

# Compulsory vaccination in England



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The Department of Health and Social Care (DHSC) have said that any individuals undertaking CQC regulated activities in England, who have face-to-face contact with patients, must be fully vaccinated against COVID-19 by 1 April 2022.

Healthcare workers will need to have received a full course of a COVID-19 vaccination in line with the UK Health Security Agency (UKHSA) guidance, in order to continue to work in a patient facing role.

### Timeline

The following dates are important:

→ **6 January 2022** The date by which the legislation is expected to be finalised in

order to allow for a 12-week grace period for staff to get fully vaccinated.

→ **3 February 2022** The date by which staff have to have had their first vaccine in order to be fully vaccinated by the date the regulations come into effect.

→ **1 April 2022** The date the regulations come into effect, and it will be illegal to have unvaccinated staff working in roles that involve face-to-face contact with patients.

### Which staff are required to be vaccinated?

First you need to consider whether the individual is deployed for the provision of a CQC regulated activity (this includes non-clinical activity).

If the answer is no, they are not in the scope and likely not covered by the regulations.

If the answer is yes, then next you must consider whether the individual has face-to-face contact with patients or service users in their role. (This includes entering areas which are utilised for the provision of a

CQC-regulated activity which may result in incidental face-to-face contact with patients or service users).

If they do, then they are likely to be covered by these regulations, and you should check whether they are fully vaccinated or exempt from vaccination. NHS Guidance will help,<sup>1</sup> and that includes:

1. A flow chart to help you assess which workers are required to be vaccinated as a condition of deployment for healthcare workers
2. Flowchart Scenarios
3. Guidance on New starters
4. A key recommended actions checklist.

### How to check vaccination or exemption status

Staff can use the domestic NHS COVID pass to show their vaccination or exemption status.

Alternatively, they can provide an NHS Letter which, can be downloaded as a PDF through the NHS COVID App or the NHS website.

Staff who have been vaccinated in the EU may be able to produce an EU Digital COVID Certificate or a certificate issued by their Member State Health Authority.

### Exemptions

Exemptions are available for:

- those who are under the age of 18
- those who are clinically exempt from COVID vaccination
- those who are taking part, or have previously taken part, in a clinical trial for a COVID vaccine
- those who do not have direct, face-to-face contact with a patient, for example, those providing care remotely, such as through triage or telephone consultations or managerial staff working in sites away from patient areas.

There will be no exemption for those who refuse vaccination due to religious beliefs.

If staff believe they should have an exemption, they need to apply by calling 119 and asking for an application form which they must complete and submit to their GP or relevant clinician for review.

They should do this as soon as possible as it can take 2-3 weeks for them to receive the results of their application. The decision by their GP or clinician is final.

Pregnant women will be offered a COVID vaccination, however, should they choose not to have one, they may use their MATB1 form as evidence of a temporary exemption. They must however, produce evidence that they are fully vaccinated or medically exempt in the same way as other staff members upon their return to work from maternity leave.

### What if staff are not vaccinated, not exempt and are refusing to be vaccinated?

You will need to have ongoing discussions with staff to ascertain why they are reluctant to have the vaccine. These discussions should take place by way of formal individual meetings. The BDA has produced guidance and template letters for expert members to assist.

It is important that staff are made aware that if they are not fully vaccinated by 1 April 2022, they will be unable to continue in their role at the practice.

You should encourage staff to get their vaccinations and can signpost them to information about the vaccine that may

help them in making a fully informed decision. The NHS has produced a range of resources in several languages that provide information about the vaccines which may assist in your conversations with staff. Links to these can be found in the BDA guidance.

Options for those staff who insist on not being vaccinated include:

#### Redeployment

You can assess whether there are any alternative roles within the practice, which would not fall under the scope of the regulations, that the staff member could undertake.

This would need to be assessed on a case-by-case basis, taking into account the reasons for refusal of the vaccine and, other members of staff who may also need adjustments to their role due to ill-health.

If there are suitable alternative roles that the practice can offer, you should do so. This would mean a permanent change to the staff members terms and conditions.

#### Termination

If redeployment is not an option and the staff member continues to refuse to be vaccinated, then their contract will have to be terminated.

You must carry out a fair process, within the timeframe stated above, when terminating their contract. You should review each relevant staff member's contract so that you are aware of contractual notice periods.

#### What is a fair process?

A fair process would involve meeting with the staff member on an individual basis to discuss the reasons for not having a vaccination or not providing evidence of exemption. The staff member should be given an opportunity to rethink their decision and a date should be set by which they need to provide evidence to confirm they have been vaccinated or are exempt from vaccination.

If no evidence is forthcoming by the date stated during the first meeting, a further meeting should be held during which they should be advised that if they are not vaccinated or do not provide evidence of exemption then their contract with the practice is at risk. A final date for providing evidence of vaccination or exemption should be set.

## Further information

Members should take advice from BDA advisors as to proper process based and on the individual circumstances of their staff. You will find links on our website including:

- Compulsory Vaccinations and Exemptions
- Vaccination requirements letter 1 – asking staff for evidence
- Vaccination requirements letter 2 – employed staff invitation to meeting
- Vaccination requirements letter 2 – self-employed for vaccine discussion
- Vaccination requirements letter 3 – no further action before 1 April 2022
- Vaccination requirements letter 3 – employed staff - outcome of first meeting
- Vaccination requirements letter 3 – self-employed – termination with notice

BDA members can access these by visiting [www.bda.org/advice/Pages/Expert-solutions-templates.aspx](http://www.bda.org/advice/Pages/Expert-solutions-templates.aspx)

Finally, if they still refuse to be vaccinated or do not provide evidence of their vaccination or exemption status, a final meeting would take place whereby they would be advised that their contract is being terminated.

Termination would be with notice, as per the terms of their contract. For employed staff the practice may have the option to terminate and make a payment *in lieu* of notice depending on whether this option is in their contract and the date on which the employee is terminated.

We would advise that employees are given the opportunity to appeal their termination. ♦

### Reference

1. NHS. Vaccination as a Condition of Deployment (VCOD) for Healthcare Workers. 6 December 2021 Version 1. Available online at: [www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2021/12/C1470-vcod-for-healthcare-workers-planning-and-preparation-guidance.pdf](http://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2021/12/C1470-vcod-for-healthcare-workers-planning-and-preparation-guidance.pdf) (Accessed December 2021).

<https://doi.org/10.1038/s41404-021-1003-1>