

Making vaccination a condition of deployment in older adult care homes

This consultation response was submitted via web-form on 19 May 2021.

About you

Are you completing this consultation as:

An adult social care representative organisation or group, including workforce bodies such as trade unions and bodies representing local government

How many employees does your business or organisation have? (please state number of total employees of the whole organisation rather than of a single care home)

Not applicable

Where are your services based:

- England
- Scotland
- Wales
- Northern Ireland

Please give the name of the organisation you represent (if applicable).

United Kingdom Homecare Association

What is your email address?

policy@ukhca.co.uk

Is it OK for the Department of Health and Social Care to contact you about your response?

Yes

Would you like to receive information about other DHSC consultations?

Yes

Proposed legislative changes

We are proposing to amend regulations to require older adult care home providers to deploy only those workers who have received their COVID-19 vaccination in line with government guidance. This will not include those who can provide evidence of a medical exemption from COVID-19 vaccination.

We also intend to amend the Code of Practice on the prevention and control of infections to explain the requirement. We are consulting on this policy and whether it should be extended to include other professionals who visit the care home, for example NHS workers providing close personal care to people living in the care home.

As an adult social care representative organisation or group, how do you feel about the proposed requirement for workers in older adult care homes to have a COVID-19 vaccination?

- Supportive
- Rather supportive
- ☒ Neither supportive nor unsupportive
- Slightly unsupportive
- Not supportive
- I don't know
- Not applicable

Please provide details to support your answer (*max 500 words - word limit reached*).

We are primarily concerned with the implications of a vaccination requirement should this be extended to homecare. Some issues are common with the care home sector.

We sought an early reaction from homecare providers to the prospect of mandatory vaccinations [by surveying our members](#) between 23-26 March. We received 579 responses. The survey was before the publication of this consultation (on 14 April) and represents an immediate reaction rather than an in-depth consideration of the proposals.

70% of respondents supported or strongly supported some form of legal requirement for vaccination of the homecare workforce at some stage. Reasons for support included increased protection from COVID for recipients of homecare and the workforce and reduced community transmission.

23% of respondents opposed or strongly opposed compulsory vaccination, citing concerns about worker's rights, reluctance to be vaccinated and the impact on recruitment.

Since March, we have considered the following concerns:

Firstly, the proposal doesn't seem to be limited to the initial vaccine roll-out. The required COVID-vaccination status could constantly change if new variants emerge; boosters are required (perhaps for some vaccines and not others); or certain existing vaccines perform poorly against future variants, creating requirements for staff to get alternative vaccines. Monitoring vaccination status would, therefore, be considerably more complex than a one-off check this year. We feel it is too early in the vaccination process to fully understand what it would mean to keep a COVID vaccination 'up-to-date' going forwards, or for an employer to monitor this.

82% of older adult care home staff who have not had COVID in the last 28 days have had the first vaccine dose ([NHS weekly data, 13 May 2021](#)). This was lower in London at 74%. The figures are still rising, if slowly. SAGE previously advised 80% of staff would need to be vaccinated to provide a minimum level of protection.

Mandatory vaccination may not be necessary if voluntary compliance is sufficiently high. We would not like to see the sector lose valued staff as a result of coming down too hard too soon and without appropriate opportunities for employers and health professionals to address staff concerns one-to-one and/or easily access vaccination in local areas. Evidence suggests ([Bell et al. 2021](#)) that care workers who feel under pressure from their employers to get vaccinated are less likely to get vaccinated.

Many of those receiving support in homecare want and expect careworkers to be vaccinated. If compulsion is introduced in one part of the sector it is likely to increase pressures on other parts of the sector to implement organisational policies requiring vaccination, which carry legal risks. Mandatory vaccination, however, would also likely result in Employment Tribunal claims, with attendant costs. Would the Department consider providing employers with legal advice and indemnifying companies who follow it?

Older Adult Care Homes

The purpose of this policy is to protect people vulnerable to COVID-19, therefore we propose that the regulations would apply to any care home which has at least one person over the age of 65 living in their home.

Do you agree with using this definition to determine which care homes this regulation would apply to?

Yes

☒ No

I don't know

Not applicable

What concerns do you have about this definition?

