



Vaccination as a condition of deployment FAQs

The LMC HR team have been reviewing the most recent developments in relation to mandatory vaccinations for staff delivering CQC regulated services with direct patient contact, and as a result have produced some basic FAQs and answers, that we hope will be of use and interest to Practices.

Any Practices with any follow up queries should contact [Stevie Simpkin](#) HR Service Lead.

Have the regulations now passed into formal legislation on the statue book?

Yes, the regulations are now entered on to the statue book from the 6th of January 2022, so requirements of vaccination / exemption status are statutory requirements from 1st April 2022 as things stand. We understand there is still debate in parliament around details of implementation and timing so it is just possible some further changes could be forthcoming.

To whom do the regulations apply?

The regulation applies to all staff likely to have patient contact in conducting CQC registered activities. In practice, this is likely to cover the vast majority of staff in general practice and any exemptions will need to be assessed on a case-by-case basis

What are the regulations from 1st April 2022?

Simply, that all staff with patient contact in CQC regulated activities must be at least double COVID vaccinated or have a valid exemption. There are no exception as things stand.

What should I/ we be doing now?

Our advice is to maintain and continue consultation and engagement with all staff to inform them of the requirement, but it should be particularly targeted at any staff not yet vaccinated to ensure they are aware of what is required, and the implications of not having a full vaccination status or exemption by 1st April 2022. In practice, to achieve full vaccination status, the deadline for first vaccination is 3d February 2022; staff not in receipt of vaccination by that date are likely to be unable to comply with statutory requirements. Warning of potential termination should be explicit in the consultation process if staff continue to refuse vaccinations or are ineligible for valid exemption

What are the implications?

Any individual working in CQC regulated activities with patient contact not fully vaccinated or exempt by 31st March 2022, will almost certainly be subject to termination of employment on the grounds of either misconduct, based on the failure to follow a reasonable management request or lack of a statutory requirement to work.

Will termination be a fair termination in those circumstances?

If there has been clear and explicit consultations around the requirement and impact of the statutory regulations, and, through the process, staff have been warned to the likelihood of termination, then, where it becomes clear from the 4th February 2022, that staff will be unable to meet the requirements for full vaccination status or exemption, then individual meetings should be held to provide final warnings and notice of intent to terminate, but only after consideration has been given to any potential for re-deployment into non patient facing roles. It is also proposed that, in any notice to terminate letter the following caveat should be included,

“At present, if you are not fully vaccinated (or exempt) on 1 April 2022, you cannot lawfully come into direct contact with patients. Therefore, this letter gives you notice that your employment will terminate on 31 March 2022 if it is unlawful for you to come into direct contact with patients due to your vaccination status on the following day, 1 April 2022. (Should it not be unlawful for you to come into direct contact with patients on 1 April 2022 because, for example, the date for the requirement to be vaccinated fully is delayed or the legislation is revoked, this notice will not take effect and, therefore, your employment will continue.)”

Case law has recently emerged from the care sector that termination in these circumstances that follows a robust procedure will be a fair dismissal – [see here](#).

What do I do if an employee says they're exempt?

Exemption can only be granted once an individual has been assessed by a doctor, specialist clinician or midwife. It is understood that employers have the right to request access to information that confirms exemption status where it is claimed. Any failure to provide the required access would leave an employee vulnerable to termination.

What if the notice period runs beyond 1st April 2022?

For longer serving staff, or those with notice periods in their contracts, any outstanding notice running beyond 1st April 2022 should be paid in lieu.

What if staff who may qualify for exemption status are still waiting for appointments and confirmatory tests, that could take provision of evidence beyond 1st April 2022 outside of their control?

It is suggested that cases like this should be assessed on a case-by-case basis to consider the possibility of short-term relief through, for example, annual leave, agreed unpaid leave, temporary suspension from duty, or any other facility that might be appropriate in the circumstances. In exceptional circumstances similarly arrangement might apply if, for whatever reason, staff have been unable to access vaccines within the prescribed timescale through no fault of their own.