

# Revoking vaccination as a condition of deployment (VCOD) for healthcare workers

Frequently Asked Questions  
14 March 2022 Version 1

On 31 January 2022, Secretary of State for Health and Social Care announced to the House of Commons that it was no longer proportionate to require COVID-19 vaccination as a condition of deployment for NHS workers. The Government announced that there would be a consultation regarding the intention to revoke the requirement imposed by the [Health and Social Care Act 2008 \(Regulated Activities\) \(Amendment\) \(Coronavirus\) Regulations 2021](#) and the [Health and Social Care Act 2008 \(Regulated Activities\) \(Amendment\) \(Coronavirus\) \(No.2\) Regulations 2022](#) (collectively referred to as ‘the regulations’).

The public consultation was open from 9 to 16 February 2022 and received over 90,000 responses from across the health and social care sector, as well as from members of the public.

On 1 March 2022, the government published the response to the consultation. In light of the scientific evidence, alongside a strong preference for revocation, the response confirmed that the vaccination as a condition of deployment policy would be revoked.

## **1. When will the revocation of vaccination as a condition of employment (VCOD) regulation take effect?**

The revocation of VCOD regulations for health and social care workers, will come into effect on 15 March 2022. This will remove the requirements already in place in care homes, as well as those that were due to come into force in health and wider social care settings on 1 April 2022.

## 2. What are the next steps?

The government will take the following steps:

- Continue to work with professional regulators to review current guidance to registrants on vaccinations, including COVID-19, and to emphasise their professional responsibilities in this area.
- Consult on the Code of Practice on the prevention and control of infections to strengthen requirements in relation to COVID-19 and bring it in line with updated infection prevention and control (IPC) guidance for registered providers of health and social care.
- Work with the NHS and social care stakeholders to engage with workers who are yet to make the positive choice to be vaccinated. This will build upon the existing programme of work that is being delivered to support and encourage vaccine uptake.

## 3. What does this announcement mean for NHS staff who were dismissed due to the care home mandatory vaccination regulations?

In accordance with the mandatory vaccination regulations for staff working or volunteering in Care Quality Commission (CQC) registered care homes in England, employers who terminated the employment of unvaccinated staff from 11 November 2021, were complying with the law at the time.

If a former staff member wishes to return to their former role, it is open to the employer to consider extending an offer to re-engage the individual to the role (if vacant) on the same terms and conditions of employment, or to provide individuals with reasonable support with respect to recruitment and selection processes to help them obtain another role within the organisation. However, there is no obligation to do so and if this is not possible, or if it is not an option the employer wishes to take, the revocation of the regulations now will not impact on the position.

Employers will need to be able to demonstrate consistency in their approach to ensure that a fair and equitable approach has been taken with all individuals

## 4. Should we still encourage staff to be vaccinated?

NHSEI have always been clear that staff have a professional duty to get vaccinated and it remains our best line of defence against COVID-19. As such NHS organisation including Primary Care, are encouraged to continue engaging with and supporting their staff to inform their decisions in order to drive vaccine confidence, protect themselves, patients, and everyone else. NHSEI has produced [COVID-19 vaccine communication materials](#).

## 5. What support can we offer our staff?

To support staff, employers should continue to provide:

- Dedicated communication channels for staff to discuss VCOD (the revocation).
- Staff access to information from clinical leads and specialist experts regarding COVID-19 vaccines.
- Information about and access to staff regarding [national health and wellbeing tools](#).

## **6. Should we remove the requirement for vaccinations from our job adverts?**

Employers should remove the requirement for staff to be vaccinated as a condition of their deployment (for roles which were deemed in-scope of the regulations) from job adverts and any corresponding recruitment documentation. However, adverts should continue to include wording that the organisation encourages and supports staff to be vaccinated as this remains the best line of defence against COVID19.

## **7. Can we continue to collect data regarding the vaccination status of staff?**

If Trusts collect any vaccination data, as data controllers, the onus is on the Trust to carry out their own Data Protection Impact Assessments (DPIAs), and ensure that they have satisfied their own transparency requirements and have the necessary consent before data collections are undertaken.

### **Foundry**

Foundry will continue to be used to provide aggregate flu and Covid-19 data at organisation, ICS and Regional level. We are currently exploring whether access to Foundry can and should be provided to Trusts.

### **System C**

We are aware that the continued pause in access to the System C dashboards has implications for reporting on flu and Covid-19 data, and that the dashboards were a useful tool during the pandemic. Covid-19 COPI notices are due to expire on 30th June 2022 and VCOD legislation is to be revoked on 15th March 2022, which means that the System C dashboards, will not be provided.

## **8. What should we do with the data we have already collected?**

COPI notices are still in place until 30 June 2022, so Trusts have a legal basis for processing (holding) the data. However, dependent on what policy is beyond this date, Trusts will need to review this as they are the data controllers.

## **9. Can patients request to know the vaccination status of staff involved in their care and refuse to be treated by unvaccinated staff?**

The Covid-19 vaccination status of staff is special category data and therefore should be treated no differently to other personal health information or information pertaining to an employee's protected characteristics.

Therefore, employers should not disclose the vaccination of any staff or workers upon the request of a patient and they are not legally obligated to do so.

Patients who enquire about the vaccination status of staff, should be advised that this personal health information is confidential and will not be disclosed. However, patients can be reassured that the Trust is adhering to all regulatory, infection prevention control (of which vaccines are only one precaution) and health and safety measures in addition to clinical guidance, to ensure patients are being treated in a safe environment.

If a patient refuses to be treated or cared for by unvaccinated staff, Trusts are not obligated to consider providing alternative vaccinated staff members to treat the patient in

question as this would be operationally challenging and would add a level of complexity to service delivery.

Trusts should consider communicating to their workforce how staff should respond to patient vaccination status requests and refer staff to violence prevention and safety in the workplace policies/material to support staff with any potential conflict that may arise.

**10. What should we do if staff want to know the vaccination status of their colleagues or raise concerns about working with unvaccinated colleagues?**

As per question 9, the vaccination status of an employee is considered special category data which should be kept confidential from patients and staff.

Staff should be advised that they should not take it upon themselves to know or determine the vaccination status of a colleague.

Staff should discuss any concerns they have with regards to their working environment with their line manager. The conversation should include discussion on the COVID-19 secure safety measures put in place by the Trust in accordance health and safety precautions.

Based on the individual circumstances of the employee, risk assessments can be revisited to identify any further measures required to reduce the risk of COVID-19 exposure to the individual, and occupational health advice sought.