



AUTHOR / KEY CONTACT

Mandatory Vaccination FAQ



Edward O'Brien
Senior Associate

✉ Edward.O'Brien@LA-Law.com
☎ 01202 786148

What do the Health and Social Care Act 2008 (Regulated Activities) (Amendment) (Coronavirus) Regulations 2021 (the Regulations) require?

From 11 November 2021, registered persons (registered managers and registered providers) must ensure that they do not allow anyone entry into a care home unless they have completed a course of an approved Covid-19 vaccine or fall into one of the exempt categories.

Who do the Regulations cover?

Everyone wishing to enter the care home including:

- Health care professionals
- CQC inspectors
- Tradespeople
- Maintenance workers
- Hairdressers and beauticians
- Prospective residents and their families

The Regulations only extend to those working indoors. Those working solely outdoors, for example, gardeners, will not need to be vaccinated. But consider the extent to which those individuals will need to access the premises for restrooms or break rooms.

Who is not covered by the Regulations?

The requirement to be fully vaccinated or medically exempt does not apply to:

- Those who are required to provide emergency assistance in the care home;
- Those who are needed to provide urgent maintenance assistance to the care home;
- Members of the emergency services in the execution of their duties;
- Friends or relatives of the resident (including essential caregivers);
- Visitors of a resident who is dying;
- Those providing comfort or support to a resident in relation to that resident's bereavement following the death of a relative or friend; or
- Those under the age of 18.

Who is exempt from vaccination?

There are a small number of people for whom vaccination is not appropriate for clinical reasons. These people will be able to demonstrate their exemption by way of a letter from their GP or a clinician.

For those who are exempt from vaccination, a risk assessment should be undertaken to reduce the risk of transmission in the care home. This should include a consideration of whether it would be appropriate to change to their duties. You should note that those who are exempt from vaccination may also be in the clinically extremely vulnerable category.

What do you need to do to check vaccination status or medical exemption?

1. An individual can demonstrate their vaccination status in one of three ways:

- The NHS app
- A web-based alternative to the NHS app

- An NHS letter

2. An individual can demonstrate medical exemption by providing a letter confirming that they are medically exempt from their GP or a clinician. You do not need evidence of what the individual's condition is and you should not ask for details. Confirmation of medical exemption will suffice.

Exemptions last for one calendar year, and so you'll need to diarise when an individual's exemption needs to be re-evidenced.

You will need to process and store this information as 'special category data' in line with your data protection policy.

You will only need individuals to demonstrate vaccination status on the first occasion they enter the care home. All subsequent checks of individuals who have previously demonstrated vaccination status can be carried out via the records stating 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.

What are the key dates that I need to be aware of?

- 22 July 2021: The Regulations came into force and the 16 week grace period commenced.
- 9 August 2021: You should begin your consultation with staff over the changes being introduced by the Regulations, any resulting changes to your staff handbook or contractual terms and with unvaccinated/non-medically exempt staff over their intentions.
- 16 September 2021: The last date on which an unvaccinated/non-medically exempt member of staff will need to have had their first vaccination.
- 11 November 2021: From this date it will be illegal for an unvaccinated/non-medically exempt individual (other than those not covered by the Regulations) to enter a care home.

[Click here](#) to read our '8 Steps to Take to Prepare for Mandatory Vaccinations' article.