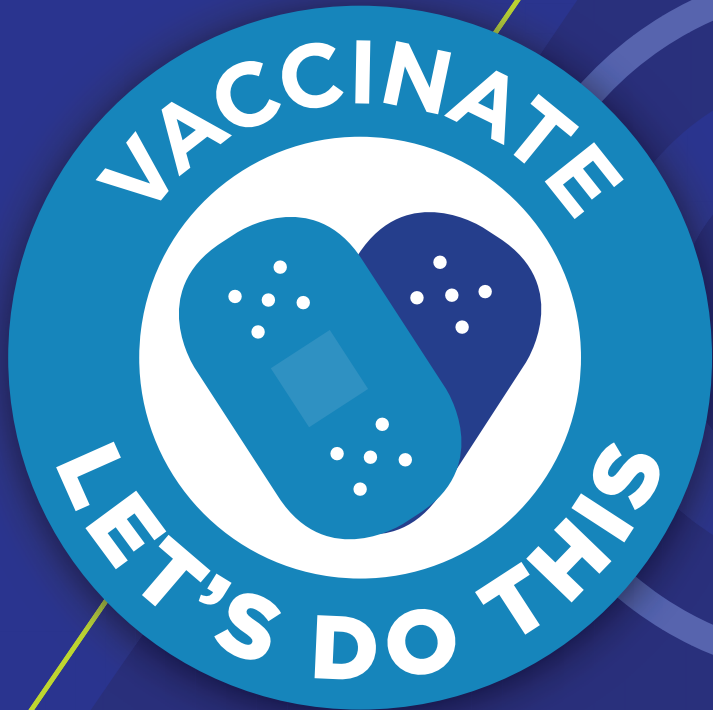




Western Cape  
Government

FOR YOU



FAQs vaccination in the workplace

## Q1: What is a workplace vaccination plan?

A vaccination plan is a document which amends an existing Occupational Health and Safety Plan or which the employer develops with the view of formalising the company's stance on vaccinations and setting out the measures the company will implement to make sure the workplace is safe for all its employees. It should be developed after a risk assessment has been done. The risk assessment assesses the risks for the workplace and workers. These risks include exposure to COVID-19, exposure to customers/ members of the public, employees who have comorbidities or who are otherwise vulnerable, ability to social distance, the rate of infections and/or fatalities experienced in the workplace due to COVID-19 etc.

On the basis of this risk assessment, the employer must develop a vaccination plan which indicates:

- the protective measures in place for the phased return of its employees;
- whether the employer intends to make the vaccine compulsory for any employees or to implement proactive initiatives to encourage workers to get vaccinated;
- employees who will be required to be vaccinated if a compulsory vaccination policy is adopted; and
- the processes, steps and initiatives that will be followed and implemented.

It is important, in developing such a plan, for an employer to consider the rights of employees to bodily integrity, freedom of religion, belief and opinion as set out in the Constitution of the Republic of South Africa, 1996 as well as any collective agreements which may already be in place which deal with the issue of mandatory vaccinations.

## Q2: Why would my business even need to have a plan about COVID-19 vaccination?

The Department of Employment and Labour's Consolidated Direction on Occupational Health and Safety Measures in Certain Workplaces requires an employer to undertake a risk assessment in order to determine whether it intends to make vaccination mandatory. The requirement for a COVID-19 plan is therefore a legislative requirement. Furthermore, in order to promote fair labour practises a business can only act within the confines of a plan.

A plan on COVID-19 vaccination should, among others:

- Outline the protective measures that the business intends to put in place to keep employees, clients and customers safe and minimise their exposure to COVID-19;
- Outline the employer's intentions regarding vaccinations and whether or not the employer intends to make vaccinations mandatory;
- Detail operational staff requirements (i.e employees who should return to the office and those who should continue to work from home) in order to ensure minimal contact;
- Detail measures for screening employees, clients and customers daily;
- Procedures to be followed to resolve any issues that may arise should employees refuse to work on account of fear of exposure to COVID-19.

