Guide to Risk Assessment: COVID-19 Management and Vaccination Policy

20 January 2022
Version 2.0

Acknowledgement of Country

NCOSS acknowledges First Nations peoples as the sovereign custodians of Country, and pays respect to Elders of past, present and future generations. We acknowledge and value the distinct culture, customs and practices present in the many and diverse tribal nations across NSW.

NCOSS accepts the invitation of the Uluru Statement from the Heart and supports a First Nations Voice to Parliament enshrined in the Australian Constitution.

Thanks

NCOSS thanks the organisations who reviewed this guide, we appreciated your insights and constructive comments.

- Community Legal Centres NSW
- Core Community Services
- Homelessness NSW
- Western Sydney Community Forum
- SydWest Multicultural Services
- Australian Community Workers Association

Disclaimer

This document provides ideas and information available as at 19 January 2022.

Legal advice should be obtained before introducing any vaccination policy in your organisation. Justice Connect may be able to assist.

Note

This resource has been produced by the NSW Council of Social Services with funding from the Social Sector Transformation Fund.

It was developed by NCOSS and ASK Insight Consultants

www.ask-insight.com

Table of contents

Introduction 4

Why is this important? 4

Vaccination 5

What makes it reasonable? 6

Risk Assessment process 9

Risk assessment template. Note that this is available in spreadsheet format from NCOSS' website 22

Risk assessment example 1 XYZ Centre 24

Risk assessment example 2 BUZ Family Services 25

Critical workers and isolation exemptions – NEW 18 January 2022 28

COVID-19 management plans – responding to Omicron 29

List of figures

Figure 1 : Can you require vaccination? 8

Figure 2 : DCJ risk matrix for WHS 13

Figure 3 Hierarchy of risk controls 14

Figure 4 : What can you do if an employee refuses 21

Attachments

- Worksheet (a spreadsheet template for risk assessment)
- Resources and Links

Introduction

The aim of this document is to provide a straight forward approach to risk assessment to inform decision making around your organisation's COVID-19 vaccination policy.

The Department of Communities and Justice (DCJ) requires all Service Providers to have a documented COVID-19 management plan. This should include a risk assessment for each service setting, and a plan to respond to each risk in day-to-day business. Services are encouraged to regularly review and update their plans, e.g. in response to the current Omicron wave and recent changes in COVID-19 testing and isolation requirements.

DCJ requires all Service Providers to have a documented COVID-19 management plan. This should include

- *a risk assessment for each service setting, and a plan to respond to each risk in day-to-day business*
- *a business or service continuity plan that outlines how the Service Provider can continue to deliver services during a COVID-19 incident*
- *processes and activities to respond to a confirmed or suspected case of COVID-19 in the workplace*
- *processes and activities for supporting a Client with a confirmed or suspected case of COVID-19*
- *processes and activities for managing the risks associated with supporting a Client who is unvaccinated*
- *processes for recording visitors to the workplace, including the use of QR code*
- *processes for supporting testing, tracing and isolation of Workers and Clients exposed to COVID-19 in line with public health requirements*
- *processes for recording, monitoring compliance and managing contraindications if vaccination is a requirement to control COVID-19 risk*.

DCJ Requirements - Policy 13 Oct 2021

https://www.coronavirus.dcj.nsw.gov.au/__data/assets/pdf_file/0005/820238/covid-19-management-and-vaccination-policy.pdf

Why is this important?

DCJ funds social programs to provide essential services to some of the most vulnerable and disadvantaged members of the NSW community. These services include refuges, domestic and family violence projects, youth centres, neighbourhood centres and community programs, support and outreach to homeless people and child and family services.

The COVID-19 pandemic in NSW means employees, volunteers, clients and other people coming into contact with the workplace (including visitors, people making deliveries, cleaners) are at risk of being infected and suffering a serious illness and, possibly, dying.

The mission of many NGOs brings them into contact with clients vulnerable to COVID-19 and at high risk of infection. It is not an option to stop providing services to people, even though there may be clients who are unvaccinated. Where a service **is "assisting vulnerable members of the public", PHO orders limiting access to businesses to vaccinated clients do not apply**.

As an employer, you have responsibilities under Work Health and Safety (WHS) laws that require you to take care of the health, safety and welfare of your workers, including yourself and other staff, contractors and volunteers, and others (clients, customers, visitors) at your workplace.

This includes:

- providing and maintaining a work environment that is without risk to health and safety
- providing adequate and accessible facilities for the welfare of workers to carry out their work
- monitoring the health of workers and the conditions of the workplace for the purpose of preventing illness or injury, and

- consulting on WHS risks and ways of managing risk

Risk assessments provide the foundation to underpin your organisation's policy on vaccination within your general safety plan.[1]

Risk assessments need to be worked through collaboratively as a key work health and safety activity. The insights provided by a cross section of staff are essential. The quality of the risk assessment is critical to the safety of both your team and your clients, even though organisations and their leadership may be stretched it is vital that time is dedicated to the full cycle of risk assessment, action planning, implementation and ongoing monitoring.

Vaccination

Vaccination is a way of controlling the spread of COVID-19 in the community. It is an option for employers as a control measures, alongide:

- ensuring your workers do not come to work when unwell
- practising physical distancing
- improving ventilation
- practising good hygiene
- increasing cleaning and maintenance
- wearing masks and other PPE.[2]

Justice Connect highlight possible legal issues:[1]

Unfair dismissal claims *- Employers might have difficulties defending unfair dismissal claims in situations where their workplace can be reasonably regarded as COVID-safe by using other means such as social distancing, masks or even personal protective equipment*

Discrimination claims *- Employers need to consider whether vaccination should be an inherent requirement of the employment and what would be considered a reasonable basis for refusal; watch out for discrimination on the basis of medical or religious grounds.*

Workers compensation claims *- Employers may face workers' compensation claims from employees who experience harmful side effects from the COVID vaccine if the vaccine is taken as an employment directive in work environments where vaccination is not mandatory.*

[1] https://www.nfplaw.org.au/managing-vaccines-workplace

Risk Assessment requires you to review the adequacy of your set of controls given the particular hazards in your service setting contexts, such as the prevelance of Omicron.

Public Health Orders in NSW require vaccination in order to work in health, aged care, education and some disability settings. In addition, many other organisations and sectors are making vaccination a condition of employment[3], reflecting obligations under WHS laws. Employers need to weigh up the safety benefits of mandating vaccination against other possible legal issues, and also take into consideration the effectiveness of controls in place.

[1] Most organisations will already have a safety plan in place, if not there is guidance at https://www.nsw.gov.au/covid-19/business/safety-plans/general-safety-plan

[2] https://www.safeworkaustralia.gov.au/covid-19-information-workplaces/industry-information/general-industry-information/vaccination

[3] For example, Woolworths, Coles, Aldi, Commonwealth Bank, Westpac https://www.smh.com.au/business/companies/the-domino-effect-woolworths-mandates-vaccinations-and-rivals-follow-20211021-p5921c.html

What makes it reasonable?

