

SUBJECT DSDILGP COVID-19 vaccination policy for the 1 William Street, Brisbane (1WS) workplace

<p>Note: This brief is considered draft until signed.</p> <p><input checked="" type="checkbox"/> Approved</p> <p><input type="checkbox"/> Not approved</p> <p><input checked="" type="checkbox"/> Noted</p> <p><input type="checkbox"/> Further information required (see comments)</p>	<p>Signed  Date 12/1/2022</p> <p>Michele Bauer A/Director-General Department of State Development, Infrastructure, Local Government and Planning</p> <p>Comments:</p>
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ACTION REQUIRED BY 12 January 2022 to continue to manage the risks associated with COVID-19 transmission in the 1WS workplace in light of the evolving situation in Queensland.

RECOMMENDATION

It is recommended that you:

- **consider** the PSC's COVID-19 vaccination framework (**Attachment 1**) and circumstances relevant to making a direction outlined in this briefing note
- **consider** the 1 William Street Risk Assessment (**Attachment 2**), noting its conclusion that risks in the categories of work health and safety, continuity of service delivery and reputation will remain high unless mandatory vaccination for employees working in 1WS is introduced
- **consider** the human rights assessment (**Attachment 3**)
- **consider** the consultation feedback from:
 - DSDILGP employees and contractors (**Attachment 4** summary and **Attachment 5** in full)
 - Together Union, as outlined in this briefing note
 - Other 1WS agencies, as outlined in this briefing note.
- **consider** the legal advice (**Attachment 6**)
- **decide whether to approve** the COVID-19 vaccination requirements policy (Direction) (**Attachment 7**) requiring:
 - any existing employee undertaking a role based in 1WS to:
 - o have received all required COVID-19 vaccinations (that is, be 'fully vaccinated');
 - o remain fully vaccinated against COVID-19
 - o provide evidence of vaccination,with processes to manage employees with a recognised medical contraindication and/or any exceptional circumstances
 - any existing volunteer or work experience student, engaged in a role based in 1WS to be fully vaccinated against COVID-19 and provide evidence of vaccination
 - existing employees currently undertaking work in roles in 1WS, or who are being considered for appointment to or engagement in a role in 1WS, to:
 - o have received at least the first dose of a COVID-19 vaccine by 23 January 2022;
 - o have received a second dose of a COVID-19 vaccine by 20 February 2022; and
 - o where subsequent, or additional, doses of a COVID-19 vaccine are required for an employee to continue to be considered 'fully vaccinated', have received the required COVID-19 vaccination by a date as determined by the chief executive under a policy.
 - any current or future employee who undertakes a role in 1WS after the above dates to be vaccinated in accordance with the requirements of the policy prior to commencing in the role, as a condition of engagement for that role

- a person undertaking a role based in 1WS to provide acceptable evidence of vaccination and that an existing employee may be directed to provide evidence of vaccination at any time where it is reasonably required.
- **if you decide to approve the policy, delegate and authorise** the Deputy Director-General, Corporate to:
 - approve any procedures and documentation required to implement the policy;
 - exercise the functions and powers of the chief executive under section 2.4 (Exceptional circumstances) and Part 4 (Employees who do not comply with the vaccination requirements of this policy due to a recognised contraindication) of the policy
- **if you decide to approve the policy, approve** a communication be issued to all staff, generally in the form of **Attachment 8**, to be sent on 12 January 2022
- **note** that a separate risk assessment and consultation will be undertaken for other DSDILGP workplaces including exclusive and shared tenancies and that further policy development will be required to address requirements in relation to contractors, consultants and labour hire workers and for employees subject to public health directions as a result of their work or places they attend for work
- **note** that this briefing note and attachments contain information which is confidential and subject to legal professional privilege.

BACKGROUND

- The executive leadership of the department has been considering its approach to managing risk posed by COVID-19, including risk to employees and others, business continuity risks and operational requirements.
- On 10 December 2021, the Executive Leadership Team considered a paper noting steps to be taken to make a COVID-19 vaccination policy for the department and approved a request to employees to provide their vaccination status on a voluntary basis (**Attachment 9**).
- On 15 December 2021, an email was issued to all staff listed in Aurion requesting staff provide, on a voluntary basis, information about their vaccination status, to inform the department's assessment of work health and safety, service delivery and business continuity risks posed by COVID-19 (**Attachment 10**). Staff were advised in this email that they would be consulted, for example, via the Consultative Committee and the Work Health and Safety Committee, to further inform the department's policy about managing COVID-19 risks.
- As a result of further discussions at Leadership Board level, it was determined that the Public Service Commission (PSC) and Department of the Premier and Cabinet (DPC) would lead policy development, risk assessment and consultation relating to 1WS on the basis that a consistent approach in shared tenancies was required so as not to negate the effectiveness of Chief Health Officer (CHO) directions or other directions which require certain workers to be vaccinated. Chief executives could then consider the conclusions of the PSC/DPC led process when formulating their own departmental policies.
- On 20 December 2021, the Leadership Board determined to progress consultation with occupants of 1WS on a direction for staff to be vaccinated. This decision was taken after considering an initial draft risk assessment, community transmission modeling and human rights.
- On 22 December 2021 the Commission Chief Executive of the PSC requested that agencies commence consultation regarding vaccination requirements for 1WS and provided draft correspondence for issue by departments.
- The COVID-19 vaccination framework (**Attachment 1**) provides guidance for employers in relation to COVID-19 vaccination requirements for employees and incorporates feedback from agencies and union stakeholders.

Legislative framework

- The need for a vaccination policy for the department may arise for a number of reasons:
 - Public health directions - a direction by the CHO under the *Public Health Act 2005* may require certain employees to be vaccinated. The department's policies and procedures need to support compliance with public health directions.
 - Chief executives of public service agencies have authority under the *Public Service Act 2008* (PS Act) and the common law to give lawful and reasonable directions to their employees in relation to their employment. Such directions may be issued in consideration of risks to employees and others or based on agency operational requirements.
 - Under the *Work Health and Safety Act 2001* (WHS Act), the department must ensure, so far as is reasonably practicable:
 - the health and safety of employees and contractors while those employees and contractors are at work
 - the health and safety of other persons is not put at risk from work carried out by the department.

While the WHS Act does not mandate a course of action, in light of the evolving COVID-19 situation, it is necessary for the department to consider whether additional measures (for example, mandatory vaccination for some or all staff) should be considered as part of the overall mitigation steps implemented to discharge the department's WHS Act obligations.

Evolving COVID-19 situation

- As at 10 January 2022, Queensland is experiencing an increasing spread of COVID-19 beyond expectations. Through December 2021 and January 2022 public policy decisions have been updated including the removal of border restrictions, changes to the definition of a close contact, revised testing requirements, allowing asymptomatic critical workers to continue delivery of essential services, and deferring the commencement of the school year.
- Following recent advice from the CHO, departmental staff have been encouraged to work from home where possible. These arrangements are currently in place until the end of January 2022.

Information provided voluntarily about vaccination status

- As at 7 January 2022, information volunteered by staff about their vaccination status through Aurion shows that:
 - 25% of staff, including contractors, have provided information about their status;
 - of those who have provided information about their vaccination status:
 - 0.4% have received 1 dose of an approved vaccination;
 - 99.6% have received 2 doses of an approved vaccination;
 - 19% have received a 'booster' vaccination
 - no data is currently available regarding employees who are unable to be immunised for a medical reason.
- As at 10 January 2022, Queensland has a fully vaccinated rate of 87.8 per cent (over 16 years old) and has recorded 88,292 cases of COVID-19, noting that the CHO has warned this infection rate is likely to be under-reported.
- With only 25% of staff providing their vaccination status, information provided voluntarily about vaccination status is not a reliable measure.

KEY ISSUES

Authority to make a direction

- You have authority under section 11 and 98 of the *Public Service Act 2008* (PS Act) and the common law to give lawful and reasonable directions to departmental employees in relation to their employment.

