

## FOM Guidance

### COVID-19 Mandatory Vaccination: Occupational Health

#### Introduction

In December 2020 the first COVID-19 vaccine was approved by the Medicine and Health products Regulatory Agency (MHRA). The vaccination programme has been a major component of the UK's response to the pandemic since then, alongside the other measures, based on risk assessment and application of the hierarchy of control, which aim to reduce the risk of virus transmission and infection.

It is now national policy in England that those working in health and social care, who have contact with patients, should be vaccinated. The aim of this paper is to provide background information which may assist Occupational Health practitioners.

#### Background

The Faculty of Occupational Medicine (FOM) has previously produced general guidance on the ethical principles involved in vaccination and testing, in Ethics Guidance for OH Practice<sup>(1)</sup>, updated for Covid-19 in June 2021<sup>(2)</sup>.

In August 2021, following consultation, the UK government announced that COVID vaccination would become mandatory to enter a CQC registered care home in England, save for some exceptions (medical exemption, emergency workers)<sup>(3)</sup>.

In November 2021, following further consultation, mandatory vaccination was extended to healthcare workers in secondary and primary care. NHS England advised that all individuals undertaking CQC regulated activities must be fully vaccinated against COVID-19 by 1st April 2022. Guidance has been provided by NHSE for planning and preparation for Vaccination as a Condition of Employment (VCOD), accompanied by signposting to useful resources available for engaging and communicating with staff to increase vaccination uptake<sup>(4)</sup>.

The regulations for staff working in CQC-registered care homes in England came into force on 11 November 2021. They will be followed by further regulations in April 2022 relating to all health and social care workers with patient contact, subject to Parliamentary approval.

There have been no announcements of plans to make vaccination a legal requirement in other employment sectors. However providing proof of vaccination status or a negative test result is becoming mandatory for entry to some social and public venues; the scope is subject to change. COVID-19 vaccine status and testing is likely to remain a fundamental part of international travel<sup>(5)</sup>.

The devolved administrations in Scotland and Wales do not currently have plans to make vaccination mandatory for workers in health and social care; a consultation is planned in Northern Ireland.

The NHS is the UK's largest employer and the second largest employer in Europe. Enforcement of this proposed legislation may pose practical, logistical and ethical challenges. The methods of verification agreed and adopted in the health sector may be scrutinised and considered for use by other sectors in the future.

#### COVID-19 vaccination programme

The objectives of the COVID-19 national immunisation programme are to protect those who are at

highest risk from serious illness or death, in accordance with the ranking of groups at risk by the Joint Committee on Vaccination and Immunisation (JCVI) and the principles set out in the Green Book Chapter 14a COVID-19<sup>(6)</sup>.

Co-ordination of COVID-19 vaccination for the population of England is supported by a central National Immunisation Management System (NIMS) established by NHS England<sup>(7,8)</sup>.

### Records of COVID-19 vaccination<sup>(8)</sup>

#### **1. Clinical Recording Systems at a point of care**

In England when a person is vaccinated a record is made in one of the following:

- at a GP practice, primary care network (PCN) or a community pharmacy - this is predominantly Outcomes4Health.
- at a vaccination centre - this is either Outcomes4Health or the National Immunisation Vaccination System (NIVS) app.
- hospitals use the NIVS or the National Immunisation Management System (NIMS) app to record vaccinations of staff members or patients.

For the purposes of COVID vaccination NIVS will be populated with demographic information from the electronic staff record (ESR) of NHS staff. This system allows anonymised data reporting of uptake nationally<sup>(9)</sup>.

Vaccination information is transferred between the systems for reporting and management of the vaccine programme with the aim of ensuring that every vaccination event is properly recorded and to avoid duplication of invitations for immunisation<sup>(8)</sup>. Within 48 hours of entry at a point of care into the systems above the relevant data should come to the GP system for inclusion in the person's medical record. It appears in the vaccinations section of the Summary Care record which is linked to the person's name and NHS number.

#### **2. Paper based vaccination cards**

Attendees at vaccine clinics also receive **paper based vaccination cards** recording the name, batch number of their vaccine and date of administration.

