



## **Mandatory Coronavirus Vaccinations in Care Homes: Policy & Procedure**

Author:	Cara Francis-Owen
Corporate Lead:	Director of Workforce
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## 1. INTRODUCTION

- 1.1 The Department of Health and Social Care (DHSC) recently conducted a public consultation regarding a proposed amendment to the [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#) that would require older adult care home providers to deploy only those workers who have received their COVID-19 vaccination in line with government guidance (unless medically exempt).
- 1.2 As a result of the consultation, the [Health and Social Care Act 2008 \(Regulated Activities\) \(Amendment\) \(Coronavirus\) Regulations 2021](#) (the 2021 Regulations) were made on 22 July 2021 and will come into force on 11 November 2021. They insert a new provision into [the Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#) requiring all persons working or deployed in any CQC registered care home (which provides accommodation together with nursing or personal care) to be fully vaccinated against COVID-19, unless an exemption applies. Whilst the 2021 Regulations extend to both England and Wales, they will apply to England only.
- 1.3 The scope of the new rules mean that they will not just impact upon care home providers and care home staff: they apply to **anyone working or deployed in a care home**, unless an exemption applies. This is regardless of role, how often the individual works in the care home, or, who employs them.
- 1.4 Whilst the introduction of this approach which includes the possibility of employee dismissal is one that has had to be implemented in response to a national mandate, in line with our Values and Behaviours, LCH will approach this on an individual, case-by-case basis, to ensure that individual perspectives are fully understood, solutions are sought, employees supported and that any recourse to requirement for redeployment or dismissal is as a last resort only.

## 2. PURPOSE

The purpose of this policy is to set out our position on the mandatory COVID vaccination requirements and our expectations for staff in respect of those requirements.

## 3. SCOPE

This policy applies to all staff employed or engaged by Leeds Community Healthcare NHS Trust who work, or may be required to work, in a care home setting in order to fulfil their role / carry out their duties.

## 4. EQUALITY AND DIVERSITY STATEMENT

Inherent within all practices, we are committed to the promotion of equal opportunities and the principles of equality and diversity, providing personal, fair and diverse services across the organisation. As with all our policies, we take responsibilities under the

Equality Act 2010 very seriously. We are committed to ensuring that no member of staff receives less favourable treatment because of a protected characteristic e.g. (age, disability, gender, marital status, pregnancy/maternity, race, religion, sexual orientation, gender reassignment), insofar as this is compatible with our obligations under care and health and safety legislation.

## **5. OUR POSITION**

- 5.1 Although it is the responsibility of the CQC registered care home provider to ensure compliance with the new requirements, it is our responsibility as a service provider to ensure that we only send staff who have the correct proof (of vaccination or exemption) to work in a care home. Otherwise, the care home provider will have no alternative but to make alternative arrangements for provision of the service. We can only meet our legal obligations if all our staff that are working in or deployed to CQC registered care facilities have had the full COVID-19 vaccination (unless any exemption applies) before 11 November 2021.
- 5.2 For the avoidance of doubt, the mandatory COVID-19 vaccination requirements will not apply to staff working in any role that is outside the scope of the 2021 Regulations. We shall, however, keep this under review.

## **6. SUPPORT FOR STAFF**

- 6.1 We understand that some of our staff may have queries about having the vaccine. We have provided, and will continue to provide, support and information and access to relevant authorities about the vaccine to assist with further understanding and answer any concerns staff may have.
- 6.2 We advise staff to check the source of any information they read about the vaccine as we are aware that there is a certain amount of uncertified information available.
- 6.3 To find out more information about the vaccine, please contact your manager who will be able to support you with your queries and have access to the latest and most up to date vaccine details.
- 6.4 Should staff, line managers or decision makers have any queries about this policy or require any support to implement anything within it, you should contact one of the HR Team on 0113 2033455 or via email [lch.hr@nhs.net](mailto:lch.hr@nhs.net)

## **7. EXEMPTIONS**

The mandatory vaccination rules do not apply:-

- if one or more of the exemptions in Regulation 5 of the 2021 Regulations apply (those who have medical exemptions; residents of that care home; friends and family of residents who are visiting; those entering to assist with an emergency or carrying out urgent maintenance work; and those under the age of 18);

- where care is being provided in accommodation that is not provided as part of the service user's care or treatment; and/or
- to the surrounding grounds of any care home premises / accommodation.