- Whether a direction to employees is lawful and reasonable depends on the relevant facts and needs to be assessed on a case-by-case basis. A direction will be lawful if it complies with any employment contract, award or agreement, and any law (for instance, Commonwealth or State law that applies), such as the *Work Health and Safety Act 2001 (Qld)*, the *Human Rights Act 2019 (Qld)* and the *Anti-Discrimination Act 1991*.
- Whether a direction is reasonable is a question of fact having regard to all the relevant circumstances.
- In the circumstances, the following are relevant to determining whether the Direction would be reasonable:
 - **(WHS Act obligations)** Under the *Work Health and Safety Act 2001 (Qld)*, the department is required to ensure, so far as is reasonably practicable, the health and safety of employees and contractors while those employees and contractors are at work and the health and safety of other persons is not put at risk from work carried out by the department. You have a duty under section 27 of the WHS Act to exercise due diligence to ensure the department complies with that duty.
 - **(Risk assessment)** The risk context for workers required to work in 1WS (**Attachment 2**) including that as a shared tenancy, 1WS houses a large number of employees from a number of departments, is responsible for ensuring business continuity during hazard events, delivers essential services, regulatory functions and executive government. The outcomes of the risk assessment are discussed below.
 - **(Limitations of existing controls)** Unlike existing controls, vaccination can reduce both the risk of contracting COVID-19 and the severity of illness if COVID-19 is contracted. While mask wearing and social distancing are recognised measures to reduce the spread of COVID-19 and are required in 1WS, their effectiveness is dependent on employees applying them correctly.
 - **(Shared tenancy)** There is a need for consistency of approach in shared tenancies so as not to negate the effectiveness of CHO directions or other directions which require certain workers to be vaccinated.
 - **(Stakeholder vaccination requirements)** Departmental employees are required to work with and attend premises of other stakeholders which have mandatory vaccination as a condition of entry.
 - **(Availability of alternative work arrangements)** For a predominantly office-based workforce, alternative work arrangements (such as remote working arrangements, office locations with a different risk context etc) can be implemented for those choosing not to be vaccinated. These arrangements, if sustainable, may be sufficient to protect employees and ensure business continuity without the need to mandate vaccination for 1WS employees. However, the sustainability, practicality and fairness of these arrangements is difficult to determine.
 - **(No CHO direction made)** –the CHO has not made a public health direction covering public servants generally (or in 1WS).
 - **(Vaccination rates in the Queensland community are high)** As vaccination rates in the Queensland community are currently around 87% (double vaccination, over 16 years old), this pattern is likely indicative of rates of vaccination across the department. As it is likely some workers will seek and be eligible for an exemption, a 100% vaccination rate is not expected to be achievable. However, a workplace known to have a vaccinated workforce will assist in giving staff confidence to return to the office.
 - **(human rights considerations)** – discussed below
 - **(information privacy obligations)** – discussed below
 - **(consultation obligations and outcomes)** – discussed below

Risk assessment

- An assessment of the potential risks of COVID-19 relating to employees who work in 1WS has been undertaken (**Attachment 2**). The risk assessment outlines the risk context for 1WS, including factors such as size of workforce located in the building, range of uses for executive government, lay out and configuration, and proximity to the Queensland Parliament (subject to mandatory vaccination direction).
- Considering these factors, the risk assessment identified:
 - possible higher risk of COVID-19 transmission relating to the nature of and operating environment of the 1WS workplace, and
 - higher risk that a sudden reduction in the available workforce due to COVID-19 cases or isolation requirements would significantly affect the continuity of critical services and the functions of the Queensland Government.

- The risk assessment considered a range of possible controls to manage the risks presented by COVID-19 in 1WS. These included alternative working arrangements, physical distancing, face masks and vaccination.
- Two controls were identified as being most effective to manage the risk to an acceptable residual level: vaccination and face masks.
- Vaccination was identified as the best way of controlling the risk as it has been shown to not only reduce the risk of contracting COVID-19, but to reduce the likely severity of illness if COVID-19 is contracted.
- Face masks (properly worn) were also identified as an effective way of reducing the risks associated with COVID-19 transmission in 1WS. However, the limitations of face masks (including reduced effectiveness when not properly worn, and that face masks cannot be worn in all circumstances) were assessed as preventing them from being an effective control on their own.
- The overall conclusion of the risk assessment is that risks in the categories of work health and safety, continuity of service delivery and reputation will remain high unless mandatory vaccination for employees working in 1WS, Brisbane, is introduced.

Human rights considerations

- As a 'public entity' under the *Human Rights Act 2019*, you are required to comply with the human rights obligations as set out section 58(1) of the Act which provides:
 - (1) *It is unlawful for a public entity –*
 - (a) *to act or make a decision in a way that is not compatible with human rights; or*
 - (b) *in making a decision, to fail to give proper consideration to a human right relevant to the decision*
- Accordingly, as part of the decision-making process and in making any decision, you must:
 - give proper consideration to all human rights relevant to a decision;
 - justify any burden on human rights in accordance with the test in section 8 and 13 of the Act;
 - ensure thorough documentation of the human rights assessment.
- Consideration has been given to the potential impacts on human rights in deciding COVID-19 vaccination requirements for employees. It is acknowledged that human rights may be limited by vaccination requirements, however it has been determined that any such limitation is reasonable and justified for the purposes of managing the health and safety risks arising from COVID-19. Refer to the attached human rights impact assessment (**Attachment 3**).

Information privacy considerations

- An employee's vaccination status comprises their personal information for the purposes of the *Information Privacy Act 2009*.
- A chief executive may request employees to disclose their vaccination status if the agency needs it for a lawful purpose directly related to its functions or activities, which can include preventing or managing risks associated with COVID-19. For instance, a chief executive may direct employees to disclose their vaccination status for the purposes of:
 - assessing the requirement to issue a lawful and reasonable vaccination direction
 - ensuring compliance with any such direction, or for compliance with a CHO direction.
- Vaccination status information should only be collected and used where the information directly relates to a function or activity of an agency, and any collection of such information should be accompanied by an information privacy notice which sets out the purpose for which the information is collected.
- On the basis that information about the vaccination status of an employee will be required to effect the decision, if the Policy is approved, information will be collected and records will be kept for the purposes of administering and ensuring compliance with COVID-19 vaccination requirements, including COVID-19

vaccination dates and status, the type of proof of COVID-19 vaccination, evidence of a medical contraindication, or evidence of being a COVID-19 vaccine trial participant. Collection and use of information for this purpose is authorised under sections 11 and 98 of the *Public Service Act 2008*.

- Information about vaccination status may also be collected on a voluntary basis for other roles (outside of 1WS). Collection and use of information for this purpose is authorised under sections 11 and 98 of the *Public Service Act 2008*, however employees are not obliged to provide information if requested in this context.
- Records will be stored in a secure database that is accessible to authorised persons only and dealt with in accordance with the *Information Privacy Act 2009* and the *Public Records Act 2002*. De-identified information about employee vaccination rates will be reported in accordance with any relevant state or federal requirements.

Consultation

- The department has consultation obligations under legislation and relevant industrial instruments. Where an agency shares a work environment, or where employees regularly interact with employees from other agencies, consultation should also occur with the other agencies.
- The reasonableness of a direction may be informed by consultation with employees and unions. The following consultation has been undertaken:
- On 22 December 2021 an email was sent to all staff seeking feedback about whether vaccination should be mandatory for employees undertaking their work in 1WS (**Attachment 11**). A response was requested by COB 5 January 2022. An associated announcement was also made that day on the department's intranet.
- A text message was sent to all staff (utilising the number in each staff member's Aurion profile) on 23 December 2021 alerting them to the email regarding consultation on proposed mandatory vaccination of staff and visitors to 1WS. The text message said 'Please check yesterday's email from Michael McKee re: consultation on proposed mandatory vaccination for staff & visitors to 1WS'. A link to the email was also included.
- On 4 January 2022, a further email was sent to all staff prompting them to provide feedback in response to the 22 December 2021 message.
- The department's Work Health and Safety Committee members were kept informed of the consultation process being undertaken with staff.
- The consultation process and timeframes were driven by the recent surge in COVID-19 cases resulting from the new Omicron variant and the department's need to respond quickly to manage health and safety risks in the workplace before staff returned to the office after the Christmas closure period, reduce service delivery impacts and ensure business continuity.

Results of consultation

- (**Employee consultation**) A summary of the results of employee consultation (**Attachment 4**) and the compilation of full deidentified results from employee consultation (**Attachment 5**) are attached for your consideration. In summary:
 - 22 December consultation email message sent to 776 1WS employees and contractors with a 52% open rate (*n*407)
 - 22 December consultation email message sent to 196 employees and contractors at other locations with a 43% open rate (*n*85)
 - 4 January reminder message to all employees and contractors had a 39% open rate (*n*384)
 - Intranet CONNECT announcement 186 views for the period 22 December 2021 to 5 January 2022.
 - 123 email responses were submitted to the covid_hr inbox
 - Overall, responses were 70% (*n*86) in favour of mandatory vaccination for 1WS; 25% (*n*31) not in favour and 5% (*n*6) inconclusive.