> *"A safe and effective vaccine is only one part of keeping the community safe and healthy. To meet your duties under WHS legislation and minimise the risk of exposure to COVID-19 in your workplace, you must continue to apply all reasonably practicable COVID-19 control measures."*
> - Safe Work Australia[1]

Factors within your risk assessment that might indicate mandating vaccination for workers to be reasonable and practical include:

- Do employees/ volunteers work in public or client facing roles where the vaccine status of others is unknown? For example, a neighbourhood centre or crisis service.
- Do people work frequently with other colleagues who are in client facing roles?
- Is physical distancing or screening impossible? For example, a supported playgroup needs adults interacting with families at close proximity.
- Are you providing an essential service to vulnerable people (and are unable to deny service to the unvaccinated)?
- What happens if service is disrupted? Are there risks to service continuity if staff get sick, is there a surge workforce available? If work is specialised or needs qualifications, police/WWC checks additional staff may not be readily available.
- What is the extent of community transmission of COVID-19 in your location, including the risk of transmission of the Delta or Omicron variant among employees, customers or other members of the community? Lower vaccination or booster rates locally or among a cohort of service users may also be a consideration.
- Are the existing control measures adequate / are they difficult for staff to follow consistently due to the type of service being delivered?
- What is the current profile of the team – are they all vaccinated? If so, you could consider mandatory vaccination as contractual requirement of new staff/volunteers and agency workers (ensuring this does not discriminate against people who can't be vaccinated e.g. on medical grounds/because of a disability). As new variants such as Omicron emerge, consider whether they have received a booster and what is known about the level of protection afforded by the vaccination/booster against the new variant.

There are complex and overlapping factors influencing your risk assessment and the management of any decision to vaccinate including the organisation's mission, legal issues, as well as the social and operational context.

Summary - Complex and overlapping issues associated with a vaccination and COVID-19 management policy

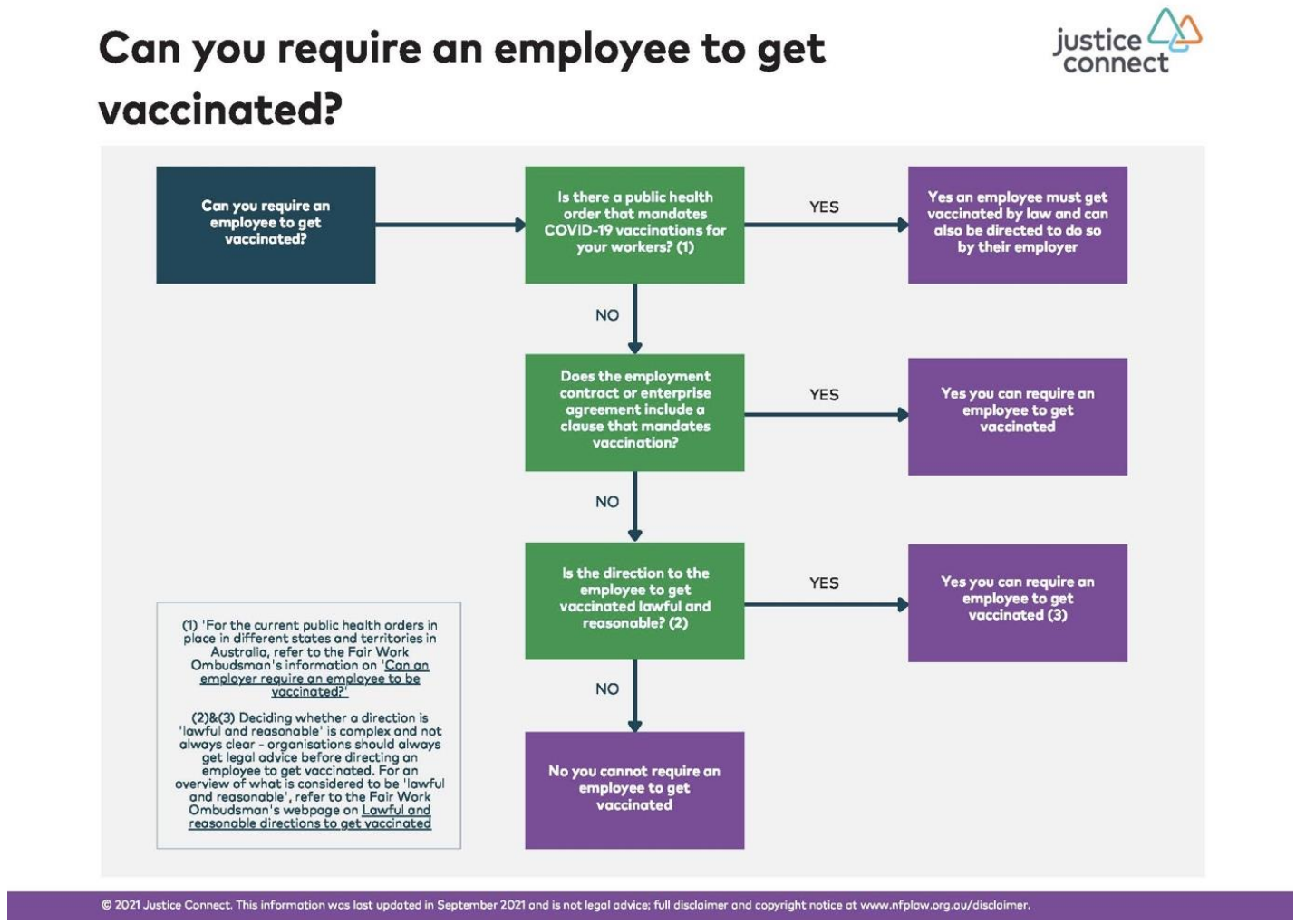
- Organisation's mission and obligations – essential services
    - essential services to some of the most vulnerable and disadvantaged members of the NSW community
    - employees, volunteers, clients and other people coming into the workplace are at risk of COVID-19
    - contractual obligations
    - ethical obligations

- Legal context
    - Law or PHO mandating vaccination or awards/ agreements/ employment contracts
    - WHS obligations to eliminate as far as reasonably practicable, risks to health and safety
        - Risk of workers' compensation (WC) claim
        - Risk of legal and compensation costs if vax is mandated and causes injury or death to a worker (not covered by WC insurance)
    - Health privacy laws, Anti-discrimination laws
    - Safety and quality standards set out by the Children's Guardian for children and young people in OOHC.

