

Resources

Attachment to the Guide – Vax Risk Assessment

25 November 2021

Version 1.2

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The aim is to expand this list as more resources become available and feedback indicates what is most useful. Please send comments and suggestions to COVID-VAX@ncoss.org.au.

Consultation

Guidelines on consultation from Safe Work Australia - an extract here

More at <https://www.safeworkaustralia.gov.au/covid-19-information-workplaces/industry-information/hospitality/consultation>

(Accessed 26 Oct 21)

You must consult with your workers on health and safety matters relating to COVID-19. This means you must consult when:

- assessing the risk COVID-19 presents to the health and safety of workers
- deciding on control measures to eliminate or minimise the risk of exposure to COVID-19
- deciding on the adequacy of facilities for the welfare of workers (e.g. hand washing facilities), and
- proposing other changes to the workplace as a result of COVID-19 which may affect health and safety.

If you and your workers have agreed to procedures for consultation, the consultation must be in accordance with those procedures. If workers are represented by Health and Safety Representatives (HSRs) you must include them in the consultation process.

You must allow workers to raise and express their views on work health and safety issues that may arise directly or indirectly because of COVID-19. You must genuinely take the views of workers into account when making decisions and advise them of your decision.

Do I still have to consult with workers if I am following advice from health authorities/PHO

Yes. You must consult with workers about all the things you are doing to identify and manage the risks to keep workers safe during the pandemic. Workers are most likely to know about the risks of their work, including new risks introduced as a result of COVID-19 control measures. Involving them will help build commitment to this process and any changes you make at the workplace.

Consultation does not require consensus or agreement but you must allow your workers to be part of the decision making process. You must genuinely take into account their views.

Some or all of my workers are working from home, does consultation have to be face to face?

No. When you or your workers are working from home you may not be able to consult with them face to face. You must find other ways of consulting with them such as emails, video conferences or calling workers individually to discuss their concerns.

Make sure you update your consultation policies and procedures to reflect the new arrangements you need to put in place.

What else do I need to consider?

You must consult with your workers in accordance with any agreed procedures, including involving any Health and Safety Representatives (HSRs). However, if working arrangements have changed (e.g. workers working from home, doing shifts or changing work groups) you may need to review and update these procedures to suit the current pandemic conditions. This may mean electing new HSRs for different work groups or changing procedures to allow for consultation through electronic communications.

What do my workers need to know?

You must provide workers with clear direction and guidance about what is expected including:

- when to stay away from the workplace
- what action to take if they become unwell
- what symptoms to be concerned about, and
- that workers have a duty to take reasonable care for their own health and safety and to not adversely affect the health and safety of others.

What other information should I share with my workers?

You must share relevant information with workers about health and safety issues, such as any COVID-19 WHS policies you've put in place or updated to taken account of the pandemic conditions (e.g. how to report any incidents) and any changes to emergency plans.

You must provide this as early as possible and ensure that it can be easily understood by your workers. You should also remind workers about contacts to discuss their concerns such as HSRs, and access to support services, including employee assistance programs.

Is there anyone else I should be talking to?

Yes. You must also consult, cooperate and coordinate with other businesses you work with, or share premises with, about how they will discharge their WHS duties when they interact with your workers. To do this you should:

- exchange information to find out who is doing what. For example:
 - talk to your suppliers about how to safely manage deliveries
 - talk to other businesses that share your worksite or premises about how to manage shared areas such as lifts, bathroom and kitchen facilities
- talk to other businesses that share your worksite or premises about what you will do if there is a case, or suspected case, of COVID-19 at the worksite or premises, and
- talk to other businesses you interact with, for example, the onsite food van or the contract cleaner.
- work together in a cooperative and coordinated way so risks are eliminated or minimised so far as is reasonably practicable (e.g. how to manage shared areas such as lifts, bathroom facilities)

Fairwork guides and resources

<https://www.fairwork.gov.au/tools-and-resources/best-practice-guides/consultation-and-cooperation-in-the-workplace#links-and-resources>

This includes information on consultation clauses in different Awards and also links to free training and best practice guides

Does an employer need to consult when implementing a workplace policy about coronavirus vaccinations? Obligations

<https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/covid-19-vaccinations-and-the-workplace/covid-19-vaccinations-workplace-rights-and-obligations>

Employers may be considering whether a workplace policy about coronavirus vaccinations is necessary for their workplace.

