

# Covid vaccination requirement for all general practice workers



**Updated: 27.01.2022, version 1.2**

*The most recent update to this document was the addition of the phase 2 guidance summary.*

On 10 November 2021, NHS England and NHS Improvement (NHSEI) issued [a letter to health and social care service providers](#) acknowledging the announcement made by the Department of Health and Social Care (DHSC) that individuals undertaking CQC regulated activities in England must be fully vaccinated against Covid-19 no later than 1 April 2022 to protect patients, regardless of their employer, including secondary and primary care. NHSEI produced [phase 1 guidance](#) and [phase 2 guidance](#) related to this. A summary of each document is detailed in italics after this message.

Phase 2 guidance was published on 14 January 2022 following Parliament's approval of the measures on 14 December 2021. This guidance focusses on the implementation of the new regulations inclusive of a redeployment framework and advice regarding formal steps for staff who have not had two vaccine doses by 1 April 2022.

Our current understanding is that this will affect all staff working in general practice including administrative/reception staff, trainees and medical students (please see appendix 1 of the phase 1 guidance). Unless exempt, all general practice staff will need to have received their first Covid vaccine dose by 3 February 2022 in order to have completed two doses by 1 April 2022. Currently the proposed regulations do not require evidence of booster vaccinations.

Please note that the terminology 'general practice workers' is being used as this includes both general practice employees and GP contract holders.

We are already hearing reports of staff members resigning in view of these proposed regulatory changes. There is no need for this to occur at present. Should the regulations change as proposed and staff members refuse to be vaccinated and are not exempt there will be ample time for them to formally resign from their position.

Our current understanding is that if there is a legal requirement to be vaccinated, the employee is not clinically exempt, and they do not agree to vaccination, the employer will need to consider if there are any posts for redeployment where they would be exempt under these regulations. If such a post cannot be found the worker will in effect be resigning from their position. We will update this information once national guidance is available.

We will share further information on these requirements as and when they become available. If you have any queries in the meantime please contact Dr Elliott Singer, Medical Director, GP Support, Londonwide LMCs: [elliott.singer@lmc.org.uk](mailto:elliott.singer@lmc.org.uk).

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## Summary of NHSE&I's phase 1 guidance

### NHSEI Phase 1 guidance aims to

- i. support compliance with the regulations,
- ii. maximise vaccination rates,
- iii. minimise the impact of the regulations on the NHS workforce capacity,
- iv. provide a consistent approach in the planning and preparation for the regulations, with minimal operational differences between organisations, and
- v. support employers ensuring the best protection for vulnerable patients and staff in healthcare settings.

### Immediate action for practices

- i. Review and update your [staff] privacy notices, to include arrangements regarding the recording of vaccination and exemption status, what data is being used and why.
- ii. Ask workers to confirm their vaccination status / intentions in writing and set deadlines. All declarations confirming a full completed course of the Covid-19 vaccine will need to be evidenced as per the information in the overview section of this guidance.
- iii. Actively support uptake of vaccination via communication and engagement. Evidence has shown that sensitive 1:1 conversation, approached holistically, with empathy and respect, is the best way to convert vaccine hesitancy to vaccine uptake.
- iv. Understand and document 'in scope' workers vaccination and exemption status. The evidence of the workers status needs to be documented. If an individual advises that they are medically exempt, please signpost them to obtaining evidence of clinical exemption. Ensure systems are in place to keep this under review.
- v. Agree and document arrangements with suppliers of temporary, agency or bank workers, education institutions who provide students and any other partners who supply workers or volunteers who will be required to evidence vaccination to continue to be deployed into relevant settings.
- vi. Start to identify options for potential redeployment to non-face-to-face roles, however, avoid taking formal action in regard to redeploying workers or reallocating duties until the regulations have received parliamentary approval. There will be a 12-week grace period from when the regulations are made to when the regulations come into force which will give workers time to decide to get vaccinated.
- vii. Proactively plan and identify potential workforce reconfigurations and redesign, ahead of 1 April 2022, to support staff wellbeing and avoid disruption to services.
- viii. Appendix 4 of the phase 1 guidance contains a useful checklist to help practices prepare and plan for this regulatory change.

