



## **Unite submission to the Department of Health and Social Care Making vaccination a condition of deployment in the health and wider social care sector**

- 1. Which of the following best describes your opinion of the requirement: Those deployed to undertake direct treatment or personal care as part of a CQC regulated activity in a healthcare or social care setting (including in someone's home) must have a COVID-19 and flu vaccination?**

- a. Must have a COVID-19 vaccination in healthcare and social care**

Neither supportive nor unsupportive

### **Please provide details to support your answer**

Unite does not support mandatory vaccination and believes all COVID-19 vaccination and COVID-19 testing regimes in the UK should be voluntary and not mandatory.

Compulsion is a bad way to achieve a high level response, will lead to increased resistance, a worsening staffing crisis and is embroiled with issues such as equalities, human rights, privacy, and ethical breaches.

The voluntary approach is working and Unite is strongly in favour of the UK vaccination program and has actively promoted the idea of Unite members taking up the offer of COVID-19 vaccinations. This has been through a major campaign of written communications, posters, video and social media, as well as peer to peer education.

Unite has also supported workplace related testing schemes, with a strong inclination towards PCR (polymerase chain reaction) testing carried out by health professionals. Although we see the value in Lateral Flow Testing (LFT) for detection of asymptomatic cases, as long as the accuracy limitations when self-administered are recognised.

Unite therefore has considerable reservations about the implementation of mandatory vaccinations, not just in Health and Social Care but in all scenarios and industries.

We also have reservations about reliance on the vaccine to prevent infection. Not enough is known about this or other aspects of the vaccines such as duration of protection, timing of boosters and how vaccines will fare against variants that are constantly evolving.

Until all these factors are known, reliance on vaccines alone would not be appropriate. Other control measures need to continue alongside vaccines, such as testing (an alternative to vaccination if professionally administered), social distancing, hygiene controls, and PPE.

- b. Must have a Flu vaccination in healthcare and social care**

Neither supportive nor unsupportive

As with the Covid-19 vaccination, Unite does not support mandatory vaccination.

Compulsion is a bad way to achieve a high level response, will lead to increased resistance, a worsening staffing crisis and is embroiled with issues such as equalities, human rights, privacy, and ethical breaches.

Unite supports a voluntary approach and Unite is active in promoting the UK flu vaccination program to encourage Unite members to take up the offer of Flu vaccinations. This has been through a major campaign of written communications, posters, video and social media, as well as peer to peer education. Moves to make the vaccine compulsory undermine that effort.

- 2. Do you think there are people deployed in or visiting a healthcare or social care setting (including someone's home) who do not undertake direct treatment or personal care as part of a CQC regulated activity but should also be included within the scope of a requirement to have a COVID-19 and flu vaccine?**

No

- 3. For COVID-19 and flu vaccination are there people deployed to undertake direct treatment or personal care as part of a CQC regulated activity that should not be in scope of the policy?**

Yes

Unite does not support mandatory vaccination.

While Unite continues to support the vaccination programme on a voluntary basis, Unite believes that nobody should be obliged to be vaccinated. Such a policy will undermine the vaccination effort, be potentially discriminatory and could further exacerbate recruitment and severe staffing problems in the Health and Social Care sectors.

- 4. Are there any other health and social care settings where an approach similar to adult care homes should be taken? (that is, all those working or volunteering in the care home must have a COVID-19 vaccination or have an exemption)**

No

- 5. Which of the following best describes your opinion of the requirement: Those deployed to undertake direct treatment or personal care as part of a CQC regulated activity in a healthcare or social care setting (including in someone's home) must have a COVID-19 and flu vaccination?**

Not supportive for COVID-19 and flu vaccination

**Please provide details to support your answer.**

While Unite continues to support the vaccination programme on a voluntary basis, Unite believes that nobody should be obliged to be vaccinated. Such a policy will undermine the vaccination effort, be potentially discriminatory and could further exacerbate recruitment and staffing problems in the sector.

- 6. Do you agree or disagree that exemption from COVID-19 vaccination and flu vaccination should only be based on medical grounds?**

Strongly disagree

**a. On what other basis, if any, should a person be exempt from COVID-19 vaccination requirements?**

Unite believes all COVID-19 vaccination and COVID-19 testing regimes in the UK should be voluntary and not mandatory. Compulsion is a very bad way to achieve a high level response, will lead to increased resistance, a worsening staffing crisis and is embroiled with issues such as equalities, human rights, privacy, and ethical breaches.