Before implementing a new workplace policy or changing an existing policy about vaccinations, employers should consider their workplace and employees' circumstances and whether they need legal advice about their obligations.

Most workplaces are covered by either an award, enterprise agreement or another [registered agreement](#). All awards and enterprise agreements have a consultation clause requiring employers to consult with employees and any representatives when an employer intends to implement significant workplace changes. Some registered agreements, employment contracts or existing workplace policies may also require employers to consult. You can find more information about consultation and cooperation in the workplace here: [Consultation and cooperation in the workplace – Best practice guides – Fair Work Ombudsman](#).

This means that before introducing or changing a workplace policy about vaccinations, employers should review any applicable award, agreement, employment contract or existing workplace policy to find out:

- whether they need to consult under that document (as well as needing to consult under work health and safety laws)
- who they need to consult with (including any employee representatives or unions)
- how they need to consult about the proposed workplace change.

Under work health and safety (WHS) laws, employers also have to consult with employees and their health and safety representatives (HSRs) about possible control measures to address WHS risks. This includes consideration of a new policy about coronavirus vaccinations or changes to an existing vaccination policy.

Employers must also provide employees and their HSRs a reasonable opportunity to express their views about the policy changes. Employers need to take these views into account when making a decision and advise employees and HSRs of their decision.

Managing conflict and difficult conversations associated with risk management and mitigation policies and strategies

Fair Work Australia offers free training to help managers have difficult conversations in the workplace

<https://portal.fairwork.gov.au/online-learning-centre/difficult-conversations-in-the-workplace-manager-course>.

They also have short guides which outlines how to plan and conduct difficult conversations

[A manager's guide to difficult conversations in the workplace](#)



[An employer's guide to resolving workplace issues](#)



Legal briefing

Justice Connect provides briefing and resources on issues concerning managing in the context of COVID-19 pandemic.

Webinars are also available on Managing Mandatory Vaccine Policies for NFP Organisations.

Examples of questions addressed in Justice Connect FAQ and links to material

Information and FAQ at

[Managing vaccines in the workplace](#)

Clients

Example questions at [What about the users of an organisation's services?](#)

- Can an organisation refuse to provide services to an unvaccinated service user?
- Can an organisation refuse a service user's request to only be seen by vaccinated staff or only be grouped with other vaccinated service users?
- If a service user contracts COVID-19 while in an organisation's care, could the organisation be liable if it didn't require its employees to get vaccinated?
- Should organisations record the vaccination status of their service users and what evidence of vaccination should they require?

Employees

Example questions addressed at:

<https://www.nfplaw.org.au/managing-vaccines-workplace>

- Can you require an employee to be vaccinated?

See flowchart:

[Can you require an employee to get vaccinated? _](#)

- What can you do if an employee refuses to get vaccinated?

See flowchart

[what you can do if an employee refuses to get vaccinated?](#)

Scroll down the webpage for questions including:

- What should an organisation do if an employee hasn't had their first vaccination dose by the deadline in a public health order or other workplace direction?
- What process should an organisation follow if an employee doesn't comply with a mandatory vaccination direction? Is the employment termination process set out in the public health order?
- When advertising new roles, should organisations include a requirement for COVID-19 vaccination?
- If an employee has provided medical contraindication evidence exempting them from being vaccinated, is the organisation required to change the employee's duties?

- Should organisations vary employment contracts to add a provision for mandatory vaccine directions?
- What evidence of vaccine status should organisations require from employees?
- Can an organisation be liable if an employee has an adverse reaction to the vaccine if vaccinations were mandated by a public health order or other workplace direction?
- What help can organisations access if an employee makes an unfair dismissal application?

