

COVID-19

COVID-19 vaccinations and your business

What you need to know

As we work together to keep the community safe from COVID-19, there are key considerations a business will have around vaccination of its staff and customers.

This guidance has been prepared to assist businesses and is not a substitute for legal advice.

Keeping your business and employees COVID safe

Businesses are required to keep their premises safe and minimise the risk of infection and transmission of COVID-19 in the workplace.

Employers should continually assess the health and safety risks to their employees in their particular industry given the changing risk profile.

Can I direct my employees to get vaccinated against COVID-19?

You can direct your employees to get vaccinated where mandatory vaccination is included in a NSW Public Health Order or it would be lawful and reasonable to do so for work health and safety reasons.

When will a direction be reasonable?

- “Reasonable” situations will need to be assessed on a case-by-case basis and depend on a range of factors including the nature of the workplace, the role of the employee, and the likelihood of exposure to COVID-19 in the workplace. An example is if your employees’ roles require them to have close contact with people who are vulnerable to the health impacts of COVID-19.
- One of the key things to do is to conduct a comprehensive work, health and safety risk assessment. Detailed guidance on how to assess whether it would be reasonable for you to require your employees to be vaccinated is available at the [Fair Work Ombudsman](#) website.
- Vaccination directions should generally not be issued to employees who for medical reasons cannot be vaccinated, or due to their age, as this could be unlawful discrimination.
- You should consider whether there is a requirement to consult staff (e.g. under an enterprise agreement or work, health and safety laws).
- If you wish to encourage or incentivise your employees to get a COVID-19 vaccine, you should review the guidance issued by the [Therapeutic Goods Administration](#) about promoting COVID-19 vaccines and incentivising individuals to get vaccinated.

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Can I ask my employees for proof of vaccination?

- Employers can generally ask their employees to provide proof of COVID-19 vaccination or evidence of a medical contraindication to receiving a COVID-19 vaccine if collecting such information is reasonably necessary for managing work, health and safety risks. A NSW Public Health Order may also expressly authorise some employers to request that information and require their employees to comply with such a request.
- Such information is “health information” or “sensitive information” under the various privacy laws that may apply to employers, so should be stored in a secure manner, not kept for longer than necessary and only used for the purpose(s) for which it was collected.

Can I refuse unvaccinated patrons entry to my premises?

- Public Health Orders may require certain businesses to take reasonable steps to prevent unvaccinated patrons entering their premises. Exemptions will apply to persons who cannot be vaccinated for medical reasons or because of their age to ensure that they are treated fairly.
- Businesses that are not covered by a NSW Public Health Order may choose to refuse entry to unvaccinated patrons as long as they comply with their obligations under anti-discrimination and privacy laws. Businesses should not refuse entry to patrons who cannot be vaccinated for medical reasons or because they are in an age group that has not had access to vaccination for very long (i.e. - under 16s).
- When asking to see proof that a patron has been vaccinated or has a valid reason for not being vaccinated, businesses should generally inform patrons (either by a notice or verbally) why they are asking for that information (i.e. to manage work health and safety risks and to comply with any applicable NSW Public Health Order), whether a NSW Public Health Order requires them to answer that question, and who might be provided access to any record made of their responses.
- If any business records are kept that identify the vaccination status of patrons, businesses should ensure the information is stored in a secure manner, not kept for longer than necessary and only used for the purpose(s) for which it was collected.
- Businesses may wish to place signage indicating vaccinated and medically or age exempt patrons are welcome.

Further Guidance

Public Health Orders	National Cabinet	Fair Work Australia
Office of the Australian Information Commissioner	ATAGI clinical guidance	