- Some questions were raised in consultation, including:
 - the effectiveness of a vaccine requirement, including whether other control measures (social distancing, hygiene, cleaning etc.) have been adequately considered as part of the risk assessment
 - whether there has been adequate consideration of human rights and privacy and whether there has been adequate information on the implications of the policy for unvaccinated employees
 - the ethical considerations, like freedom of choice, and the risk of creating inequity and division between staff.
- Consideration of the themes raised in the feedback is outlined in more detail in the summary of employee consultation. (**Attachment 4**)
- (**Union consultation**) The PSC confirmed it led union consultation for the 1WS COVID-19 vaccination mandate, and there is no need to consult unions at an agency level. Central agencies and unions have consulted via the whole of sector Central Consultative Forum. On 7 January 2022, Together Union, PSC, DPC and DSDILGP attended an out-of-session meeting to consult further. Sector union consultation suggests the majority of members support a vaccine mandate for 1 William Street. Similar questions to the direct employee consultation were raised in union consultation. Union feedback is that the absence of a mandate for 1 William Street is likely to cause more issues in the longer term, though members acknowledge there may be some short-term consequences.
- (**Consultation with other 1 WS agencies**) The department has been actively involved in discussion with other agencies via the Leadership Board; working groups of the Leadership Board; and PSC-led whole-of-sector discussions. The Leadership Board recognised the need for consistency in decision-making and approach for all 1WS tenants.

Draft Policy

- A draft policy has been prepared for your consideration (**Attachment 7**). In summary the draft policy:
 - requires that any existing employee undertaking a role based in 1WS to:
 - have received all required COVID-19 vaccinations (that is, be ‘fully vaccinated’)
 - remain fully vaccinated against COVID-19
 - provide evidence of vaccination
 - includes processes to manage employees with a recognised medical contraindication and/or any exceptional circumstances
 - requires any existing volunteer or work experience student, engaged in a role based in 1WS to be fully vaccinated against COVID-19 and provide evidence of vaccination
 - requires existing employees currently undertaking work in roles in 1WS, or who are being considered for appointment to or engagement in a role in 1WS to:
 - have received at least the first dose of a COVID-19 vaccine by 23 January 2022, and
 - have received a second dose of a COVID-19 vaccine by 20 February 2022, and
 - where subsequent, or additional, doses of a COVID-19 vaccine are required for an employee to continue to be considered ‘fully vaccinated’, have received the required COVID-19 vaccination by a date as determined by the chief executive under a policy
 - requires any current or future employee who undertakes a role in 1WS after the above dates to be vaccinated in accordance with the requirements of the policy prior to commencing in the role, as a condition of engagement for that role
 - requires a person undertaking a role based in 1WS to provide acceptable evidence of vaccination. In addition, an existing employee may be directed to provide evidence of vaccination at any time where it is reasonably required. Failure to comply with such a direction may result in disciplinary action.
- Please note that the policy does not apply to contractors, consultants or labour hire workers. We understand discussions are underway between the PSC and 1WS building management in relation to

building requirements (which, depending on the terms of those requirements, could apply to existing contractors/consultants/labour hire workers) and the department will need to give further consideration to its policy requirements for these types of workers going forward.

- It is recommended that you consider and take into account the material provided in this brief, including the risk assessment, human rights assessment, results of consultation, the surrounding circumstances, the legal advice and draft policy and decide whether to make a direction by approving the policy.

RESULTS OF CONSULTATION

- Results of consultation are discussed above.
- In addition, the 1WS building management JLL advised that following a position by the majority tenants (Queensland Government departments), JLL will implement a consistent approach with concierge, security and retailers.

RESOURCE/FINANCIAL IMPLICATIONS

- Resource and financial implications are contemplated in the risk assessment provided at **Attachment 2**. Resourcing associated with communicating and implementing mandatory vaccination can be absorbed within current business structures and FTE. Employees will be supported to access leave in order to attend a vaccination appointment.

SENSITIVITIES/RISKS

- Mandating vaccination for employees at 1WS could be a contentious issue. The associated risk assessment is provided in detail at **Attachment 2**.
- Legal risks are discussed in **Attachment 6**.

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- **Note: This brief is considered draft until signed.**

COVID-19 vaccination in the workplace

COVID-19 vaccination requirements for employees – guidance for employers

Purpose

Consideration of vaccination requirements in public sector workplaces may arise because of the operation of a Chief Health Officer (CHO) Public Health Direction under the *Public Health Act 2005*, or because a chief executive determines that, based on consideration of a range of factors, employees in a workplace, or in certain roles should be vaccinated against COVID-19. When considering the requirement for employees to be vaccinated against COVID-19, the purpose of this framework is twofold:

for Chief Health Officer public health directions , it	for lawful and reasonable directions , it
<ul style="list-style-type: none"> • provides guidance to agencies where a Chief Health Officer direction has coverage, or partial coverage, of a workforce or cohort of employees 	<ul style="list-style-type: none"> • supports a consistent approach across the Queensland public sector when considering COVID-19 vaccinations; • requires agencies to take a risk management approach to determine whether COVID-19 vaccination would be an appropriate control measure to be implemented; and • provides guidance about the process, considerations and consultation obligations for agencies to take into account when: <ul style="list-style-type: none"> ○ an agency or workplace/cohort of employees within an agency becomes subject to a vaccination requirement through a public health direction; or ○ a chief executive issues a lawful and reasonable direction that requires employees to be vaccinated against COVID-19.

Chief Health Officer directions about vaccination requirements

1.1 Authority:

The **Chief Health Officer** has emergency powers arising from the declared public health emergency under the *Public Health Act 2005*, to issue directions to assist in containing, or to respond to, the spread of COVID-19 within the community.

When directing an employee to be vaccinated an agency should communicate the authority for making the direction and explain the rationale that supports the direction.

1.2 Applying a Chief Health Officer direction:

The Chief Health Officer may issue public health directions requiring certain people to be vaccinated against COVID-19. Public Health Directions may apply to certain groups of employees, or they may apply to certain settings where employees are required to attend as part of their duties.

Public health directions are published on the [Queensland Health website](#) and are subject to change. Agencies should regularly review public health directions for any application to their workforce and to ensure they are compliant with the most up to date directions.

Agencies that manage employees or workplaces that are subject to a public health direction requiring vaccination **must comply** with the public health direction. In this situation, there is no need to undertake a risk assessment process as set out in this framework to decide if a COVID-19 vaccination requirement would be lawful and reasonable in relation to the employees or workplaces subject to the public health direction.

Agencies in these circumstances will need to implement policies and procedures to ensure compliance with the public health direction. Directions, policies and procedures issued by agencies to ensure compliance with the public health direction that require employees to be vaccinated are lawful and reasonable.

COVID-19 vaccination requirements through lawful and reasonable directions

2.1 Authority

In the absence of an applicable Chief Health Officer direction, the authority to require employees to be vaccinated against COVID-19 may be found in two instances:

2.1.1 **Chief executives of public service agencies** have authority under the *Public Service Act 2008* (PS Act) and the common law to give **lawful and reasonable directions** to their employees in relation to their employment. Such directions may be issued in consideration of risks to employees and others or based on agency operational requirements.



2.1.2. **Certain chief executives** may have authority under legislation relating to the agency's function or employing legislation (where not employed under the PS Act) to issue a direction.

When directing an employee to be vaccinated an agency should communicate the authority for making the direction and explain the rationale that supports the direction.

2.2 What is lawful and reasonable?

Employers can require their employees to be vaccinated against COVID-19 if the direction is lawful and reasonable.

For a direction to be **lawful**, it must comply with any employment contract, award or agreement, and any Commonwealth or state law that applies (for example an anti-discrimination law).

Whether a direction is reasonable will be fact dependent and needs to be assessed on a case-by-case basis. This will require consideration of all relevant factors applicable to the workplace, the employees, and the nature of the work they perform, including, but not limited to:

- **Cohort/workplace risk factors** (for example, whether employees work in public facing roles, whether they have contact or interaction with COVID-19 patients or work closely with people who are vulnerable to COVID-19)
- **Environmental risk factors** (for example, current or future expected levels of community transmission, current health advice for cohort of employees or industry in which the cohort operate)
- **Suitability of control measures** (for example, what controls are already in place to reduce the risk, are the current control measures effective and sufficient, is social distancing possible?)
- **Operational requirements** (for example, whether the business is essential and would need to continue operating from the workplace in the event of a lockdown or high levels of community transmission)

Employers should obtain legal advice if they are considering making COVID-19 vaccination a requirement of ongoing employment in their workplace.

2.3 COVID-19 vaccination requirements through a lawful and reasonable direction based on a risk assessment

Chief executives may issue a direction to employees to be vaccinated against COVID-19, based on a risk assessment. The risk assessment should look broadly at risks to employees and others as well as risks to operational requirements (where relevant).

A risk management approach, including consultation with relevant stakeholders (refer to Consultation section for further information), must be used to determine the level of risk and what control measures need to be implemented in response to the risk.

Employers should note that vaccination is only one control measure for COVID-19 and it should be considered as part of a broader range of controls to reduce the risk of exposure to COVID-19 in workplaces.



Information on control measures to slow the spread of COVID-19 can be found [here](#).

Risks to operational requirements may include (but are not limited to):

- where the workforce (or cohort) is highly specialised and limited - if several employees in this cohort were affected by COVID-19 there would be significant impacts to service delivery
- where the workforce (or cohort) are delivering critical services and ongoing delivery is vital
- where the workforce (or cohort) are entering third party premises that have vaccination against COVID-19 as a condition of entry (as required by the third party) and it is not reasonably practicable to make alternative arrangements, on a case-by-case basis for each employee.

