

DCJ COVID-19 Vaccination Policy

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1 Purpose

This policy outlines DCJ's COVID-19 vaccination requirements and its approach to identifying locations or worksites that require vaccination in order to provide a COVID safe work environment for employees and clients. It is informed by [C2021-16 Guidance for Government Sector Agencies regarding COVID-19 Vaccinations for their Employees.](#)

2 Definitions

Term	Definition
Clients	Clients is used to describe any individual, group, child or young person who is involved in a voluntary or involuntary capacity with services or programs provided by DCJ. The term clients used in this policy includes but is not limited to offender, inmate, person of a prescribed class, detainee, person with a disability, child or young person their families or members of the public.
COVID-19 Vaccination	COVID-19 vaccination means obtaining a first dose then second dose of a COVID-19 vaccine approved by the Therapeutic Goods Administration for use in Australia. Note: In the future this may also include COVID-19 additional/booster vaccinations.
COVID-19 Risk Assessment	An internal process which DCJ and its delegates use to assist with the identification of, locations or worksites where vaccination is a control measure against transmission of COVID-19 or serious illness/injury arising from COVID-19.

3 Scope

This policy applies to all types of DCJ employees within the Stronger Communities Cluster, including Senior Executives, who work in or attend locations or worksites identified as part of a COVID-19 vaccination risk assessment process.

Contractors, consultants, suppliers, volunteers and students (including apprentices/trainees/those on work experience) must also comply with this policy.

Persons who work from or attend identified DCJ locations or worksites may be notified that they are required to obtain a COVID-19 vaccination as part of the safety response to the hazard of COVID-19 in the workplace.

4 Policy statement

For the safety of DCJ employees and the communities we serve, the NSW Government expects all government sector employees who can be safely vaccinated to do so at the earliest opportunity.

The risks of COVID-19 have presented the need to have comprehensive vaccination requirements in place to:

- protect the communities we serve, noting that many are vulnerable
- protect our employees and their families from potential sources of infection among the communities we serve
- provide a safe environment for our employees to work together
- ensure business continuity for our public services.

Vaccination not only reduces risk, it reduces the chance of infection with COVID-19 by around 60% - 80% and decreases the number of people who will be considered close or secondary contacts in the event of a positive case.

DCJ, as an employer, has the power to give a direction to employees to be vaccinated, including as a pre-employment requirement, and provide proof of COVID-19 vaccination if the direction is:

- lawful;
- reasonable;
- within the scope or subject matter of the employee's employment; and
- following a risk based assessment.

4.1 Reasonable directions

DCJ will confirm locations or worksites where a risk assessment has identified that vaccination is required as part of the safety response to the hazard of COVID-19 in the workplace.

Persons in these locations or worksites will be required to submit evidence of their vaccination status via the Vaccination Register (refer to section **5.1 evidence of vaccination status**).

Access to these locations or worksites will be restricted to those who have provided evidence of their vaccination.

People Business Partners will support locations or worksites with monitoring records of vaccination to ensure compliance. Where individuals do not comply within the required timeframe, they will be issued with a direction to comply.

4.2 Risk Assessment

The DCJ work health and safety (WHS) risk assessment process is used to assess risk considerations for each business stream to identify risk management strategies including, but not limited to, COVID-19 vaccination. Within each business stream, consideration is given to the hazards at locations or worksites that are similar.

Risk assessments are a standard safety tool to inform the extent to which a particular risk must be controlled and mitigated.

The risk assessment broadly considers the following:

- Worksite or locations where it is necessary to protect workers from further community transmission.
- There is a higher risk that employees will be exposed to the virus due to the operating environment (e.g. employees who must work with persons where social distancing is not always possible).
- The employee works with at risk populations (e.g. young persons, children, healthcare workers or other employee groups who work with at risk populations).
- PPE and other control measures, in the given circumstances, are inadequate or there is a high risk of failure to sufficiently protect employees and the community.

5 COVID-19 Vaccination Requirements

5.1 Evidence of Vaccination status

DCJ has set up a [Vaccination Register](#) for employees to submit evidence of their vaccination accessible via Service Now for FACS and Justice. The [Vaccination Register Guide](#) provides instructions on how to submit evidence.

DCJ encourages all employees to record their vaccination status via the Vaccination Register, regardless of whether their location or worksite has been identified through a risk assessment process.

Where a location or worksite has been identified through a risk assessment process, employees in those locations or worksites will be required to provide evidence of their first and second dose COVID-19 vaccination status and must submit this via the Vaccination Register.