- Social and health context
    - Extent of COVID-19 in the local community
    - NSW Health advice on availability of vaccine and effectiveness of vaccine
    - Community, service user and stakeholder expectations
    - Client/staff/volunteers profile, typical age, health issues

- Operational context
    - Relative cost of other control measures compared with vaccination and whether the organisation has the resources and capacity to implement them within acceptable timeframes
    - Risks to service continuity if staff get sick or have to self-isolate (availability of surge workforce)
    - Availability and affordability of rapid tests
    - Viability of service delivery without contact or face to face interaction
    - Resourcing

Figure 1 : Can you require vaccination?



Risk Assessment process

This document provides a process for completing a risk assessment to inform your organisation's vaccination policy.

	Question		Action
1	Is your work subject to a PHO?[4] →	Yes	Consult your team on the implications of mandatory vaccination and see step 4.
	↓ No		
2	Is your work covered by a contractual obligation/Term of award, agreement, employment contract, existing policy that means you should vaccinate? This may relate to wording of polices requiring flu vaccination for example. →	Yes	Consult your team on the implications of mandatory vaccination and see step 4. Organisations with multiple funding sources for example health or education will need to comply with PHO. Note that DCJ policy (22 October 2021) requires vaccination to visit or work on its own sites. *As such, DCJ has undertaken COVID-19 risk assessments at all sites, locations and workplaces and implemented a COVID-19 Vaccination Policy (the Policy) that requires all contractors, consultants, suppliers, sub-contractors, volunteers and students, apprentices/trainees/those on work experience to also meet the vaccination requirements as set out in the Policy. Vaccinations are an important control against the transmission of COVID-19 in all DCJ sites, locations and workplaces*
	↓ No		

3	Risk Assessment
	Plan your WHS consultation and engagement for the risk assessment in line with enterprise and award agreements and usual procedures, then start the risk assessment
			Check your organisation's procedures regarding consultation with Health and Safety representatives/committees, and requirement for union involvement.
			Consultation includes risks, controls and how best to communicate about any changes being discussed. Consultation is required both when vaccines are mandated by PHO and when they are not, with all the people affected. This includes volunteers, interns, contractors.
			Consultation could include:
			• Identification of risks and controls, ideas for improvements
			• Attitudes to vaccination
			• Associated processes e.g. (as required by DCJ):
			  ○ processes and activities to respond to a confirmed or suspected case of COVID-19 in the workplace
			  ○ processes and activities for supporting a Client with a confirmed or suspected case of COVID-19
			  ○ processes and activities for managing the risks associated with supporting a Client who is unvaccinated
			  ○ processes for recording visitors to the workplace, including the use of QR codes
			  ○ processes for supporting testing, tracing and isolation of Workers and Clients exposed to COVID-19 in line with public health requirements

[4] Public Health Order – refer to www.health.nsw.gov.au/Infectious/covid-19/Pages/public-health-orders.aspx#vaccination

	Question		Action
			○ processes for recording, monitoring compliance and managing contraindications if vaccination is a requirement to control COVID-19 risk ○ arrangements for rapid testing of workers / visitors and access to rapid antigen tests (RATs) ○ consideration of the critical worker exemption for close contacts, if relevant[5] ○ if critical workers are casual contacts, who provides a RAT to check if they can work? Planning to communicate the risk assessment and policy alongside other vaccine /health promotion activity is necessary for all staff, clients and other stakeholders. Consider if consultation, health promotion or policy materials need translation into community languages or easy English to ensure access for all staff, and consider communications required for service users. Ongoing consultation to review the effectiveness of controls and updating the risk assessment needs to be in place. Also make time for Board involvement and engagement with other consultative or governance structures (e.g. Audit and Risk Committee discussion, volunteer advisory group).

3	Complete a risk assessment – answer the questions in the green sections (steps 3.1 – 3.9 following) and then complete the template (also provided as a spreadsheet) .[6]

4	Step four invites you to consider the implications of your risk assessment and action plan – see page 19

[5] Some critical workers who are close contacts are now permitted to leave self-isolation to attend work, only if they have no COVID-19 symptoms. These changes are designed to help ease the pressure on workforces, which have been under strain from rising infections and close contacts in isolation. Employers need to establish their policy and arrangements https://www.nsw.gov.au/covid-19/business/nsw-rules/exemption-guidance

[6] See also useful ASU guidance on risk assessment "Vaccination Plus" https://www.asumembers.org.au/vax_plus

Step	Question	Consider
3.1	**Who are your clients and what is your purpose as an organisation**	Who do you provide services to? What do you know about them/ any particular factors that increase vulnerability to infection and/or the effects of COVID-19 such as typical age?
3.2	What are your **service settings**? How much control do you have of the workplaces? Are you sharing space with other agencies/organisations or common facilities (bathrooms, kitchens) as this means your controls are limited by their practices and risk appetite	List the service settings where you operate. This could include for example:[7] • Neighbourhood Centres, youth centres etc • Accommodation • Childcare locations • Offices • Outreach /Mobile settings including outdoors, could be park, schools, sporting facility • Public settings (libraries, shopping centres…) • Kitchen/break rooms • Outdoor play areas, decks, pergola covered areas • Hospitality and other event venues
3.3	**Activities**	Consider your activities in those settings, what is happening? E.g. • Interviews with people/face to face intake/ responding to situations of crisis • Case management and referral • Practical support e.g. IT, ID, food relief, essential items, laundry and bathroom facilities • Play, sports, craft activities, gardening • Support, counselling • Family work, group work, peer support • Training, education, information provision • Community events, public forums • Responding to queries from the public face to face / phone • Personal care • Eating and drinking, preparing food, community kitchen/café • Cleaning • Staff meetings and supervision • Property maintenance • Transporting people from home to service • Handling laundry

[7] Note that suggestions are meant to apply generally to agencies and do not get into the specifics of a particular program e.g. whether specific concerns arise for carers in OOHC