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## Workers declining vaccination

- i. Have a meeting with those who refuse, assess risk and discuss next steps. A detailed record of both formal and informal conversations should be maintained.
- ii. If it is unlikely that the worker will be fully vaccinated by 1 April 2022 (and no exemption applies), undertake a formal process with the individual in line with internal policy if applicable ensuring that the individual is aware of the possible implications of their failure to be vaccinated by 1 April 2022.
- iii. The policy might cover matters such as:
  - a. The benefits of vaccination and how employees can contribute to wider public health by protecting themselves and other employees and the wider community by being vaccinated.
  - b. Whether staff over 18 are entitled to time off work (with or without pay) to be vaccinated or obtain evidence of medical exemption.
  - c. Any arrangements relating to leave if staff experience side effects from vaccination. For example, it may be preferable to avoid a large number of staff being vaccinated on a single day.
  - d. How an individual's vaccination status can be evidenced.
  - e. How data about vaccination or exemption will be processed.
  - f. How any formal policies will apply to staff who will not comply with the requirement.
  - g. How vaccination requirements of new recruits and agency staff will be addressed.
- iv. Conversations should include:
  - a. Ensuring the individual is aware of the regulations and advising them of the impact of the regulations on their role.
  - b. Discussing any individual circumstances that may currently be stopping them from getting the Covid-19 vaccination with understanding and compassion.
  - c. Addressing concerns and vaccine hesitancy.
  - d. Providing details of access to expert clinical advice from clinicians locally wherever possible.
  - e. Signposting the employee to support services (including health and wellbeing and occupational health) and Covid-19 vaccination information resources from NHS England and the Department of Health and Social Care.
  - f. Encouraging the employee to have further conversations with their own GP or trusted healthcare professional if they have any further questions around vaccination.

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## Summary of NHSE&I's phase 2 guidance

### Key Dates

- 6 January 2022 – the 12 week grace period commenced.
- 3 February 2022 – last date for workers to get their first covid vaccination dose.
- 1 April 2022 – regulations come into force.

### CQC Monitoring

- The registered person will need to be able to demonstrate and provide assurances that they have systems, processes and robust governance in place to monitor vaccination and Covid-19 status (including exemption status) of the people they employ or otherwise engage for the purposes of the provision of the regulated activity.
- Any evidence collected and recorded (personal data), must be handled in line with UK GDPR.
- The registered person should also be able to evidence that workers are provided with appropriate information about the vaccines and the regulations, and supported to access the vaccine.
- CQC will use their existing assessment approach and enforcement policy to assess compliance within the services they regulate.
- CQC will also consider individual circumstances when assessments are carried out and when a decision is to be made to take further action for potential breaches of the regulations.
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### Establishing vaccination status

- Staff can be asked directly about their vaccination status.
- Organisations that have undertaken their own vaccination delivery programme are permitted to look up which staff have received vaccinations.
- Central databases that record vaccination data from the national vaccination programme can be used and integrated with staff records. ***(NB general practices do not currently have access to this database)***

### Information governance

Organisations should also:

- Complete a data protection impact assessment describing how they plan to use staff vaccination status information, including privacy risks that might arise from this.
- Have an 'appropriate policy document' in place describing how the processing of staff information complies with data protection law.
- Limit who has access to information about staff vaccination status, to only those that 'need to know' as part of their role, and ensure that those that have access to this information are aware of its confidential and sensitive nature and handle it appropriately;
- Make information available to staff describing how vaccination information is used ('fair processing' information).

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## Communication with the workforce

Organisations, should have already engaged with their workforce about the regulations, primarily:

- the vaccination requirement.
- the need for people over 18 providing work or services to evidence vaccination or medical exemption.
- how the organisation is supporting workers to be vaccinated.
- addressing vaccine hesitancy and concerns.
- the potential consequences of not meeting the requirement on time.

Organisations are reminded to communicate with staff who are under the age of 18 on 1 April 2022 but will turn 18 later. This is because the requirement to be vaccinated or medically exempt will immediately apply when a staff member reaches the age of 18.

## Formal Process

**Step one:** engagement with unions or staff side representatives.

**Step two:** formal review process

- NHS England recommend that within the 12 week grace period (which commenced on 6 January 2022) a formal review process should take place with staff who decline to disclose their vaccine status, for whom vaccination status cannot be ascertained, or who are unwilling to participate in the Covid-19 vaccination programme (and are not medically exempt), in which the consequences of remaining unvaccinated are clearly explained. They may be given the opportunity to be accompanied to the any meetings by a trade union representative or work-based colleague.
- This formal review process can be undertaken by way of meetings (whether in person or virtually), by written correspondence or a combination of these methods of communication, as appropriate in the particular case.
- The formal review process should include clarification of the dates by which the requirements must be complied with, and what steps will be taken for those who remain unvaccinated by those dates.
- Alternative options potentially available to the individual, such as any possible adjustments to their current role, restrictions to duties or redeployment opportunities available, should also be explored with the individual, noted in writing and timescales confirmed.
- During this formal review process, line managers will need to advise staff that if the above options cannot be facilitated, a possible outcome is that the individual may be dismissed from their employment with their last day of employment being 31 March 2022

**Step three:** formal meeting

- From 4 February 2022, staff who remain unvaccinated (excluding those who are exempt) should be invited to a formal meeting chaired by an appropriate manager, in which they are notified that a potential outcome of the meeting may be dismissal. Meetings may take place in person or virtually.
- Any dismissal will be on the grounds of contravention of a statutory restriction i.e. the regulations.

