



COVERSHEET

Minister	Hon Michael Wood	Portfolio	Workplace Relations and Safety
Title of Cabinet paper	Requiring COVID-19 vaccination for work through Government mandates and employer requirements	Date to be published	1 April 2022

List of documents that have been proactively released		
Date	Title	Author
November 2021	<i>Requiring COVID-19 vaccination for work through Government mandates and employer requirements</i>	<i>Office of the Minister for Workplace Relations and Safety</i>
22 November 2021	<i>Requiring COVID-19 vaccination for work through Government mandates and employer requirements</i> <i>CAB-21-MIN-0495</i>	<i>Cabinet Office</i>

Information redacted

YES

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Some information has been withheld for the reasons of Legal professional privilege.



Cabinet

Minute of Decision

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Requiring COVID-19 Vaccination for Work Through Government Vaccination Mandates and Employer Requirements

Portfolio Workplace Relations and Safety

On 22 November 2021, Cabinet:

Vaccination mandates

- 1 **noted** that on 26 October 2021, Cabinet agreed to amend the COVID-19 Public Health Response Act 2020 (COVID Act) to allow vaccination or testing to be required for work on public interest grounds [CAB-21-MIN-0436];
- 2 **noted** that Cabinet also invited the Minister for the Public Service, the Minister for Economic and Regional Development and the Minister for Workplace Relations and Safety to consider whether to mandate vaccination for any other types of work [CAB-21-MIN-0436];
- 3 **noted** that public health advice is that further mandates based solely on public health grounds are not currently justifiable;
- 4 Legal professional privilege
- 5 **noted** that analysis of workforces for which a mandate may be justified has identified that it is in the public interest, within the overall context of the public health response to COVID-19, to mandate vaccination for some Police and New Zealand Defence Force (NZDF) personnel, due to their role in the COVID-19 response, ensuring public safety, and maintaining trust and confidence in public services;
- 6 **agreed** to mandate vaccination for work done by:
 - 6.1 New Zealand Police constabulary, Police recruits, and authorised officers employed by Police;
 - 6.2 the Armed Forces and civilian staff (including contractors) of NZDF;
- 7 **noted** that the Minister for Workplace Relations and Safety will make an Order requiring vaccination to give effect to paragraph 6 above after the COVID-19 Response (Vaccinations) Legislation Bill is passed [CAB-21-MIN-0496];

- 8 **noted** that the proposed Order will replicate the exemption provisions of the COVID-19 Public Health Response (Vaccinations) Order 2021, with any necessary modifications;
- 9 **noted** that the proposed Order would likely be made around 13 December 2021;
- 10 **noted** that the date for requiring a first dose under the proposed Order is 17 January 2022, and that a second dose will be required by 1 March 2022;
- 11 **noted** that some constabulary are covered by the COVID-19 Public Health Response (Vaccinations) Order 2021 for education and health and disability work, with a current first dose deadline of 29 November 2021;
- 12 **agreed** that the COVID-19 Public Health Response (Vaccinations) Order 2021 be amended to:
- 12.1 clarify that it does not apply to constabulary, recruits or authorised officers of the New Zealand Police;
 - 12.2 extend the deadline for affected non-constabulary Police workers to match the dates for the proposed Order;
- 13 **noted** that the baseline vaccination requirements set by NZDF includes COVID-19 vaccination for members of the Armed Forces, and that a high vaccination rate has thus been achieved, although this requirement is currently the subject of judicial review;
- 14 **noted** that both New Zealand Police and NZDF consider that, to be effective from a risk mitigation perspective, the proposed Order should cover other work critical to their respective functions, for example police communications functions and defence engineering;
- 15 **noted** that while there is widespread interest in mandating vaccination for other work in the public interest, after analysis and consultation between Ministers, it is currently not necessary to mandate vaccination for any other workforces;

Vaccination assessment tool for employers

- 16 **noted** that Cabinet previously agreed to issue drafting instructions to amend the COVID-19 Act to introduce regulation-making powers to prescribe a risk assessment process to determine when employers can require vaccination [CAB-21-MIN-0436];
- 17 **noted** that use of the vaccination assessment tool is optional, and will not prevent PCBUs from undertaking their own health and safety risk assessments in order to reach a decision on vaccination requirements;
- 18 **noted** that PCBUs must consult workers and their representatives when using the vaccination assessment tool and when considering control measures;
- 19 **noted** that where a PCBU has chosen to use the vaccination assessment tool to decide whether vaccination is required, they cannot be required to use a different risk assessment methodology to make that decision;

20 **agreed** that the vaccination assessment tool specify the following factors that should be included in the tool:

Lower risk	Higher risk
What type of environment does the worker work in?	
100m ² indoor space or greater, or outside	Less than 100m ² indoor space
How close does the person work to other people?	
At least 1 metre apart	Less than 1 metre apart
How long is the worker in proximity to other people?	
15 minutes or less	More than 15 minutes
Does the worker provide services to people who are vulnerable to COVID-19?	
No	Yes

21 **agreed** that the definition of ‘vulnerable people’ is those who are:

- 21.1 under the minimum age to be vaccinated;
- 21.2 medically exempt from being vaccinated; or
- 21.3 at higher risk of severe illness from COVID-19;

22 **agreed** that at least three of the four higher risk factors in the vaccination assessment tool, set out in paragraph 20 above, should be present in order for it to be reasonable for a PCBU to require vaccination for work;

23 **noted** that the vaccination assessment tool is designed to be applied to particular roles, rather than to an entire workforce;

Third party requirements

24 **noted** that if a third party imposes a condition on an employer that the employer’s workers must be vaccinated to deliver services to the third party, or access the premises of the third party, the employer can require workers doing that work to be vaccinated;

25 **noted** that the Minister for Workplace Relations and Safety does not consider any change is necessary to the current position in law, as set out in paragraph 24 above;

Legislative implications

26 **noted** the proposals outlined above will be given effect through secondary legislation under the COVID-19 Public Health Response Act 2020 after the COVID-19 Response (Vaccinations) Legislation Bill is passed [CAB-21-MIN-0496];

27 **invited** the Minister for Workplace Relations and Safety to issue drafting instructions to the Parliamentary Counsel Office to give effect to the above proposals;

28 **authorised** the Minister for Workplace Relations and Safety to make decisions on any issues that arise during the drafting process;

Communications

- 29 **noted** that an appropriate communications plan will be developed and agreed with the Prime Minister's office.

Martin Bell
for Secretary of the Cabinet