#### **3. NHS Covid Pass**

Anyone registered with the NHS in England can obtain a **NHS COVID Pass**, digitally through the NHS App or online via the NHS COVID Pass service. This shows COVID-19 vaccination details and test results and may be required for travel abroad or at events in England asking for proof of a person's Covid-19 status. The NHS website also includes help on how to add additional data<sup>(5)</sup>.

COVID-19 immunisation records are not processed and verified by Occupational Health services, unlike those immunisations and screening activities which have long been required for specific occupational reasons e.g. for blood borne viruses and TB.

### Occupational Health and COVID-19 vaccination

- *Occupational immunisations*

Immunisation against COVID-19 is generally a public health measure, designed to protect those at highest risk from this infection. It is not a substitute for other control measures and the latest IPC

guidance for health and care settings should be followed<sup>(10)</sup>.

Where the Control of Substances Hazardous to Health Regulations (2002) (COSHH) apply to an occupational exposure to biological agents, employers should offer vaccination where one is available<sup>(11)</sup>. It is a matter for the employee if they choose to accept having the vaccine, as COSHH does not make it compulsory to do so. In the case of COVID-19, health and social care workers will already have been offered immunisation through the national immunisation programme.

The rationale for the offer of COVID vaccination to healthcare staff has been similar to that for the 'flu vaccine which health and social care staff are encouraged to take up annually. NHSE has identified their regulation objectives of making COVID-19 vaccination a condition of deployment (VCOD) in health and adult social care settings (domiciliary and other CQC - regulated settings) as intended to:

- protect all those who use health and social care services, a large number of whom are vulnerable, as well as the wider community.
- protect workers themselves by increasing vaccination rates.
- help reduce COVID-19 related sickness absences<sup>(4)</sup>.

The Faculty's position has always been that an 'inform and consent' approach, together with organisational leadership and reiterating the professional responsibility of staff, should be used to promote vaccine uptake. National policy has now developed in favour of mandatory COVID-19 vaccination in the health and social care sectors and this will be enforced after April 2022, in CQC regulated settings and CQC regulated activities whether publicly or privately funded, following passage through Parliament<sup>(4)</sup>.

The FOM recognises the need for occupational health services to plan and prepare ahead of VCOD.

- *OH services involvement in the COVID vaccination programme to date (pre VCOD)*

Many NHS OH services and their staff have played some part in the national COVID immunisation programme as an element of their increased role during the pandemic and in line with their expertise and experience in vaccination, especially in large vaccination programmes such as flu.

Some senior OH staff have had major strategic involvement in the planning and delivery of COVID-19 vaccination for NHS staff and patients, particularly in the hospital hubs.

Many OH clinicians have encouraged uptake of vaccine by individuals as part of consultations related to individual COVID risk assessments and concerns and some OH services have been involved in promoting COVID-19 vaccination.

Where OH staff, of any discipline, in addition to their usual roles within NHS OH services, hold additional roles within the national vaccination programme this may include access to data held on NIVS about the vaccination status of individual health care staff. This data may also be accessible to others involved in the delivery of the national programme and this is considered by NHS England in its data impact assessment <sup>(12)</sup>.

## **Implementation of mandatory COVID-19 vaccination**

NHS England & Improvement published the first guidance 'Vaccination as a Condition of Deployment (VCOD) for Healthcare Workers' on 6th December 2021. This provides more detailed information about Phase 1, covering planning and preparation<sup>(4)</sup>.

Further guidance is likely to follow, subject to Parliamentary approval. Whilst plans are still evolving, there are a number of aspects which will require national or local system consideration and clarification.

### Scope

Current guidance stipulates that the new regulations, subject to parliamentary passage, will apply to health and social care workers who are deployed in respect of a CQC regulated activity and who have direct, face-to-face contact with service users.

The guidance further clarifies that this extends to those with social or incidental contact with service users in areas where CQC regulated activities are delivered.

This definition should be interpreted and implemented in agreement between the management and staff side at a national or local system level. Once the scope is agreed there should be a local plan to identify those individuals who are within the scope.

### Information Governance

Vaccination status is 'health' information and would be regarded by many as confidential. It is also 'special category' data for the purposes of data protection legislation (in the UK GDPR), which means that it must be processed fairly, lawfully, have a lawful basis (i.e. a good reason as set out in articles 6 and 9 of the GDPR) and in compliance with other specific obligations under data protection law.