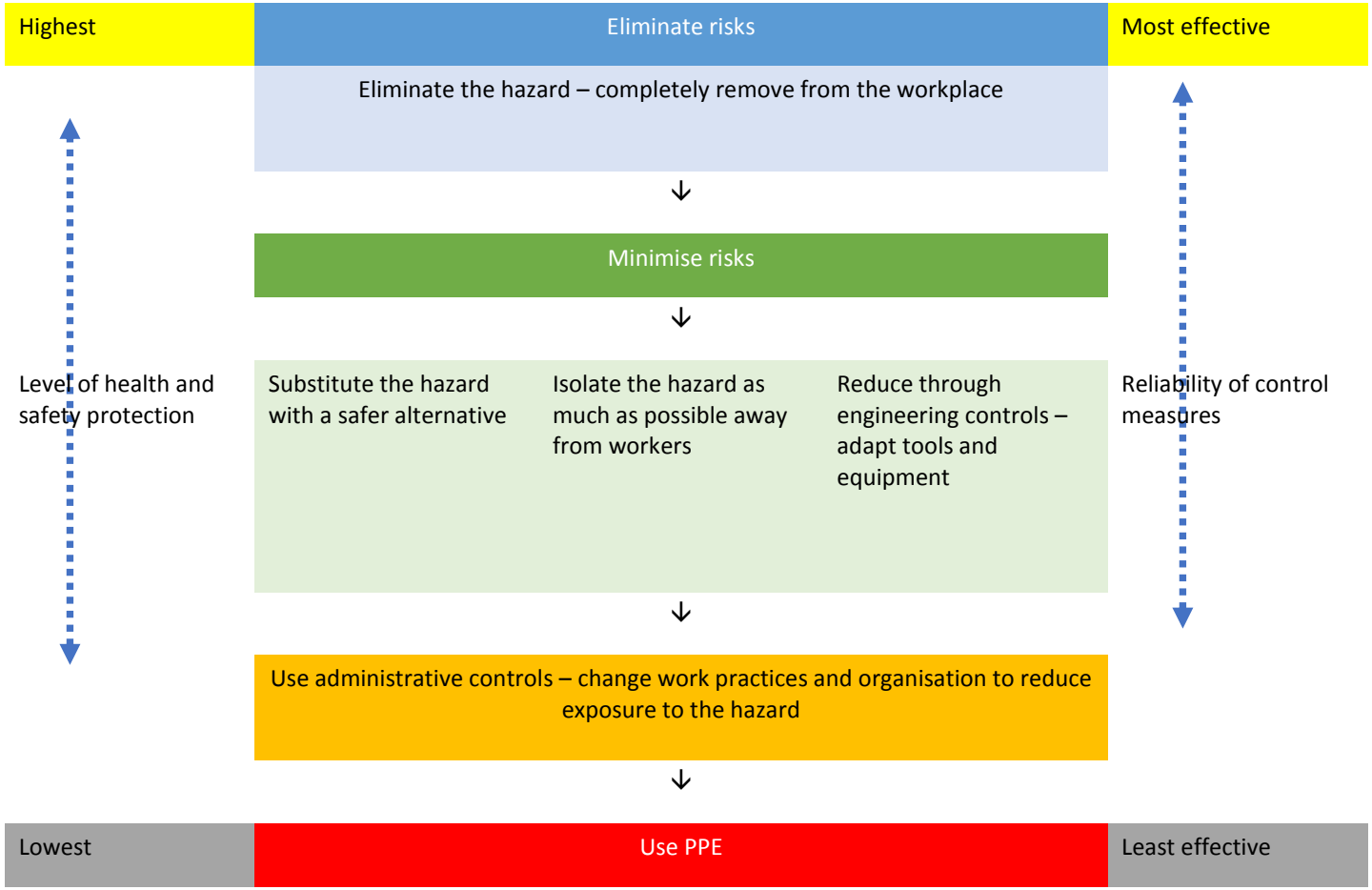
Step	Question	Consider
		• Sharing equipment • Record keeping, service and program administration tasks
3.4	**Identify hazards** What could cause transmission of COVID in those settings?	• Is your service open to people who may have been exposed to the virus? A working assumption should be that any member of the public, supplier or client entering your workplace may have COVID. • How many people come in and out? And is this daily? Weekly? Infrequently? • Can physical distancing be maintained when undertaking activities? • Are you indoors? Is ventilation adequate? Is a ventilation inspection required? Are you in a position to have ventilation improved if required? • What is the current prevalence of COVID-19 in the LGAs you are operating in/draw your staff from? • Who else uses the building or facilities? What are their COVID-19 protocols? • Is physical/social distancing possible in the setting/s? • Are rapid antigen tests available to screen workers or visitors?
3.5	What increases the **likelihood of transmission**? Are these hazard factors inherent to your service model?	• Indoors/ transporting people • Proximity to people over time (more than 1.5 metres) • Large groups of people • Vulnerable group / compromised health / age / unknown vaccination status • Clients with unpredictable behaviour • Work with groups likely to undertake risky behaviours associated with COVID-19 transmission (not isolate, social distance) • Activities like singing, chanting, exercising • Lack of physical distance • Poor ventilation/ unable to open windows, doors • Shared space (corridors, toilets, cars, lifts, small offices) • Staff moving between multiple service settings • Suppliers/deliveries without precautions

Step	Question	Consider
	Figure 2 : DCJ risk matrix for WHS	DCJ has a risk matrix tool to consider likelihood and severity of risk. COVID-19 is known to have major and extreme impacts on life and wellbeing. Based on the model below, any risk of COVID-19 exposure may be deemed a high or critical risk and requires immediate action.

		SEVERITY				
		Insignificant No first aid required or no impact on wellbeing.	**Minor** First Aid required or slight impact on wellbeing.	**Moderate** Medical treatment required, time off work or moderate impact on wellbeing.	**Major** Hospital admission required, significant time off work or substantial impact on wellbeing.	**Extreme** Fatality, life threatening injury / illness or permanent disability to one or more persons.
LIKELIHOOD	**Almost Certain** Expected to occur in most circumstances	Low	Medium	High	Critical	Critical
	Likely Will probably occur in most circumstances	Low	Medium	High	High	Critical
	Possible Might occur occasionally	Low	Medium	Medium	High	High
	Unlikely Could happen at some time	Low	Low	Medium	Medium	High
	Rare May happen only in exceptional circumstances	Low	Low	Low	Medium	High

Risk Level	Required Action
Critical	**Act now** using the hierarchy of controls.
High	**Act today** using the hierarchy of controls.
Medium	**Act this week** using the hierarchy of controls.
Low	**Act this month** using the hierarchy of controls.

Source : https://www.coronavirus.dcj.nsw.gov.au/service-providers/guide-to-recovery-and-sector-support-for-covid-19-management
Downloaded 2 Nov 2021

Step	Question	Consider
3.6	What **controls are in place**? How effective are they? *Figure 3 Hierarchy of risk controls*	Consider the hierarchy of 6 risk control strategies – where do your controls sit?[8]  **Note – PPE is deemed the lowest/least effective within this model because the actual hazard is not reduced. Nevertheless the PPE is an important mitigation action.** **Examples of controls**

[8] https://www.safework.nsw.gov.au/__data/assets/pdf_file/0012/50070/How-to-manage-work-health-and-safety-risks-COP.pdf page 19

Step	Question	Consider
		Eliminate • do not allow clients/ public to visit premises • change service model (phone rather than face to face) Substitute • vaccination – reduces infection and transmission but doesn't eliminate • ensure people with symptoms do not attend workplace Isolate • limit movement between sites/LGAs • limit movement within sites e.g. levels of a building • reduce group sizes, cap numbers to limit any spread Engineer • provide screens • ventilation (recommended is ensuring adequate air exchanges of 6-8 per hour, CO2 levels around 600ppm and appropriate HEPA filtration)[9] • ensure windows can be opened Administrate / Work practices • Transportation policy/ limit sharing vehicles • Limiting access to premises • Working from home – phone and online service delivery • Contactless deliveries • Isolation if COVID-19 suspected/confirmed (staff or clients) • QR codes and manual check-in • Health promotion – posters, materials • Rapid antigen testing • Modify hours/days to reduce peak periods/crowding • Monitor compliance with practices • Limit staff to specific sites rather than working across multiple locations • Provision of masks (surgical, N95) and other PPE (including eye protection) • Storing and disposal of PPE

