specific roles requiring vaccination will only be made on completion of a role risk assessment. This risk assessment will be conducted by an appropriate DCC manager, in consultation with union delegates and health and safety representatives. Roles will be identified where there is some level of risk to workers or others that cannot reasonably be addressed by the DCC by other means.
- 2.9 The risk assessment process is outlined in clause 3 below.

***Roles that are essential to the delivery of services to the community***

- 2.10 There are other roles where the duty to minimise risks to the health and safety to others as far as is reasonably practicable needs to be assessed in a slightly different way.
- 2.11 There will be roles in DCC that are essential to the public health and safety of the community.
- 2.12 If COVID-19 were to spread amongst those undertaking those roles, DCC's ability to deliver essential and safe services would be compromised.
- 2.13 DCC will require that these roles are undertaken by people who are vaccinated.

***Roles requiring access to workplaces not controlled by the DCC***

- 2.14 Workers may need to access workplaces that are not controlled by the DCC. An example of this would be a building inspector visiting a private home to undertake a building inspection.
- 2.15 Some businesses and individuals may refuse access to their private land or premises by unvaccinated workers. DCC will need to accommodate these requests to meet statutory functions. Consequently, these roles may only be performed by a vaccinated person.
- 2.16 Where DCC does not control the workplace where workers are required to perform part or all of their role, the worker will:
  - a) Ask the person in control of the workplace, whether the persons present at the workplace are vaccinated; and
  - b) Where the persons at the workplace are vaccinated, the worker must perform the work in accordance with the health and safety requirements of the DCC and the person in charge of the workplace; or
  - c) Where the persons at the workplace are not vaccinated, (or refuse to provide their vaccination status) and the worker can reasonably perform the work remotely, perform that work remotely; or
  - d) Where the persons at the workplace are not vaccinated, (or refuse to provide their vaccination status) and the work cannot reasonably be performed remotely, the worker must:
    - i Advise their manager; and
    - ii Subject to clause 2.16(d)(iii), carry out the work in accordance with all DCC health and safety protocols to minimise the risk of infection by COVID-19 (including any additional

protocols required by the worker's manager) and any health and safety protocols of the person in control of the workplace; or

- iii Where the worker forms the view that the work would expose them to a serious risk to their health, the provisions of clause 8 may apply.

### *Vaccination for people entering DCC premises*

2.17 DCC may decide that that anyone accessing DCC premises needs to be vaccinated to protect the health and safety of its workers and other people accessing the premises.

## **3 ROLE RISK ASSESSMENTS**

3.1 Until there is any legislative change providing a risk-based assessment process for employers to identify vaccination requirements for workers in certain roles, the DCC relies on any applicable guidance from WorkSafe and other government entities. The WorkSafe Guide states that employers can require certain work to be done by a vaccinated worker, only if a role risk assessment identifies that vaccination is required for health and safety purposes.

3.2 Until this is in place, advice from WorkSafe states that employers can require other work to be done by a vaccinated worker, if a role risk assessment identifies it necessary for health and safety purposes.

3.3 The DCC's role risk assessment looks at a variety of factors, including:

- How many people does the worker carrying out that work come into contact with?
- How easy will it be to identify the people who the worker comes into contact with?
- How close is the worker carrying out the tasks in proximity to other people?
- How long does the work require the worker to be in that proximity to other people?
- Does the work involve regular interaction with people considered at higher risk of severe illness from COVID-19?
- What is the risk of COVID-19 infection and transmission in the work environment when compared to the risk outside work?
- Will the work continue to involve regular interaction with unknown people if the region is at a higher alert level?

3.4 The risk assessment tool used by DCC is attached: [COVID risk assessment framework](#)

3.5 The risk assessment is to be conducted by managers, in consultation with union delegates and health and safety representatives.

3.6 DCC is also entitled to decide whether people entering its premises need to be vaccinated.

## **4 THOSE UNWILLING/UNABLE TO RECEIVE A VACCINATION**

4.1 DCC recognises and respects that some people may be unable to have, or decide against, vaccination. Every person in New Zealand has the right to refuse medical treatment under s11 of New Zealand Bill of Rights Act 1990.

4.2 The administration of the vaccine by trained vaccinators with an individual's informed consent is medical treatment. As such, a worker or any person can decline to have a vaccination. A

PCBU cannot compel a worker or any person to undergo medical treatment, including receiving a vaccination, in any situation. However, there may be consequences for individuals should they choose not to be vaccinated.

## **5 OPTIONS**

5.1 DCC will work in good faith with workers that are unwilling/unable to receive a vaccination, and where possible will look for ways to accommodate their needs.

5.2 For some, but not all, roles, there may be other controls able to be implemented in the workplace, which would minimise the risk of infection among workers and others, such as wearing masks, social distancing, working from home, and/or implementing stringent hygiene and cleaning practices.

5.3 Workers covered by the Vaccination Order are required to provide DCC with their vaccination status. DCC will, for those workers not comfortable being vaccinated or those workers not covered by the Order who do not want to provide us with information about their vaccination status:

- provide information about the benefits of vaccination for themselves and those around them and try to dispel any misunderstandings;
- determine if there are any barriers that are preventing the employee from getting vaccinated and look at how the DCC can minimise these barriers (e.g. paid time off for vaccination appointments, paid time-off to seek professional assurances re vaccine safety);
- if the worker provides evidence that they are medically exempt (issued by the Ministry of Health) discuss what, as their employer, DCC can do to support them with their health and wellbeing;
- continue to invite the worker to seek advice and refer them to relevant information that we will provide.

