



RMTU Vaccination policy

The purpose of this policy is to provide guidance to officials and delegates for responding to members who are concerned that they or their workmates could be at risk of serious illness from exposure to the COVID 19 virus from working in close physical proximity with other workers or customers who have not received the COVID 19 vaccination.

In particular, the policy will describe the Unions advice to members who choose to exercise their rights under Section 83 of the Health and Safety at Work Act 2015. Section 83 enables a worker to cease or refuse to carry out unsafe work on the basis that they believe the work would expose the worker, or any other person, to a serious risk to the worker's or other person's health or safety arising from an immediate or imminent exposure to a hazard.

This policy is to be read in conjunction with the NZ Council of Trade Unions- Te Kauae Kaimahi (NZCTU) COVID Vaccination dated September 2021.

COVID 19 Vaccination

Our Union supports and encourages members to receive the COVID-19 vaccination who are medically able to. Vaccinations are a key control measure against contracting and transmitting COVID-19 including the Delta variant and will contribute significantly to keeping workers and their whanau safe.

The NZ Ministry of Health says that 95% of people who receive both doses of the Pfizer vaccine (Comirnaty) are protected against becoming seriously ill and less likely to transmit the virus to others.

Studies cited by the Ministry of Health say that the Pfizer vaccine can reduce transmission of the virus.¹

The Ministry of Health said they do not yet know how long the protection from the vaccine lasts for. They indicate it is likely 'booster' shots will be required to maintain protection against COVID 19.

Fair treatment regardless of vaccination status

If a worker cannot be vaccinated due to a health reason, the employer must take all reasonable steps to ensure that the worker is able to continue in their role.

If a risk assessment shows that work needs to be undertaken by a vaccinated worker then alternative work arrangements or redeployment opportunities should be considered.

¹ https://www.health.govt.nz/system/files/documents/pages/science_updates_7_may_2021.pdf
22 September 2021

Note: A risk assessment should include the participation of the workers and their union representatives.

Refusal to vaccinate

People who do not want to be vaccinated need to be treated fairly and lawfully. This decision is protected under the Bill of Rights, meaning they cannot be unlawfully discriminated against for that choice. If there is a valid Health and Safety reason for requiring that certain work be done by a vaccinated person, this must be evidenced by a risk assessment.

Co-worker or customer concerns

Co-workers and customers cannot demand that an employee disclose their vaccination status.

Any customer and co-worker concerns over vaccination status of individual employees should be seriously considered through the lens of an employer's Health and Safety obligations.

The views of the worker who is subject to the concern should also be considered in conjunction with any additional and/or contextual information.

PCBU's obligation

PCBU's are required, so far as is reasonably practicable, to address any risk they've identified because of COVID-19. This includes the risk of transferring the virus at work and any other risks that arise from implementing control measures against COVID-19.

PCBU's have duties to work together with workers and their union representatives to address these risks. Workers should be engaged and consulted on all matters that affect their health and safety.

HSR's should have received training in how to do a risk assessment and should be invited to participate in the PCBU's risk assessment. This could also be done by the local health and safety committee. It is important that the HSR informs and communicates with members about the risk assessment and seeks their views regarding the risk and the risk mitigations.

The PCBU is required to

- engage with workers to identify the risk created by exposure to COVID 19, complete a risk assessment, and put in place controls to reduce the risk of exposure, and
- review and monitor the risks regularly to make sure the controls remain effective.²

Privacy

Vaccination information is health information, therefore patient confidentiality, privacy rights and obligations apply. This means information about an individual worker's vaccination

² [Our COVID-19 response – what you need to know | WorkSafe](#)
22 September 2021

status is confidential and must be held securely by their employer if they possess such knowledge.

An employer may request that a worker disclose their vaccination status only where there is a real and exigent Health and Safety reason to do so. However; a worker has a right to privacy with respect to their medical record and may chose not to disclose it.

A worker can choose whether they disclose their vaccination status to other workers but they are not obliged to.

Right to cease or refuse to carry out unsafe work

Section 83 of the Health and Safety at Work Act 2015 provides workers with the right to cease or refuse to carry out unsafe work if they believe that carrying out the work would expose them or another person to serious risk to their health and safety. In addition, the risk of exposure to the hazard must be immediate or imminent.

A worker who has ceased or refused work in this circumstance is required to notify their manager as soon as possible of the issue and attempt to resolve the matter.

In addition the worker must make themselves available to do alternative (safe) tasks whilst the matter is resolved.

Partially and fully vaccinated workers

Vaccinations became available to the general population over 12 years of age in August 2021. For this reason many workers will not be fully vaccinated until December 2021 or later.

Partial vaccination, whilst better at protecting a worker from infection than non vaccination, is not as effective as full vaccination which increases the risk.

Unvaccinated workers

If a worker (who is vaccinated) genuinely believes they are at risk of serious harm from exposure to covid 19 from working in the vicinity of an unvaccinated worker or customer they must raise their concern with their manager.

The Worker, their Union Delegate or Health and Safety Rep and the manager should discuss how they can reduce the risk of exposure including;

1. An unvaccinated worker or customer receiving the COVID 19 vaccination to reduce the risk of becoming seriously ill with the COVID 19 disease;
2. Providing face covering PPE such as an N95 mask or equivalent to reduce the risk of spreading and contracting COVID 19;
3. Maintaining ventilation in the work area
4. Enhanced cleaning regime and provision of hand sanitiser;
5. Varying the shifts to reduce contact with other workers or customers;
6. Maintain compliance, so far as is reasonably practicable, with the 1 metre physical distancing rule for all workers while they are in the workplace;

7. Maintain compliance, so far as is reasonably practicable, with the 2 metre physical distancing rule for anyone else entering the workplace or using its services;
8. Mitigate, so far as is reasonably practicable, the risks of spreading COVID-19 that arise to the extent that physical distancing is not fully maintained (for example, through regular cleaning of surfaces or the installation of plastic barriers).
9. Maintain contact recordkeeping systems to ensure a contact record is kept of workers and other people.
10. Working from home
11. Discuss redeployment options

Employers are required to implement all reasonably practicable control measures and to be compliant with all control measures required through public health orders and other Government sources. Workers and their union reps should be given genuine opportunity to engage and contribute to decision making on how the risk of exposure to covid can be managed.

Following the risk assessment and the implementation of controls the worker, their Union rep and the manager should consider the following questions;

1. Is the risk to a persons health and safety still imminent and immediate?
2. Is the risk to a person's health and safety still serious?
3. Does the H&S Rep believe there is "reasonable grounds"³ to continue to cease work?

If the parties are unable to agree that the risk has been mitigated to an acceptable and agreed standard, they can request WorkSafe to appoint an inspector to assist with the resolution of the issue.

The RMTU Regional Organiser should also be notified.

³ Section 83 (3) of HSWA says that "reasonable grounds" exist if a health and safety rep has advised the worker that carrying out the work would expose them or another worker to serious risk to their health and safety arising from imminent and immediate exposure to the hazard.