**b. On what other basis, if any, should a person be exempt from flu vaccination requirements?**

Unite believes all vaccination in the UK should be voluntary and not mandatory. Compulsion is a very bad way to achieve a high level response, will lead to increased resistance, a worsening staffing crisis and is embroiled with issues such as equalities, human rights, privacy, and ethical breaches.

**7. Are there particular groups of people, such as those with protected characteristics, who would particularly benefit from COVID-19 vaccination and flu vaccination being a condition of deployment in healthcare and social care?**

Not sure

**a. Which particular groups might be positively impacted and why?**

Unite does not support mandatory vaccination. Mandatory vaccination may lead to discrimination across the array of protected characteristics set out in the Equality Act 2010, and a voluntary approach is more likely to provide the protections that is intended from this policies.

**8. Are there particular groups of people, such as those with protected characteristics, who would be particularly negatively affected by COVID-19 and flu vaccination being a condition of deployment in healthcare and social care?**

Yes

Mandatory vaccination may lead to discrimination across the array of protected characteristics set out in the Equality Act 2010.

The Health and Care sectors are overwhelmingly staff by women in low paid jobs. This means that the policy will have a disproportionate impact on women who would also likely suffer detriment such as lack of adequate sick pay, pay for self-isolating and childcare especially as women are far more likely to take time off to look after relatives and children. Unite strongly believes that unless safeguards are in place the policy will inevitably lead to unequal treatment for women.

There are also significant unknowns around vaccine safety for pregnant, breastfeeding women, and women and men who are who are undergoing or planning to undergo fertility treatment.

Similarly there is a clear danger that disabled persons will face detriment when applying for jobs and discrimination in a current roles. Disabled people may have very good medical reasons not to be vaccinated, reasons which also renders those people disabled under the Act. In addition, having to produce a certificate, may give rise to a disabled person having to explain their disability in order to enter or be turned away.

Vaccine hesitancy is likely to be high among people with mental illnesses, historically the uptake of similar vaccines such as the influenza vaccine in those with mental illness has been be as low as 25% (specifically those with severe mental illness). There is currently little formal guidance and

strategies to support those with mental health issues to access clear and reliable information and practical and easy access to vaccination.

Black and ethnic minorities (BAEM) and those with varying religious beliefs may object to the vaccine for various reasons with BAEM suffering additional health burdens that prevent vaccination. Whilst it was established the Astra Zeneca, Pfizer and Moderna vaccines did not use pork gelatine in their formulas, perception or the fact other companies have not yet released a list of ingredients is an important consideration.

The take up of the vaccine within this group is lower, therefore certification of this type will lead to a whole community being treated differently. Again alternative options such as additional controls, testing backed by financial support is essential.

Migrants and foreign nationals working in social care may not be registered with GPs and therefore may not have been offered vaccines. This group will be concerned about mandatory vaccines which may lead to difficulties both at work and accessing services.

**9. Do you think a vaccination requirement policy could cause any conflict with other statutory requirements that healthcare or social care providers must meet?**

Yes

Health and care providers have multiple statutory duties relating to the services they provide including how they led, levels of staffing and service safety.

These sectors are already suffering from acute staffing crises and many workers who have continued to work throughout the pandemic are at breaking point. Mandatory vaccination could push the system over the edge.

E.g. the King's Fund reports that the NHS suffered from a shortage of nearly 84,000 full time equivalent staff including 37,000 nurses (1 in 10 of all nurse roles). Similarly Skills for Care reports more than 100,000 vacancies in social care following the pandemic.

There are also major human rights and privacy implications from mandatory vaccination including the right to respect private and family life in terms of having to demonstrate that the vaccine has been administered and whether one or both vaccinations have been given.

Questions arise around whether this information in any form can be held by the service provider and how would privacy/personal data be protected? Given the information is medically related it would be placed in a special category, persons have the right to have medical information kept confidential.

There are also equalities considerations, for example the inability to have the vaccine linked to a protected characteristic would give rise to potential discrimination issues around any potential exclusion from care settings, even if these can be largely objectively justified in law.

There will be issues in respect of the other protected characteristics/discrimination and the ability to have the vaccine whether pregnancy or disability related, and how that affects the ability to access goods and services.

These would lead to potential challenges around equalities, privacy, human rights and employment rights.