The significant limits that have been placed on the lives of people who have been classified as Clinically Extremely Vulnerable and asked to shield or those living in residential settings which have been subject to restrictions may consequently have expectations about the level of action that should be taken to protect them from COVID-19.

The expectations of many disabled adults age 18-64 would likely not be met by introducing such a policy but applying it on the basis of age alone.

The SAGE Social Care Working Group has advised that it is reasonable to proceed with care homes for older adults as a setting where requirement for vaccination may be appropriate. Care homes for older people have a population with a median age of over 80, with multiple co-morbidities. Some people living in care homes may have dementia and neurological and behavioural issues which impair their ability to follow infection control practices. In these closed settings, workers may provide care for, or have significant contact with, multiple residents as well as other workers. This level of interaction can lead to effective transmission of COVID-19 (and other infectious diseases) with severe outcomes for some people. Current estimates of case fatality ratio are about 20% – almost double that of individuals of similar age outside of care home settings. Vaccination is expected to significantly mitigate against severe outcomes.

Do you have any concerns about the proposal to limit this policy to older adult care homes?

☒ Yes

No

I don't know

Please explain your answer (*max 500 words - word limit reached*)

Voluntary compliance may be preferable for older adult care homes if vaccination rates are high enough to reduce transmission.

In relation to the scope of any mandatory requirement, five points of concern are:

Firstly, while care homes have proved particularly high-risk settings during the pandemic, we are concerned that a mandatory vaccination policy applied to one part of the health and social care sector will have impacts on other parts of the sector.

People who use homecare services, and in some cases commissioners of homecare services, are already asking questions about the vaccination of the homecare workforce. As with those supported in residential settings, they want to be confident in the safety of the services that they use. The introduction of mandatory vaccination in care homes would be likely to increase the demand for providers to implement vaccination requirements as a matter of organisational policy. Doing so carries legal risks for employers.

Secondly, if only care homes for older adults had a mandatory vaccination requirement, it is possible that existing care home staff who do not wish to have the vaccine would be displaced into other parts of the health and social care sector. The sector suffers significant staff shortages, so is always looking for staff. However, it is desirable to keep the vaccination rate in all parts of the sector as high as possible.

Thirdly, timing is also critical. With any part of the social care workforce we would advocate pursuing a kind and patient approach where employers and health professionals can talk to those who are hesitant to take up the vaccine in order to directly address their concerns. In seeing colleagues, family and friends vaccinated some care workers will change their minds. We fear that making the vaccine mandatory too soon could alienate some valued staff who might otherwise take up the vaccine. If mandatory vaccination is the next step a careful judgement will be needed to determine at what stage this is strategically appropriate. We would suggest at least 9 months between the start of the vaccination of care home staff and any mandatory requirement being announced/confirmed, and a further 6 months before any such requirement is enforced.

Fourthly, there is a risk that if there is not a similar requirement implemented in healthcare settings, such as hospitals, there will be felt to be a double standard with social care being held to a higher standard than the NHS. There are already significant concerns that the funding and treatment of social care services do not have parity with the NHS.

Lastly, even were the government to introduce a requirement only applying to residential care, younger disabled adults may also be clinically extremely vulnerable, have multiple co-morbidities, have impaired ability to follow infection control practices, or have significant contact with other residents and staff. So, this only applying to older adults care homes may raise questions.

Persons requiring vaccination

The proposed regulations would apply to any care home which has at least one person over the age of 65 living in their home in England and which is registered

with the Care Quality Commission. This is estimated to be approximately 10,000 care homes.

This would include all workers employed directly by the care home or care home provider (on a full-time or part-time basis), those employed by an agency and deployed by the care home, and volunteers deployed in the care home. It would include those providing direct care and those deployed in care homes doing other roles, for example cleaners and kitchen staff. This is consistent with our approach to COVID-19 testing in care homes.

There is further consideration needed about whether we extend the requirement to include those people who come to the care home to provide professional services, or other care and support, as well as visiting professionals. We are also carefully considering the situation of 'essential care givers' – those friends or family who have agreed with the care home that they will visit regularly and provide personal care. We understand that there are key considerations here for the range of people who may come into care homes and welcome your views in the consultation questions below.