Volunteers and COVID-19

www.nfplaw.org.au/volunteers-and-covid-19

Example questions addressed:

- Are volunteers subject to PHO /other vaccination policies?
- Are board members covered by public health orders?

Association of Children's Welfare Agencies (ACWA)

ACWA members have access to legal advice addressing the questions including the following:

- What are the legal requirements for retaining/storing evidence of information received on vaccinations of staff, clients and carers?
- A number of member agencies have procedures to obtain a second opinion when concerns are held about a medical certificate for workers compensation purposes. Where a medical certificate concerning vaccination is received are there legal aspects that would require or justify agencies seeking a second medical opinion.
- What are the legal requirements for member agencies to consult on the contents of any risk/safety assessment plan with staff/unions/clients/carers?
- When should member agencies discuss assessment plans with clients who are children or young people?
- What are the legal implications of not following recommendations of DCJ or the generally accepted standard being applied across the sector for infection control?
- What are the legal implications for not following the test, trace, isolate and quarantine practices that others might apply especially if rapid antigen testing becomes generally accepted
- When should a member agency report to SafeWork NSW that the health of a staff member or a person a staff member is working with is impacted by Covid-19?
- Are there different legal obligations arising for working with carers on covid-19 if the child or young person is in voluntary rather than statutory OOHHC or where services are voluntary for the child or young person?

Contact ACWA for more information: info@acwa.org.au

NSW Council of Social Services (NCOSS)

The NCOSS online learning session 'How to use the NCOSS Vax Risk Assessment Toolkit' is now available online at <https://www.ncoss.org.au/ncoss-covid-19-vax-risk-assessment-toolkit/>.

Questions addressed:

- How far can organisations go asking clients about their vax status? Can we ask about e.g. home base/proximity to hotspots/health-symptoms?
- What are organisations' responsibilities to staff in outreach roles and settings beyond their control e.g. going to regional areas, community centres, courts, expos?
- What if staff and other clients have an issue with 'unvaccinated' clients entering premises where essential services are being delivered?
- Can Rapid Antigen Testing (RAT) for COVID-19 be used as part of the risk assessment to provide unvaccinated staff and clients with access to offices?
- Our Management Committee policy mandates double vax but we have staff and volunteers that are unwilling – what can we do?
- We have employees /volunteers who are vulnerable rather than clients (e.g. over 70/ill health) - does this mean a risk assessment indicates mandatory vax?
- Which employees are included in the DCJ policy? I.e. is it only staff who actually deliver the DCJ funded services or does the policy apply to others such as finance officers, accountants, operations managers and executive officers who work across a number of funded services within the organisation?
- Does consultation on the risk assessment have to be one on one for privacy?
- Regarding people who don't want a booster or 4th, 5th and 6th injection: do we have to have this in our management plan now?
- Do we have a responsibility to do a risk assessment in the 'Work from Home' setting?
- What are an employer's obligations regarding record keeping - what if staff don't want to disclose vax status? Does that mean more controls of other types are required (if they don't tell, do you assume they're unvaxxed?)
- If writing policy and procedures, what can we say regarding sighting vax certificates?
- If we have mandatory vax policy - can we put this as a requirement when we advertise for a new position?
- Can an organisation keep the evidence of vaccination from clients?