## **8. MEDICAL EXEMPTIONS**

- 8.1 Staff will not be subject to the mandatory vaccination requirements if they provide evidence that satisfies us that for clinical reasons they should not be vaccinated with any authorised vaccine ("medical exemption").
- 8.2 Evidence of medical exemptions must be provided by the staff member's GP or consultant in the form of a letter, report, fit note and/or with supporting medical records, setting out the reason for the exemption. We will provide a contribution towards the costs of providing the medical evidence up to the value of £20.00. We will require evidence of the actual costs incurred before any payment can be made.

- 8.3 We shall continue to review this policy and its position on medical exemptions and the evidence required in accordance with any Government guidance that may be published (or revised).
- 8.4 Medically exempt staff will be required to take a Lateral Flow Device Test prior to each shift or prior to attending care home premises, and to produce evidence of their negative test result on request.
- 8.5 Managers should carry out an individual risk assessment for each medically exempt staff member to identify what other additional control measures will need to be in place (if any) to allow them to work safely in a care home.

**9. RECRUITMENT**

- 9.1 As a provider of services to CQC registered care homes, from the date of this Policy, we shall only employ those who are fully vaccinated in roles that require them to work in a care home setting (unless they are medically exempt).
- 9.2 We will be clear to all applicants that the mandatory vaccination will be part of their terms and conditions of employment (unless an exemption applies).

**10. BANK & AGENCY STAFF**

- 10.1 As a provider of services to CQC registered care homes, from the 11 November 2021, we shall only allow those who are fully vaccinated to accept bank shifts that require them to work in a care home setting (unless they are medically exempt).
- 10.2 We will be clear to all bank and agency staff that the mandatory vaccination will be part of their terms and conditions engagement (unless an exemption applies).

**11. EXISTING STAFF**

- 11.1 With effect from the date of this Policy, we shall require all staff employed in roles that are either care home based or may require them to work within a care home setting, to have received both doses of an approved vaccine by 11 November 2021 (unless an exemption applies) in accordance with the following timeline:-

<b>Vaccination timeline</b>
First Covid vaccine dose to be administered by 16 September 2021
Second Covid vaccine dose to be administered by 11 November 2021

- 11.2 The Trust will hold discussions with those staff who remain unvaccinated and who are not medically exempt within the above timeline. We are committed to working with staff to ensure individual perspectives are fully understood and solutions are sought where possible. We will support employees to consider all options, including redeployment. Where all options for redeployment are exhausted, the Trust will be required to enter a formal process and regrettably any member of staff (who is not medically exempt) who is unvaccinated by 11 November 2021 may be dismissed if their care home duties cannot be reallocated or they cannot be redeployed.

- 11.3 There may be members of staff who have advised of their intention to be fully vaccinated, but are then unable to meet the mandatory vaccination deadline (i.e. due to long-term ill health or being ill with COVID). Managers should ensure that they understand the reasons for the delay and work with the staff member to agree next steps (with advice and support from HR if required), before any decisions about the individual's future employment are made.

### **Procedure for Unvaccinated Staff**

11.4 The following procedure will be followed:-

- Line Managers should have informal conversations with staff who do not wish to have the vaccine / are medically exempt to understand position and signpost to helpful information
- *Within 7 calendar days of informal conversation*) Confirm to the member of staff whether redeployment to other duties is an option within the service
- *Within 7 calendar days of previous conversation*) Invite to meeting to discuss redeployment outside of the service if not available within the service. HR will support to review open vacancies and provide support in the meeting.
- If no redeployment is available, invite the member of staff to a formal meeting, warn that might be dismissed and give right of representation.
- Hold the formal meeting with an independent manager, with appropriate authority (who should be provided with a pack containing the relevant correspondence, the informal meeting notes and details of any efforts to secure redeployment).
- If the member of staff will not be fully vaccinated by 11 November 2021 or has not booked their vaccine with the intention of becoming vaccinated albeit after 11 November 2021, and there are no options for redeployment, a decision may be taken to dismiss with notice and confirm outcome in writing;
- Provide the member of staff with the opportunity to appeal.

See Appendix 1 for Flowchart and Appendix 2 for Checklist.