In determining whether alternative arrangements are reasonably practicable (in relation to the third dot point above), the chief executive may take into account:

- the proportion of employees who are vaccinated against COVID-19 (noting that it may be considered reasonable and lawful to request information from employees about vaccination status for the purposes of undertaking this assessment)
- the proportion of premises that require vaccination as a condition of entry
- the need for equitable working arrangements (e.g. to ensure a limited number of employees do not bear the burden of the agency's workload)
- the need to prioritise alternative working arrangements for people with a recognised medical contraindication (if a vaccination direction were to be issued).

Chief executives should undertake a scan of their workforce to understand the type of work being performed across the agency, and then undertake a risk assessment against their operational requirements to determine if there is a risk to business continuity that needs to be mitigated. Assessments will need to be made on a case-by-case basis taking into account the specific circumstances and all relevant factors applicable to the workplace, the employees, and the nature of the work they perform.

Where a risk is identified, chief executives should determine whether COVID-19 vaccination is appropriate to manage the risk and whether a direction to employees is required. Where a chief executive is considering issuing a COVID-19 vaccination direction, they must consult with relevant parties (refer to Consultation section for further information).


Decisions must be supported by thorough and justifiable reasoning which clearly identifies the need to issue a COVID-19 vaccination direction.

2.4 Consultation

The reasonableness of a direction may be informed by consultation with employees and unions and consultation is an essential step in the process.

Consultation is an opportunity to engage affected employees and their relevant industrial organisations. Consultation ensures staff are informed of changes that will affect them and have a genuine opportunity to influence the decision and implementation before a decision is made.





Agencies should consider any consultation obligations set out in legislation and/or relevant industrial instruments.

Consultation involves:

- sharing information with all relevant parties about the matter – this would include registered industrial organisations (who have a right to represent industrial interests of affected employees) and the staff who may be affected
- providing a reasonable opportunity to express their views
- for any views to be considered

In situations where an agency shares a work environment or where employees regularly interact with employees from other agencies, consultation should also occur with the other agency/agencies.

2.5 Additional considerations

In addition to a risk assessment (either a risk to employees and/or others or an operational risk), agencies must also consider:

- the [human rights](#) of employees, in accordance with the *Human Rights Act 2019* (the HR Act), in any decisions made or actions taken in making COVID-19 vaccinations a requirement of ongoing employment – a human rights compatibility assessment should be prepared when considering whether to make a vaccination direction; and
- [information privacy](#) in accordance with the *Information Privacy Act 2009*.

Employers should obtain legal advice if they are considering making COVID-19 vaccination a requirement of ongoing employment in their workplace.

General considerations


3.1 Requesting information and documentation about vaccination status

A Chief Executive may request employees to voluntarily disclose their vaccination status to assist in pre-planning and risk management in the event that COVID-19 becomes more prevalent in the community.

A Chief Executive may direct employees to disclose their vaccination status for the purposes of assessing the requirement to issue a lawful and reasonable vaccination direction under this framework, and also for the purposes of ensuring compliance with any such direction, or for compliance with a CHO direction. A direction to disclose vaccination status may be considered lawful and reasonable, and consistent with the information privacy principles in the *Information Privacy Act 2009*, particularly where the consultation and assessment processes clearly identify the purpose and justifications for requiring information about employee vaccination status.

A Chief Executive may also request information about vaccination status of other persons entering the workplace (including employees of other agencies) where the information is required to ensure the health and safety of their employees or others.





Vaccination status information should only be collected and used where the information directly relates to a function or activity of an agency, and any collection of such information should be accompanied by an information privacy notice which sets out the purpose for which the information is collected.

3.2 Documentation

Vaccination requirements and directions have been subject of challenges across Australian jurisdictions. Accordingly, agencies who decide to require employees to be vaccinated against COVID-19 must follow sound record keeping and decision making practices and document each step in this framework including:

- the authority for the direction
- risk assessment and chosen control measures
- consultation processes and feedback
- considerations of human rights, anti-discrimination and information privacy
- decision making and justification.

3.3 Policy

Where a CHO direction or an appropriate risk assessment supports a decision to make COVID-19 vaccination a requirement of ongoing employment, policy settings must be adopted in accordance with the template policy.

3.4 Addressing non-compliance

Where an employee does not comply with a lawful and reasonable direction to be vaccinated against COVID-19, and does not have a recognised medical contraindication, the Chief Executive may consider whether to commence a disciplinary process (refer to [Directive 14/20: Discipline](#)).



Attachment 3 – Human rights impact assessment

Human rights assessment of proposed direction/policy for mandatory vaccination

A chief executive is required to consider the potential impacts on an employee's human rights when deciding and issuing a direction/policy requiring vaccination against COVID-19.

A decision and action is *compatible with human rights* if it:

- does not limit a human right, or
- limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the *Human Rights Act 2019*.

This assessment relates to a decision of the chief executive whether to approve a policy requiring Covid-19 vaccination for current and future employees of the Department of State Development, Infrastructure, Local Government and Planning (department) undertaking a role or being considered to undertake a role for which 1 William Street, Brisbane (1WS) is the usual workplace or where attendance at 1WS is required to undertake any aspect of the role. The decision would also extend similar requirements to volunteer and work experience students and also requires individuals to provide evidence about their vaccination status.

Which human rights are affected?

Identify which human rights may be engaged or limited by the proposed direction.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Right to equality and non-discrimination (section 15) | <input type="checkbox"/> Cultural rights – generally (section 27) |
| <input checked="" type="checkbox"/> Right to life (section 16) | <input type="checkbox"/> Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28) |
| <input checked="" type="checkbox"/> Protection from torture and cruel, inhuman or degrading treatment (section 17) | <input type="checkbox"/> Right to liberty and security of person (section 29) |
| <input type="checkbox"/> Freedom from forced work (section 18) | <input type="checkbox"/> Right to humane treatment when deprived of liberty (section 30) |
| <input type="checkbox"/> Freedom of movement (section 19) | <input type="checkbox"/> Fair hearing (section 31) |
| <input checked="" type="checkbox"/> Freedom of thought, conscience, religion and belief (section 20) | <input type="checkbox"/> Rights in criminal proceedings (Section 32) |
| <input type="checkbox"/> Freedom of expression (section 21) | <input type="checkbox"/> Children in the criminal process (section 33) |
| <input type="checkbox"/> Peaceful assembly and freedom of association (section 22) | <input type="checkbox"/> Right not to be tried or punished more than once (section 34) |
| <input checked="" type="checkbox"/> Taking part in public life (section 23) | <input type="checkbox"/> Retrospective criminal laws (section 35) |
| <input checked="" type="checkbox"/> Property rights (section 24) | <input type="checkbox"/> Right to education (section 36) |

Privacy and reputation (section 25)

Right to health services (section 37)

Protection of families and children (section 26)

The following human rights may be protected or promoted by the proposed decision and/or action:

- A person's right to life (section 16 of the HR Act) may be protected, as people who receive COVID-19 vaccination are less likely to transmit the disease, less likely to experience severe symptoms and have a lower chance of developing a more serious disease from COVID-19 compared to people who are not vaccinated.

The following human rights are potentially limited by the proposed decision and/or action:

- A person's right to equal and effective protection against discrimination, and to enjoy their human rights without discrimination (section 15 of the HR Act) may be limited if an employee is treated differently on the basis of an impairment (such as a contraindication to a vaccine), a religious belief or a conscientious belief.
- A person's right to life (section 16 of the HR Act) may be limited because there is a very small though serious risk of adverse side-effects from a vaccination for particular individuals.
- The right not to be subjected to medical treatment without full, free and informed consent (section 17 of the HR Act) may be limited where a person is left with little practical choice but to receive a vaccination.
- The right of freedom of thought, conscience, religion and belief (section 20 of the HR Act) may be limited if the direction and/or policy effectively forces employees to receive a vaccination over a conscientious or religious objection.
- The right to have equal access to the public service (section 23 of the HR Act) may be limited because not complying with the direction and/or policy may affect an employee's continued employment as a public service employee. It may also preclude prospective employees from the public service if they are not vaccinated and limit opportunities for work experience students and for volunteers to contribute to the public service
- The right to property (section 24 of the HR Act) can include a right to practise a profession, therefore this may be limited if not complying with the direction may affect an employee's continued employment as a public service employee.
- The right to not have a person's privacy unlawfully or arbitrarily interfered with (section 25), includes a right to bodily integrity. This right may be limited where there are repercussions for failing to vaccinate. The right to privacy will also likely be engaged if an employee is required to disclose and provide evidence of their vaccination status.

Are the limits imposed 'under law'?

[Section 11](#) and [section 98](#) of the [Public Service Act 2008](#) (the PS Act) and the ability at common law provides for Chief Executives to give lawful and reasonable directions to their employees in relation to their employment.