FAQ Documents and other information resources

Organisation	Support	Link
AbSec	Webinars to support the sector including legal matters and vax policy	https://absec.org.au/1086849-2/
ASU	Guide to risk assessment process and guidance on employers' obligations, Factsheets	https://www.asumembers.org.au/covid19
Centre for Volunteering	Information on managing volunteer programs and COVID-19	https://www.volunteering.nsw.gov.au/resources/volunteering-and-covid-19
DCJ	Five sets of FAQs on COVID management policy, covering <ol style="list-style-type: none"> 1. Implementing the DCJ policy 2. Vaccination 3. Clients 4. Service Delivery 5. Further information 	https://www.facs.nsw.gov.au/providers/working-with-us/other-resources/faq-covid-19-management-and-vaccination-policy-for-dcj-service-providers
Fair Work	Guidance on consultation, tiered approach to risk, managing conflict	https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/tools-and-help-during-coronavirus/top-covid-questions
Health NSW	The application of the Public Health (COVID-19 Vaccination of Health Care Workers) Order 2021 to NGOs.	https://www.health.nsw.gov.au/Infectious/covid-19/Pages/ngos-faqs.aspx#order
Homelessness NSW (HNSW)	HNSW convenes a community of practice on COVID-19 impacts and management as well as providing a library and other resources for members.	https://homelessnessnsw.org.au/industry-partnership/networking-and-collaboration/responding-to-covid-19-community-of-practice/
Justice Connect	Legal questions answered on a broad range of areas for NGOs and Social Enterprises	https://www.nfplaw.org.au/managing-vaccines-workplace
Local Community Service Association (LSCA)	The Local Community Service Association (LCSA) has made available its COVID-19 Vaccination and Safety policies as templates for other services <i>Available via the NCOSS website</i>	https://www.ncoss.org.au/ncoss-covid-19-vax-risk-assessment-toolkit/
National Disability Services (NDS)	NDS's Coronavirus hub is a collection of resources, information and advice from across Australian governments, agencies and members. Includes snap lockdown guide and e-learning	https://www.nds.org.au/covid-19-hub

Organisation	Support	Link
Network of alcohol and other drugs agencies (NADA)	FAQ document to help services adjust face to face service delivery with COVID-safe practices in mind	https://nada.org.au/wp-content/uploads/2021/11/COVID-Resource_Adjusting-our-practice-to-keep-everyone-safe.pdf
NSW Council of Social Services (NCOSS)	'How to use the NCOSS Vax Risk Assessment Toolkit' online learning session addressed questions posed by participants – see Legal briefing section above for questions addressed.	https://www.ncoss.org.au/ncoss-covid-19-vax-risk-assessment-toolkit/
Safe Work	Guidance on consultation, employer obligations	https://covid19.swa.gov.au/covid-19-information-workplaces

Risk Assessment

NCOSS Vax Risk Assessment Toolkit

Comprising:

- **Guide**
- **Worksheet**
- **Resources (this document)**

<https://www.ncoss.org.au/ncoss-covid-19-vax-risk-assessment-toolkit/>

NSW Government – Department of Communities and Justice Risk Assessment Tool

DCJ have commissioned materials to support the sector. There is a comprehensive guide and webinars available at the links below. Developed by Rebbeck

Website

<https://www.coronavirus.dcj.nsw.gov.au/service-providers/guide-to-recovery-and-sector-support-for-covid-19-management>

Guide

https://www.coronavirus.dcj.nsw.gov.au/_data/assets/pdf_file/0010/822187/covid-19-sector-support-guidance-for-dcj-providers.pdf

Webinar slides

https://www.coronavirus.dcj.nsw.gov.au/_data/assets/pdf_file/0016/822310/dcj-covid-19-sector-support-guidance-for-dcj-providers-session-2.pdf

The materials include an example risk assessment tool (provided on the page following) and guidance on business sustainability planning.

Note that organisations can adapt and use existing tools, there is no DCJ requirement to use any specific form for risk assessments and plans.

2.7 Using the DCJ risk assessment template (2/2)

This table shows how the [Excel template provided by DCJ](#)¹³ is structured.