### **Roles & Responsibilities**

11.5 **Line managers will be responsible for:-**

- Requiring staff to confirm, in writing, their vaccination status no later than 16<sup>th</sup> September 2021 .
- Noting the deadline for first vaccinations (16 September 2021)
- Noting the deadlines for notice to be given to staff to ensure notice periods are worked in full if decisions to dismiss have to be made
- Having an informal meeting with staff who do not intend to be vaccinated or are medically exempt to discuss next steps;
- Considering redeployment opportunities or reallocation of duties and recording outcomes; and
- Referring staff who do not intend to be vaccinated and cannot be redeployed to HR (who will appoint an independent manager to hold a formal meeting with the staff member to discuss their case and make a decision on their future employment).

#### 11.6 **HR will be responsible for:-**

- Ensuring line managers are aware of their obligations under this policy and deadlines for compliance;
- Supporting line managers considering redeployment opportunities or reallocation of duties;
- Arranging formal meetings with staff and an independent line manager to discuss their case and make a decision on their future employment;
- Arranging any appeal meeting required with a second independent manager;
- Collating and sharing information packs to the independent manager, the member of staff and their representative in advance of the formal meeting or appeal meeting;
- Supporting decision makers throughout this process.

### 12. **RISK ASSESSMENTS**

We will continue to review and carry out risk assessments to ensure that we comply with our statutory duties. The approach we take is developing as new information and data is published and we will keep staff updated of any changes which affect them.

### 13. **REDEPLOYMENT**

- 13.1 For existing staff who do not wish to have the vaccine, LCH is committed to exhausting all options for alternative work and line managers will proactively consider redeployment opportunities with their member of staff before any decisions are made about their future employment.
- 13.2 Redeployment opportunities can be identified from current vacancies and/or discussions with HR and managers in other departments, divisions or areas. Staff should be encouraged to make their own enquiries and put forward redeployment options for further consideration.
- 13.3 If a decision is made to dismiss, line managers and staff should continue to consider redeployment opportunities throughout the notice period.

### 14. **FALSIFICATION OF INFORMATION**

Any member of staff who misrepresents information relating to their vaccination status or medical exemption may be subject to disciplinary action and/or dismissal without notice.

### 15. **VACCINATION DATA**

- 15.1 Data on vaccination status is being collated, used and processed for the purposes of delivering services to patients, clinicians, the health services and adult social care services workforce and the public about and in connection with COVID, including the provision of information, fit notes and the provision of healthcare and adult social care services.
- 15.2 Vaccination status data is 'health' information and will be kept confidential, with access to it strictly controlled. It is also 'special category' data for the purposes of data protection legislation (the UK GDPR), which means that it must be used fairly,

lawfully, supported by good reasons, and in compliance with other specific obligations under data protection law.

