

ILG Support have been in discussions with our professional network to discuss the likelihood of the UK Government implementing mandatory COVID vaccinations for PAs.

In summary we feel this is unlikely to happen despite the current situation in the wider health and social care sector.

Background

Following a public consultation on making COVID-19 vaccination a condition of deployment for those working in adult care homes, the government recently announced COVID-19 vaccination would be required of people entering a CQC registered adult care home (unless exempt).

The government is now seeking views on whether or not to extend vaccination requirements to other health and care settings for COVID-19 and also for flu.

The consultation runs until October 22 and can be found [here](#).

Details of the Consultation

The consultation proposes that, if introduced, requirements would apply to frontline health and care workers– those with face-to face contact with patients and clients though the delivery of services as part of a CQC regulated activity. It would mean only those workers that are vaccinated could be deployed (or those with a legitimate medical exemption) to deliver those services. These are services which take place in health and social care settings including, but not limited to, hospitals, GP practices and also in a persons home. A full list of CQC regulated activities can be found [here](#).



The consultation is also seeking views on whether other professionals or volunteers, working for a regulated service and who do not undertake direct treatment or personal care should be included in the scope of the policy.

Friends and family members who visit people in health and social care settings or a persons home are not included in the scope of this policy.

Exemptions

The consultation proposes that the only exemptions to mandatory vaccination would be based on medical grounds. These exemptions would be in line with the [Green Book on Immunisation](#) against infectious disease (COVID-19: the green book, chapter 14a; Influenza: the green book, chapter 19) and the JCVI which reflect clinical advice.

DISCLAIMER

The content of this guide is offered for general information purposes only and should not be considered legal advice for any specific matter. For legal advice on a specific issue relating to an individual employer you must ensure to take legal advice on the particular facts of the case. Please call ILG Support on 01476 512 192.

Implications for the Personal Assistant market

Personal Assistants (PAs), employed via Personal Health Budgets or Personal Budgets are not explicitly mentioned in the consultation. It is likely that the vast majority of PAs would be excluded from the mandatory requirement to be vaccinated. This is because PAs employed by an individual or a related third-party without the involvement of an employment agency or employment business and working wholly under the direction and control of that individual or related third-party in order to meet the individuals own personal care requirements (including delegated healthcare tasks) are exempt from the requirement to be CQC registered.

However, there may be some PAs who may be required to be vaccinated. This would apply to PAs employed via a third-party provider where the organisation is required to be CQC registered. It would also apply to PAs who set up their own limited company or where a budget holder sets up their own limited company since they are not exempt from CQC registration.

While the consultation states that 'it is not our intention to make vaccination a condition of deployment in the unregulated sector' the government is seeking views on how to increase vaccine uptake in the unregulated sector and that:

In the event government pursues this policy following consultation, we would work with our partners across the health and social care sector to develop operational guidance in order to facilitate implementation.

Can CCGs and local authorities require PAs employed via a PHB to be vaccinated?

Whilst it is important that CCGs and local authorities emphasise the importance and availability of vaccination to PAs and their employers, they should take legal advice before implementing a blanket policy where there is currently no national mandated position.

Can Individual Employers require their PAs to be vaccinated?

The NHS encourages everyone to take up vaccination wherever appropriate. Where an individual employer of PAs wishes to insist on vaccination as a condition of employment, they should adopt a risk assessment approach and include consideration of the relevant exemptions. The previous advice note [here](#) from ILG Support sets out the key factors individual employers should consider.



Summary

It is likely that the vast majority of PAs will be out of scope from the mandatory requirement to be vaccinated, as currently the consultation is focused on people whose work is required to be CQC registered.

If you need any further employment support or legal advice

Call 01476 512192

Email advice@ilgsupport.com

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