We do not intend to extend this policy to friends and family members who visit people living in care homes – other than essential care givers, where we are considering carefully what approach is best. The SAGE Social Care Working Group has advised there is a balance to be struck between the risk of a loved one visiting and transmitting virus, against the wellbeing benefits to those who live in a care home. We would of course encourage friends and family members who are visiting the care home to access vaccination as soon as they are able however, as long as visitors carefully follow the advice in our guidance, we do not think it necessary to extend the requirement to family visitors.

Which people working or visiting in an older adult care home should be covered by the scope of the policy?

Only paid staff deployed in the care home

- ☐ Yes
- ☐ No
- ☐ No opinion

Staff working for the care home provider who work in a separate building but may visit the care home occasionally (for example staff working in an off-site office)

- ☐ Yes
- ☐ No
- ☐ No opinion

Health professionals who visit the care home regularly and provide close personal care to people living in the care home

- ☐ Yes
- ☐ No
- ☐ No opinion

Other professionals who provide close personal care to people living in the care home, for example, hairdressers

☐ • Yes

☐ • No

☐ • No opinion

All professionals who enter a care home regardless of their role, for example, electrician, plumber, art therapist, music therapist

☐ • Yes

☐ • No

☐ • No opinion

Friends or family members designated as 'essential carers' who visit regularly and provide close personal care

☐ • Yes

☐ • No

☐ • No opinion

All friends and family who may visit

☐ • Yes

☐ • No

☐ • No opinion

Volunteers

☐ • Yes

☐ • No

☐ • No opinion

Other (please specify) - (max 500 words, currently 378 words)

**** IMPORTANT **** Our answers to the above are based on the premise that we are discussing the scope of the policy, should it be introduced, and should not be read as an endorsement of the introduction of such a policy.

In relation to care homes:

We would not expect any mandatory vaccination policy to extend beyond staff providing care to clinically vulnerable individuals of a nature that it requires close personal contact.

In the case of health and social care professionals, the safety of the people that they provide care to is, arguably, a key part of their professional role. The nature of their role, potentially involving contact with bodily fluids and so on, is higher risk.

The logic behind 'close contact' might also apply to other workers external to the care home (such as hairdressers). Although we have indicated "yes" in our response, above, we are concerned about the practicalities of this. Hairdressers are not ordinarily prioritised for vaccination as a professional group and would not ordinarily be offered 'flu vaccines, for example. The administration system used for contractors or visiting professionals would need to be different to that used for staff and could be particularly burdensome. If hairdressers were included, therefore, this would require separate policy consideration in order to ensure that policy aligned with operational needs and practicalities.

We would question the proportionality of a vaccination requirement in relation to the right to private and family life when considering family visitors.

If this policy were to be extended to homecare:

We would expect it only to apply to care workers providing care and other staff who require close contact with the people being supported by the service in order to undertake assessments, and so on. We would not expect the requirement to extend to admin staff or senior managers who do not ordinarily come into direct contact with people being supported by the service.

If applied to homecare workers who deliver personal care we would expect it to apply to other health and social care professionals working in the community who would be likely to visit people (who might have increased vulnerability to coronavirus) in their own homes. This would include (but not be limited to): district nurses, social workers, occupational therapists and others.

Exemptions

There will be a small number of people where the clinical advice is that the COVID-19 vaccination is not suitable for them. We will ensure that the regulations allow for exemptions on medical grounds. The regulations will be drafted in line with the Green Book on Immunisation against infectious disease ([COVID-19: the green book, chapter 14a](#)) and The Joint Committee of Vaccination and Immunisation (JCVI) which reflect clinical advice. Individuals will be exempt from the requirement if they have an allergy or condition that the Green Book lists ([Chapter 14a, page 16](#)) as a reason not to administer a vaccine, for example prior allergic reaction to a component of the vaccine, including polyethylene glycol (PEG). Some individuals have an allergy or condition where the Green Book or the JCVI advises seeking medical advice, before proceeding with vaccination, where a professional medical opinion should be sought on whether the individual should be exempt. Both nationally and internationally, no concerning safety signals have been identified so far in relation to the vaccination of women who are pregnant. JCVI is continuing to review data on

the risks and benefit of vaccination for women without significant underlying health conditions who are pregnant. As evidence becomes available, it will be reviewed, and advice offered as appropriate.

Do you agree or disagree with the groups of people who would be exempt from this requirement?