[9] ASU guideline https://www.asumembers.org.au/vax_plus accessed 26 Oct 21

Step	Question	Consider

		Administrate / Competent people
		• Training to put on/wear/remove PPE and masks
		• Access to/willingness to wear masks (surgical, N95) and other PPE (including eye protection)
		• Infection control training
		• Health promotion e.g. awareness of vaccination availability
		• Awareness of symptoms
		• Handwashing
		• Use of thermometers
		• Use of Rapid Antigen Testing
		• Training in safe working policies and procedures e.g. how to plan a COVID safe home visit
		• Training of agency staff, Policy re Casuals
		• Communications/reminders to address complacency
		
		Environment
		• 1.5m physical distancing of workers/workstations
		• Ventilation/Windows that open
		• Meeting outdoors options
		• Antiviral cleaning routines of high touch/shared areas (lifts, bathrooms, vehicles)
		• Notices on maximum occupancy of office/meeting rooms
		• Alternative service delivery design/delivery (if possible).
		  ○ Moving services outside, under a marquee (e.g.: a social enterprise café or playgroup)
		  ○ No face to face contact (online, telephone)
		  ○ Rostering/change to operating hours/change in group size to promote physical distancing?
		  ○ Changing seating, room lay-out to support physical distancing
		  ○ Changing delivery site – outside venue, outreach (Going to where the clients are)
		
		PPE – Equipment
		• Availability of masks (surgical, N95) and PPE and safe ways to dispose of them
		• Hygiene materials and sanitiser
		• Thermometers
		• Limit sharing of equipment (e.g. keyboards, phones)

3.7	**Assessment** Will any or all of the	Key factors to consider in assessing the need for mandating vaccination or booster as a health imperative include:

Step	Question	Consider
	alternative controls to vaccination mean that the employer is able to meet WHS obligations to staff, clients and others in contact with the workplace without mandating staff vaccination?	• Are there additional factors that increase your clients'/users' vulnerability to infection and/or the effects of COVID-19? E.g. age • Do employees/volunteers work in public or client facing roles where the vaccine status of others may be unknown? • Is physical distancing or screening impossible? • Do people work closely/ frequently with colleagues in public or client facing roles? • Are you providing an essential service to vulnerable people? What happens if service is disrupted? If there are high numbers of clients with COVID-19, how will that be managed? • Is the organisations subject to a PHO mandatory vaccination order because it delivers Health funded programs? • Does the PHO relating to disability services apply to any service settings or workers? • Risks to service continuity if staff get sick (availability of surge workforce) • What is the extent of community transmission of COVID-19 in your location, including the risk of transmission of the Delta or Omicron variant among employees, customers or other members of the community • Are the control measures adequate / are they difficult for staff to follow consistently e.g. because of client behaviour? • What is the current profile of the team – are they all vaccinated? Have they received booster doses? If so, consider mandatory vaccination/boosters as contractual requirement of new staff/volunteers and agency workers. • Do you share facilities with other organisations who are client facing?
	Consider the Tiers of work and level of risk as identified by Fair Work Australia	Four categories of work are defined by Fair Work Australia.[10] • **Tier 1 work**, where employees are required as part of their duties to interact with people with an increased risk of being infected with coronavirus (for example, people co-located with health or quarantine facilities) • **Tier 2 work**, where employees are required to have close contact with people who are particularly vulnerable to the health impacts of coronavirus (for example, older people, those with health vulnerabilities, some Aboriginal people, services with clients in areas with low vaccination rates) • **Tier 3 work**, where there is interaction or likely interaction between employees and other people such as customers, other employees or the public in the normal course of employment (for example, a family and child hub). • **Tier 4 work**, where employees have minimal face-to-face interaction as part of their normal employment duties (for example, where they are working from home on a helpline). The coronavirus pandemic doesn't automatically make it reasonable for employers to direct employees to be vaccinated against the virus. Fair Work Australia indicates an employer's direction to employees performing Tier 1 or Tier 2 work is more likely to be reasonable, given the increased risk of employees being infected with coronavirus, or giving coronavirus to a person who is particularly vulnerable to the health impacts of coronavirus. An employer's direction to employees performing Tier 4 work is unlikely to be reasonable, given the limited risk of transmission of the coronavirus.

[10] https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/covid-19-vaccinations-and-the-workplace/covid-19-vaccinations-workplace-rights-and-obligations accessed 2 Nov 21

Step	Question	Consider
		For employees performing Tier 3 work: • Where no community transmission of coronavirus has occurred for some time in the area where the employer is located, a direction to employees to be vaccinated is in most cases less likely to be reasonable. Such a policy would need to be reviewed regularly in light of the number of COVID-19 cases in the area, noting that it takes 5 weeks from first injection to develop full immunity. • Where community transmission of COVID-19 is occurring in an area, and an employer is operating a workplace in that area that needs to remain open to provide essential goods and services, a direction to employees to receive a vaccination is more likely to be reasonable.
3.8	**Other risks associated with managing COVID risk**	Workplace safety is a priority. Flag other risks to ensure that they are also assessed and managed. For example: • Service sustainability (if workforce compromised by loss of staff/disruption) • Community concern if strong opposition to vaccination policy (pro or anti) • Reduced productivity due to infection control practices or policies e.g. fewer clients assisted due to small group sizes • Cost of controls e.g. air purifiers, changing air conditioning • Staff conflict • Risks/issues with service delivery outdoors (e.g. privacy concerns, risk of injury, environmental risks)
3.9	**Additional controls in support of policy**	There will be additional measures required in support of any new policies. These are highlighted in the implications section below, and might include record keeping, actions to monitor the effectiveness of the controls established, policies regarding compliance.