Evidence of your COVID-19 vaccination status can include:

- a vaccination certificate or other evidence from a vaccine provider;
- an immunisation history statement which can be accessed from Medicare online or the Express Plus Medicare mobile app;
- a statement of your vaccination history which you can request from the Australian Immunisation Register;
- a record from a health practitioner, which includes a medical certificate.

Non-payroll employees, including contractors, consultants, suppliers, volunteers and students, apprentices/trainees/those on work experience are required to meet the vaccination requirements. The organisation they are engaged through must confirm

compliance with this requirement before they commence with DCJ. Managers/Supervisors must retain confirmation records locally.

5.2 Medical Contraindication

Some employees may seek an exemption if they have a medical contraindication. A medical contraindication applies where an employee:

- provides a [medical contraindication form](#) completed by a registered medical practitioner in the template that is provided by NSW Health and approved by the Chief Health Officer and which:
 - certifies that the employee is unable to receive the COVID-19 vaccination because they have a recognised medical contraindication;
 - indicates whether the medical contraindication will permanently or temporarily prevent COVID-19 vaccination; and
 - if the medical contraindication only temporarily prevents a COVID-19 vaccination, specifying when the person may be able to receive the COVID-19 vaccination.

Once the compliance date for the requirement to be vaccinated has been reached the employee will be directed to either work from home (where practicable to do so) or not attend the workplace and be placed on leave immediately, pending any decisions.

Where there is contention about the medical evidence, the Department may seek advice from the employees' medical practitioner and if required, the government's medical assessment provider.

Each case will be individually considered noting the medical condition, the working arrangements, and the type of work, the risk to others in the workplace, the availability of alternative work or anything else that is relevant.

Where an employee has a medical contraindication, consideration will be given to either:

- accepting the medical contraindication as fulfilling the vaccination requirement, or
- where the hazard in the workplace can't otherwise be mitigated, providing a reasonable workplace adjustment to enable alternative work.

If a registered medical practitioner certifies that an employee has a temporary medical contraindication, which makes them unable to receive the COVID-19 vaccination, any exemption based on this only applies for the period specified in the medical contraindication form provided by the medical practitioner. If the medical reason continues beyond that period, the employee must provide a new medical contraindication form from their doctor.

Where a workplace adjustment is required and cannot be made, and once all other relevant options have been ruled out, consideration may be given to whether the person can continue in employment. Any decision will be made in line with applicable DCJ policies and legislation.

5.3 Medical Clearance Notice

Under the Public Health (COVID-19 Self-Isolation) Order an employee diagnosed with COVID-19 and who has been issued a medical clearance notice, is taken to be fully vaccinated during the period of 6 weeks beginning from the date the employee was medically cleared.

An employee who was issued a medical clearance notice between 22 September 2021 to 21 October 2021 is considered fully vaccinated during the period of 6 months beginning on the date the employee was medically cleared.

During this time the employee is considered compliant with the DCJ COVID-19 Vaccination Policy and can continue normal work duties associated with their role.

Employees are to submit a Medical Contraindication status via the Vaccination Register and provide their medical clearance notice to their Manager/Supervisor or one-up Manager/Supervisor, who will validate it and seek advice from People Business Partners if required.

Alternatively, employees can submit the medical clearance notice to their People Business Partner. For more information about how to submit this information please review the [Employee Fact Sheet](#).

5.4 Exceptional Circumstances

All employees are required to comply with reasonable directions to be vaccinated, based on risk assessments, under this Policy.

In rare situations an employee may contend that there are exceptional circumstances, other than a medical contraindication, that justify non-compliance.

Where an employee seeks to establish that exceptional circumstances justify non-compliance, they must, prior to the compliance date, provide evidence and reasons on the Exceptional Circumstances form.

Once the compliance date for the requirement to be vaccinated has been reached the employee will be directed to either work from home (where practicable to do so) or not attend the workplace and take leave immediately, pending any decisions.

The process to claim exceptional circumstance is, the:

1. employee must complete an [Exceptional Circumstances Form](#) and submit it to their Manager/Supervisor or Manager/Supervisor one-up
2. submission will be reviewed by a panel led by the People Branch

3. recommendations by the panel will progress to the relevant Deputy Secretary for approval

Acceptance of non-compliance based on exceptional circumstances will only occur in rare individual cases after consideration of the offered justification and evidence, and in the context of public health and risk assessment requirements. If the exceptional circumstance is accepted, an individual risk assessment must be performed to determine if the employee can continue in employment with additional control measures in place. Where a workplace adjustment is required and cannot be made consideration may be given to whether the person can continue in employment.

If an exceptional circumstance is not accepted, the employee will need to demonstrate compliance with the policy comply within a reasonable timeframe agreed between the employee and their Manager/Supervisor. This could include the employee being required to take leave.