- *Strongly agree*
- *Tend to agree*
- *Neither agree nor disagree*
- *Tend to disagree*
- *Strongly disagree*
- *I don't know*
- *Not applicable*

Who else should be exempt from this requirement?

We would agree that there is an exemption for people who are clinically advised not to receive vaccination according to the Green Book.

The care workforce contains a disproportionate number of women of childbearing age. The advice on vaccination for women trying to conceive, women who are pregnant and women who are breastfeeding has changed. Whilst this is related to our deepening understanding of the impacts of vaccines, it may also mean that how people feel may have been influenced by the initial caution exercised.

Even if the available evidence suggested that vaccination during pregnancy was safe, we are deeply concerned about employers potentially being expected to mandate that workers are vaccinated during pregnancy (as this is a protected characteristic, an area of health and safety concern and otherwise potentially sensitive from an employment law perspective). Allowing a grace period so that a worker can be vaccinated a suitable period after their pregnancy is a considerably more preferable option.

Implementation

Care home managers are ultimately responsible for the safety of people living in their care. Under the proposed change to regulations, it would therefore be their responsibility to check evidence that workers deployed in the home are vaccinated, or medically exempt from vaccination. This means that workers would need to provide evidence to the manager that they have been vaccinated.

The government is carefully considering the best way for people to prove that they have been vaccinated to their employer. This may involve, for example, showing vaccination status on a mobile phone app.

The government is considering what would be an appropriate grace period for new and existing care home workers before they are required to be vaccinated.

It is our expectation that care home managers would keep a record of vaccinations as part of their staff employment and occupational health records.

How easy will this policy be for managers in older adult care homes to implement?

- Very easy
- Quite easy
- Neither easy nor difficult
- Quite difficult
- Very difficult
- I don't know
- Not applicable

Please provide details to support your answer (500 words max – word limit reached)

Keeping COVID status up-to-date:

We are concerned that we do not yet have a full understanding of the timespan over which current COVID-19 vaccination will provide sufficient cover, nor the possibility of new variants which do not respond to available vaccines. There may be a need for alternative vaccines or boosters in response to the body's long-term antibody levels or in response to new variants of the virus.

If booster vaccines are used they may be dependent on which first vaccine an individual has had.

If one type of vaccine proves particularly ineffective against a new variant of COVID-19 then we might find that its preferable for staff to be re-vaccinated with an alternative vaccine, creating (i) a significant need for revaccination and (ii) the possibility of a significant proportion of the workforce potentially being disqualified from working as a result of regulations.

Employers would need to keep track of constantly updating vaccine statuses that are vaccine-specific as the situation evolves. This would be much more administratively complex than simply checking that someone has had any of the three vaccines.

There may also be a need for guidance on what to do if someone had a first dose but refused the second.

Grace periods:

If vaccinations remain easy to access, we would suggest that a grace period of 6 months after any announcement of a mandatory vaccination requirement would be appropriate for new and existing care home workers before they are required to be vaccinated during the first round of vaccinations. We would also suggest at least 9 months following vaccines becoming available before any requirement is announced.

This does not represent our view of an appropriate grace period for vaccinations if there were new vaccination requirements or boosters.

Other comments:

It is difficult to comment without knowing how exactly the vaccination certificate would work and if this would be reliable, difficult to falsify, accessible to care workers and easy for employers to document.

We would also be concerned about what evidence would be required to prove that someone was medically exempt. We have occasionally experienced difficulties with GPs being unaware of their role in providing vaccinations etc. If GPs were to provide evidence we would request that clear instructions be sent to all GPs explaining the needs of the mandatory vaccination programme.

GPs may sometimes charge for medical evidence letters, which may entail a cost to the employee or employer.

In addition, approximately 16% of the social care workforce are non-British nationals. Whilst this does not mean that 16% of the workforce will not have been able to access a vaccination in the UK, employers will be recruiting workers who have been vaccinated outside the UK and will have a responsibility of verifying (to the extent that records are available) those records in order to comply with regulation.