Step 4	**Implications** If the risk assessment indicates that a policy to vaccinate is reasonable and necessary to maintain safety, then there are implications for the organisation	
	Legal advice	Obtain legal advice to ensure that the proposed mandatory vaccination policy is reasonable, practicable and lawful. *Justice Connect offers free legal advice to eligible community organisations and social enterprises via: legal advice from a Not-for-profit Law lawyer, and/or referral to one of our member law firms. ACWA is compiling a database of legal questions and advice relevant to COVID-19 management Refer to Resources attachment to this Guide for details.
	Policy and procedures.	Update your procedures to align with any policy decisions and actions to manage risks. Could include: • Recruitment • Agency/casual workforce • Training plans e.g. Infection control training • Deployment of Rapid Antigen Testing (RAT), actions to obtain RAT kits (including scenarios should kits not be available or if high cost limits usage) and mandatory reporting of positive results • Booster vaccination requirements • Excluding people with symptoms (consider paid Test, Trace, Isolate and Quarantine leave) and or policies with respect to designated critical workers • Health promotion (ongoing) Fair Work provides promotional materials https://www.health.gov.au/resources/collections/covid-19-vaccination-business-kit • Removal of disincentives to vaccination/boosters e.g. can make appointments during work hours Actions in relation to: • arrangements should staff be subject to a PHO remain unvaccinated • arrangements should staff subject to a reasonable and legal direction by the organisation remain unvaccinated
	Records	• Record keeping is important. Consider the link with your organisation's policy on employee records (in particular the need to keep sensitive information including health records private) https://www.oaic.gov.au/privacy/covid-19/covid-19-vaccinations-and-my-privacy-rights-as-an-employee/. Employers need a valid reason to collect information, such as a WHS policy or PHO. • Consent is required to record/copy sensitive information (informed and freely given consent). • The requirement to be vaccinated under a PHO is an exception to this - vaccination status or medical contraindication has to be disclosed to an employer. • The procedures need to cater for future changes - e.g. should booster vaccinations be mandated • There is a difference between viewing a record and copying it. So, a vaccination certificate may be viewed by a manager who records that they have seen it as the proof of vaccination. • Employers need the informed consent of staff to the copying/storing of a record unless an employer is required to keep a copy by law

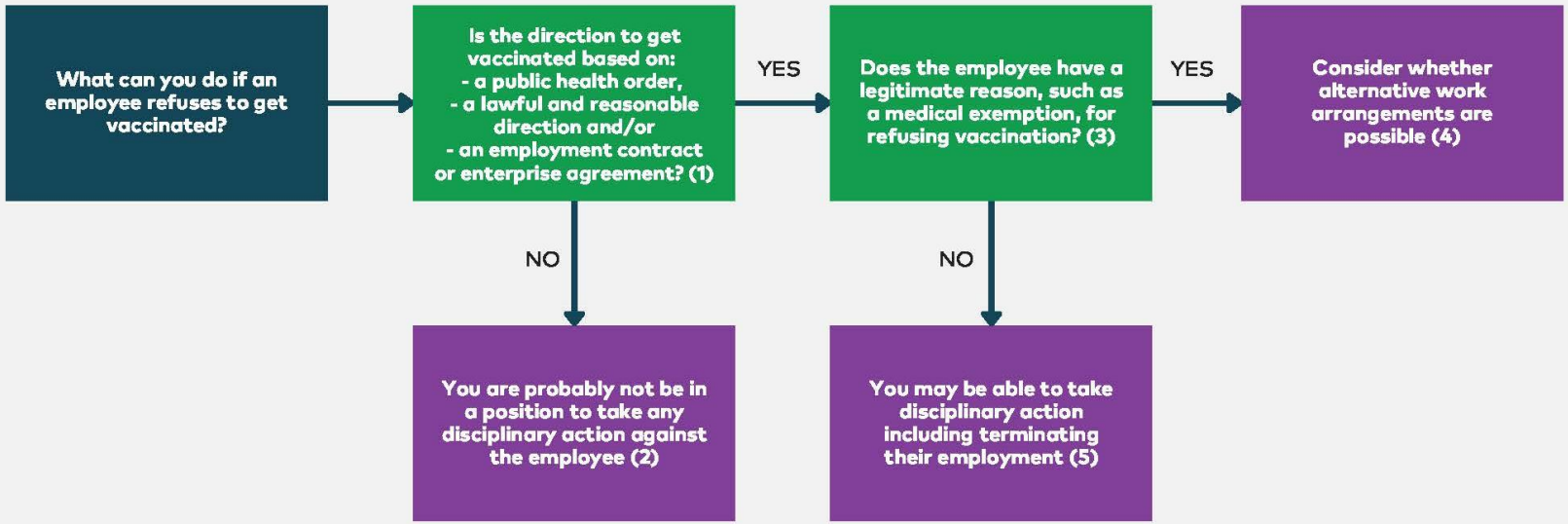
		e.g. in the case of a PHO or other WHS law.[11]
	Communication	Planning to communicate the risk assessment and policy alongside other vaccine /health promotion activity is necessary. • Consider if consultation and policy materials need translation into community languages or easy English to ensure access for all staff. • Ongoing consultation to review the effectiveness of controls and updating the risk assessment needs to be in place. • Also schedule the ongoing involvement of the Board in line with your policy and risk management process.
	Compliance	• An employer can require vaccination if it is reasonable and necessary to manage risk. Flu vaccination is already a requirement for some roles, and recent legal cases before the Fair Work Commission have supported employers in taking action where employees have been unable to prove there is a medical or other justification for their refusal to be vaccinated. Two recent cases – a community care worker and an early childhood educator – supported the employers' risk assessments and action to dismiss staff who did not comply in getting a flu vaccination. [12] In each case the Commission emphasised the duty of the employee to protect their clients. *the flu vaccination was one way for xxxx to fulfil her statutory obligation to take reasonable care to ensure her acts or omissions do not adversely affect the health and safety of other persons*. It is likely the same logic will apply to COVID-19 vaccination policies. • Valid medical exemptions need to be documented, as is the case for medical certificates applicable to workers compensation. Agencies may seek a second opinion where they have concerns about a particular certificate.

[11] https://coronavirus.fairwork.gov.au/coronavirus-and-australian-workplace-laws/covid-19-vaccinations-and-the-workplace/covid-19-vaccinations-workplace-rights-and-obligations#evidence-for-vaccination-refusal

[12] https://www.mauriceblackburn.com.au/about/media-centre/newsletters/employment-industrial-law/issue-43-2021/update-to-the-case-law-on-mandatory-vaccinations/ accessed 26Oct21

Figure 4 : What can you do if an employee refuses?

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



(1) 'For the current public health orders in place in different states and territories in Australia, refer to the Fair Work Ombudsman's information on 'Can an employer require an employee to be vaccinated?'
For an overview of what is considered to be 'lawful and reasonable', refer to the Fair Work Ombudsman's webpage on Lawful and reasonable directions to get vaccinated - remember, it can be difficult to work out whether a direction is 'lawful or reasonable'. You should seek legal advice to help you decide

(2)&(5) CAUTION: Seek legal advice before taking any disciplinary action including termination of employment as you may be breaching unfair dismissal and/or anti-discrimination laws. For more information, see the Fair Work Ombudsman's page on COVID-19 vaccinations: workplace rights and obligations

(3) You can ask the employee for evidence of a medical contraindication via a certificate from a medical practitioner. For example, in NSW, this is required to be in a form approved by the Chief Health Officer, that specifies the medical contraindication. For more information on the requirements in each state and territory, refer to the Fair Work Ombudsman's information on 'Can an employer require an employee to be vaccinated?'

