



BRIEFING

COVID-19 vaccination: Timing of the vaccination mandate for work in settings where CVCs must be used

Date:	5 November 2021	Priority:	Urgent
Security classification:	In Confidence	Tracking number:	2122-1697

Action sought		
	Action sought	Deadline
Hon Michael Wood Minister for Workplace Relations and Safety	<p>Agree the timing for mandating vaccination for work in settings where COVID-19 Vaccination Certificates must be used.</p> <p>Agree to arrange an announcement of this decision with the Prime Minister's Office.</p> <p>Forward a copy of this briefing to the Minister for COVID-19 Response.</p>	8 November 2021

Contact for telephone discussion (if required)				
Name	Position	Telephone		1st contact
Anna Clark	General Manager, Workplace Relations and Safety Policy		Privacy of Natural Persons	✓
[Redacted]				

The following departments/agencies have been consulted
Crown Law Office, Department of the Prime Minister and Cabinet, Ministry of Education, Ministry of Health

Minister's office to complete:

- | | |
|---|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Declined |
| <input type="checkbox"/> Noted | <input type="checkbox"/> Needs change |
| <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by Events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn |

Comments



BRIEFING

COVID-19 vaccination: Timing of the vaccination mandate for work in settings where CVCs must be used

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Purpose

This briefing seeks your direction on the timing for mandating vaccination for work in settings where a COVID-19 Vaccination Certificate (CVC) must be used.

Executive summary

This paper seeks to confirm your preferred approach on the timeframes for mandating vaccination for work in settings where CVCs must be used.

There are three high-level approaches for how the timing of vaccine mandates could occur once we transition into the COVID-19 Protection Framework, from requiring no vaccination at the time of transition, through to requiring both doses. Officials recommend taking a staged approach which would mean that workers in settings where CVCs may be required to operate, or operate with fewer restrictions, must meet the following vaccination requirements to continue to work:

- have had least one dose of a COVID-19 vaccine when the COVID-19 Protection Framework comes into force anywhere in the country, and
- have had two doses from mid-January 2022.

This approach is consistent with the approach that has been taken to other vaccination mandates for work and enables sufficient time for workers to get vaccinated. Officials have sought to understand the implications of this approach and received advice both Crown Law and public health.

Subject to your decisions on this briefing, officials will work with your office and the Prime Minister's Office on an appropriate announcement.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

- a **Note** that Cabinet authorised you, in consultation with the Minister for COVID-19 Response, to make decisions on any issues that rise during the process of drafting vaccination-related legislation (CAB-21-MIN-0436 refers).

Noted

- b **Note** Cabinet's decision in relation to work settings where CVCs must be used (CAB-21-MIN-0436 refers):

- I. Agreed to mandate vaccination for work in any settings where a CVC may be required
- II. Noted that you would consider whether the mandate should be expressed in a way so that it does not apply in situations under the Green level where a business decides not to use CVCs.

Noted

- c **Note** that officials recommend taking a staged approach to mandating vaccination for work in settings where CVCs must be used, and communicating this immediately and unambiguously.
- Noted*
- d **Agree** that workers in settings where CVCs may be required to operate, or operate with fewer restrictions, must meet the following vaccination requirements to continue to work:
- I. have had at least one dose of a COVID-19 vaccine when the COVID-19 Protection Framework comes into force anywhere in the country, and
 - II. have had two doses from mid-January 2022.
- Agree / Disagree
- e **Note** that subject to the agreement of recommendation d, the Ministry of Education considers students in tertiary settings should be treated the same as workers outlined above, and are advising the Minister of Education on this.
- Noted*
- f **Agree** to arrange the announcement of this decision with the Prime Minister's Office.
- Agree / Disagree
- g **Forward** a copy of this briefing to the Minister for COVID-19 Response.
- Agree / Disagree

Anna Clark
General Manager, Workplace Relations and Safety Policy
 Labour, Science and Enterprise, MBIE

05 / 11 / 2021

Hon Michael Wood
Minister for Workplace Relations and Safety

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Background

1. On 26 October 2021, Cabinet agreed to mandate vaccination work in any setting where a CVC must be required under the COVID-19 Protection Framework (see Annex 1). Cabinet also noted that you would consider whether the mandate should be expressed in a way so that it does not apply in situations under the Green level where a business decides not to use CVCs (CAB-21-MIN-0436 refers).
2. Subsequently you received advice (2122-1586 refers) on whether a vaccination mandate should apply for work at the Green level of the COVID-19 Protection Framework, clarification of the mandate for work done where CVCs must be used at the Orange and Red levels, and potential timeframes.
3. Officials are now seeking to confirm your preferred approach on the timeframes for mandating vaccination for work in these settings.

Approaches to timeframes for mandating vaccination work

4. As highlighted in previous advice, officials consider that there is an urgent need to communicate the timing of any vaccination requirements for work in settings where a CVC is required, when the COVID-19 Protection Framework comes into effect anywhere in the country. This will provide certainty and give workers and businesses the greatest amount of time possible to prepare.
5. There are three high-level approaches for how the timing of vaccine mandates could occur:
 - a. requiring no vaccination when we transition to the COVID-19 Protection Framework, and giving workers a reasonable amount of time from then to be vaccinated,
 - b. requiring at least one dose of a COVID-19 vaccine when the COVID-19 Protection Framework comes into force anywhere in the country and then two doses from mid-January 2022, or
 - c. requiring two doses of a COVID-19 vaccine when the COVID-19 Protection Framework comes into force anywhere in the country.