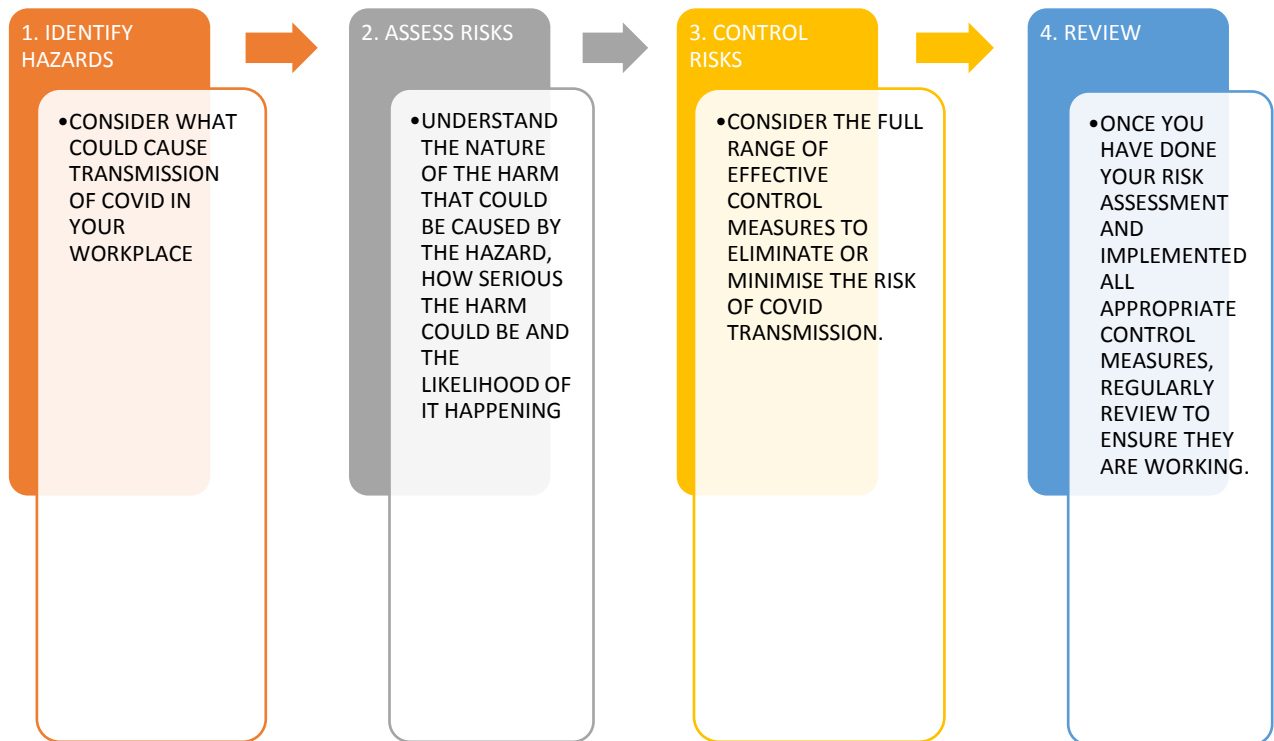
To complete a risk assessment, confirm that the provider has considered all of the questions included in the risk assessment template as described below.

Assess Risk				Mitigate Risk		
1. Workplace setting	2. Tasks	3. Risk factors	4. Risk rating	5. Risk controls	6. Agreed actions	7. Measuring effectiveness of risk controls
<input type="checkbox"/> Where is your service delivered? I.e. the workplace in which the task occurs. <input type="checkbox"/> Each service setting will require an individual assessment	<input type="checkbox"/> Activities: What does your service do? (activities)	<input type="checkbox"/> Service setting: How might this workplace increase the risk of COVID-19 incidents?	<input type="checkbox"/> Likelihood: What is the likelihood of a COVID-19 incident? <input type="checkbox"/> Severity: What is would be the severity of a COVID-19 incident? <input type="checkbox"/> Risk rating: What is the level and urgency of COVID-19 incident risk?	<input type="checkbox"/> Operating environment: What controls are needed for the environment?	<input type="checkbox"/> What are the agreed actions? <input type="checkbox"/> Who will undertake the agreed actions and when?	<input type="checkbox"/> Effectiveness: How effective has this risk control been? <input type="checkbox"/> Additional actions: Is there anything more that needs to be done to control this risk? By when?
	<input type="checkbox"/> Operating environment: How is your service delivered?	<input type="checkbox"/> Workers: How might the workers increase the risk of COVID-19 Incidents?		<input type="checkbox"/> Workers: What controls can be used for your workers?		
	<input type="checkbox"/> Workers: Who delivers your service?	<input type="checkbox"/> Clients: How might the clients increase the risk of COVID-19 incidents?		<input type="checkbox"/> Clients: What controls can be used for your clients?		
	<input type="checkbox"/> Clients: Who receives your service?	<input type="checkbox"/> Controls: What controls are currently in place to reduce the risk of COVID-19 incidents?		<input type="checkbox"/> Impacts: What are the potential impacts of your controls on your workers and clients?		