[Section 26](#) of the PS Act provides that an employee is required to give effect to government policies and priorities and observe all laws relevant to the employment.

What is the nature of the rights that would be limited?

Right to recognition and equality before the law

Under [section 15](#) of the HR Act, every person has the right to recognition as a person before the law and the right to enjoy their human rights without discrimination. Every person is equal before the law and is entitled to equal protection of the law without discrimination. Every person is entitled to equal and effective protection against discrimination. However, under section 15(5), measures taken for the purpose of assisting or advancing persons or groups of persons disadvantaged because of discrimination do not constitute discrimination. This section of the HR Act is modelled on Articles 16 and 26 of the *International Covenant on Civil and Political Rights 1966* (ICCPR).

Any proposed decision to issue a direction and/or policy requiring mandatory vaccination should consider including provisions for employees who are unable to be vaccinated (for example due to a medical contraindication) to ensure they are not discriminated against due to a disability, medical condition or health issue.

Consideration may also be given to employees who choose not to be vaccinated due to a religious belief or a conscientious belief. For example, if an employee can demonstrate it is a genuine requirement of their religion to not receive a vaccine.

Right to life

Under [section 16](#) of the HR Act, every person has the right to life and the right not to be deprived of life. The right not to be deprived of life is limited to arbitrary deprivation of life. This section is modelled on Article 6(1) of the ICCPR.

A policy decision that may undermine or threaten someone's life or put their life at risk would limit this right; a policy decision regarding the care of people and/or protecting people from danger would protect this right.

People are entitled to make decisions about their own life and their own bodies, which is an aspect of their individual personality, dignity and autonomy. Forcing a person to receive medical treatment which they have chosen not to receive is an affront to this dignity.

Right to protection from torture and cruel inhuman or degrading treatment

Under [section 17](#) of the HR Act, a person must not be tortured or treated in a way that is cruel, inhuman or degrading. This includes that a person must not be subjected to medical or scientific experimentation or treatment unless they have given their full, free and informed consent. This section is modelled on Article 7 of the ICCPR.

Requiring a person to receive a medical treatment (e.g. a vaccination) which they do not wish to receive (or for which they are unable to provide full, free and informed consent) limits a person's individual personality, dignity and autonomy.

Right to freedom of thought, conscience, religion and belief

[Section 20](#) of the HR Act provides that every person has the right to think and believe what they want and to have or adopt a religion, free from external influence. This includes the freedom to demonstrate a religion individually or as part of a group, in public or in private. This section is modelled on Article 18 of the ICCPR.

Decisions or policies that affect an individual's ability to adhere to their religion or belief, or that impinge upon or disadvantage a person because of the person's opinions, religion, thoughts or beliefs may limit this right.

However, while international law enshrines the right of all citizens to freely practise their religion, that does not mean it is without limits. Article 18 of the ICCPR sets out that these limits include what is necessary to protect "*public safety, order, health or morals*".¹

No major religion in Australia has expressly told its followers to forgo vaccination against COVID-19. Many faith leaders have played a key role in combating vaccine misinformation in their communities.²

Right to take part in public life

Under [section 23](#) of the HR Act, every person in Queensland has the right and opportunity without discrimination to take part in public life. Every eligible person has the right to vote, be elected, and have access on general terms of equality to the public service and public office. This section is modelled on Article 25 of the ICCPR.

This right is relevant to decisions or policies that regulate eligibility and access to employment in the public service or appointment to public office, including issues that affect an employee's continued employment as a public service employee.

Right to property

Under [section 24](#) of the HR Act, all persons have the right to own property along or in associated with others and must not be arbitrarily deprived of the person's property. This section is modelled on Article 17 of the Universal Declaration of Human Rights (UDHR).

As this right can include a right to practise a profession, it may be limited if not complying with the direction may affect an employee's continued employment as a public service employee.

Right to privacy and reputation

Under [section 25](#) of the HR Act, a person's privacy, family, home and correspondence must not be unlawfully or arbitrarily interfered with. A person has the right not to have their reputation unlawfully attacked. This section is modelled on Article 17 of the ICCPR.

This right is relevant to decisions and policies regarding, for instance:

- collecting, storing, using or publishing personal information and how that information is accessed, used or disclosed
- providing for mandatory disclosure or reporting of information (including disclosure of convictions, injury or illness).

This right may be limited where there are repercussions for failing to vaccinate. The right to privacy will also likely be engaged if an employee is required to disclose and provide evidence of their vaccination status.

What is the purpose of limiting the human rights?

The purpose of the limitation of human rights must be consistent with a free and democratic society based on human dignity, equality and freedom.

Purposes relevant to deciding and issuing a direction and/or policy requiring vaccination against COVID-19 for employees (and volunteers and work experience students) include:

¹ [Is there likely to be a religious exemption for the COVID-19 vaccine? - ABC News](#) – 25 September 2021

² Ibid.

- promoting the protection of the human rights of persons in general
- ensuring the health and safety of employees at increased risk of contracting or spreading COVID-19
- ensuring the health and safety of people who come into contact with employees who are at increased risk of contracting or spreading the virus
- ensuring the health and safety of at-risk members of the community (for example, employees whose roles are to visit Indigenous communities)
- protecting the right to life of employees and the public by preventing the transmission of COVID-19 to and from employees
- ensuring employees who work in positions that deliver a critical service are vaccinated to reduce the risk of the department being unable to fulfil its critical functions
- ensuring compliance with relevant legal requirements, including the department's obligation as an employer to comply with the [Work Health and Safety Act 2011](#) (WHS Act) to ensure the health and safety of workers and others in the workplace

Do the limits help to achieve the purpose?

A requirement to be vaccinated and/or for employees to prove their vaccination status will assist the department to achieve the purposes set out above, including ensuring the health and safety of the employees who are at increased risk of contracting or spreading COVID-19.

Risk factors in the 1WS context means that there are potential risks to workers, agencies and the general community, including a higher risk of transmission of COVID-19 - the nature of the 1WS office tower means that it is a setting where there may be a higher risk of transmission of the virus, including due to people being in close proximity; a decreased ability to physically control the space and floor occupancy; and the range and location of people who visit or who work in the building.

Requiring employees (and volunteers and work experience students) working within 1 William Street, Brisbane in the department to be vaccinated against COVID-19 will help to:

- promote the protection of the human rights of person in general
- ensure the health and safety of employees at increased risk of contracting or spreading COVID-19
- ensure the health and safety of people who come into contact with employees who are at increased risk of contracting or spreading the virus
- ensure the health and safety of at-risk members of the community (for example, employees whose roles are to visit Indigenous communities)
- protect the right to life of employees and the public by preventing the transmission of COVID-19 to and from employees
- ensure employees who work in positions that deliver a critical service are vaccinated to reduce the risk of the department being unable to fulfil its critical functions, and
- ensure compliance with relevant legal requirements, including the department's obligation as an employer to comply with the [WHS Act](#) to ensure the health and safety of workers and others in the workplace

The available evidence to date is that vaccination against COVID-19 helps to reduce the risk of being infected and transmitting the virus on to others (even if the vaccine is not 100 per cent effective).³ That means that vaccinated employees will be less likely to be infected or to infect others, and their symptoms will be less severe if they do contract the virus that causes COVID-19. The connection between mandatory vaccinations and protecting health and safety would not be undermined by allowing exceptions for employees (for instance, a medical contraindication). It could be expected that a fully vaccinated workforce would experience significantly less service delivery disruption due to unavailability or inability to perform duties due to exposure to COVID-19.

Directing an employee to provide medical information relating to their vaccination status is likely in compliance with obligations under the WHS Act ensure the health and safety of workers and others in the workplace.

Is there a reasonable alternative to a mandatory vaccination direction/policy which would be less restrictive on human rights, but which would achieve the same purpose?