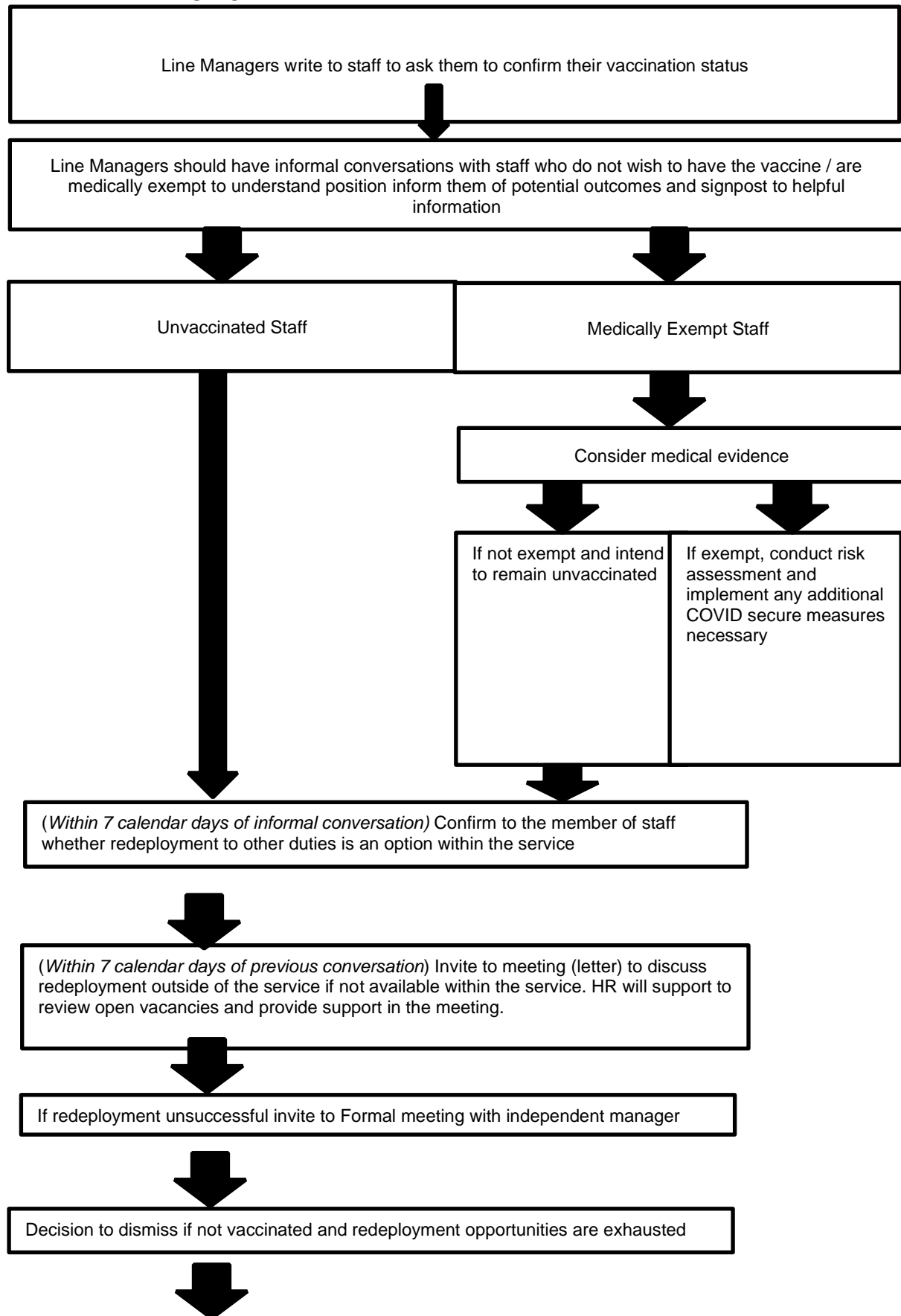
- 15.3 In accordance with our privacy notice for staff, we shall collate and hold information on an individual's vaccination status securely and in compliance with our obligations under the General Data Protection Regulation, the UK Data Protection Act 2018 and all other data protection legislation.

## **16. REVIEW OF THIS POLICY**

- 16.1 We reserve the right to change and amend this policy at any time and implement changes at short notice.



## APPENDIX 1 – FLOWCHART



Right of appeal

## APPENDIX 2 – CHECK LIST

NOTE: staff will be required to work their notice periods in full if decisions to dismiss have to be made. Therefore, line managers should ensure that the process that is followed takes the deadlines for notice to be given to staff in account.

Action	Date	By	Tick when completed
Speak to staff to discuss their intentions including those employees who are currently absent from work including sickness, maternity etc.		Line manager	
Write to all staff, including those absent, to confirm their vaccination status / intentions		Line manager	
Response form returned to Senior Ops		Line manager	
For those who have chosen to be vaccinated, Line Manager to monitor vaccination dates and record vaccination details		Line manager	
For those who advise they are medically exempt, ensure sufficient evidence received of the exemption in one of the following formats: GP/Consultant letter/fit note/medical records		Line manager	
Have informal meetings with all staff who have chosen not to be vaccinated or believe that they are medically exempt		Line manager	
If staff are not exempt and still do not wish to be vaccinated, consider redeployment opportunities within the service		Line manager	
If redeployment not possible, refer to HR to arrange a meeting to explore further redeployment opportunities		Line manager	
HR to arrange meeting with member of staff and their representative		HR	
HR to collate and share information pack for meeting including prospective vacancies in advance with member of staff and their representative		HR	
HR to attend meeting to provide procedural support and act as note taker		HR	
If redeployment not possible, refer to HR to arrange a formal meeting with an independent manager		Line manager	
HR to arrange formal meeting with member of staff and their representative		HR	
HR to collate and share information pack for meeting in advance with member of staff, their representative and the independent manager		HR	
HR to attend meeting to provide procedural support and act as note taker		HR	
If decision made to dismiss, outcome to be confirmed in writing together with right of appeal		Independent Manager	
<i>NOTE: dismissal will be with notice and staff will be expected to work their notice period,</i>			

If appeal lodged, HR to arrange appeal meeting with member of staff, their representative and independent manager		HR	
HR to collate and share information pack for appeal meeting in advance with member of staff, their representative and the independent manager		HR	
HR to attend appeal meeting to provide procedural support and act as note taker		HR	
Appeal outcome to be confirmed in writing		Appeal Manager	