**Q3: What should my business do if we want as many workers vaccinated but we do not want to implement a compulsory vaccination plan?**

Employers are encouraged to use the least restrictive means of achieving their desired vaccination goals. Actions that can be taken include:

- Dissemination of information: The business can provide access to information and information sites which state the benefits of being vaccinated, stress the rights of employees in relation to vaccinations, address any concerns that employees may have and help overcome vaccine hesitancy by dispelling any myths about the vaccines. This includes informing employees of their rights should an employee suffer side effects as a consequence of being vaccinated. These rights include paid time off to recover if the employee is no longer entitled to paid sick leave or lodging a claim for possible compensation in terms of either the Compensation for Occupational Injuries and Diseases Act 130 of 1993 or the Disaster Management Regulations applicable to the COVID-19 Vaccine Injury No-Fault Compensation Scheme, depending on the facts;
- Advocacy and collective “duty of care” messaging: These types of messages can underpin internal business communications;
- Appointment of “vaccine ambassadors”: These ambassadors can be appointed within the workforce to act as ‘go-to’ people should an employee have any questions about getting vaccinated and who can help educate, encourage and motivate colleagues who are reluctant or hesitant to get vaccinated; and

- Communication around convenience and cost: Difficulties, both in respect of location and cost, in accessing vaccination sites may deter workers from getting vaccinated. Businesses can consider alleviating these deterrents by having a pop-up vaccination site (if there are more than 100 people who needs to be vaccinated at a single time) or arranging transport to and from an existing vaccination site. These arrangements can be communicated by employers to encourage employees to get vaccinated. It is important to bear in mind that employers are required, under the Department of Employment and Labour’s Consolidated Direction on Occupational Health and Safety Measures in Certain Workplaces, to give employees paid time off to be vaccinated.
- Incentives, Competitions and Targets: Employers can consider offering incentives to all workers for getting vaccinated or once the vaccination rate in the workplace meets a specific goal (e.g. 90%).

#### **Q4: Why would I want to incentivise workers to get vaccinated?**

According to the Consolidated Directions on Occupational Health and Safety Directions, the COVID-19 vaccine has been scientifically evaluated and recommended to be effective in preventing severe disease and death and likely to reduce SARS-CoV-2 viral transmission. Incentives or benefits can help to achieve the above outputs by motivating and encouraging vaccine uptake.

#### **Q5: What kind of incentives or benefits can I offer workers?**

Incentives can be tailored to appeal to people’s rational or emotive motivations to get vaccinated.

Examples of incentives include financial and non-financial rewards

- Financial rewards could include cash bonuses, retirement contributions, prize draws, gift cards, free products, airtime or other items; and
- Non-financial incentives could include wellness-program reward points through insurance providers, additional time off, separate from that which an employee is entitled to, to get vaccinated or prioritisation of vaccinated employees to return on-site during return-to-work phasing.

Internationally, examples of corporates incentives for staff include:

- Walmart – who offer employees who work in stores and warehouses a \$150 bonus as an incentive to be vaccinated.

Local examples in South Africa include:

- A business in the hospitality sector who offers their staff a cash reward for the first 100 staff to show their vaccination card. They also host a competition between departments and reward the first department to be fully vaccinated with an all-expenses paid dinner;
- A retailer in South Africa goes beyond just staff and is the first retailer to show appreciation to vaccinated customers, with a 10 percent discount across all of its categories through its Vax Appreciation Wednesdays campaign; and
- A local, on demand e-hailing taxi service is offering R100 off of trips to certain vaccination sites as an incentive to get vaccinated.

However, care must be taken to maintain equality in offering incentives and manage concerns about unequal treatment of those who might not be vaccinated due to medical and religious exemptions.

Therefore, if an employer is going to offer vaccination incentives, employers should ensure that such incentives are also extended to those who were vaccinated before the incentives were introduced, and also to those who, based on legitimate objections (medical / religious), opt not to get vaccinated.

#### **Q6: Can my business compel staff to be vaccinated?**

The South African government has to date not implemented any policies which make it compulsory for all citizens and residents in South Africa to be vaccinated.

