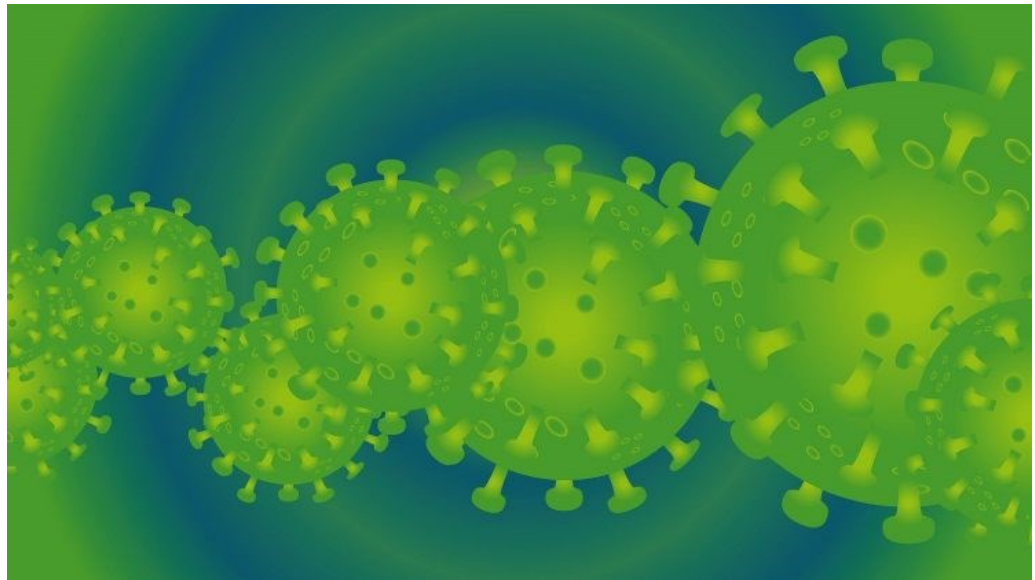


The latest news and announcements from Derbyshire UNISON

Mandatory vaccination

UNISON has opposed its introduction for a variety of reasons that are spelled out in this document but the lawmakers have seen fit to ignore these.



Mandatory Vaccination in Care Homes

Members will be aware of new legislation covering those working in (and also entering) care homes and the COVID-19 vaccine. This update brings you the background to the new laws and seeks to explain how UNISON will continue to try and support as many members as possible going forward.

It must be noted that UNISON has, both nationally and locally, opposed its introduction for a variety of reasons that are spelled out in this document but the lawmakers have seen fit to ignore these.

Anger from members at the new laws shouldn't be aimed at UNISON or its representatives but at those who make the laws, ie the government, House of Commons and House of Lords.

What is happening?

New legislation means people who enter the premises of a CQC-registered care home in England for residents requiring nursing or personal care must have completed a course of authorised COVID-19 vaccine doses unless they have an exemption.

The Government's own guidance for affected staff and employers is [here](#).

Contacting Derbyshire UNISON

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When is it happening?

The regulations introducing this were approved on 22nd July 2021. There is then a 16-week 'grace' period.

On 11th November 2021, it will become illegal for the registered care home to permit people into the premises if they are unable to show they are vaccinated or are otherwise exempt.

This means that 16th September 2021 is the latest date someone could receive their first vaccination dose before the regulations take effect.

This legislation does not have retrospective effect; it comes into force 16 weeks from enactment on 11 November 2021. The legislation requires the Secretary of State to review the operation and effect of these new laws and publish the report within one year from the date they come into force and within every year after that.

UNISON's policy position on mandatory vaccination.

UNISON has opposed the introduction of mandatory vaccination from the outset.

We have repeatedly told the government that persuasion and not coercion is the best way to roll-out the vaccination programme. We believe these regulations distract from government's central responsibility to boost trust and confidence in the vaccine, so vaccination levels reach the same rates seen in the NHS and in Scotland, Wales and Northern Ireland.

In our [consultation response](#) to government, we said all the available evidence suggests mandatory vaccination makes it harder to persuade workers the vaccine is safe. UNISON's consultation response included new data from a survey of members working in social care and highlights new [academic evidence](#) that suggested mandatory vaccination created barriers for those hesitant about the vaccine. We have also made clear our concern that this opens up the possibility of discrimination against care workers with protected characteristics under the Equality Act 2010.

