



# Department of Health & Social Care

## Revoking vaccination as a condition of deployment across all health and social care

### Aim of the consultation

The aim of this consultation is to seek views on government's intention to revoke provisions within the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 (as inserted by the [Health and Social Care Act 2008 \(Regulated Activities\) \(Amendment\) \(Coronavirus\) Regulations 2021](#) and the [Health and Social Care Act 2008 \(Regulated Activities\) \(Amendment\) \(Coronavirus\) \(No.2\) Regulations 2022](#)) (collectively referred to as 'the regulations').

These regulations place requirements on health and social care providers relating to the vaccination of workers against COVID-19 and, in the case of care homes, individuals entering the care home premises.

### Introduction

This consultation is to seek views on revoking vaccination as a condition of deployment in the health and wider social care sector within England only.

In your response to questions in the consultation, please do not include any information that could identify you or somebody else other than in the section titled 'About you'. For example, do not include anyone's name, age, job title or email address where it is not asked.

You can save your response at any point and come back to complete it later.

When you submit your response you will have the option to print a copy of your answers from your browser.

This consultation closes on 16 February 2022, 23:45.

### About you

To evaluate responses fully we need to ensure we reach a wide number of people from diverse backgrounds and experiences.

The following set of questions will help us have a better understanding of who is responding to this consultation and in what capacity.

Are you happy for the Department of Health and Social Care to contact you about your response? \*

- **Yes**
- No

---

What is your email address? \*

[policy@homecareassociation.org.uk](mailto:policy@homecareassociation.org.uk)

In what capacity are you responding to this survey? \*

- **A representative organisation or body (for example trade unions, bodies representing health or social care providers)**
- An organisation providing health or social care services
- A manager of health or social care services
- A person who delivers health or social care services to patients or people needing care and support
- A patient or a person who receives care and support, or a family member, a friend or a carer of a patient or a person receiving care and support
- A member of the public
- Other

Please give the name of the organisation you represent or work for

Homecare Association

## The proposed way forward

It is a statutory requirement that CQC-registered persons only permit those individuals who are vaccinated against COVID-19, unless otherwise exempt:

1. to be deployed for the provision of a CQC-regulated activity in health and social care

and;

2. to enter CQC-registered care home premises.

Which of the following best describes your preference for this requirement? \*

• **I feel strongly that the requirement should be revoked**

- I would prefer that the requirement is revoked
- I don't mind either way
- I would prefer that the requirement is not revoked
- I feel strongly that the requirement should not be revoked
- I don't know

Thinking about yourself, your colleagues, your staff or care providers who are hesitant to get vaccinated, do you believe there are other steps (other than those set out in the original consultation) the government and the health and social care sector could take to increase vaccine uptake? \*

• **Yes**

- No
- I don't know

What specific actions do you believe government and the health and social care sector should be taking to further increase vaccine uptake?

The Government should:

- Seek to **understand current concerns and behaviours around vaccines**. Based on a survey of our members in January 2022 and other feedback we have received, current and new concerns include:
  - concerns about mixing different vaccines;
  - concerns about having side effects (especially if experienced previously by that person or someone close to them);
  - worries about needing to take time off work due to side effects;
  - feeling that they have had COVID so have natural immunity;
  - not having been particularly ill when they had COVID;
  - Government saying that Omicron is 'mild' + removal of restrictions indicating that it is not a threat;
  - not understanding why guidance has changed and losing trust in guidance;
  - uncertainty about how frequently vaccination would be required.
  - There also remain ongoing concerns such as that the technology is new, or that it might affect fertility as well as some historic distrust in Government, fear of needles and so on.
  - Some careworkers have been refusing because they feel coerced.
  - A few will hold anti-vaxx beliefs and some will have read material that concerns them on the web; others will be influenced by family or friends who have done so.
- Provide **updated comms materials** that address current and new concerns about the vaccination.
- Continue to work to address vaccine hesitancy in wider communities.