ASU Guide to COVID Safe Workplace Risk Assessment

The ASU has prepared a guide to COVID-safe workplace risk assessment.

Their guidance has four main steps:



The importance of consultation at all stages of the risk assessment process

Under WHS law, every safety control measure requires consultation with workers and their representatives. Consultation is a duty under WHS law, and the obligation is greater than under the SCHADS Award.

The consultation should consider:

- the measures you are proposing
- their reasonableness in the circumstances
- how they could be implemented,
- and additional or alternative proposals from staff.

https://www.asumembers.org.au/vax_plus

Summary of current PHO – vaccination directions

<https://www.health.nsw.gov.au/Infectious/covid-19/Pages/public-health-orders.aspx#vaccination>

This extract provides a summary of who is covered by the PHO directions (extracted 26 Oct 21)

Health care workers

The Public Health (COVID-19 Vaccination of Health Care Workers) Order (No 2) commenced on 22 October and continues mandatory vaccination directions in place under the Public Health (COVID 19 Vaccination of Health Care Workers) Order 2021. The Order directs that a "health care worker" must not work as a health care worker unless they have received their first dose of a vaccine by 30 September with a second dose required by 30 November 2021 in order to continue to work as a health care worker.

The Order applies to certain health care workers as follows:

in the public sector:

- a person who does work, including as a member of staff of the NSW Health Service, for a public health organisation, the Health Administration Corporation or the Ambulance Service of NSW,
- a member of staff of the Ministry of Health

in the private sector:

- a person who does work at a licensed private health facility, being a licensed private hospital or licensed day procedure centre
- a registered paramedic whose work involves transporting, or assessing whether to transport, persons to and from a public or private health facility
- a person who does work for an organisation pursuant to either of the following in accordance with NSW Health Policy Directive PD2019_013 Administration of NSW Health Grant Funding for Non-Government Organisations:
 - a Ministerially approved grant under the Non-Government Organisations Program,
 - a Program Grant, if the work involves the provision of a health service within the meaning of the Health Services Act 1997
- another person, or a person belonging to a class of persons, who does work specified by the Chief Health Officer as the work of a health care worker for this Order in a notice published on the website of NSW Health.

Work is defined broadly to cover employees, contractors, VMOs, volunteers and students undertaking clinical placements. It also covers work done under a contract of service or a contract for services.

However, the following are excluded from mandatory vaccination:

- a worker who is doing work for a public health organisation (local health district, statutory health corporation or an affiliated health organisation), the Health Administration Corporation, the Ambulance Service of NSW under a contract of service or a contract for services

and

- the work does not involve the provision of a health service (within the meaning of the Health Services Act)

and

- the person doing the work is not physically present, while doing the work, at premises operated by the public health organisation, Health Administration Corporation, Ambulance Service of NSW or Ministry of Health.

The Order does not include private primary care providers such as GPs unless they fall within one of the categories above.

Employers are responsible for taking reasonable steps to ensure workers comply with the Order.

Workers will need to provide evidence of having received a COVID-19 vaccination if requested to do so by their employer. Employers will be able to request this information.

An exemption is available for a worker if they are unable to be vaccinated with any COVID-19 vaccine available in NSW due to a medical contraindication.