We have told government that mandatory vaccination in care homes risks creating dangerous staff shortages in some care homes. During the passage of this legislation through Parliament, UNISON briefed MPs and Lords regarding this counter-productive policy and the risks involved. Unfortunately, the government has not heeded warnings from UNISON.

We provide this guidance to best advise UNISON members on how to handle the fallout from this counterproductive and misguided policy.

Who does this apply to?

This applies to all CQC-registered care homes providing nursing or personal care in England. Everyone entering the premises of such a care home, including staff, must have received a complete course of authorised COVID-19 vaccination doses unless they are exempt. The requirement does not apply to persons entering 'any surrounding grounds' of the care home premises.

Full details relating to exemptions can be found on pages 21, 29 and 37 of the Government's guidance.

In summary, the following people will be legally exempt:

- Service users who reside at the care home
- Friends or relatives of service users who reside at the care home
- Persons under the age of 18
- Persons visiting a service user who is dying
- Persons providing reasonably necessary comfort or support to a service user who has suffered a bereavement of a friend or relative
- Persons providing reasonably necessary emergency assistance in the premises
- Persons providing reasonably necessary urgent maintenance assistance in the premises
- Persons executing their duties as a member of the emergency services

Proof of vaccination

The legislation does not specify how evidence of vaccination is to be provided. It is for the registered care home to satisfy itself for each individual permitted to enter its premises. The registered person will be responsible for ensuring that everyone who enters their care home is either vaccinated or exempt. The registered person will be the person registered with the CQC as a manager or service provider.

Care staff can provide proof of vaccination in different ways. The most common method will be by using the NHS app via smartphones. Staff could, for example, be asked to show their NHS App to the care home manager to demonstrate their vaccination status. A web browser-based version of the app will also be available. More information on the app can be found here: [NHS App - NHS \(www.nhs.uk\)](https://www.nhs.uk)

For those staff who do not have a smartphone or otherwise do not wish to or cannot use the app, there are non-digital ways to provide proof of vaccination. Staff can get an [NHS COVID Pass](#) letter sent to them in the post, which shows they have been vaccinated. Care home workers can ask for a letter 2 weeks after having their 2nd dose of the vaccine, or 2 weeks after a single-dose of the Janssen vaccine. They should receive it within 5 working days.

Medical exemptions

The regulations explicitly accept there are individuals for whom vaccination is inappropriate for clinical reasons but do not specify what this means. Therefore, care home workers with a relevant clinical reason should be allowed to continue to work in care homes, despite being unvaccinated.

Any medical exemption should be based on the recommendation of a clinician. According to the Government's guidance "There are a range of circumstances in which an exemption may be granted which will reflect the Green Book on Immunisation against infectious disease and clinical advice from The Joint Committee of Vaccination and Immunisation (JCVI). The Government will add further detail

to its guidance here as soon as it's published."

The guidance also states that "it will not be unlawful discrimination in relation to age, disability, religion, or belief for a care home to ensure that a person over 18 who has not been vaccinated and is not medically exempt does not enter the care home."

How to confirm a medical exemption

The guidance published on 4 August 2021 declares: "There will be a clear process for staff to follow if they think they may have a clinical reason to be exempt. This process will be aligned with certification for domestic events, exemptions from self-isolation for confirmed contacts and travel."

Guidance for certification is being developed and further detail will be provided to their guidance as soon as it's published. They will also be producing separate guidance for clinicians, which will align with guidance for vaccine certification in other public settings. This guidance will help clinicians to verify exemptions.

UNISON will update our own guidance to reflect these changes as soon as they are announced.

Where can members find information about the COVID-19 vaccine?

There is comprehensive information about COVID-19 vaccination on the [NHS website](#)

This provides information on the vaccines approved for use in the UK, with safety information including relating to conception, pregnancy and breastfeeding. You can also book an appointment for vaccination through [this link](#).