(4) For information on alternative work arrangements, refer to the Fair Work Ombudsman's page on Alternative work arrangements

© 2021 Justice Connect. This information was last updated in September 2021 and is not legal advice; full disclaimer and copyright notice at www.nfplaw.org.au/disclaimer.

Risk assessment template. Note that this is available in spreadsheet format from NCOSS' website.

COVID VACCINATION RISK ASSESSMENT cover sheet	
ORGANISATION	
OUR PURPOSE/MISSION	
OUR CLIENTS	
DATE	
AIM	*This document records the vaccination risk assessment undertaken by <organisation name> in consultation with the senior team/WHS committee/staff reps/Union/ staff and volunteers <add in accordance with your workplace health and safety arrangements)*
CONSULTATION ACTIVITIES SUMMARY	
CONFIRMED	*Date finalised / ratified by Board?*
REVIEW	*Date of review (review date may be brought forward in response to a PHO or other change in circumstance)*

Our Service Settings	Activities	The hazards related to COVID-19 infection when those activities happen	Factors that increase risk of infection/ transmission	Who is impacted (which groups of clients/ staff/ others)? Which Tiers of Work ?	What is the inherent risk rating (if you do nothing)? Low / medium/ high / critical	What reduces/ controls the risk and is it in place?	What is the risk rating with controls in place? Low / medium/ high / critical	Does risk remain for the people impacted? Y/N	Is vaccination identified as an additional, practical and necessary way of controlling / reducing the risk? *Y/N	Other risks associated with managing COVID-19 risk	Additional controls in support of policy/ implications

*COVID-19 can be a life threatening condition, and all risks of exposure considered (graded) as high or critical possible harm, vaccination may reduce the severity of the infection if other controls are not sufficient.

Risk assessment example 1 XYZ Centre

COVID VACCINATION RISK ASSESSMENT	
ORGANISATION	XYZ Centre
OUR PURPOSE/MISSION	Support to young people and families at risk of homelessness in regional NSW
OUR CLIENTS	Typically, 14-20 including young parents and young people exiting care. Many live in shared accommodation and in caravan/cabins. We provide short term housing, casework and referral. The area includes two regions of concern because of high numbers of COVID cases.
DATE	20 Oct 2021
AIM	*This document records the vaccination risk assessment undertaken by XYZ in consultation with the WHS committee /Union/ staff and volunteers*
CONSULTATION ACTIVITIES SUMMARY	Two staff meetings discussed the risk assessment and all staff were invited to phone or email comments We share premises with ABD children's service and an SHS service and have discussed with them.
CONFIRMED	*Date finalised / ratified by Board 30 Oct 2021 and 29 Oct 2021 Audit and Risk Committee*
REVIEW	*Date of review 30 Oct 2022 unless earlier*

Our Service Settings	Activities	The hazards related to COVID-19 infection when those activities happen	Factors that increase risk of infection/ transmission	Who is impacted (which groups of clients/ staff/ others)? Which Tiers of Work ?	What is the inherent risk rating (if you do nothing)? Low / medium/ high / critical	What reduces/ controls the risk and is it in place?	What is the risk rating with controls in place? Low / medium/ high / critical	Does risk remain for the people impacted? Y/N	Is vaccination identified as an additional, practical and necessary way of controlling / reducing the risk? *Y/N	Other risks associated with managing COVID-19 risk	Additional controls in support of policy/ implications
Residential units x 3	Managing accommodation services (arrivals and departures) Property maintenance Casework interviews and meetings	Infection client to client, worker to client, worker to worker through contact indoors	Unvaccinated worker's interaction with unvaccinated clients could risk infection Risk to young children in particular from infection Some clients engage in high	Residential youth workers (RYW) Property team (PT)	High	Ventilation policy Meet outdoors when possible Masks/ hygiene Deep cleaning between client stays	High – RYW Medium - PT	Y	Y – noting staff at Fair Work tier 2	Possible staff shortages / additional costs from Agency staff Delays with repairs	New policy, contractual obligation including for booster vaccinations etc Record keeping Policy re medical contraindication/ redeployment

			risk behaviours (not isolating) in regions of concern Vaccination status of clients may be unknown			Transport policy Physical distancing					Consider rapid antigen testing
Office premises	Interactions with frontline workers and other team members Shared premises with other organisations and their clients Shared kitchen and bathroom	Unvaccinated worker's interaction with unvaccinated clients/ colleagues could risk spreading infection	Risks from shared facilities	Office team, Managers, IT, HR	High	Working from home policy Minimal meetings Masks Shared premises COVID safe plan includes temperature checks Additional cleaning of high touch areas QR codes etc	Medium	Y	Y – noting high numbers of visitors to the building from LGAs with high case numbers and co-located playgroup - staff unable to distance from children	Consider outdoor meetings / team events	Need to ensure co-tenants monitor and observe agreed COVID safe plan
Outreach	Face to face and telephone supports Intake activities	Transmission of COVID client to worker or worker to client	Outreach was mainly face to face e.g. in temporary accommodation Some clients engage in high risk behaviours (not isolating) Vaccination status of clients may be unknown	Intake team Casework team	High	Suspend face to face work Replace with zoom and telephone	Low	No if face to face work suspended	N – if face to face work remains suspended	Feedback from clients and outreach staff indicates face to face more effective and supportive than zoom/ telephone	Monitor

COVID VACCINATION RISK ASSESSMENT	
ORGANISATION	BUZ Family Services
OUR PURPOSE/MISSION	Services include counselling, parenting and skills development programs and support groups.
OUR CLIENTS	BUZ Family Services provides a range of support services to vulnerable children, young people, families and adults of all ages. We are located within a neighbourhood centre which offers a community playgroup, recycling facilities as well as fee for service meeting rooms and café.
DATE	1 Nov 2021
AIM	*This document records the vaccination risk assessment undertaken by BUZ in consultation with the staff team and (peer facilitators (volunteers)*
CONSULTATION ACTIVITIES SUMMARY	A staff meeting discussed the risk assessment and all staff were invited to phone or email comments. These comments and a draft risk assessment were considered by the WHS committee and then circulated for final comments. Discussion considered limiting access to services to vaccinated clients. It was agreed (and ratified by the Board) that this is not in line with the purpose of the organisation. We also consulted the recycling centre and café on their COVID safe plan
CONFIRMED	*Date finalised / ratified by Board 30 Oct 2021 and 29 Oct 2021 Audit and Risk Committee*
REVIEW	*Date of review 30 Oct 2022 unless earlier*

