

## HAMPSHIRE COUNTY COUNCIL

<b>Committee:</b>	Employment in Hampshire County Council Committee
<b>Date:</b>	11 November 2021
<b>Title:</b>	Mandatory Vaccinations Policy
<b>Report From:</b>	Director of HR, OD and CES

**Contact name:** Nichola Andreassen

**Tel:** 0370 7795597

**Email:** Nichola.andreassen@hants.gov.uk

### **Purpose of this Report**

1. The purpose of this paper is to make EHCC aware of a new legislative requirement that workers working or deployed in a Care Quality Commission (CQC) registered care home are fully vaccinated against Covid-19 and to note a new policy that will implement this requirement.

### **Recommendation(s)**

2. It is recommended that EHCC note the new statutory requirement and the Council's new Mandatory Vaccinations policy at Appendix A.

### **Executive Summary**

3. The Mandatory Vaccinations policy sets out how the Council will meet its statutory obligation to ensure all workers working or deployed in a registered care home are fully vaccinated against Covid-19 on or before 11 November 2021, unless they are medically exempt.

### **Contextual information**

4. The Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021 come into force on 11 November 2021. These regulations require all workers working in a CQC registered care home to be fully vaccinated by 11 November 2021. There are very limited exceptions to this requirement.
5. The Council has 24 CQC registered care homes that are covered by the new regulations. There are approximately 1,500 members of staff employed in

these care homes who will be required to be fully vaccinated against Covid-19 as a result of the new legislation.

6. A new policy (Appendix A) has been produced to enable the Council to comply with this requirement.
7. Senior Managers across the County Council have been working with employees and our wider workforce, such as casual staff, volunteers and contractors whose staff may attend relevant premises, to ensure that they understand the requirement for them to be vaccinated. Recognised unions have also been consulted.
8. In addition to the regulations that come in to force on 11 November 2021, the Government are in consultation to seek views on extending the requirement to be vaccinated against Covid-19 to other social care settings, and to people who are over 16 years old and also on whether other vaccinations like flu should become mandatory. When the outcome of this consultation is known, the policy may need to be reviewed.

### **Policy Provisions**

9. The policy is written in accordance with the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021. The policy:
  - sets out the provisions of the regulations and in particular, the legal requirement to have received a complete course of a Medicines and Healthcare Products Regulatory agency (MHRA) authorized Covid - 19 vaccine.
  - clarifies who is covered by the regulations.
  - clarifies any exceptions to the regulations in line with the Green Book on Immunisation against infectious disease ([COVID-19: the green book, chapter 14a](#)) and clinical advice from The Joint Committee of Vaccination and Immunisation (JCVI).
  - outlines the temporary, self-certification exemption procedure that is currently in place.
  - sets out the steps the Council will take where those in scope of this policy do not comply with the regulations.
  - sets out how to recruit within the boundaries of the regulations.
  - sets out how to demonstrate Covid-19 vaccination status.

### **Consultation and Equalities**

10. The government published an Equalities Impact Assessment (EIA) for these regulations. This EIA identified significant potential impacts of the regulations on those with a disability, women, some ethnic minorities, some religions or beliefs, pregnancy/maternity and age. The key mitigations identified by the government focus on education of the population to reduce vaccine hesitancy.
11. The potential impacts identified by the government's EIA have been considered in the development of the Council's policy. The impact of the council's policy is mitigated by:
  - The policy not going beyond the statutory requirement,
  - Senior Managers working with employees to ensure they understand the requirement leading up to 11 November, by ensuring national information is shared with staff that are vaccine hesitant to increase uptake,
  - Senior Managers supporting employees seeking alternative employment if they do not intend to become fully vaccinated and they are not exempt,
  - The policy requiring managers to consider all options before considering terminating the employee from their employment with the Council.

### **Climate Change Impact Assessment**

12. Hampshire County Council utilises two decision-making tools to assess the carbon emissions and resilience impacts of its projects and decisions. These tools provide a clear, robust, and transparent way of assessing how projects, policies and initiatives contribute towards the County Council's climate change targets of being carbon neutral and resilient to the impacts of a 2°C temperature rise by 2050. This process ensures that climate change considerations are built into everything the Authority does.

### **Climate Change Adaptation and Carbon Mitigation**

13. The carbon mitigation tool and climate change adaptation tools were not applicable on this occasion because the decision relates to a programme that is strategic/administrative in nature.