Workers will be required to provide evidence of a medical contraindication via a certificate from a medical practitioner, in a form approved by the CHO, that specifies the medical contraindication.

There is an exemption that will apply if a person needs to do work in a medical emergency or non-medical emergency.

The Minister may exempt other persons from these requirements, but only if satisfied it is necessary to protect the health and well-being of persons.

Aged care facilities

Staff

The Minister has made changes to the Public Health (COVID-19 Aged Care Facilities) Order 2021 including to changing the name to Public Health (COVID-19 Care Services) Order further amendments include:

Require employees (including contract staff) of a residential aged care facility (RACF) and persons engaged by the operator to provide services (other than students and certain maintenance contractors) to have received the second dose of the COVID-19 vaccination in order to enter or remain at the RACF after 9 am on 25 October (extending existing requirements to have had one dose by 17 September 2021 to enter a RACF).

Require students on placement and health practitioners engaged by a resident to have received the second dose of the COVID-19 vaccination in order to enter or remain at the RACF after 9 am on 4 December (extending existing requirements to have had one dose by 31 October 2021 to enter a RACF).

Make a new direction requiring in-home and community aged care workers to only provide work as an in-home and community aged care worker if they have received the first dose of the COVID-19 vaccine by 9 am 25 October and the second dose by 9 am on 29 November 2021. Note that there is a definition of in-home and community aged care worker

Visitors

The Order also restrict visitors to a residential aged care facility:

Only two visitors over 12 years of age per day per resident will be permitted to visit a resident in a residential aged care facility provided that the visitors are fully vaccinated (2 doses of the vaccine or a medical contraindication) with the second dose having been received more than 14 days ago.

A person who does not meet these vaccinations requirements, including a child under 12, will be able to attend as a visitor only if the visit is for an end of life visit (there will still be a two visitor per day cap).

The operator of a residential aged care facility must take reasonable steps to ensure that visitors do not enter the facility in breach of the above requirements.

A visitor does not include a person providing a health service or professional or other service to the resident (however, such a person may be subject to other vaccination requirements).

Operators of residential aged care facilities must continue to consider the advice of the Chief Health Officer in respect of a range of matters, including in relation to the management of visitors.

Disability Services

The Public Health (COVID-19 Aged Care Facilities) Order 2021 makes a new direction requiring a person providing disability services in person to only provide such services if they have received the first dose of the COVID-19 vaccine by 9 am 25 October and the second dose by 9 am on 29 November 2021. A disability service includes people who¹:

- work in residential disability care
- provide in-home disability services
- provide disability day programs
- provide community-based disability support services
- any person providing services funded or provided by:
 - the National Disability Insurance Scheme
 - the Assisted School Travel Program.

¹ <https://www.health.nsw.gov.au/Infectious/covid-19/Pages/disability-support.aspx>

The vaccination requirement in the Public Health Order includes staff and volunteers (including those in administrative or corporate roles) who work on site at disability services or other services delivering disability supports to people with disabilities.

Education and care workers

The Minister has made the Public Health (COVID-19 Vaccination of Education and Care Workers) Order 2021. The Order requires vaccination of education and care workers, including teachers and education providers as well as:

- Workers who undertake maintenance at schools, asset workers that plan and maintain school assets;
- Family day care;
- Non-government school employees;
- Early childhood educators;
- Contractors engaged by schools and early education and care facilities;
- Drivers and Assisted Transport Support Officers engaged by DoE to provide disability support services under the Assisted School Travel Program of the DoE;

Vocational Education and Training providers working on school and early education and care facility sites;

- NSW TAFE teachers and assessors that work on school and early education and care facility sites; and
- University practicum students.
- Disability support workers working on school or early education and care facility sites;

The Order requires these workers to have both doses of COVID-19 vaccination by 8 November 2021. An exemption is available for a worker if they are unable to be vaccinated in the rare situation of a medical contraindication. Workers will be required to provide evidence of a medical contraindication via a certificate from a medical practitioner, in a form approved by the CHO, that specifies the medical contraindication