8 Steps to Take to Prepare for Mandatory Vaccinations

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With the clock now ticking on the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021 (the Regulations) becoming enforceable on 11 November 2021, there's not a lot of time to put measures in place to ensure compliance. Below are eight key steps that you should consider to avoid being caught out by the Regulations:

1. Publicise the new requirements

Some of your staff, contractors and visitors, especially those who do not visit care homes regularly, may not be familiar with the requirement to be vaccinated or clinically exempt in order to access your premises. You should highlight this requirement when booking appointments or making arrangements for visits so that they have time to obtain proof of vaccination status or clinical exemption.

2. Engage with your staff about the Regulations

You should use the period before 11 November 2021 to:

1. Engage with individual staff or, if applicable, collectively with trade unions about:

- the vaccination requirement;
- the need for people providing work or services to evidence vaccination or clinical exemption;
- the potential consequences of not meeting the requirement on time.

2. Gather necessary data on the vaccination status or clinical exemption of your staff.

3. Arrange meetings with those who are not vaccinated or clinically exempt.

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Engaging with unvaccinated staff is a key part of following a fair dismissal process if they do not intend to become vaccinated and are not medically exempt.

3. Put in place a vaccination policy

The official guidance recommends that care homes should consider putting in place a written vaccination policy. This could be in the form of a standalone policy or be adopted into your staff handbook. A suitable vaccination policy will cover:

a. Whether employees are entitled to time off work (with or without pay) to be vaccinated or to obtain evidence of clinical exemption;

b. The date by which you will expect evidence of vaccination or exemption;

c. Any arrangements relating to leave if staff experience side effects from vaccination;

d. How data about vaccination or clinical exemption will be processed;

e. The procedure that will apply to staff who cannot comply with the requirement to be vaccinated or obtain evidence of clinical exemption.

You should consult with staff and, if applicable, unions on the introduction of a vaccination policy (see above).

4. Gather vaccination data (and process it correctly)

You will need to keep records to demonstrate that you've complied with the Regulations. The Regulations expressly permit you to process any information or documents provided as evidence that a person is vaccinated or clinically exempt.

You will still need to ensure that you process information about vaccination or clinical exemption in accordance with the 'special category data' requirements of your data processing policies.

You will be able to collect and store data to:

- Distinguish whether a member of staff is vaccinated or clinically exempt;
- Record the dates of vaccinations; and
- Retain a copy of the member of staff's evidence of vaccination or clinical exemption.

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You should process and retain the data for long enough to be able to demonstrate if required that you have complied with your legal obligations;

You should safeguard data appropriately and limit who has access to it in compliance with your existing data retention policies.

5. Update your template contracts

The best way of ensuring that a new member of staff has been vaccinated or is medically exempt prior to entering a care home is to include the requirement to evidence this in their contract.

You should also include the requirement in any contracts you have with contractors or service providers who will be entering the care home.

6. Prepare to comply with your record-keeping obligations

You will need to put measures in place to keep a record of who have entered a care home, including a record of all individuals entering the care home with medical exemptions (apart from those who are specifically excluded from the ambit of the Regulations). The date when vaccination status was last checked should be recorded.

Individuals entering a care home will only need to demonstrate vaccination status on the first occasion they enter or register, which will subsequently be recorded on the care homes local system. All subsequent checks of individuals who have previously demonstrated vaccination status will be carried out via the records which will state the date and time the individual proved their status. You will be able to use these records as proof of vaccination status, to reduce the burden of having to re-check every individual.

7. Consider alternative roles for unvaccinated staff

Although such roles where entering the care home is not required will be few and far between, you will still need to conduct this exercise in order to dismiss staff who are unvaccinated and not medically exempt fairly.

8. Plan for how you'll comply with the Regulations on a day-to-day basis

You should, for example, consider the following:

- How will you gather and record data on those entering the care home?
- Who will be responsible for ensuring that the unvaccinated or medically exempt don't enter the care

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home? Are all entrances to the care home manned/monitored?

- Can you make changes to the way that you receive deliveries to ensure that drivers/couriers do not need to enter the care home and so will not need to comply with the Regulations?

- Is there any way to adjust the working practices for those not required to enter the care home to work (for example gardeners or in-home care providers) to ensure that they don't need to enter the care home at all.

If you have any further questions or concerns about mandatory vaccinations, please contact our specialist Healthcare team by emailing online.enquiries@la-law.com or click here to read some expert advice on FAQs of mandatory vaccinations.

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