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## **Redeployment for the purpose of VCOD**

- Organisations should proactively identify roles not in scope of the regulations and if possible and if it doesn't compromise patient care and services, pause external recruitment processes to allow for internal redeployment.
- The earlier the exploration of redeployment options can take place, the better informed the individual can be as to whether the process is likely to deliver a beneficial outcome and in turn has any bearing on their decision whether to be vaccinated.
- It is acknowledged that for many providers, redeployment of staff for the purposes of VCOD may not be feasible or practical.
- A short-term medical exemption from the Covid-19 vaccination is an option that pregnant woman may choose to take (pregnant woman can apply for an exemption or use a MATB1 certificate as an alternative). The exemption expires 16 weeks after giving birth. This will allow them to become fully vaccinated after birth. Whilst the short-term exemption means that pregnant women can continue to be deployed in their role, temporary redeployment may be considered and mutually agreed upon following the outcome of applicable risk assessments (Covid-19 risk assessment, pregnancy and expectant mothers risk assessment) or on the advice of occupational health.

See pages 14-18 of the full phase 2 guidance for more information on permanent redeployment for the purposes of VCOD.

## **Termination of employment for the purposes of VCOD**

- Employers will need to consider the termination of employment of staff whose roles are in scope of the regulations and who refuse to be vaccinated in-line with the mandated timescales (excluding staff who are exempt) or decline to disclose their vaccination status.
- Any such termination should be undertaken lawfully, which requires that there be a proper reason for the dismissal and that a fair and reasonable procedure is followed.
- The fair reason for dismissal will be on the grounds of a contravention of statutory restriction
- If an individual refuses to confirm their vaccination status and it cannot be established from existing records the fair reason for dismissal will be on the grounds of 'some other substantial reason' (SOSR).
- Organisations should follow a fair and reasonable dismissal process to provide protection against unfair dismissal claims and such a process should include the following steps:
  1. Inviting the individual to an initial meeting to discuss the regulations and their vaccination status which could be either in person or virtual.
  2. One-to-one supportive conversations, discussing concerns, providing vaccination information materials and access to specialist experts.
  3. Consideration of the extent to which the regulations affect the individual's ability to carry out their job i.e. it is a legal requirement of the individual's role.
  4. Consideration of any possible adjustment to the individual's role.
  5. Consideration of alternative roles.

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6. Invitation to a meeting (either in person or virtually) warning the individual that the outcome may be dismissal if they do not evidence, they are vaccinated or exempt within specified timescales.
7. A meeting (either in person or virtually) at which the individual can be accompanied by a trade union representative or work-based colleague. The Chair of the meeting should assess whether adequate consideration of alternatives, such as adjustment or redeployment, has been given and whether, in light of those matters, employment should be terminated.
8. Dismissal on notice (in accordance with contractual arrangements) to terminate not before 31 March 2022.
9. Providing the individual with a right of appeal against dismissal.

In all cases, robust documentation of actions taken to date inclusive of a summary of discussions held, formal letters to the individual and redeployment efforts, should be maintained to support the assessment of the reasonableness of the employer's decision to dismiss. The validity of recruitment decisions can be tested as part of any future dismissal process.

## Notice of Dismissal

- Notice of dismissal should **not** be issued before 4 February 2022 and should not expire before 31 March 2022.
- Where individuals are serving a notice period which extends beyond 1 April 2022, they will need to be redeployed or removed from patient-facing roles whilst they await termination of employment. If redeployment is not available individuals should be placed on leave from 1 April 2022 until termination takes effect.

## Service contingency plans

- Business as usual escalation routes apply for service disruption. Commissioners and systems should be informed of likely or actual service disruptions, which they can escalate to NHS England and NHS Improvement regional teams as needed.
- Organisations must notify CQC (via email or using the on-line form) if they identify that they are unable to continue delivering activity safely. Notification should take place if the registered provider has concerns that any event will prevent, or appears to the service provider to be likely to threaten to prevent, the service provider's ability to continue to carry on the regulated activity safely, or in accordance with the registration requirements, including an insufficient number of suitably qualified, skilled and experienced persons being employed for the purposes of carrying on the regulated activity.