However, the Department of Employment and Labour's Consolidated Direction on Occupational Health and Safety, does allow an employer to make vaccination compulsory in the workplace after assessment and consultation, but such a decision is subject to the Directions issued by Department of Employment and Labour read together with the provisions of the Constitution and other legislation that may be applicable.

It is important for businesses to obtain independent legal advice before proceeding with a mandatory vaccination plan.

## **Q7: How do we implement a compulsory vaccination plan?**

A business will first need to undertake a risk assessment to identify whether or not, based on occupational requirements, there is a need for compulsory vaccination in the workplace. Examples of such a need could be because their workers interact with the public (putting them at greater risk of exposure) or because employees are at greater risk of transmission through their work or due to the risk for severe COVID-19 disease or death should COVID-19 be contracted.

As part of this risk assessment, the business must identify those employees who must be vaccinated. These workers could be identified because they are greater at risk of transmission through their work (e.g. interaction with the public) or due to their age or because they have comorbidities (for example, diabetes, heart diseases).

Once the risk assessment on the workers has been done, and the business concludes that vaccination should be made mandatory, the business must develop a plan, or change an existing plan, that lists the actions the business is going to implement for ensuring their workers are vaccinated.

Communication and consultation with all affected employees is very important during every stage of this process, and should allow for a two-way engagement process between the business and its employees as such a decision may be viewed as altering the working conditions initially agreed to between an employer and an employee.

The risk assessment undertaken and the vaccination plan developed should be documented and made available for inspection by a Department of Employment and Labour inspector or any representative trade union or any health and safety committee or representative, should these officials undertake an inspection at the business.

## **Q8: Do I need to consult with my staff before commencing a compulsory plan?**

Yes, employers should consult with staff if a mandatory vaccination plan is being contemplated as this may amount to a change in agreed working conditions. It is therefore imperative to consult with staff throughout the process and help staff understand why there is a business need for compulsory vaccination. This can also allow staff to participate in the process and to raise any concerns they may have. Staff should also be advised of their right to refuse to be vaccinated based on constitutional or medical grounds.

Transparent communication with employees is an effective way to get staff committed to a vaccination plan – if staff understand why there is a need for such a plan, staff may be more willing to support the plan.

A business must also consult on the risk assessment undertaken, and the vaccination plan with any representative trade union or any health and safety committee or representative.

**Q9: How do we know the vaccination status of the staff and may we even ask their status?**

For businesses to know who has been vaccinated, the business would have to request that information directly from the employees. This is only possible if an employer's right to do so is contained in the business' vaccination plan. Proof of vaccination can be provided by presenting the physical card issued at the vaccination site or by the employee presenting their digital vaccine certificate.

If there is no plan in place, or if the employers right to request such information has not been built into any existing policies, an anonymous survey can be undertaken for the business to keep abreast of vaccine up take within the workplace and to make changes, if necessary, to its existing plan.

Businesses would need to treat this information as confidential and protect any personal information collected as required by the Protection of Personal Information Act 4 of 2013.



## Q10: What if a staff member refuses to get vaccinated?

Firstly, vaccinations should only be made mandatory based on operational requirements, for example, employees interacting with the public or customers on a regular basis.

Secondly, the employer should try to find means to reasonably accommodate an employee who refuses to get vaccinated on legitimate grounds (i.e medical or religious) either by permitting such employee to work from home or by placing the employee in an alternative position within the workplace. If the employee cannot reasonably be accommodated, then as a last resort the employee can be let go however, such decision must be procedurally and substantively fair.

### What are reasonable reasons for refusing?

An employee may reasonably refuse to be vaccinated for one of the following reasons:

- Medical reasons: Employees who, on account of falling into a high-risk category due to being on chronic medication or having a compromised immune system might be reluctant to get vaccinated due to the fear of suffering adverse side effects from the vaccine.
- Religious or cultural objections: Employees could, on account of religious or cultural objections, refuse to be vaccinated. Such objections are based on the constitutional rights of each individual and could be found to be justified.