To mitigate against COVID-19 exposure/transmission through undertaking their workplace duties, the following alternatives to mandatory vaccination have been implemented:

- temporary increased remote working arrangements
- use of personal protective equipment (such as face masks) and physical distancing where possible
- increased cleaning and sanitisation of surfaces
- providing education about vaccinations and other measures
- regular communications encouraging voluntary vaccination, including the ability to use leave in order to access vaccination appointments during work time (as at 6 January 2022 the department's percentage of vaccinated employees is unknown, however the percentage of Queenslanders over 16 years old who have received two vaccine doses is 87.03 per cent)
- encouraging the voluntary disclosure of vaccination status (as at 6 January 2022, 249 employees and contractors have made a voluntarily disclosure)

Unlike other controls, vaccination has been shown not only to reduce the risk of contracting COVID-19 but to reduce the likely severity of illness if COVID-19 is contracted.⁴

The department's risk assessment for the 1 William Street workplace indicates that implementing a mandatory vaccination policy in addition to existing controls would have the following relevant impacts::

- *Exposure to or transmission of COVID-19 and Psychological impact of concerns of COVID-19 transmission risk* would reduce from a risk rating of HIGH to MEDIUM with mandatory vaccination

³ Source: Clinical guidance on use of COVID-19 vaccine in Australia in 2021, ATAGI, (v7.4) (29 October 2021) 29-31

⁴ If a person is vaccinated, there is a 10x reduction of infecting others and a 20x reduction in the chance of being infected. If both persons are vaccinated the risk reduces up to 200x (Baker, C and Robinson, A, University of Melbourne - [Your unvaccinated friend is roughly 20 times more likely to give you COVID \(theconversation.com\)](https://www.theconversation.com/your-unvaccinated-friend-is-roughly-20-times-more-likely-to-give-you-covid))

- *Disruption of services and/or reduced operational efficiency due to unavailability of staff due to illness (COVID-19) and/or ineligibility to enter premises risk would reduce from HIGH to MEDIUM with mandatory vaccination*

A potential direction for mandatory vaccination would allow for possible exemptions, such as exceptions for employees with a recognised medical contraindication (temporary or permanent) to the COVID-19 vaccine. In these circumstances alternative measures to limit the risk to the employee, people in contact with the employee and the department would be considered on a case-by-case basis.

Due to the current rate of community transmission as at 06 January 2022 and the nature of 1WS as an environment where public sector employees regularly engage with the public and other stakeholders, it is considered that all employees working within the 1 William Street, Brisbane workplace have the potential to be exposed to COVID-19 in the course of their daily personal and work lives. As such, and given the 1WS risk context, it is considered reasonable to contemplate requiring all employees working within 1 William Street to be vaccinated.

Continuing to encourage maximised remote working would reduce employee face-to-face interactions, however it is not considered to be a medium to long-term sustainable model of service delivery for the department. This is due to multiple functions of the department requiring interaction with stakeholders, business and the community as well as on-site inspections and/or tours, including to deliver the functions of the Coordinator-General, planning, state development, local government, Economic Development Queensland, economic recovery, and quarantine hub planning and implementation.

Does the decision strike a fair balance between the limitation on human rights and the purpose of the mandatory vaccination direction?

The benefits of achieving the purpose of the direction/policy include:

- a reduced risk of employees suffering from COVID-19 and its effects, or acting as a vector for the spread of COVID-19; and
- minimising disruption to service delivery to the Queensland public and ensuring the readiness of the department to provide services in a pandemic and/or disaster situation.

On the other side of the scales, the benefits may come at a cost of, for example:

- exposing employees to the risks that are inherent with any vaccine, including suffering rare side effects; and
- interfering with a person's bodily integrity.

When considering the balance of whether a direction would be reasonable, the chief executive must consider factors relevant at the specific time such as the nature of the work and the workplace, the current and predicted status of the pandemic, availability of vaccines and any heightened risks an employee may have for contracting or transmitting COVID-19.

The following are also relevant factors when considering the balance of whether a mandatory vaccination direction would be reasonable against the degree of risk posed by COVID-19:

- the current and predicted status of the pandemic and community transmission

- recent advice from the TGA relating to the effectiveness of vaccination against COVID-19 to reduce deaths and severe illness from infection
- balancing the potential risks associated with vaccines for individuals against the risks posed by COVID-19 to the broader workforce and community
- the potential impact of a loss of capability for an agency to perform its critical functions, including the impact on the community
- the 1WS risk context (set out in the 1WS risk assessment)
- certain employees face a higher risk of contracting or transmitting COVID as part of their role (including those employees that are in public facing roles, interacting with stakeholders, and undertaking site visits), a small number of employees may be subject to public health directions requiring vaccination (such as those considered quarantine facility workers) and the responsibilities associated with a small number of roles includes visiting with higher risk communities such as indigenous councils and communities
- exemptions will be available for employees with medical contraindication.

As at 6 January 2022, Queensland has 42,250 confirmed active cases of COVID-19. This is reported to be estimated as an undercount by the Chief Health Officer⁵, who also indicates that a large number of Queenslanders will be exposed to COVID-19 during the early months of 2022. In this context it is reasonable to expect that the majority of departmental employees will be exposed to COVID-19 in the ordinary course of their daily lives during early 2022, and if infected, risk transmitting COVID-19 in the workplace.

To date vaccine availability has not been a widespread issue and is not expected to be an impediment.

Conclusion

Taking the above into account, and provided there are alternative options in place for employees who genuinely meet criteria for an exemption from vaccination, a decision to approve a policy requiring Covid-19 vaccination for current and future employees of the department undertaking a role or being considered to undertake a role for which 1 William Street, Brisbane (1WS) is the usual workplace or where attendance at 1WS is required to undertake any aspect of a role, imposing similar requirements for volunteers and work experience students in such roles, and requiring such persons to provide evidence of their vaccination status is compatible with the *Human Rights Act 2019* as it limits the identified human rights only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of that Act.

⁵ [Queensland records 10,332 new COVID-19 cases and one death as Omicron spreads through community - ABC News](#)

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Pages 80 through 86 redacted for the following reasons:
-----Access refused under section 47(3)(a) of the RTI Act. Exempt information under section 48 and schedule 3, section 7 of the RTI Act.

COVID-19 vaccination requirements – 1 William Street

Part 1: Policy information and requirements for all employees

1.1 Policy Statement

Having a COVID-19 vaccine is an important step to take to reduce the serious effects of COVID-19¹. The overwhelming majority of the Queensland community have received all required doses of an approved COVID-19 vaccine and are fully vaccinated².

This policy outlines the requirements for existing Department of State Development, Infrastructure, Local Government and Planning (DSDILGP) employees to be vaccinated against COVID-19, and associated procedures. The requirements have been determined in consideration of the risk posed by COVID-19, including risk to employees and others, business continuity risks, and operational requirements.

Most DSDILGP employees will already be fully vaccinated. This policy outlines the evidence and record keeping requirements relating to employees who are already vaccinated, and the support options available for employees who are in the process of becoming fully vaccinated. The policy also supports a case management approach for employees with recognised medical contraindications.

DSDILGP employees who do not comply with specific vaccination requirements may be liable to disciplinary action.

1.2 Authority

Sections 11 and 98 of the *Public Service Act 2008* and the ability at common law for the Chief Executive to give lawful and reasonable directions to employees in relation to their employment.

1.3 Application

This policy applies to:

- any DSDILGP existing employee whether permanent, fixed term temporary, full-time, part-time or casual,
- DSDILGP volunteers and work experience students, to the extent provided for in each clause.

¹ <https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19/protect-yourself-others/covid-19-vaccine/about/vaccine-effectiveness>

² <https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19>, accessed 7 January 2022.

1.4 Effective date

12 January 2022

1.5 Principles

- Vaccination of employees in high-risk groups will ensure a healthy and safe workplace is maintained, vulnerable users of government services are protected and ensure the Queensland community are able to rely on government services not being disrupted.
- The vaccination requirements detailed in this policy have been determined through risk assessment and consultation processes relating to high-risk groups, in consideration of various legislative obligations and operational requirements.
- High-risk groups include employees engaged in roles that are considered high-risk as determined by the chief executive.
- For the high-risk roles identified in clause 1.9, risk assessment and consultation identified:
 - possible higher risk of COVID-19 transmission relating to the nature of and operating environment of the workplace
 - higher risk that a sudden reduction in the available workforce due to COVID-19 cases or quarantine would significantly affect the continuity of critical services for DSDILGP, other agencies, offices and the functions of the Queensland Government
 - the majority of employees consulted support vaccination in the workplace.

1.6 Human Rights

Consideration has been given to the potential impacts on human rights in deciding on the COVID-19 vaccination requirements outlined in this policy. It is acknowledged that human rights may be limited by the vaccination requirements of this policy, however it has been determined that any such limitation is reasonable and justified for the purposes of managing the risk from COVID-19.

Any discretionary decisions made under the provisions of this policy must separately consider human rights as required under the *Human Rights Act 2019* (HR Act).

1.7 Employee Assistance Program

Employees are reminded of DSDILGP's Employee Assistance Program (EAP) that provides free and confidential counselling services for employees and immediate family members. These services are provided by Benestar and details of how to make contact can be found on the [Employee Assistance Program page](#) on Connect.

1.8 Vaccination requirements

Any existing employee undertaking³ or being considered to undertake a role identified in clause 1.9 is required to:

- a) have received all required COVID-19 vaccinations (that is, be 'fully vaccinated')
- b) remain fully vaccinated against COVID-19
- c) provide evidence of vaccination,

unless otherwise provided for in this policy.

Existing employees currently undertaking work in the roles identified in clause 1.9, or who are being considered for appointment to or engagement in a role identified under clause 1.9, must:

- a) have received at least the first dose of a COVID-19 vaccine by **23 January 2022**, and
- b) have received a second dose of a COVID-19 vaccine by **20 February 2022**, and
- c) where subsequent, or additional, doses of a COVID-19 vaccine are required for an employee to continue to be considered 'fully vaccinated', have received the required COVID-19 vaccination by a date as determined by the chief executive under this policy.

