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Vaccination FAQ

England and Wales

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Questions	Advice
General	
Is it a legal requirement to get vaccinated if you are contacted by the government?	No. At present (17/02/2021), it is not a legal requirement to be vaccinated.
Should we force employees to be vaccinated?	No, employees should not be forced to receive vaccination. However, it may be that the employer identifies in the risk assessment that it is a requirement for the employee to be vaccinated in order to comply with health and safety obligations – this is likely to depend on the nature and makeup of the workplace. It may also be necessary for the employee to be vaccinated in order to carry out their role, for example if they need to travel to a country that requires the individual to be vaccinated in order to enter.
Should we encourage employees to get vaccinated?	Yes. We see this as a key control measure in preventing the spread of the virus and helping to protect everyone within the workplace. If you are requiring employees to be vaccinated as part of your key control measures, then steps should be taken to explain to employees why this is and also try to alleviate any concerns employees may have about the vaccine by, for example, providing official information from relevant health authorities about the vaccine's safety. Information regarding the vaccine can be found on the NHS website, here.
Should we update our current risk assessments when vaccinations begin to be rolled out?	Yes, this is a key control measure in preventing the spread of the virus and needs to be added to existing risk assessments.
If an employer requires employees to be vaccinated, can an employee refuse?	It depends. If the risk assessment identifies vaccination as necessary, and therefore mandatory, requiring an employee to be vaccinated will amount to a reasonable management instruction. Whether an employee can refuse will depend on the employee's reasons, e.g. health, pregnancy, or religion/belief. It will be necessary to consider whether these employees can continue to work without having been vaccinated – this would be done via the risk assessment. If the employee refuses without legitimate reason, then it may be open to the employer to discipline the employee for failing to comply with a reasonable management instruction, which could result in dismissal for gross misconduct in certain circumstances (although this is likely to be rare). Also, if the employee cannot continue to undertake their role without being vaccinated, it may be that they can be dismissed fairly for 'some other substantial reason' (SOSR). It is imperative to properly discuss and consider the reasons for refusal with the employee before taking any such action, as well as whether it is possible for the employee to continue working even though they are not vaccinated – this will depend on what the risk assessment says and the nature of the workplace. You should also consider whether alternative arrangements, such as homeworking, could be put in place. You should seek advice before taking any disciplinary action in these circumstances.

	More detailed guidance is available in our **Vaccination and Testing Guide**.
If an employee can't work because they have not been vaccinated, what is the position regarding pay?	Again, this depends on the reason why the employee is not being vaccinated. If they have a legitimate health reason for not being vaccinated, they should be paid statutory sick pay (SSP) (or contractual sick pay if applicable), although if the medical condition amounts to a disability it will be important to ensure that adjustments/alternatives are properly considered before doing so, e.g. can they continue to work in the workplace or work from home. If they are pregnant and unable to take the vaccine because of that, they will be entitled to full pay if no other alternatives/adjustments are available. If the employee is not being vaccinated because of legitimate religious/belief reasons, then it is arguable that this would be on no pay, although, again, it will be very important to consider whether any adjustments/alternatives can be made to the policy in order to accommodate that belief before taking that step. If the employee does not have a legitimate reason for not being vaccinated, it is arguable that they are not ready, willing and able to work since they will not be complying with your health and safety policies and therefore not entitled to be paid. Also consider whether employees who can't come into the workplace can work from home as an alternative. You should seek advice before deciding to reduce an employee's pay in these circumstances.
If someone is vaccinated, do they still need to follow the workplace control measures?	Yes. NHS guidance states that current control measures should still be followed. They should follow these, including the wearing of face coverings and maintaining social distancing, until further guidance from the government is provided.
If someone is clinically extremely vulnerable, and has received a COVID vaccine, should they still be classed as this and follow strict social distancing as instructed?	Until anything is received from the government, we strongly advise that the same control measures are followed.
Should we give employees time off to receive vaccines?	If you are requiring employees to be vaccinated in order to work in the workplace, then they should be allowed paid time off in order to do so. If it is not a mandatory requirement, then unpaid time off should be provided.
If an employee needs time off as the feel unwell after receiving a vaccine, are they entitled to SSP?	If the employee is sick and cannot work because of that, they will be entitled to SSP (or contractual sick pay, if applicable).
Should someone still use the NHS Test and Trace app and follow the advice from the NHS if they have been vaccinated?	Yes. Until further guidance is received, we advise that they follow the guidance from the NHS, whether this be through the app or via a telephone conversation.

This guidance is based on information available as at 17 February 2021. This is an evolving situation. This guidance will be updated as and when there are any developments.