Our Service Settings	**Activities**	**The hazards related to COVID-19 infection when those activities happen**	**Factors that increase risk of infection/ transmission**	**Who is impacted (which groups of clients/ staff/ others)? Which Tiers of Work ?**	**What is the inherent risk rating (if you do nothing)? Low / medium/ high / critical**	**What reduces/ controls the risk and is it in place?**	**What is the risk rating with controls in place? Low / medium/ high / critical**	**Does risk remain for the people impacted? Y/N**	**Is vaccination identified as an additional, practical and necessary way of controlling / reducing the risk? *Y/N**	**Other risks associated with managing COVID-19 risk**	**Additional controls in support of policy/ implications**
BUZ Centre – Neighbour hood centre	1:1 crisis counselling face to face	Transmission of COVID client to worker or worker to client Community transmission	Small meeting rooms – may not know previous user Vaccination status of	Casework team (FW Tier 2)	Critical	Hygiene protocols for meeting rooms Masks Physical distancing Screen for symptoms	High	Y	Y – noting that client and worker feedback indicates outdoors meeting is not an option on privacy	Fewer clients seen each day because of cleaning gap between sessions	Offer telephone or outdoors meetings Enforce room booking protocols

			clients unknown						grounds, and that face to face counselling strongly preferred		
BUZ Centre – Neighbour hood centre	Team meetings and administrati on etc	Community transmission Or worker/work er infection	Public access to shared facilities/ bathrooms indoors Casework team may work with unvaccinate d people	All staff based in office (FW Tier 3) plus Casework team (Tier 2) and Peer Facilitators (Vols) (Tier 3) Note - One team member unvaxed (medical)	High	Co-tenants have agreed policies re masks and hygiene in high contact areas Health promotion posters in community languages Check-in Screen for symptoms	Medium	Y	Y – noting public access to shared space and shared facilities and current high rate of transmission in the LGA	One team member working from home – unable to access office	Policy to stay at home if any symptoms in place Health promotion re jabs within Centre
Community parent support groups	Peer led groups held in community facilities	Community transmission + Client to worker Worker to client Client to client	Shared facilities/ indoors Small children unvaxed Vaccination status of clients unknown Meetings last 90 mins.	Peer facilitators (vol) Clients	High	Social distancing if only book large rooms Cap group sizes to 6 Screen for symptoms	Medium	Y	Y – noting the group spend a long time together and current high rate of transmission in the LGA	Costs increase booking larger rooms	Health promotion re jabs to wider community and volunteers

*COVID-19 can be a life threatening condition, and all risks of exposure considered to risk major / extreme harm, vaccination may reduce the severity of the infection if other controls are not sufficient.

Critical workers and isolation exemptions – NEW 18 January 2022

Alongside the COVID-19 Management Plan, services will need to consider new arrangements for critical workers designed to ease workforce shortages. A risk assessment will assist organisations to think through the benefits of fewer workers in isolation vs possible risks of spreading COVID-19.

Policies and procedures will need to cover all aspects of the management of critical workers, and consider factors such as the availability of RAT kits, procedures in their use and where tests take place.

https://www.health.nsw.gov.au/Infectious/covid-19/Documents/certain-critical-worker-exemption.pdf accessed 20 January 2022

https://www.nsw.gov.au/covid-19/business/nsw-rules/exemption-guidance accessed 20 January 2022.

Exemptions from self-isolation allow critical workers (including volunteers) who are close contacts and have no COVID-19 symptoms to work. Exemptions are made under clause 15 of the Public Health (COVID-19 Self-Isolation) Order (No 4) 2021.

Who are critical workers under the Public Health Order?

Critical workers listed by the instrument include correctional centres, community corrections, persons employed or engaged by DCJ or child protection services, community housing providers and persons employed or engaged to provide family violence and sexual assault services, drug and alcohol services.

- An employer needs to determine that the work is critical and cannot be done from home.
- The person can only leave home to work and has to travel directly to and from work.
- They have to wear a mask at all time (unless unsafe or for eating etc)
- Daily rapid antigen tests (RAT) are mandatory for 7 days from contact with the diagnosed person, and the employer must be informed of the results.
- Self-isolation is required immediately if symptoms develop or a positive RAT. They can only return to work after a negative PCR test.

How does a critical worker exemption operate?

Critical workers who are close contacts can only leave self-isolation if they have no symptoms of COVID-19, they're unable to work from home, and their absence from the workplace poses a high risk of disruption to the delivery of critical services.

Exemptions are subject to conditions which will need to be reflected in policies and procedures developed by an organisation if exemptions are made, for example:

- The worker can only attend work if approved by, or on behalf of, their employer for the purpose of the exemption. Organisations will need to specify who has the delegation to approve critical workers leaving self-isolation.
- The worker must travel directly to and from their place of residence and their workplace(s). They can't leave home for other purposes including non-critical aspects of their work.
- The worker must wear a mask at all times in the workplace.
- The worker must undergo daily rapid antigen tests (RATs) for a period of 7 days from when they last had contact with the diagnosed person, and must notify their employer of each result.

- The worker must comply with risk management strategies put in place as part of the service provider COVID-19 management and vaccination policy.
- Any worker who tests positive or who develops symptoms of COVID-19 must self-isolate, following the self-isolation rules<https://www.nsw.gov.au/covid-19/stay-safe/testing/self-isolation-rules>.

What does this mean for your organisation?

If you have critical workers, consider if your organisation will adopt the isolation exemptions for your workers, the risks of doing so and how these will be managed.

DCJ has advised that providers are not required to adopt the exemptions and stated the following in it update issued 14 January 2022:

> Having critical workers who have no COVID-19 symptoms return to the workplace from self-isolation may help prevent disruptions to critical service delivery. But it may also increase risks, and you'll need to consider what risk mitigation strategies you'll implement.
>
> … there are a number of effective risk control measures that you might consider, including the use Personal Protective Equipment (PPE) and testing.
>
> If you choose to use the isolation exemptions, you'll also need to consider what level of approval your organisation will require to approve critical workers to leave self-isolation.

COVID-19 management plans – responding to Omicron

With the high prevalence of Omicron in the NSW in early 2022 and its highly contagious nature, the likelihood of exposures and infection among people attending service settings is much higher than during previous waves.

Given this, risk assessments and COVID-19 Management Plans should plan for exposures and outbreaks amongst staff, clients and visitors, and be linked to Business Continuity Plans.

Management and continuity strategies will depend on the types of services delivered (e.g. essential, residential, outreach, drop-in etc) and be shaped by the essential nature of the service, whether staff are able to be redeployed, alternative sites of delivery etc.

For more detailed consideration of these issues, refer to the DCJ COVID-19 Management Guidance at www.coronavirus.dcj.nsw.gov.au/__data/assets/pdf_file/0010/822187/covid-19-sector-support-guidance-for-dcj-providers.pdf (accessed 20 January 2022) and the DCJ webinars (20, 21 and 28 January 2022) to assist organisations update their COVID-19 Management Plans in the context of the Omicron wave.

Resources on Business Continuity Planning can be found at www.ncoss.org.au/service-continuity-general-advice-and-tools/

Consultation with your DCJ District Contract Manager is recommended if a developing situation puts your operations in doubt.