Any current or future employee who undertakes a role identified in clause 1.9 after the above dates must be vaccinated in accordance with the requirements of this policy prior to commencing in the role, as a condition of engagement for that role.

Any existing volunteer or work experience student, engaged in a role identified in clause 1.9 is required to be fully vaccinated against COVID-19 and provide evidence of vaccination.

1.9 Roles identified as 'high-risk'

All DSDILGP roles for which 1 William Street, Brisbane is the usual workplace.

All DSDILGP roles where attendance at 1 William Street, Brisbane is required to undertake any aspect of the role.

1.10 Evidence of vaccination

A person undertaking a role identified in clause 1.9 must provide acceptable evidence of vaccination. In addition, an existing employee may be directed to provide evidence of vaccination at any time where it is reasonably required. A failure to comply with such a direction may result in disciplinary action.

Unless otherwise detailed in a Public Health Direction, acceptable evidence of vaccination includes (printed or electronic):

- written confirmation of COVID-19 vaccination provided to the person as part of the vaccination process, such as a record of vaccine card
- vaccination information displayed on the Check in QLD app

³ An employee who is absent from the workplace, for example, on long term leave, or are not currently undertaking their usual role (as identified in clause 1.9), is not considered to be undertaking a role for the purposes of this policy. An employee in this situation would be expected to comply with a vaccination requirement prior to returning to their usual role.

- a COVID-19 digital certificate or printed vaccination certificate from the *Australian Immunisation Register*
- an online or printed immunisation history statement for COVID-19 vaccination
- an International COVID-19 Vaccination Certificate:
 - in a printed or electronic form from the Department of Home Affairs that confirms completion of an Australia Travel Declaration and vaccination against COVID-19 overseas; or
 - through Medicare online account through myGov or the Medicare mobile app; or
 - an official record of vaccination provided to the person when vaccinated against COVID-19 overseas.

1.11 Collecting information and managing records relating to vaccination status

Information will be collected and records will be kept for the purposes of administering and ensuring compliance with the COVID-19 vaccination requirements in this policy, including COVID-19 vaccination dates and status, the type of proof of COVID-19 vaccination, evidence of a medical contraindication, or evidence of being a COVID-19 vaccine trial participant. Collection and use of information for this purpose is authorised under sections 11 and 98 of the *Public Service Act 2008*.

Information about vaccination status may also be collected on a voluntary basis for other roles not listed in clause 1.9 and used to inform and manage ongoing risks associated with COVID-19 for DSDILGP. Collection and use of information for this purpose is authorised under sections 11 and 98 of the *Public Service Act 2008*, however employees are not obliged to provide information if requested in this context.

Records will be stored in a secure database that is accessible to authorised persons only and dealt with in accordance with the *Information Privacy Act 2009* and the *Public Records Act 2002*. De-identified information about employee vaccination rates will be reported in accordance with any relevant state or federal requirements.

Part 2: Employees who are not yet fully vaccinated and who intend to comply with the vaccination requirements in this policy

2.1 Paid time to receive vaccination

An existing employee who is required to be vaccinated in accordance with this policy may attend a vaccination appointment during work time, without loss of pay.

Employees who are not required to be vaccinated in accordance with this policy, may attend a vaccination appointment during work time, without loss of pay, only where it is not possible for the person to attend a vaccination appointment outside of normal working hours.

Where an employee attends a vaccination appointment during work time, this will include reasonable travel time to and from the vaccination appointment, as relevant to each specific circumstance.

Arrangements for the purposes of attending a vaccination appointment during work time should be discussed and agreed between the employee and manager prior to the employee's attendance at the appointment.

2.2 Vaccination education

Employees are encouraged and supported to access official sources of information about COVID vaccinations, and the risks of disease and illness associated with COVID. Information can be obtained from:

- Queensland Health <https://www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19>
- Australian Government Department of Health <https://www.health.gov.au/>

Where appropriate, employees should be supported to attend an appointment with their personal medical/general practitioner to discuss any concerns or individual circumstances associated with vaccinations.

2.3 Local level support

Managers should encourage and support employees to comply with the vaccination requirements set out in this policy.

Employees who have not complied with this policy are encouraged to engage with their manager to discuss the implications of non-compliance, which may include the commencement of a discipline process.

Communications that occur in this context must be respectful.

2.4 Exceptional circumstances

In very limited situations an employee undertaking a role identified in clause 1.9 may request the chief executive approve a delay to the vaccination requirements set out in clause 1.8. Approval of a delay is not an 'exemption' to comply with the vaccination requirements of this policy and is not appropriate where the employee has a recognised medical contraindication under clause 4.1.

A delay may only be approved where:

- the exceptional circumstances are time-limited in nature with a known end date
- the employee gives a written undertaking that they intend to comply with the vaccination requirements of the policy in the future, and
- temporary reasonable adjustments or other arrangements can be put in place.

Example where approval of a delay might be appropriate:

- *For an employee engaged in a role in clause 1.9 who is also participating in a trial (with a known end date) for a COVID-19 vaccine that is not currently approved for use in Australia.*

Example of where approval a delay would not be appropriate:

- *Where an employee has declined to be vaccinated with a currently approved vaccine because they are waiting for the approval of an alternative vaccine on an unknown date in the future.*

Where approval is granted to delay the vaccination requirements in accordance with this clause, options for temporary reasonable adjustments should be explored between the manager and employee.

Temporary reasonable adjustments may include, but are not limited to:

- remote working
- meaningful alternate duties
- temporary transfer or secondment
- offering access to accrued paid leave options in line with industrial entitlements.

Once the approved delay period relating to the exceptional circumstances has expired, the employee must comply with the vaccination requirements of this policy.

Where an employee considers that a decision about an exceptional circumstance is unfair and unreasonable, an employee may seek an internal review of the decision in accordance with the provisions of Directive 11/20: Individual employee grievances. Where an employee is dissatisfied with the outcome of the internal review of a decision, they may seek an external review provided for in that directive.

Part 3: Employees who do not comply with the vaccination requirements of this policy, without a recognised medical contraindication

3.1 Non-compliance with vaccination requirements

A discipline process may be commenced in circumstances where an existing employee does not comply with the requirements of this policy, as provided for under Directive 14/20: Discipline.

Commencement of a discipline process is not appropriate in the following circumstances:

- where an employee has a recognised medical contraindication or an approved delay for complying with the vaccination requirements (due to exceptional circumstances)
- where an employee has submitted an application to delay compliance with the vaccination requirements (due to exceptional circumstances) and is awaiting a decision
- where an employee is absent from the workplace (for example, on long term leave) and has indicated a willingness to get vaccinated and/or provide evidence of vaccination prior to returning to the workplace.

Part 4: Employees who do not comply with the vaccination requirements of this policy due to a recognised medical contraindication

4.1 Medical contraindication

An employee may have a recognised medical contraindication to COVID-19 vaccines. A medical contraindication may be permanent or temporary.

Where a person has a medical contraindication, they are required to provide evidence of the contraindication to their manager. The evidence must detail whether the contraindication is permanent or temporary.

Where it is determined that an employee has a recognised medical contraindication, they are not required to comply with the vaccination requirements of this policy, for the period specified in the evidence relating to the medical contraindication.

Management of employees with a recognised medical contraindication is to occur in accordance with clause 4.2.

4.2 Management of employees with recognised medical contraindications

Where an employee has a recognised medical contraindication under clause 4.1 of this policy, the Chief Executive must assess the risk to other staff, clients and other persons in the workplace to determine if the employee can continue in their role (with additional control measures) or not, and if so, under what conditions.

Where an employee has a recognised medical contraindication, but the Chief Executive's risk assessment does not support the employee continuing in their role and/or entering the workplace, all reasonable avenues should be explored to support the employee to continue working for the agency.

Options include:

- remote working
- flexible work
- meaningful alternative duties
- transfer (temporary or permanent)
- offering access to accrued annual or long service leave.

Each scenario should be considered on a case-by-case basis, taking into account the specific risk assessment, circumstances of the employee and the context of the matter when determining the appropriate course of action. Arrangements will be subject to review on a regular basis.

Where an employee considers that a decision about a recognised medical contraindication is unfair and unreasonable, an employee may seek an internal review of the decision in accordance with the provisions of Directive 11/20: Individual employee grievances. Where an

employee is dissatisfied with the outcome of the internal review of a decision, they may seek an external review provided for in that directive.

Part 5: Definitions and related information

5.1 Definitions

Chief executive: in the context of exercising a decision-making power, includes a person to whom the chief executive has delegated the decision-making power.

COVID-19 vaccine and vaccine is a vaccine for COVID-19 that is approved for use in Australia or recognised by the Therapeutic Goods Administration.