Employers should follow the advice within the VCOD guidance including involvement of the Information Governance Lead and the Caldicott Guardian, undertaking a data protection impact assessment and updating privacy notices to ensure that handling vaccination data remains lawful.

### Proof of Vaccination

The NHS employs 1.4 million people and Social Care 1.6 million<sup>(13,14)</sup>. Under the new measures the number of staff required to provide evidence that they have been fully vaccinated against COVID-19 in order to be deployed is large.

Data from the national clinical recording systems has currently been published on an anonymised basis as part of national monitoring. Concerns have been expressed about the possibility of direct access by managers to the NIVS clinical recording system as the means of verifying an individual's COVID status. It has been speculated that this could, potentially, be the first stage in wider access by employers to individual health data. There is no evidence to support this speculation.

The Information Commissioners Office has provided guidance on vaccination and COVID pass checks<sup>(15)</sup>. VCOD guidance clarifies how individuals can provide proof of vaccination<sup>(4)</sup>. However this needs to be discussed and agreed locally to find a balanced solution which is practical, compliant with DPA and GDPR and includes appropriate consent by the employee to

disclosure of their vaccination status. For instance for smaller employers e.g. a dental practice, asking employees to show their COVID Pass or equivalent and then keeping the record can be a straightforward and practical solution, whereas for a large Trust a centralised approach may be required. This might include access by managers to data held on on the National Immunisation Vaccination System, NIVS, subject to the requirements of both the common law and ethical duty of confidence and data protection law. Decisions about access to COVID vaccination data in relation to VCOD should be clearly defined and recorded.

Consideration should also be given to staff moving between the devolved nations and arrangements confirmed for provision of proof of vaccination from another administration.

However at this point the situation continues to evolve, alongside the development of the pandemic, the national response and legislation. In these circumstances a centralised approach to proof of vaccination may be determined alongside the National Immunisation Management Service<sup>(9)</sup>.

### Definition of Vaccination

- Number of vaccine doses: VCOD guidance clarifies that the term 'fully vaccinated' currently means two doses of vaccine. At present the proposed regulations do not require evidence of boosters.
- Mixed vaccination and vaccination abroad  
Individuals who have been vaccinated abroad will be required to provide evidence of their vaccination status and, where necessary, to have a top-up dose with a UK authorised vaccine consistent with the UK Health Security Agency (UKHSA) guidance on vaccines. To avoid doubt, mixed doses (that is, where different vaccines have been administered to complete the dose schedule) will be accepted for the purposes of the vaccination requirements.

### Medical Exemptions

Some individuals may have grounds not to have the vaccine for clinical reasons. This is based on self certification until 24th December and thereafter on certification by their GP or treating doctor to confirm medical exemption, or via dialing 119 who will triage the enquiry and send a form to be completed by the person's clinician. Two specific groups who may be included in this category are:

- Pregnant women: the JCVI has advised that pregnant women should be offered COVID-19 vaccines and it is recommended by the Royal College of Obstetricians and Gynaecologists and the Royal College of Midwives<sup>(16)</sup>. However pregnant women are eligible to request short term medical exemptions from vaccination which will expire 16 weeks after giving birth.
- Current or previous participants in clinical trials for COVID-19 vaccine. They will be provided with confirmation of this by the organiser of the trial.

There is no scope for Occupational Health practitioners to provide an opinion on medical exemptions, whether to confirm or refute them.

VCOD guidance, however, specifically encourages referral to OH for the purpose of risk assessment and advice on risk management. This is what most OH professionals have been involved in throughout the pandemic and this principle does not change in the light of the government

decision to mandate vaccination. The focus remains on ascertaining the risk and advising on risk management based on the hierarchy of control.

#### Employment consequences

Redeployment, dismissal and other employment consequences of vaccine refusal by a worker within the scope of the proposed regulations are entirely employment and management matters, and not an area in which Occupational Health should be involved.

#### Data accuracy

There are some concerns about the data accuracy in databases used for this purpose. The VCOD guidance notes that the NHS COVID Pass or equivalent from NHS Scotland, NHS Wales or the Department of Health in Northern Ireland are acceptable between the devolved administrations. Other certificated forms of acceptable evidence issued by a competent health authority, as listed in the guidance are acceptable.

NHS appointment cards cannot be used as proof of vaccination status.

