

Novel coronavirus (COVID-19)

COVID-19 controls at work - employer vaccination requirements and other measures

Information to help workplaces manage COVID-19 - including whether employer vaccination requirements are necessary.

Key points for businesses

New Zealand now has high vaccination rates and reduced risk of reinfection for those who have recently recovered from COVID-19.

Employer vaccination requirements should be used carefully, based on public health advice, and are not a suitable first response for managing COVID-19 in most workplaces.

Employers should undertake a risk assessment to determine their level of risk and consider the extent to which other controls can manage that risk.

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About this guidance

This guidance is based on current public health advice and aligns with the Government's COVID-19 requirements. It should be read in conjunction [with information from Employment NZ relating to vaccinations and employment\(external link\)](#), and [WorkSafe guidance on how to manage work risks](#).

WorkSafe refers to employees rather than workers here because requiring (as opposed to encouraging) vaccination is an issue that affects employment arrangements. The guidance is also useful for contracting or volunteer arrangements.

Risk assessment under the Health and Safety at Work Act 2015

Employers can require work to be done in compliance with a wide range of COVID-19 controls/health measures.

Employers are encouraged to complete a risk assessment or review their existing risk assessment as New Zealand progresses through the current COVID-19 outbreak. A risk assessment should never be carried out with an end goal in mind.

A risk assessment might identify work can only be undertaken by a vaccinated employee for work health and safety purposes, for example where the risk of contracting and transmitting COVID-19 at work is higher than it is in the community.

Undertaking or reviewing a risk assessment

Risk assessment involves an employer thinking about how things have changed in their business alongside any new public health advice from the Ministry of Health about COVID-19 and its variants.

When completing or reviewing a risk assessment, an employer must complete it with employees and their representatives. [Specialist advisors such as health and safety professionals\(external link\)](#), can provide advice for the workplace's specific circumstances – this isn't a requirement but can be helpful.

The focus of such an assessment must be on the work being done, not the individual who does the work.

It must also only be based on health and safety at work. If an employer wants an employee to be vaccinated to meet third party entry requirements, then that is an employment matter. [Employment New Zealand has information about this\(external link\)](#).

Public health advice relating to COVID-19 and work-related risk

The Ministry of Health has confirmed([external link](#)) that Omicron is now the main variant of COVID-19 in the community. This section contains public health advice provided by the Ministry of Health to assist employers when completing their risk assessment.

This variant spreads more easily than earlier variants but is generally less severe for most people - particularly those who are vaccinated and especially those who have received a booster dose.

New Zealand also has high rates of vaccination coverage and reduced risk of reinfection for those who have recently recovered as well. There is also much better knowledge and data about which environments are higher risk than others.

The public health justification for requiring vaccination is stronger when the risk of contracting and transmitting COVID-19 at work is higher than it is in the community. This is the basis on which some Government vaccination mandates have been retained.

There are several public health factors that employers should consider as part of their work health and safety risk assessment process, to help determine whether the risk in the workplace is higher than that in the community. For a particular role:

- Is there a greater risk of the worker being exposed to new variants at work than they would be in the community?
- Does the worker regularly, as part of their work, interact with people who are at greater risk of severe illness([external link](#)) should they contract COVID-19?
- Does the worker regularly interact with people who are less likely to be vaccinated against COVID-19?
- Does the worker work in a confined indoor space (of less than 100m²) and involve close and sustained interactions with others (i.e. closer than 1m distance, for periods of more than 15 continuous minutes)?

WorkSafe's position on what this means for businesses

The starting point for employers should be the public health factors set out above. Employers may also consider other risk factors that are relevant and justifiable in respect of their workplace(s). Employers and their workers will have a good understanding and tolerance of these factors.

In deciding what controls to implement, employers will need to consider what is reasonably practicable. Employers should first consider the controls that are least intrusive to employees. Examples of controls that should be considered before requiring vaccination and that work well in most workplaces are;

- other public health measures such as supporting workers to stay at home when sick, requiring mask use in some indoor settings, improving ventilation in the workplace, physical distancing, testing and basic hygiene practices
- reorganising work, for example working from home, requiring certain tasks be undertaken by workers who are already vaccinated, moving to providing some services virtually rearranging the work environment and the way that it is used so that physical distancing is possible and extended close contact with other people is minimised.

Therefore, outside of those sectors covered by Government vaccine mandates, WorkSafe considers that few workplaces will be able to justify an employer vaccination requirement for health and safety or public

health reasons. For those who can, this would likely be only for specific roles. However, as with seasonal 'flu and other vaccinations, employers can and should encourage workers to get their COVID vaccinations or boosters.

Our enforcement approach to this HSWA risk assessment

We recognise that:

- most employers do not have infection control expertise and rely on direction and advice from public health experts
- the pace of change in the COVID-19 pandemic is unprecedented when compared with typical risks to work health and safety, and
- for these reasons, it will not always be easy for employers to 'get things right'.

Therefore, our expectation is that an employer:

- follows public health guidance when carrying out a risk assessment, and
- engages effectively with workers and their representatives, and
- regularly reviews the risk assessment as the situation changes.

Where an employer can demonstrate it has done this, it is very unlikely that WorkSafe will take enforcement action, even if we disagree with the decisions an employer has made in their risk assessment. We will focus on helping an employer to understand what is reasonable to require in their circumstances and what they can act on.

Further information

The Ministry of Health has [information about COVID-19 vaccines\(external link\)](#), and [public health information for employers\(external link\)](#).

Unite Against COVID-19 has [general information for employers\(external link\)](#).

Business.govt.nz has [guidance on the rules for different types of business, business continuity planning, and health and safety in relation to COVID-19\(external link\)](#).

Employment New Zealand has [information on employment requirements in relation to COVID-19\(external link\)](#).

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