Officials recommend taking a staged approach (approach b)

6. Officials recommend taking a staged approach, which would mean that workers in settings where CVCs may be required to operate, or operate with fewer restrictions, must meet the following vaccination requirements to continue to work:
 - a. have had least one dose of a COVID-19 vaccine when the COVID-19 Protection Framework comes into force anywhere in the country, and
 - b. have had two doses from mid-January 2022 (e.g. 17 January 2022).
7. This approach is consistent with the approach that has been taken to other vaccination mandates for work. It also enables sufficient time for workers to get vaccinated. As highlighted in previous advice, so far second doses have generally been required 6-7 weeks after the first dose deadline.
8. Officials initially considered setting a deadline of 1 January 2022 for the second dose, but there may be practical difficulties with accessing vaccination during the holiday period. For that reason, we suggest a mid-January date for the second dose deadline.

9. Since the advice you received last week, officials have engaged with a range of stakeholders and sought their feedback on this approach. There has been no specific opposition to a requirement for workers to have had one dose when the COVID-19 Protection Framework comes into effect to continue working, although stakeholders have noted the need for specific communication about why it is justifiable to have different requirements for workers and customers.

How students are accounted for

10. The Ministry of Education considers students in tertiary settings should be treated the same as workers under the Red level (i.e. only required to have one dose when we transition, if you agree with our recommendation). Officials agree with this assessment as students have more similarities with workers, compared to customers. Students have a greater ability to track where they have been and have higher consequences of exclusion.
11. Officials understand that the Ministry of Education has provided advice to the Minister of Education to this effect.

Legal professional
privilege

public health advice on the approach

12. To understand the implications of the recommended approach above, officials have sought:
- a. Legal professional privilege
- b. public health advice on whether it is justifiable to treat workers differently to customers, and whether the answer changes based on the type of CVC setting (e.g. large events which may be riskier compared to gyms).
13. The advice received Legal professional privilege and public health (which is outlined below), reaffirms our comfort with differentiated requirements for workers and customers in the same place. This is because:
- a. there is a greater impact of the CVC requirement on workers compared to customers (i.e. in terms of potential exclusion from and loss of employment),
- b. there is a greater ability to trace workers' movement and contact them compared to customer movement,
- c. the CVC requirement for customers means the risk of a partially vaccinated worker is very low as all other customers will be vaccinated, and
- d. the period between the two doses will likely be when we have high rates of vaccine coverage in the community.

Legal professional privilege

Public health advice

15. Public health advice is outlined below:

- a. *We consider that the proposal that workers won't need to have received their second dose of vaccine until 1 Jan 2022 is reasonable. The rationale for this includes:*
 - i. *There is a difference in consequence for workers compared to attendees/customers who do not have a CVC. That is, workers risk a loss of job or income, whereas attendees/customers do not. Allowing a little extra time for workers to get their second dose of vaccine allows for this.*
 - ii. *With a CVC requirement for attendees/customers, the risk of a partially vaccinated worker is very low, given that all the attendees/customers will be vaccinated. Also, if the workers are younger people, the evidence suggests that a single dose of vaccine provides relatively high effectiveness.*
 - iii. *Workers at the events and/or settings are known to the employers and will be much easier to contact trace.*
 - iv. *All this is likely to be occurring when we have high rates of vaccine coverage in the community (90%+), which again reduces the risk.*

Next steps

16. As you are required to consult with the Minister for COVID-19 Response to make decisions on any issues that arise during the drafting process, officials recommend you forward this briefing to him for consultation.
17. Following decisions on this briefing, we will work with your office and the Prime Minister's Office on an appropriate announcement.

18. DPMC have recently advised the Prime Minister and the Minister for COVID-19 Response about expanding the list of settings where CVCs are prohibited. Officials will continue to work with DPMC on this and consider the implications (eg if vaccination is mandated for work in settings where CVCs are prohibited).

Annexes

Annex One: COVID-19 Protection Framework and CVCs

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	CVC use	Green	Orange	Red
Hospitality	Yes	No limits.	No limits.	Up to 100 people based on 1 m distancing, seated and separated.
	No	Up to 100 people based on 1 m distancing, seated and separated.	Contactless operation only.	Contactless operation only.
Gatherings	Yes	No limits.	No limits.	Up to 100 people based on 1 m distancing.
	No	Up to 100 people based on 1 m distancing.	Up to 50 people based on 1 m distancing.	Up to 10 people.
Events	Yes	No limits.	No limits.	Up to 100 people based on 1 m distancing, seated and separated.
	No	Up to 100 people based on 1 m distancing, seated and separated.	Cannot operate.	Cannot operate.
Close contact	Yes	No limits.	No limits.	Public health requirements in place.
	No	Face coverings for workers, 1 m distancing between customers.	Cannot operate.	Cannot operate.
Gyms	Yes	No limits.	No limits.	Up to 100 people based on 1 m distancing.
	No	Up to 100 people based on 1 m distancing.	Cannot operate.	Cannot operate.
Tertiary education	Yes	(Not applicable)		Capacity based on 1 m distancing for onsite delivery.
	No	(Not applicable)		Distance learning only.