### **Conclusions**

14. The new Mandatory Vaccination policy will ensure that the Council is compliant with legislation in this area.

**REQUIRED CORPORATE AND LEGAL INFORMATION:**

**Links to the Strategic Plan**

This proposal does not link to the Strategic Plan but potentially impacts the County Council's workforce strategy

**Other Significant Links**

**Direct links to specific legislation or Government Directives**

Title

N/A

Date

**Section 100 D - Local Government Act 1972 - background documents**

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

None

Location

## **EQUALITIES IMPACT ASSESSMENT:**

### **1. Equality Duty**

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

### **2. Equalities Impact Assessment:**

The government's Equality Impact Assessment identifies several groups where there was evidence of increased levels of vaccine hesitancy at the time of publication (16 June 2021). Therefore any policy that requires vaccination of these groups may have a negative impact on them:

- Employees with a disability,
- Women,
- Those who are pregnant or in periods of maternity,
- Race – ethnic groups –vaccine hesitancy is highest amongst Black people, people of Pakistani and Bangladeshi heritage and non-UK/Irish White ethnic groups,

- Religion or Belief – the government identified a significant impact based on religion or belief, whether those beliefs are religious or non-religious, such as (but not limited to) those with a dietary practice that excludes animal products,
- Age - the government identified that at the time of the EIA, vaccinations had not been rolled out to the under 40's and there was evidence of increased vaccination hesitancy in this age group.

As set out in the paragraphs above, Senior Managers have been working with employees to reduce vaccine hesitancy since the regulations were announced to mitigate the risks identified.

There are a limited number of exceptions under the Regulations including for individuals with medical conditions that are listed in the Green Book on Immunisation against infectious disease. There are also time-limited exemptions for example, people receiving hospital care or receiving medication which may interact with the vaccination and for pregnant women should they choose to take it.

## Appendix A



# Hampshire County Council's Mandatory Vaccinations – Policy

## 1 Policy Statement

- 1.1 Hampshire County Council has a responsibility to comply with the principles of the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021 (“the Regulations”)

## 2 Scope

- 2.1 All employees, workers, agency staff, contractors, volunteers, and suppliers of services (excluding staff in schools) are covered under the Regulations.

## 3 Policy Outcomes

- 3.1 The aims of this policy are to:
- set out the provisions of the Regulations
  - clarify any exceptions to the Regulations
  - set out the steps Hampshire County Council will take where those in scope of this policy do not comply with the Regulations

## 4 Key Definitions

### 4.1 Employee

An employee is any individual who works for Hampshire County Council, under a contract of employment. The following groups of people are likely to be employees:

- those working under a contract of employment with Hampshire County Council, on a fixed term, temporary or permanent basis.

### 4.2 Worker

A worker is any individual who works for Hampshire County Council under a contract for undertaking any work or service. The following groups are people likely to be workers:

- most agency workers (those that are engaged through an agency, such as Connect to Hampshire (C2H) or other employment agency.)
- short-term casual workers (those that are directly engaged as casual workers on an ad-hoc basis and submit claims.)
- some freelancers, or external contractors
- suppliers of services

- 4.3 **Volunteer**  
A volunteer is a person who freely gives their time, skills, and experience without expectation of financial reward.
- 4.4 The policy and How to Guide will refer to individuals within 4.1, 4.2 and 4.3 as employees thereafter.
- 4.5 **Responsible person**  
The responsible person is defined as the decision maker for a Hampshire County Council building as defined by the department. For example, in Adult's Health and Care Services the responsible person will be known as the Registered Manager or delegated person.
- 4.6 **Premises**  
The term premises is currently defined by the Regulations as: A building which provides accommodation for those who require nursing or personal care in a care home.

This includes any Care Quality Commission registered (CQC) care home providing a service in the Hampshire County Council area which is covered by the Regulations and may be provided by Hampshire County Council in premises owned by the Council or by a non-Hampshire County Council provider in their own premises.

## **5 What the law says**

- 5.1 In order to enter HCC premises as defined above there is a statutory requirement under the Regulations for all employees over the age of 18 to be vaccinated with a full course of an authorised COVID-19 vaccine with effect from 11 November 2021, unless medically exempt or within a defined exception (see exceptions)
- 5.2 The statutory requirement applies to any Hampshire County Council premises covered under the Regulations.
- 5.3 The Regulations govern the requirements for all employees and set out:
- the requirements of vaccinations
  - exemptions to the Regulations
  - booster doses
  - demonstrating vaccination status

## **6 Requirements of vaccinations**

- 6.1 To have received a complete course of an authorized vaccine. The vaccine must be an approved MHRA (The Medicines and Healthcare Products Regulatory Agency) COVID-19 vaccine.

## **7 Exceptions to the Regulations**

- 7.1 There are a limited number of exceptions under the Regulations. These are:

- 7.2 There are a limited number of exceptions under the Regulations. These are:
- 7.3 Having a medical exemption. Eligibility will reflect the Green Book on Immunisation against infectious disease (COVID-19: the green book, chapter 14a) and clinical advice from The Joint Committee of Vaccination and Immunisation (JCVI).
- 7.4 Being under the age of 18
- 7.5 Individuals visiting residents who are dying or offering bereavement support.+
- 7.6 Friends, relatives, and essential care givers of the service user+
- 7.7 Other reasons (\*):
- Urgent Maintenance Work
  - Emergency assistance
  - Emergency Services (in the line of duty)

\* These are types of emergency exemptions and would not happen regularly. These exemptions are determined on a case-by-case basis by the responsible person.

+ For all employees at Hampshire County Council (HCC) these exceptions are not applicable

## **8 Booster doses**

- 8.1 The mandatory provision for booster vaccines is not currently included in the Regulations but may be added in the future.