COVID-19 vaccine trial means a medical trial for a COVID-19 vaccine under either the Clinical Trial Notification or Clinical Trial Approval schemes regulated by the Therapeutic Goods Administration.

COVID-19 vaccine trial participant means a person who:

- a. is an active participant in a **COVID-19 vaccine trial**; and
- b. provides a medical certificate or letter from a medical practitioner, registered under the Health Practitioner Regulation National Law (Queensland) associated with the **COVID-19 vaccine trial** confirming that:
 - i. the worker is participating in a Phase 3 or 4 **COVID-19 vaccine trial**; and
 - ii. the worker has received at least one active dose of the COVID-19 vaccine being trialled.

Eligible health professionals means any of the following:

- fellows of the Royal Australian College of General Practitioners (as defined by the *Health Insurance Act 1973 Cth*); or
- fellows of the Australian College of Rural and Remote Medicine (as defined by the *Health Insurance Act 1973 Cth*); or
- on Medicare's Vocation Register of General Practitioners (as defined by the *Health Insurance Act 1973 Cth*); or
- practice registrar on an approved 3GA training placement; or
- paediatrician; or
- public health physician; or
- infectious diseases physician; or
- clinical immunologist.

Medical contraindication means a temporary or permanent contraindication that is notified to the Australian Immunisation Register (AIR) by an **eligible health professional** completing an

Australian Immunisation Register (AIR) immunisation medical exemptions form in relation to a person, and recorded on the person's Immunisation History Statement (IHS).

Note: *a temporary vaccine exemption may apply until a specified date due to acute major illness, significant immunocompromise of short duration and recognised overseas vaccination.*

5.2 Related information and resources

[Human Rights Act 2019 Queensland Public Service Manager's Toolkit](#) (Internal link)

[DSDILGP Managing Employee Complaints Procedure](#)

[DSDILGP WHS Policy](#)

[Directive 11/20: Individual Employee Grievances](#)

[Directive 14/20: Discipline](#)

[Directive 1/20: Employment Arrangements in the Event of a Health Pandemic](#)

Public Service Act 2008

Industrial Relations Act 2016

Human Rights Act 2019

Code of Conduct for the Queensland Public Service

Public Health Act 2005

Message Type: DSDILGP Email – Vision 6
Message From: Deputy Director-General, Corporate
Message To: ALL STAFF
Approx Date: Tuesday 11 January 2022

Colleagues,

Widespread transmission of COVID-19 in community, makes it more important than ever to protect ourselves, and our workforce to ensure we can continue delivering essential services to Queenslanders.

Vaccination remains the most effective protection against COVID-19. Having a vaccinated workforce within identified high-risk settings will limit the impact of the virus on our service delivery and ensure fewer of our people will become seriously ill.

The Chief Health Officer has announced [COVID-19 vaccination requirements](#) for certain workers and workplaces and the [Public Health and Social Measures linked to vaccination status Direction](#).

1 William Street

The Director-General has considered a comprehensive COVID-19 risk assessment for 1 William Street, and consultation with DSDILGP employees and unions has now concluded and supports the requirement for all DSDILGP employees and visitors to 1 William Street to be fully vaccinated against COVID-19. We thank all DSDILGP employees who provided feedback during the consultation process.

The risk assessment considered the:

- possible higher risk of COVID-19 transmission due to the nature of the operating environment of 1 William Street
- high-risk that a sudden reduction in the available workforce due to COVID-19 cases, or isolation, would significantly affect the continuity of critical government services and functions
- majority of employees who responded support vaccination in the workplace.

Following consideration of the risk assessment, your feedback and other relevant information, the Director-General has made the attached policy. This policy applies to any existing employee undertaking a role for which 1 William Street, Brisbane is the usual workplace or where attendance at 1 William Street, Brisbane is required to undertake any aspect of the role. It also applies to any volunteers and work experience students, to the extent provided in the policy.

DSDILGP in partnership with all agencies within 1 William Street, will now work with you to ensure all employees within 1 William Street, who are not already fully vaccinated and are eligible, will have had their first vaccination by 23 January 2022, and second by 20 February 2022. Documented proof of a minimum first vaccination will be required by 23 January 2022.

How to update your vaccination status

Once vaccinated you will need to provide evidence of your vaccination status to us if you have not already done so.

Provide your vaccination status through the secure ESS Aurion Self Service system—view the [fact sheet](#) on how to do this.

Your vaccination information will be stored securely and handled in accordance with the *Information Privacy Act 2009*. Information is provided in confidence, available only to your managers and restricted human resources officer—see the [QSS privacy statement](#).

Employees who are not yet vaccinated

If you are among the small number of employees not yet vaccinated and are eligible, now is the time to get vaccinated.

You can find a [clinic and book](#), or find a [walk-in vaccination clinic](#) near you. If you cannot arrange this outside of work time you will be supported with paid work time to receive your COVID-19 vaccination. Please discuss options with your supervisor.

Employees who are eligible to be vaccinated and choose not to by the required dates may face disciplinary action.

Support to receive boosters

Those over 18 who have already completed their primary COVID-19 vaccine course four months ago are now eligible to receive the COVID-19 booster. The booster will provide an extra layer of protection. Like those receiving their first and second doses, if you cannot arrange this outside of work time you will be supported with paid work time to receive your COVID-19 vaccination. Please discuss options with your supervisor.

Employees with a recognised medical contraindication

There will be a very limited number of employees who may have a temporary or permanent recognised medical contraindication. If you have a recognised medical contraindication, you should talk to your supervisor and review the information available here for next steps.

The DSDILGP [HR team](#) will be able to provide assistance to employees or managers. Please send queries to covid_hr@dsdilgp.qld.gov.au

Combined with COVID safe behaviours, we know vaccination give us the best chance of keeping our community safe.

Thank you to those who are already vaccinated and have provided documentation—you are doing your part to help ensure we have safe workplaces and can continue to deliver for the Queensland community.

Pages 98 through 100 redacted for the following reasons:

-----Access refused under section 47(3)(a) of the RTI Act. Exempt information under section 48 and schedule 3, section 7 of the RTI Act.

Matt Woodforth

From: Department News
Sent: Wednesday, 15 December 2021 3:31 PM
To: Vanessa Franks
Subject: COVID-19 update | 15 December 2021

[View
Online](#)

Department of State Development, Infrastructure, Local Government and Planning

UPDATE

Dear colleagues

You will be aware that a number of COVID-19 vaccination requirements have been announced that impact on certain workers and workplaces.

Protecting our workplace, communities and the Queenslanders we work for as we go about our duties is vital.

Ensuring that protection requires the department to put in place certain requirements.

The following measures now apply to all staff including contractors and agency staff:

- It is your responsibility to understand whether any venue or business you will be entering for work purposes has a COVID-19 vaccination entry requirement. If you cannot meet the requirement, you are not permitted to enter that venue for work purposes. Please note this now includes Parliament House. If your vaccination status impacts your ability to visit any venue or business, please inform your manager.
- From today, staff are not permitted to visit any remote and discrete Indigenous community for work purposes unless they are fully vaccinated against COVID-19. If your vaccination status impacts your ability to visit an Indigenous community, please inform your manager.

Where relevant to the performance of your duties, your manager may request confirmation from you that you can comply with any COVID-19 vaccination entry requirement.

Asking for voluntary disclosure of vaccination status

The department continues its assessment of work health and safety, service delivery and business continuity risks posed by COVID-19 following the easing of Queensland's border restrictions. To help inform that assessment, I am asking that staff provide, on a voluntary basis, information about their vaccination status. Queensland Shared Services (QSS) is making it easy for staff to provide this information through the secure Aurion Employee Self Service system. Follow the [instructions](#) to add your status.

Information about vaccination status will inform the department's COVID-19 risk assessment, help us to determine the most appropriate strategies that support our people and enable us to

continue to carry out our work while complying with public health directions and the vaccination policies of our stakeholders.

The [FAQs](#) provide further information about the collection and use of your personal information.

We will be consulting with you, for example via the relevant governance committees: the [Consultative Committee](#) and [Work Health and Safety Committee](#), to further inform this policy.

I'd like to finish by again encouraging any of you who are not fully vaccinated to book an appointment. It is free, safe and the most effective way of protecting you, your families, your friends and your colleagues from COVID-19. Here I am getting my booster shot from Nurse Hannah at Cairns and Hinterland Hospital and Health Service.



Get tested if you have any COVID-19 symptoms, no matter how mild. The Queensland Health website can help you [find your nearest testing clinic](#).

Regards

Damien Walker
Director-General



Thank you for your interest in the Department of State Development, Infrastructure, Local Government and Planning. You may opt out of future messages by clicking on the unsubscribe link below, however by doing so you will no longer receive all-staff emails about a range of topics and it is not advised.

This email was sent by State Development, Infrastructure, Local Government and Planning, William Street, Brisbane to Vanessa.Franks@dsdilgp.qld.gov.au

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