#### Promoting Vaccination

Promoting vaccination, using the principle of inform and consent, remains critical and all employers are encouraged to maintain their effort to facilitate vaccination for staff who are not yet vaccinated. OH professionals are encouraged to contribute to this effort within their expertise and when practicable or appropriate.

#### **Summary**

- Mandatory vaccination for health and care workers is national policy in England and is expected to become a legal requirement.
- Occupational Health is not expected to have a significant role in implementation of this policy.
- Senior OH staff may be well placed to contribute to strategic discussions within their organisation about the best way in which this programme can be implemented including data considerations.
- OH staff may also be involved in discussions about promoting vaccination. Some, depending upon the professional profile, expertise and staffing levels within their OH services, may be directly involved in counselling those with vaccine hesitancy.
- OH staff may be involved in risk assessment of those who are not vaccinated.
- Occupational Health should avoid involvement in medical exemption and management and employment matters, including redeployment or suspension or dismissal of staff who refuse vaccination. They should not be involved in giving information to employers about the vaccine status of individual employees without their consent.



## References

- (1) FOM. Ethics Guidance for occupational Health Practice - 8th edition, <https://www.fom.ac.uk/publications-policy-consultations/ethics-guidance-for-occupational-health-practice>
- (2) FOM. COVID-19 Guidance on Vaccination and Testing <https://www.fom.ac.uk/COVID-19/COVID-19-guidance-on-vaccination-and-testing>
- (3) COVID-19 vaccination of people working or deployed in care homes: operational guidance <https://www.gov.uk/government/publications/vaccination-of-people-working-or-deployed-in-care-homes-operational-guidance/coronavirus-covid-19-vaccination-of-people-working-or-deployed-in-care-homes-operational-guidance>
- (4) Vaccination as a Condition of Deployment (VCOD) for Healthcare Workers <https://www.england.nhs.uk/coronavirus/wp-content/uploads/sites/52/2021/12/C1470-vcod-for-healthcare-workers-planning-and-preparation-guidance.pdf>
- (5) NHS COVID Pass <https://www.nhs.uk/conditions/coronavirus-covid-19/covid-pass/>
- (6) COVID-19: the green book, Chapter 14a [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1043861/Greenbook-chapter-14a-24Dec21.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1043861/Greenbook-chapter-14a-24Dec21.pdf)
- (7) NHS England. National COVID-19 and Flu Vaccination Programme <https://www.england.nhs.uk/contact-us/privacy-notice/national-flu-vaccination-programme/>
- (8) System C National Immunisation Management Service <https://www.systemc.com/solutions/immunisation-child-health/nims/>
- (9) COVID-19 vaccination record queries <https://digital.nhs.uk/coronavirus/vaccinations/covid-19-vaccination-record-queries>
- (10) COVID-19: infection prevention and control (IPC) <https://www.gov.uk/government/publications/wuhan-novel-coronavirus-infection-prevention-and-control>
- (11) COSHH Regulations 2002 <https://www.legislation.gov.uk/uksi/2002/2677/regulation/7/made>
- (12) NHS England. Data protection impact assessment: national immunisation, vaccination system - healthcare workers <https://www.england.nhs.uk/publication/data-protection-impact-assessment-national-immunisation-vaccination-system-health-care-workers/>
- (13) King's Fund <https://www.kingsfund.org.uk/projects/time-think-differently/trends-workforce-overview>
- (14) NHS Digital. NHS Workforce Statistics, January 2021 <https://digital.nhs.uk/data-and-information/publications/statistical/nhs-workforce-statistics/january-2021>
- (15) Information Commissioner's Office. Vaccination and COVID Pass checks <https://ico.org.uk/global/data-protection-and-coronavirus-information-hub/coronavirus-recovery-data-protection-advice-for-organisations/vaccination-and-covid-pass-checks/>
- (16) COVID-19 Vaccination: women of childbearing age, currently pregnant or breast feeding <https://www.gov.uk/government/publications/covid-19-vaccination-women-of-childbearing-age-currently-pregnant-planning-a-pregnancy-or-breastfeeding/covid-19-vaccination-a-guide-for-women-of-childbearing-age-pregnant-planning-a-pregnancy-or-breastfeeding>

4 January 2022

Faculty of Occupational Medicine  
[www.fom.ac.uk](http://www.fom.ac.uk)