## **9 Flu vaccinations**

- 9.1 The mandatory provision for flu vaccines is not currently included in the Regulations but may be added in the future.

## **10 Demonstrating evidence of vaccination status**

- 10.1 Evidence of vaccination status in England can be demonstrated via:
- NHS App
  - NHS website
  - COVID Pass letter
- 10.2 Should the vaccination have been carried out in Scotland, Wales or outside of the UK please refer to How to Guide for more information.
- 10.3 A vaccination card cannot be used as evidence.

## **11 Evidence of Medical Exemption**

- 11.1 The responsible person will need to verify evidence of medical exemption. Eligibility will reflect the Green Book on Immunisation against infectious disease (COVID-19: the green book, chapter 14a) and clinical advice from The Joint Committee of Vaccination and Immunisation (JCVI). Exemption status will be recorded by the responsible person in the premises.
- 11.2 Evidencing medical exemption is completed via the COVID Pass, please refer to the how to guide for more information.

## **12 Exemption – Temporary Self-Certification**

- 12.1 The government has announced a temporary self-certification for medical exemption. This temporary self-certification scheme will expire on 23rd December 2021.
- 12.2 While this list is not exhaustive, examples of medical exemptions from COVID-19 vaccination could include individuals:
- receiving end of life care where vaccination is not in the individual's interests
  - with learning disabilities or autistic individuals, or with a combination of impairments which result in the same distress, who find vaccination and testing distressing because of their condition and cannot be achieved through reasonable adjustments such as provision of an accessible environment
  - with medical contraindications to the vaccines such as severe allergy to all COVID-19 vaccines or their constituents
  - who have had adverse reactions to the first dose (for example, myocarditis)
- 12.3 Time-limited exemptions will also be available for those with short-term medical conditions (for example, people receiving hospital care or receiving medication which may interact with the vaccination). A time-limited exemption is also available for pregnant women should they choose to take it.
- 12.4 Pregnant women can alternatively use MAT B1 certificates to evidence their decision to choose to use a medical exemption. Pregnant women do not need to apply for a medical exemption NHS COVID Pass if they have a MAT B1 certificate. For pregnant women the exemption will expire 16 weeks post-partum. This will allow them to become fully vaccinated after birth.
- 12.5 Exemptions for conditions listed in section 4.4 (special warnings and precautions for use) in the Summary of Product Characteristics for each of the approved COVID-19 vaccines (Pfizer, AstraZeneca and Moderna) may also be considered.
- 12.6 Individuals that have received a COVID-19 vaccination abroad can also self-certify as medically exempt. This is because it is not clinically appropriate for them to be vaccinated in the UK if they have already received a partial or full course of vaccination overseas. The government has said they may update the guidance on this so the policy may need to alter to reflect this.
- 12.7 The formal medical exemptions process currently does not apply to individuals vaccinated abroad. Self-certification for medical exemptions will continue for this group and until further notice. The exemption will not expire 12 weeks after the NHS COVID Pass system is launched.

## **13 Recruiting new employees covered by the Regulations**

- 13.1 In order to work in HCC premises as defined in paragraph 4.6 there is a statutory requirement for an individual over the age of 18 to be fully vaccinated, unless they have an exemption as outlined in Exceptions to the Regulations section of this policy.

- 13.2 This requirement is applicable to any applicant attending premises covered by the Regulations.
- 13.3 The recruiting manager has responsibility to ensure that the requirement is included in the recruitment paperwork, which makes the applicant aware of the statutory requirement.
- 13.4 The recruiting manager must ensure the requirement is included when advertising a vacancy when there is a statutory requirement to be vaccinated in a role.
- 13.5 The recruiting manager could also be the responsible person who is required to see the evidence upon arrival.
- 13.6 The recruiting manager will be responsible for making the applicant aware of how to evidence their vaccination or exemption prior to interview.

#### **14 Checking and storing evidence of status**

- 14.1 The responsible person must see evidence of vaccination or exemption status for any employee or visitor covered under the Regulations unless covered by an exception (as shown in Exceptions to the Regulations section of this policy).
- 14.2 The responsible person is responsible for recording and storing this data in line with General Data Protection Regulation (GDPR).
- 14.3 This information **is classed as special category data and should be processed and stored accordingly in line with the Safe Information Handling Policy.**

#### **15 Non-Compliance with the Regulations**

- 15.1 With effect from 11 November 2021 Hampshire County Council must comply with the Regulations by ensuring employees who enter premises covered under the Regulations are either fully vaccinated or medically exempt (this includes employees who visit a location which is not their substantive work location).
- 15.2 Should an employee not be fully vaccinated by the 11 November 2021, all options available will be considered by the manager. This may include discussions about alternative roles not covered by the Regulations or terminating employment for not meeting the statutory requirement (excluding those defined in 4.2 & 4.3). More information can be found in the How to Guide and advice should be sought from HR Operations before any action is taken.

#### **16 Policy governance**

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