Impact and implications of the policy

Our initial Public Sector Equality Duty (PSED) analysis indicates that making vaccination a condition of deployment in older adult care homes could have a more significant impact on certain groups. In particular, the adult social care workforce has a high proportion of women and people from black, Asian and minority ethnic communities. There is some evidence to suggest these groups may be more hesitant about vaccination more generally and the COVID-19 vaccine specifically given it is a new vaccine. There continues to be a significant programme of work to address these concerns as part of the ongoing work to support uptake specifically within the adult social care workforce and the wider population. We are very interested to understand what more we can do to ensure these groups, and any other, would not be differentially impacted by this new policy and how we can manage this to achieve our ambition to protect all those deployed and being supported in care home settings.

Are there particular groups of people, such as those with protected characteristics, who would particularly benefit from this policy?

- Yes
- No
- I don't know
- Not applicable

Which particular groups might be positively impacted and why? (max 500 words)

Disabled and older people in receipt of care services may, in the longer term, have their level of safety (and, one would assume, peace of mind) increased as a result of a mandatory vaccination policy.

Are there particular groups of people, such as those with protected characteristics, who would be particularly negatively affected by this policy?

- Yes
- No
- I don't know
- Not applicable

Which particular groups might be negatively impacted and why? (max 500 words)

As you say, there is some evidence that vaccine hesitancy is more prevalent amongst some parts of the population and in some regions. The latest ONS data (Coronavirus and vaccine hesitancy, Great Britain: 31 March to 25 April 2021) suggested that while this affects 7% of the general population, this figure almost doubles in deprived areas, almost doubles in 16-29 year olds and affects around a third of adults identifying as Black or Black British. We also know from discussions with our members that there have been concerns about fertility or receiving the vaccine whilst pregnant amongst some women. As a consequence, care workers from particular ethnic groups, some women or workers of particular age groups may be more likely to be reluctant to be vaccinated and, therefore, to be impacted by this policy.

People in receipt of care in areas where there is a high prevalence of vaccine hesitancy may be more likely to experience issues with access to care, or disruption to care services, due to recruitment and retention following the introduction of any such policy. It is possible that those recipients of care services may be more likely to have particular characteristics (such as minority ethnicity) also, if those characteristics are more prevalent in that region or area.

If any care homes have workers under the age of 18 undertaking caring roles, this might affect them if the vaccination programme is primarily aimed at those 18 and over.

As outlined above, we'd be concerned about the impact on families of older and disabled people if the vaccination requirement extended beyond staff to family due to the proportionality of this in relation to the right to family and private life.

We would be concerned if younger (18-64) disabled adults were not also protected by such a policy if the risk factors described equally apply to them.

What could we do to make sure they are not negatively impacted? (max 500 words)

- the Government must ensure ease of access to vaccination for all care workers. Access to the National Booking System should be maintained for JCVI groups 1 and 2. A national point of contact should be established for care workers who are having practical difficulty accessing vaccination in their localities.
- a suitable transition period (we suggest at least 9 months following the launch of the vaccination until the announcement of any mandatory scheme and a further 6 months before enforcement begins).
- good communications and advice about the vaccination – for example, a helpline for clinical advice about vaccination where hesitant care workers can call anonymously to talk through their views.
- good communications about the introduction of the mandatory vaccination and rationale behind it.
- redundancy support for affected individuals, assistance finding alternative work before the end of the transition period.
- legal advice for care providers, and for the government to indemnify providers who follow this advice.
- financial support to aid recruitment and assistance with staffing shortages for businesses that have a vaccine hesitancy rate that is higher than the population average.

It is recognised that some people may choose not to be vaccinated, even if the vaccination is clinically appropriate for them. In these circumstances they will no longer be able to be deployed in a care home setting and providers will need to manage this in a way which does not destabilise the provision of safe, high quality care. We are asking a question in this consultation about the possible impact on staffing levels, if workers chose to leave the care home workforce rather than be vaccinated. This may be a particular issue in some local areas where uptake is lower.

Do you have any concerns about the impact of the policy on the ability of older adult care homes to maintain a safe service?