5.4 However, there may be instances when there are no options for redeployment, and other options like taking unpaid leave or working from home are not realistic.

## **6 NEW EMPLOYEES**

6.1 Any offers of employment made to new workers will be contingent on the applicant being fully vaccinated against COVID-19.

## **7 OTHER CONTROL PUBLIC HEALTH MEASURES**

7.1 In addition to vaccinations, we all need to continue to implement all reasonably practicable control measures and to be compliant with all control measures required through public health orders and other Government sources. This includes:

- Meeting all up-to-date infection prevention controls (IPC);
- Complying with all public health requirements and guidance, including physical distancing, mask wearing, limits on people gathering, record keeping and scanning requirements;
- Identifying risks and eliminating, or otherwise controlling them as reasonably

practicable;

- Ongoing support for mental health needs.

## **8 CUSTOMER AND CO-WORKER CONCERNS**

- 8.1 Customers/clients, co-workers or other service users cannot demand that a worker disclose their vaccination status and employers must not disclose the vaccination status of workers to other parties, except where permitted by law.
- 8.2 Workers who have concerns about working closely with unvaccinated people (including other workers and members of the public) should discuss this with their line manager. If the worker remains concerned then consideration may be given to a change to their work arrangements, including their place of work.
- 8.3 Where this is not reasonably possible, annual holidays can be considered in consultation with the General Manager and HR Business Partner. This could be followed by unpaid leave. Where unpaid leave is agreed this would need to be reviewed monthly by the General Manager and reported to ELT quarterly.
- 8.4 However, there may be instances when there are no options for redeployment, and other options like taking leave or changes to work arrangements are not practical.

## **9 VACCINATION CERTIFICATE**

- 9.1 Reserved – pending advice from the Ministry of Health.

## **10 COLLECTION OF INFORMATION**

- 10.1 In the Privacy Act 2020, Principles 2, 10 and 11 each have an exception that applies if the collection, use or disclosure of personal information is necessary to prevent or lessen a serious threat to the life, health, or safety of any individual, or to public health or public safety to prevent or lessen a serious threat to public health or public safety.
- 10.2 DCC will ask workers whether they have been vaccinated for COVID-19 as it has a legitimate, lawful need to know the vaccination status of its workers.
- 10.3 Staff will be required to provide evidence of vaccination. DCC will store this information in the secure, medical section of VAULT. The use and storage of this information will be managed according to the requirements of the Privacy Act 2000.
- 10.4 If a worker, or prospective worker, chooses not to share their vaccination status with DCC, then DCC may assume that the person is unvaccinated and take steps on that basis. DCC will tell the worker that it has made this assumption.

## **11 TESTING**

- 11.1 Reserved – pending advice from the Ministry of Health.

## 12 REFERENCES AND RELATED DOCUMENTS

Document	Link
COVID-19 Public Health Response (Vaccinations) Order 2021	<a href="https://www.legislation.govt.nz/regulation/public/2021/0094/latest/LMS487853.html?src=qs">https://www.legislation.govt.nz/regulation/public/2021/0094/latest/LMS487853.html?src=qs</a>
Health and Safety at Work Act 2015	<a href="https://www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html?src=qs">https://www.legislation.govt.nz/act/public/2015/0070/latest/DLM5976660.html?src=qs</a>
New Zealand Bill of Rights Act 1990	<a href="https://www.legislation.govt.nz/act/public/1990/0109/latest/DLM224792.html?src=qs">https://www.legislation.govt.nz/act/public/1990/0109/latest/DLM224792.html?src=qs</a>
Privacy Act 2020	<a href="https://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html">https://www.legislation.govt.nz/act/public/2020/0031/latest/LMS23223.html</a>
Human Rights Act 1993	<a href="https://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html">https://www.legislation.govt.nz/act/public/1993/0082/latest/DLM304212.html</a>
Unite against COVID-19	<a href="https://covid19.govt.nz/">https://covid19.govt.nz/</a>
WorkSafeNZ - How to decide what work requires a vaccinated employee	<a href="https://www.worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid/how-to-decide-what-work-requires-a-vaccinated-employee/">https://www.worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid/how-to-decide-what-work-requires-a-vaccinated-employee/</a>
Employment New Zealand – Vaccines and the Workplace	<a href="https://www.employment.govt.nz/leave-and-holidays/other-types-of-leave/coronavirus-workplace/covid-19-vaccination-and-employment/">https://www.employment.govt.nz/leave-and-holidays/other-types-of-leave/coronavirus-workplace/covid-19-vaccination-and-employment/</a>
Exemptions to Privacy Principles	Office of the Privacy Commissioner <a href="https://www.privacy.org.nz/tools/knowledge-base/view/73">https://www.privacy.org.nz/tools/knowledge-base/view/73</a>

## 13 DEVIATION FROM POLICY

- 13.1 Deviation from this policy can only be made with the approval of the Policy Owner. Failure to comply with the requirements of this policy may be considered a breach of your contract or employment agreement.