### What are unreasonable reasons for refusing?

The following could be considered unreasonable reasons for not wanting to get vaccinated:

- In the case of employees who do not have comorbidities - fear of the side effects and effectiveness of the vaccine e.g. "I am scared I will get sick"
- Complacency e.g. "I couldn't be bothered"
- Inconvenience e.g. "It doesn't suit me"
- Preference for physiological immunity e.g. "I will rely on my own immune system"
- Distrust in government and health organizations e.g. "It's a conspiracy"



## **Q11: How do we let people know about our vaccination status as a business?**

It is a good idea to talk about your vaccination status as a business in the industry, with your clients, customers as well as within your community. This shows leadership and could go a long way in assisting to increase vaccination uptake in communities. More importantly, such communication indicates to clients, staff and customers that your business aims to be vaccinated for their safety.

Ways that you can do this include:

- Using your communications channels (like social media) to showcase your commitment, achievements and leadership;
- Posting signage on site and in the public domain about your vaccination status as a business;
- Joining the “Vaccinated for your safety” campaign and encouraging other businesses to do so;
- Having company executives or managers share their vaccination experiences with industry or by creating a network of vaccinated businesses in the sector; and
- Educating your stakeholders by providing authoritative, credible, and accessible information on the safety and efficacy of vaccines.

## **Q12: What is the “Vaccinated for your safety” initiative?**

The Western Cape Government (WCG) has established the “Vaccinated for your safety” campaign, the aim of which is to have our economy and our lives go back to normal through having a vaccination rate of at least 70% of adults (except for those who cannot be vaccinated for medical reasons) by the end of 2021. The campaign is made up of a poster, certificate and other devices to communicate your vaccination status as a business.

This initiative promotes communication of the level of vaccination in your workplace, based on gradings i.e. Gold (100%), Silver (80%) and Bronze (70%). If you are interested in the campaign please email [100%vaccinated@westercape.gov.za](mailto:100%vaccinated@westercape.gov.za) for more information.

### Q13: What support is on offer from WCG?

The WCG support businesses in various ways. The WCG has a resource section on their website at <https://coronavirus.westerncape.gov.za/> resources with all the resources and guidance material you may need to ensure workplace safety.

Furthermore, the WCG provides Corporate Myth Buster sessions, Vaccine Ambassador training sessions and hosts special information sharing sessions for businesses. To inquire about our support offerings contact [vaxinfo@westerncape.gov.za](mailto:vaxinfo@westerncape.gov.za)

#### **Other useful links:**

Online resource and news portal regarding COVID-19 in South Africa: <https://sacoronavirus.co.za/>

The applicable regulations on occupational health and safety are available from: <http://www.labour.gov.za/DocumentCenter/Regulations%20and%20Notices/Notices/Occupational%20Health%20and%20Safety/Consolidated%20Direction%20on%20Occupational%20Health%20and%20Safety%20measures%20in%20certain%20workplaces.pdf>

Registration for the COVID-19 vaccine can be done at:

- Online: <https://vaccine.enroll.health.gov.za/#/>;
- USSD by dialling \*134\*832#;
- Via WhatsApp by sending the word “register” to 0600 123 456;
- or Calling the national toll-free call centre on 0800 029 999,

A copy of the vaccine certificate can be found at: <https://www.gov.za/covid-19/vaccine/certificate>

**Disclaimer:** These FAQs are based on the prevailing law as at date of distribution/publication and represent an informative guide covering some of the topics which may be applicable to vaccination plans in the workplace. These FAQs are, for information purposes only and are not intended to express a view on the Western Cape Government's position on the topic of mandatory vaccinations or provide our readers with legal and/or healthcare advice in relation to the correctness of a decision to introduce mandatory vaccinations, the SARS-CoV-2 virus, and/or the efficacy of the COVID-19 vaccines. Specialist and independent legal and healthcare advice and guidance should always be sought in relation to any updates to the law since date of distribution/publication of these FAQ's and in relation to any particular situation/query which a reader might have. Anyone who uses, interprets and/or relies on the information contained in these FAQ's does so at their own risk and the Western Cape Government expressly disclaims and assumes no liability for any act or omission based on the content of these FAQ's.



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