Agency staff

The new legislation applies to all persons, including agency staff, entering the premises of a registered care home. As such, care homes will be breaking the law if they employ an agency worker who has not completed a course of authorised COVID-19 vaccination doses, except where an exemption applies.

CQC enforcement

The Care Quality Commission (CQC) is the body that regulates health and care services in England, and they will be responsible for enforcing the new legislative requirements. Care home employers in England will be required to provide the CQC with evidence that all persons entering their premises (including their staff) have either proved they have completed a course of authorised COVID-19 vaccination doses or they meet one of the exemption criteria. They will also be required to demonstrate they have systems in place to meet this requirement on an ongoing basis.

Care home employers that do not provide the CQC with this information may be subject to a range of enforcement action, up to and including preventing an employer from operating.

Care workers should expect their employer to ask to see and record evidence of vaccination status of all staff.

Whilst the new law is primarily aimed at care home workers, it also requires anyone else who visits and works in a care home setting (unless it is an emergency situation), such as social workers, occupational therapists, maintenance workers and CQC inspectors. Each care home will be responsible for checking for proof of vaccination or individuals meeting the exemption criteria. The CQC, as part of their inspection regime for care homes, will look for evidence that each individual care home has made these checks.

If you have any concerns that your care home employer is failing to properly introduce and manage this new requirement then you can [raise a concern directly with the CQC](#) or alert UNISON at care@unison.co.uk and [@unisondc.co.uk](https://twitter.com/unisondc.co.uk)

What will UNISON do where a member has chosen not to take the vaccine and sought assistance?

• Redeployment

If a UNISON member has chosen not to take the vaccine, one solution is redeploying them to another role which does not require them to be vaccinated. Such redeployment opportunities will be very limited but, particularly in larger employers who may operate across numerous sites, and/or have a head office, this may be an option we can pursue.

It is also possible employers will seek to redeploy clinically exempt staff. Government guidance states that "... If you are unable to provide proof of vaccination or exemption, then your manager should explore all options available to you. This could include moving you to an alternative role for which vaccination is not required."

• Extended grace periods

The new legislation contains a 16-week 'grace period' from when it was introduced on 22 July 2021, meaning that it does not come into effect until 11 November 2021.

Employers should recognise that some care workers will need more time to individually make a decision on vaccination. Care home workers have often built up years of experience and skills. Everything possible should be done to avoid job losses.

UNISON will make clear to employers that, at the point enforcement begins, they should not automatically end the employment of care home workers who have not completed a course of authorised COVID-19 vaccination doses and are not otherwise exempt.

The regulations preclude "deployment", i.e. entry into the home. They do not require employment to be terminated. UNISON will ask employers to implement their own grace periods whereby non-deployed staff maintain their employment for a period in which they might further consider their vaccination status. In such a situation, UNISON will seek to

maintain as many employee benefits as possible.

- **Safe staffing levels**

UNISON believes the introduction of mandatory vaccination could lead to serious staff shortages. The Government's own [risk assessment](#) says the mid-point prediction is for 40,000 staff to be lost from the sector because of this policy, and the upper range prediction is 70,000.

Vacancy rates are already high and some services are short of staff. It is no exaggeration to say there will be a high risk of services being closed as a direct result of this policy. We will raise concerns with the commissioning authority (the relevant local council) and seek assurances that CQC enforcement will consider both the need to comply with mandatory vaccinations regulation and the requirement for care providers to operate with safe staffing levels. We obviously need membership communication to achieve this.

- **Individual representation**

There may be circumstances where individual staff members, for medical or other reasons, do not wish to be vaccinated or it would be unreasonable for an employer to insist that they be vaccinated.

In such circumstances, UNISON will seek to minimise negative implications for staff who refuse the vaccine. If, ultimately, individual members are refused access to their workplace, or face disciplinary action, detriment or dismissal because they refuse to be vaccinated, UNISON will normally represent them.

UNISON will not advise any member to be vaccinated against their will. This is an individual decision for the member alone to make.

Contacting UNISON

Members who are formally approached by their employer about not being adequately vaccinated to satisfy the legislation should

contact Derbyshire UNISON immediately this approach is made. Call 01629 582266, email branch@unisondc.co.uk or complete a contact form at our website derbyshireunison.com