- **Renew the Infection Control and Testing grant**; including allowing the funding to be used to pay staff for time to get vaccinated and to cover administration costs in relation to vaccinations.
- Provide **localised support specifically targeted at the homecare sector**. We are pleased that this is being discussed in the Vaccine Booster Taskforce, led by David Pearson. Action is overdue. We would encourage:
  - **proactively contacting providers** with low uptake to offer support
  - opportunities for hesitant staff to have **one-to-one conversations with relevant clinicians** to talk through their concerns.
  - explore with local providers whether **mobile vaccination teams visiting sites or pop-up vaccine centres** in particular areas would encourage vaccination uptake.
  - maintain a **walk-in or drop-in offer**, for example at local pharmacies with priority given for social care staff.
  - facilitate **peer-support** between provider organisations on this issue. Support providers by facilitating peer-support between careworkers on this issue.
  - share good news stories of how vaccination uptake has been improved in homecare at a national level, with **case studies**.

The social care sector should:

- Continue to be proactive and promote vaccination uptake amongst existing staff and new recruits; including understanding and engaging with staff member's concerns.
- Engage with local efforts to boost uptake.
- Implement/communicate clear organisational policies/positions on vaccination.

## Considerations of potential impacts

Are there particular groups of people, such as those with protected characteristics, who would be particularly negatively affected by a COVID-19 vaccination not being a condition of deployment in healthcare and social care? <sup>\*</sup>   

• **Yes**

• No

• Not sure

Which particular groups might be negatively impacted and why?

Staff (for example, in live-in care and care homes) who have already lost their job due to the policy may feel the Government changing its position on this now is an injustice.

Similarly, staff in care homes and in wider health and social care settings (including homecare) who have put in extensive effort to implement the policy may be angry and feel their effort was wasted. In some cases trust in Government and

the relationship between employees and employers will suffer long-term damage. While this is likely to be widespread across the country, the sense of injustice may be stronger in communities where vaccine hesitancy is high ([ONS data](#) suggests hesitancy is higher among Black people, young people, in deprived areas, and in Muslim communities).

Some disabled and older people who are in receipt of health and care services may feel less safe using health and social care services if vaccination is not required, though vaccination benefits recipients more than those in contact with recipients and other IPC measures continue to be used.

This will not apply to all older and disabled people – some of whom do not support vaccination requirements for a range of reasons. There will also be older and disabled people who are aware of a risk of losing access to key services due to staff shortages if the policy proceeds, who would not support the policy. Others will not be aware of risks to service capacity and staff shortages and will not have taken this into account.

Is this fear justified? There is clear evidence that vaccination reduces the risk to the recipient of death and hospitalisation. Vaccinations protect careworkers. This is reason enough to promote them; but not necessarily reason enough to mandate them.

The key factor for the recipients of care is whether vaccination reduces transmission. Given how rapidly the Omicron variant spread through a population that is largely vaccinated, it is questionable how effective the vaccination is as a measure to reduce transmission (particularly when only two doses are required in the regulations, where Omicron appears to require three). Other methods of reducing transmission – such as PPE; handwashing; ventilation and testing are available. If other methods of controlling transmission are deployed effectively, and vaccination only produces a small (in material terms) reduction in transmissibility over the medium term (with current variants), the infection risk to people who receive health and care services should be mitigated. The care workforce may be persuaded to take up the vaccine, where they have not done so. This would diminish any benefits gained by requiring vaccination. The requirement is also counter-productive - some careworkers are hesitant to get vaccinated because they are being required to. Unregulated parts of the sector (like microproviders and personal assistants) are not required to get vaccinated in any case. It is also true that infection risk in domiciliary care [appears to be low](#) compared to congregate settings.

We explain more about the balance of risks in a homecare context in detail in our blog post: [Risks of ridiculous regulations \(homecareassociation.org.uk\)](https://homecareassociation.org.uk/blog/risks-of-ridiculous-regulations)

Are there particular groups of people, such as those with protected characteristics, who would particularly benefit from a COVID-19 vaccination not being a condition of deployment in healthcare and social care? \*

<ul style="list-style-type: none"><li>• <b>Yes</b></li></ul>
--

- No
- Not sure

Which particular groups might be positively impacted and why?

The impacts we describe are not 'positive' as such; but rather represent groups who would avoid further harm through the revocation of the Vaccination as a Condition of Deployment (VCOD) regulations. We have argued that the risk of losing vital homecare staff far outweighs the mitigated risk of infection from COVID-19 from vaccinations.