5.5 Employees who do not comply

Where an employee chooses not to comply with a requirement to be vaccinated, alternative arrangements will be implemented and employees will be instructed to take leave immediately. Employees may access accrued recreation leave, extended leave, flex leave if eligible and leave without pay or a combination of these types of leave.

Employees will not be able to access sick leave or COVID Special Leave.

These employees will be required to remain on leave until they are contacted by DCJ with further instruction. The employee will be contacted within 7 days after entering on to leave.

It may be determined that the employee has refused to comply with a reasonable direction of DCJ. Failure to comply with this reasonable direction may be viewed as a breach of the Code of Ethical Conduct and may result in Misconduct action being taken in accordance with Section 69 of the Government Sector Employment Act 2013 and the Government Sector Employment (General) Rules 2014 (GSE Rules) Part 8. Such action may ultimately lead to termination of employment.

5.6 Record Keeping

Employees' Medical Contraindication Forms will be securely stored on their personnel file and kept confidential and will only be accessible to people who are required to access it in line with DCJ's Records Management Policy.

Employees can request to access this information at any time and can also request that any relevant updates are made to it. Employees should also keep a record of their vaccination evidence and/or medical contraindication.

DCJ values your safety as its highest priority.

DCJ is collecting information about employees and their vaccination status to determine which staff have been partially and/or fully vaccinated against COVID-19 to ensure our safety in the workplace and for those we come into contact with while we are at work.

DCJ will collect your name and whether you are an authorised worker, your work and residential LGA as well as your residential postcode. We will also collect your contact details, your vaccination status as well as the vaccine type and vaccination dates. If you do not wish to provide your vaccine type you will be required to confirm whether the vaccine you have received has been approved for use in Australia by the TGA which can be found at the following link: <https://www.health.gov.au/initiatives-and-programs/covid-19-vaccines/about-rollout/vaccine-agreements>. We will provide this information to your manager to assist your manager to make decisions to manage the risk of transmission of COVID-19 in the workplace.

DCJ is collecting this information directly from employees for the purpose of conducting risk assessments and to inform future decision making to protect workers and others from risks to their health and safety under the Work Health and Safety Act 2011 and in accordance with current New South Wales Public Health Orders.

Please note that if you refuse to provide this information to DCJ, it may be determined that you have refused to comply with a reasonable direction of DCJ and disciplinary action may be taken against you in accordance with the Government Sector Employment Act 2013 and the Government Sector Employment (General) Rules 2014.

Further information about your privacy rights and your personal information as well as how you can access and amend your personal information can be found on the Department's website www.facs.nsw.gov.au/site_information/privacy or by calling 02 9377 6000.

6 Support and advice

Advice and support regarding this policy is available from:

- Managers
- People Business Partners
- Union representatives
- Employee Assistance Program (EAP) – Contact Converge International on 1300 687 327

Contractors and consultants should discuss this policy with their respective organisation / agency. Volunteers should also discuss this policy with their Departmental contact officer.

7 Related legislation and documents

- [DCJ COVID-19 Vaccination Policy – Employee Fact Sheet](#)
- [C2021-16 Guidance for Government Sector Agencies regarding COVID-19 Vaccinations for their Employees](#)
- [DCJ Code of Ethical Conduct](#)
- The Departments relevant Misconduct procedures
- [DCJ Records Management Policy](#)
- [Government Sector Employment Act NSW 2013](#)
- [Government Sector Employment Regulation \(NSW\) 2014](#)
- [Government Sector Employment Rules \(NSW\) 2014](#)
- [Health Records and Information Privacy Act 2002](#);
- NSW Public Health Orders
- [Public Health Act 2010](#)
- [DCJ Vaccination Register](#)
- [DCJ Vaccination Register Guide](#)
- [Work Health and Safety Act \(NSW\) 2011](#)
- [Work Health and Safety Regulation \(NSW\) 2011](#)

8 Document information

Document name	COVID-19 Vaccination Policy
Applies to	All Department of Communities and Justice employees, contractors, consultants, volunteers, students, apprentices/trainees, suppliers and those on work experience.
Replaces	nil
Document reference	D21/1550702
Approval	Department of Communities and Justice Executive Board
Version	3
Commenced	18 October 2021
Due for review	6 months from commencement date
Policy owner	Workforce Strategy, Inclusion and Systems

9 Support and advice

Who can people go to if they need more advice?

Business unit	Workforce Strategy, Inclusion and Systems People Corporate Services
Email	HRPolicyGovernance@fac.s.nsw.gov.au