

## Information for DCJ service providers

Each service provider is responsible, as an employer, for assessing the risk of COVID-19 in their workplace and developing policies and processes in response to these risks. This includes any requirements for employee vaccination.

### Can an employer require an employee to be vaccinated?

The Fair Work Ombudsman states that employers can only require employees to be vaccinated where:

- a specific law (such as a state or territory public health order) requires an employee to be vaccinated
- the requirement is permitted by an enterprise agreement, other registered agreement or employment contract, or
- it would be lawful and reasonable for an employer to give their employees a direction to be vaccinated, which is assessed on a case-by-case basis.

The current NSW Public Health Order requires **authorised workers** leaving **areas of concern** and **relevant care workers** who live or work in an **area of concern** to:

- have had a first dose of COVID-19 vaccine, or
- provide evidence of medical exemption.

This is effective 6 September 2021.

Service providers must determine if the NSW Public Health Order applies to any of their employees. If it does, the service provider is required to implement the requirement in their workplace.

As employers, service providers may be able to implement mandatory vaccine policies even if a public health order does not apply.

For helpful information about determining the lawfulness and reasonableness of an employer directed vaccination requirement refer to:

- Fair Work Ombudsman: [Covid-19 vaccinations workplace rights and obligations: requiring employees to be vaccinated](#)
- Justice Connect: [Webinar – Managing mandatory vaccine policy for NSW based community organisations](#)

An example of how DCJ is considering the need for vaccination to reduce risk is outlined below.

We are sharing our approach and some resources because service providers may find them useful when developing your own approach.

## **DCJ's approach to vaccinations for our employees**

As an employer, DCJ is responsible to do all we reasonably can to keep our employees safe at work, including from COVID-19.

DCJ must also try to protect the health and safety of the people we support through our services, many of whom are at higher risk of both catching COVID-19 and experiencing serious illness if they do. DCJ is assessing the risk of COVID-19 in all of our DCJ workplaces.

We're doing this to decide if groups of employees will be required to be vaccinated against COVID-19 to reduce their risk of being infected, infecting their colleagues, or infecting other people.

Our approach follows the guidance just released by the [Department of Premier and Cabinet on COVID-19 vaccinations for employees of Government Sector Agencies](#).

Service providers may also find this a useful guide.

DCJ will conduct a risk assessment to determine if DCJ employee vaccination is necessary to control workplace risk.

DCJ is using a recently updated WHS procedure and risk assessment tool to assess the risk posed by COVID-19 transmission occurring within DCJ workplaces. Many service providers will have similar standard WHS processes and risk assessment tools that can also be used for this purpose.

The DCJ risk assessment process will also consider (in terms of a suitable and reasonable control measures) whether:

1. the vaccine is expressly required as a condition of employment
2. the vaccine is effective in avoiding a person contracting COVID-19, reducing transmission and reducing serious illness
3. the work required involves direct contact with the public and whether it can otherwise be done remotely
4. other measures are available and effective, such as personal protective equipment (PPE)
5. there is direct contact with immuno-suppressed or other persons vulnerable to serious illness arising from COVID-19
6. there is an expectation that the worker will be interacting with the public.



### **For more information**

[Fair Work Ombudsman guidance on COVID-19 vaccinations](#)

[Safe Work Australia guidance on COVID-19 Information for workplaces](#)

Justice Connect: [Webinar – Managing mandatory vaccine policy for NSW based community organisations](#)

Department of Premier and Cabinet: [Guidance for government sector agencies regarding covid-19 vaccinations for their employees](#)