In a workplace environment there will be an overriding requirement for employers to treat such information around vaccinations in line with General Data Protection Regulation (GDPR) and special category data. The 'no jab, no job' perspective will open numerous potential discrimination cases and could result in staff leaving making the service untenable.

The potential introduction of compulsory vaccinations will also affect third parties such as patient transport, or delivery drivers and could lead to conflict with workforces and potential claims in the event of dismissals.

There will be those that are unable to have the vaccine for genuine, underlying reasons, many of which they may not wish to declare to their employer.

Exclusions from the workplace or even dismissals will have to the potential to give rise to discrimination claims, therefore it is not obvious what alternative plans will be in place for those that are unable to have the vaccine and then there are considerations around having to advise employers of the inability to have the vaccine, for example having to advise an employer of pregnancy earlier than normally required or a disability

#### **10. What could the government do to encourage those working in unregulated roles to have the COVID-19 and flu vaccine?**

Unite believes that the best way to increase uptake of the vaccine is through education and encouragement.

There is a medical/legal framework about patients refusing a medical treatment and how it's dealt with. It would be unethical for care providers to go against the system that's used for patients by forcing staff to be vaccinated.

Unite encourages as many people as possible to be vaccinated but forcing them is completely wrong.

A certification scheme connected to testing would have less of a discriminatory impact if full financial compensation and rights to employment protection were made available for those who test positive.

Not only should financial support be made available but there should be a clear duty on the employer to undertake a personal risk assessment to ensure reasonable adjustments are in place for those with protected characteristics.

This is in addition to freely available testing regimes, in order to adequately provide an alternative to vaccination.

As stated earlier we have reservations about reliance on the vaccine to prevent infection. Not enough is known about this or other aspects of the vaccines such as duration of protection, timing of boosters and how vaccines will fare against variants that are constantly evolving.

Until all these factors are known, reliance on vaccines alone would not be appropriate. Other control measures need to continue alongside vaccines, such as testing (an alternative to vaccination if professionally administered), social distancing, hygiene controls, and PPE.

#### **11. We would welcome any comments you may have relating to Annex B - proposed addition to the code of practice – criterion 10. (maximum 500 words)**

As Unite has stressed throughout, this policy would likely cause major problems for health and care managers including exacerbating existing serious issues around staffing and recruitment.

Mandatory vaccination may also lead to discrimination across the array of protected characteristics set out in the Equality Act 2010 (discussed earlier).

Should a requirement of proof of COVID-19 vaccination be introduced then the recording of proof needs certain considerations:

- Protection against fraud
- Protection of privacy
- Accessible to all
- Equitable
- Flexible and sustainable.

Digital formats may be preferred, but paper certificates would also need to be supported as many may not have a smart phone or be concerned about smart cards. There are concerns around privacy and fraud in particular, and these concerns lean to the fact that there is little confidence in the ability of government to produce a robust system. Before the introduction of any type of platform trade unions should be consulted and convinced that all the above criteria has been accommodated.

Understanding that the social care sector has a high proportion of migrant workers, consideration must also be given to international vaccine certification as workers may be vaccinated in their countries of origin.

## **12. We welcome any further comments you may have relating to this consultation**

This evidence is submitted by Unite the union - the largest trade union in Britain and Ireland. Unite is the third largest trade union in the NHS and also has thousands of members

The consultation format selected for this process seems deliberately designed to make it hard for collective organisations to reflect their views on the risks of this strategy.

Unite submitted evidence to the previous consultation and is aware that other unions and the TUC did likewise.

The consultation gives the distinct impression that the government has already made up its mind about this decision and that no level of concern raised by staff, unions or their employers about the risks of this decision are being taken into account.

Unite strongly recommends that the government reconsiders the evidence from the WHO\* and others that points to voluntary vaccination as the best solution and also to listen to the voices of those who work in the sector to think again.

Public health matters should be evidence based to be effective and the impacts on NHS employers of further losses of staff could be catastrophic.

**21/10/2021**

**This evidence was submitted on behalf of Unite the Union by:**

**Colenzo Jarrett-Thorpe**  
National officer for Health, Unite the Union

**Jackie Williams**  
National officer for Health, Unite the Union

**For further information, please contact:**

**Rob Miguel, Health and Safety Officer, Unite the Union**  
**James Lazou, Research Officer, Unite the Union,**  
**Unite House, 128 Theobalds Road, Holborn, London, WC1X 8TN**