- Yes
- No
- I don't know
- Not applicable

Which of the following are concerns that you have about the impact of the policy on the ability of older adult care homes to maintain a safe service? (tick all that apply)

- ☒ Some staff may refuse the vaccine and leave their current job
- ☒ Some staff may leave in protest at the policy, if this conflicts with their personal beliefs
- ☒ Remaining staff may resent the requirement, reducing morale
- ☒ Staff may seek to challenge care homes in court
- ☒ The impact it could have on other measures affecting staff, such as reducing movement between health and care settings
- ☒ The supply of alternative trained staffing available
- ☒ The cost of short-term staff cover
- ☒ The cost of recruiting new permanent staff
- ☒ The time it will take to recruit new permanent staff
- ☐ Other concerns (please specify)

Please share any evidence and your sense of the scale of these impacts here:

- Minimal impact
- Moderate impact
- Severe impact

Please provide details to support your answer (500 words max).

We selected moderate impact because we would expect that for most care homes across the country the proportion of staff who have not received a vaccine will be low by this stage. However, even if only a small minority of staff were affected, those staff may be difficult to recruit replacements for given the recruitment context. Recruitment can be harder in some localities than others.

However, as you say "this may be a particular issue in some local areas". There will be exceptional cases where small businesses have a significant proportion of their workforce who have refused their vaccine and the introduction of a mandatory policy would create immediate and substantial difficulties for the staffing of these businesses. Businesses experiencing a higher level of vaccine hesitancy than in the wider

population will require additional support if they are to manage the effects of this.

The homecare sector has been under significant financial pressure for an extended period of time – long pre-dating the pandemic. This makes recruitment and retention especially challenging.

UKHCA has developed a costing model for homecare (see "[A minimum price for homecare](#)"). Our estimate for 2021 is that, in order to meet minimum statutory obligations and other costs, homecare costs £21.43 per hour (this includes staff wages, wage-related on-costs, mileage reimbursement, operating costs and a modest profit or surplus).

Our previous research ([The Homecare Deficit 2018](#)) undertaken via Freedom of Information requests to local councils suggested that only 1 in 7 councils were purchasing care at or above UKHCA's minimum price at that time. We believe that this situation is continuing and also applies to NHS CCGs who commission homecare.

If many providers are not even receiving what we consider a minimum (based on the minimum wage) fee rate - it should be unsurprising that pay in the sector is low. In 2019-20, when the National Living Wage was £8.21 per hour, data produced by Skills for Care showed that careworkers in the independent sector were paid an average (mean) rate of £8.80 per hour. By point of contrast, Sainsbury's PLC has a basic pay rate for staff of £9.30 per hour.

The fact that retail and healthcare wages are outstripping the care sector will exacerbate existing recruitment issues.

The Government urgently needs to address the long-term funding issues affecting the sector. Especially so if additional recruitment requirements are imposed that could act as a disincentive to work in the sector.

How do you think we can minimise the impact of this new policy on the workforce? (tick all that apply)

- ☒ Ease of access to vaccination
- ☒ Specific funding to cover any costs associated with vaccination for example travel, time, cost of side effects
- ☒ Access to up to date information
- ☒ Support from local authority vaccination champions
- ☒ Support from clinical leads linked to care home
- ☒ Other (please specify)

Additional funding to support costs of recruitment, where necessary. A national advice line for care workers who are hesitant. Continued access to the National Booking System. Extended transition period and advanced notice. Good communication and advice about the vaccination. Good communication about mandatory vaccinations and the rationale behind the policy. Redundancy support for individuals.

Do you think this new policy could cause any conflict with other statutory requirements that care homes must meet?

- Yes
- No
- I don't know
- Not applicable

Consultation feedback

We have a few questions we would like to ask to help us improve future consultations.

How satisfied are you with the consultation process?

- Very satisfied
- Satisfied
- Somewhat satisfied
- Disappointed

What could we do better?

In some cases we would have liked to answer questions or provide explanation where a question was only asked if you selected certain responses in the previous question.

The focus of the consultation is very narrow, considering only older adult's care homes not, more holistically, the needs of vulnerable individuals in relation to the health and social care sector.

In some cases the stated 500 word limit did not correspond to 500 words as counted in other systems and text boxes appeared to be operating a character limit cut off (given the system cut words in half). This is unhelpful for those drafting considered organisational responses, and if a character limit is being used it would be preferable if this was made clear.

How did you hear about the consultation?

Social media

Word of mouth (family, friend or colleague)

Newspaper (online or print)

Trade magazine

Received an email

Direct communication from third sector organisation or regulatory organisation

GOV.UK or other government website

Website (non-government)

Other