Some domiciliary careworkers who would have otherwise lost their jobs and who wish to continue working in care will be relieved to be able to continue in their roles. That's not to say, however, that they will not already have been adversely affected by the threat of losing their jobs due to the regulations that have been introduced and the way that this issue has been handled by the Government. Some may choose to leave because of this. Whilst the group of careworkers in question are diverse; women will be over-represented; and it is likely that workers of minority ethnicity will also be over-represented (as noted before [ONS data](#) suggests hesitancy is higher among Black people, young people, in deprived areas, and in Muslim communities; [Skills for Care](#) estimate that the social care workforce is 82% female; and 21% Black, Asian and minority ethnic groups).

Older and disabled people who have developed relationships with careworkers who would lose their jobs through this policy will be pleased to be able to retain the staff with whom they are familiar.

People who live in regions of the country (for example, parts of South London – see [NHS vaccine statistics](#)) where VCOD would be likely to cause a higher proportion of workforce losses across the domiciliary care (and potentially other parts of the health and social care system as well) will avoid the development of a more detrimental situation. As we have [previously highlighted](#), workforce shortages are already critical and the policy would make this situation worse. We have seen no evidence of credible contingency plans for the ongoing support of those cared for by the staff who would leave.

If staff from the NHS and care organisations left in significant numbers in these regions it would be likely to create operational issues that could leave even more people without the care they need at a time when waiting lists are already long in both [domiciliary care](#) and for many NHS services.

However, some damage is done, the [Nuffield Trust](#) estimate that domiciliary care may have already lost around 30,000 staff.

We estimate a risk of losing 15-20% of the workforce. See our blog: [Risks of ridiculous regulations \(homecareassociation.org.uk\)](#)

## Actions that could taken

What actions can the government and the health and social care sectors take to protect those with protected characteristics or the groups you've identified, if a COVID-19 vaccination is not a condition of deployment?

- 1. Consult with the sector and provide clarity for employers as soon as possible on the legal position and the implications of a change in the IPC Code of Practice or professional registration requirements. Requiring vaccination via another route without enabling employers to dismiss unvaccinated staff legitimately creates new risks.** A lack of clarity about what changes in the Code of Practice means may create ongoing uncertainty and potential adverse outcomes for employers, staff and the people they support.
- 2. Promoting vaccination, as outlined above.**
- 3. Proportionate, clear, evidence-based, funded and practical policies on PPE, Infection Control and testing.** Renew the Infection Control and Testing Fund. This is clearly vital to get right. We have concerns about whether some recent policies have been issued with clear clinical justification and practical implementation in mind, including the introduction of daily lateral flow testing from 16 February 2022. The Department is aware of our concerns.
- 4. Invest in the care workforce.** Significant investment is needed for homecare staff to be offered competitive pay and terms and conditions, as well as career progression. Doing so will likely help to improve retention and recruitment of homecare workers. Older and disabled people will be safer if there is sufficient workforce capacity to meet needs and working conditions can be improved. We are [calling on the Government](#) to enable providers to pay careworkers the equivalent of an NHS Healthcare Assistant Band 3 (£11.14 per hour); this would mean the public sector commissioning care at £26.86 per hour. The [average rate](#) paid by commissioners in England in 2021 was £18.66 per hour.
- 5. Ensure that people who are clinically vulnerable are encouraged and supported to get vaccinated, if able and have swift access to early treatment if they develop COVID19.** This includes through offering vaccination at home to house-bound persons proactively.
- 6. Further develop and make available new ways of delivering healthcare services that reduce transmission risks –** for example virtual, wards; hospital at home services and offering specialist services in community rather than acute hospital settings where possible.
- 7. Appropriate measures to manage infection levels in the wider community.** Infection levels amongst people receiving care services increase when there is higher prevalence of COVID-19 in the wider community. There is also a [direct relationship between COVID deaths in](#)

[the wider community and deaths in care homes](#). The [BMA have raised concerns](#) about the Government's removal of public health measures. Many people who are clinically vulnerable are extremely concerned about the removal of requirements to isolate and to wear facemasks in higher-risk public places and this could have serious implications for their confidence and safety in leaving their homes. Emerging evidence about the damaging effect of COVID-19 on the [immune system](#) and adverse [long-term health consequences](#) after even mild symptoms in some people needs to be taken seriously.

- 8. Develop variant specific and context-specific evidence for infection control in social care** – the [Government's evidence based on PPE](#) is mostly focused on healthcare settings. Further research in social care, including homecare, would enable better decision making about infection control.