



COVID-19: A New Framework and Mandates for 1 in 5 Workers

It has been challenging for employers to keep track of the changes to the New Zealand approach to COVID-19 over recent weeks, and the impact this might have on their organisations. We have set out a timeline clarifying some key changes - where New Zealand now sits in terms of vaccine mandates and the incoming COVID-19 Protection Framework (more colloquially known as the 'traffic light' system).

1 MAY 2021

Mandates across MIQ and border work

Since 1 May 2021, vaccination against COVID-19 has been mandatory for a select group of border workers and Government officials working at the border or an MIQ facility. This is documented in the COVID-19 Public Health Response (Vaccinations) Order 2021 (the Order).

On 14 July 2021, this Order was extended to cover most border workers, covering airports and ports, and cutting across both Government and private business.



There is also a requirement in place from 30 September 2021 that any newly employed workers in these fields must have had their first dose of the COVID-19 vaccine before starting work in a role covered by the Vaccination Order. They then need to be fully vaccinated within 35 days of commencing work.

11 OCTOBER 2021

Mandates across health and disability, education sectors

On 11 October 2021, the Government announced a move to mandate COVID-19 vaccines across both the health and disability sector, and the education sector.

The health and disability sector mandate captures health practitioners, workers providing health services to the public who are within two metres of a health practitioner or member of the public for 15 minutes or more, workers who work at premises where healthcare services are provided, and care and support workers. This group must receive their first dose by 30 October 2021 and be fully vaccinated by 1 December 2021. This mandate extends to both regulated and non-regulated healthcare work (such as aged residential care and Māori and Pacific health providers).

The education sector mandate captures workers over 12 who carry out work for an affected education service



(including as a volunteer) and who may have contact with children or students in the course of that work, or who will be present at the affected education service at a time when children or students are present. This mandate also covers providers of any home-based education and care service. These workers must have their first dose by 15 November 2021 and be fully vaccinated by 1 January 2022. Those not fully vaccinated must, in the period leading up to 1 January, undergo weekly COVID-19 testing. Secondary schools and kura must also keep a COVID-19 vaccination register for students.

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22 OCTOBER 2021

Traffic Lights Ahead



For more detail on exactly what each colour/level entails, see the [Government COVID-19 Framework summary here](#).

On 22 October 2021, the Government announced a new strategy in tackling COVID-19, in the form of a new system termed the COVID-19 Protection Framework (the Framework). Once 90% of eligible New Zealanders are fully vaccinated, the new framework will be introduced. This may come into play slightly earlier for Auckland, if its three District Health Boards reach 90% before the remainder of the country.

The Framework sets out three colours corresponding to different levels of concern and sets of restrictions. While not particularly straightforward, we have set out the key points below.

RED

Where action will need to be taken to protect both at-risk people and protect the health system from an unsustainable number of hospitalisations.

- Public facilities and retail can open with capacity limits connected to vaccine certificate requirements.
- With vaccination certificates, hospitality, gatherings, events and gyms can open for up to 100 people. Close contact businesses can open with public health requirements in place.
- Where vaccination certificate requirements are not used, events, close contact businesses (e.g. hairdressers) and gyms cannot operate, hospitality must be contactless only, and gatherings are limited to 10 people.

ORANGE

Increasing community transmission that is putting pressure on the health system.

The health system will focus its resources, but can continue to manage primary care, public health, and hospitals. There may also be an increasing risk for at-risk people.

- Public facilities and retail are open with capacity limits based on vaccine certificate requirements.
- Events, gyms and close contact businesses (e.g. hairdressers) cannot operate without a vaccine certificate requirement.
- Education facilities are open with public health measures in place.
- Workplaces are open
- Specified outdoor community events can go ahead.
- No regional boundary restrictions in place.
- Face coverings mandatory on public transport, and in retail/public venues.

GREEN

There are some COVID-19 cases in the community, and sporadic imported cases. Community transmission will be limited and COVID-19 hospitalisations will be at a manageable level. The health system will be ready to respond.

- All businesses and public facilities are open.
- Numbers limited for hospitality gatherings, events, close contact businesses and gyms if they choose not to require vaccine certificates.
- No limitations if vaccine certificates requires.
- Face coverings mandatory on flights and encouraged indoors.

Colour changes will take into account:

- vaccination coverage
- capacity of the health and disability system
- testing, contact tracing and case management capacity
- the transmission of COVID-19 within the community, including its impact on key populations.

While the system allows for greater flexibility, the Government will still consider localised or wider lockdowns similar to the existing Alert Level 3 or 4 if there is a rapid growth in cases.

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26 OCTOBER 2021

Mandates across industries using vaccines certificates

Since the Framework announcement last week, the Government has announced on 26 October 2021 that it will be introducing a mandate across all businesses where customers must show COVID-19 vaccination certificates. This includes hospitality, close-contact businesses and events. Once in place, this means that vaccine mandates will cover approximately 40 per cent of New Zealand workers and will hopefully see the country's vaccination rates improve even further.

When these new mandates come into effect, employers still need to go through a reasonable consultation process with their workers, including considering whether there is an option for redeployment to a new area that does not require vaccination. Dismissal will only be an option where there is no reasonable alternative.

The Government also announced that it is putting in place a four-week paid notice period for any employee who loses their job because they are not vaccinated. This only applies to those without notice periods or those with notice periods shorter than four weeks. We don't expect this will apply to many employees in New Zealand as most will have a notice period in their employment agreement. Employers must also provide paid time off for workers to get vaccinated.



Employers will be required to keep records about workers' vaccination status. This comes with Privacy Act 2020 considerations in terms of how businesses should be collecting, using and storing that information.

WorkSafe will be granted \$4.4 million to assist with education and enforcement of vaccine mandates.

The Government has indicated that it is looking at extending mandates even further to capture public servants working with vulnerable or marginalized groups.

At this stage businesses with office workers who have no interaction with customers and do not have vaccine certificate requirements would need to rely on their own health and safety risk assessments to justify mandating vaccination for employees. These types of workplaces will be a much lower priority for government vaccine mandates and as such the requirement for employers to assess health and safety risk first, remains.

Next Steps

There is a lot to absorb - this is a fast-evolving area and employers really need to set aside some time to understand the recent changes and how these will affect their business.

- Will your business be operating at each colour of the new Framework?
- Are any of your employees captured by the new mandates?
- Have you taken stock of the vaccination status of your workforce?
- Are you complying with your data privacy obligations in respect of that information?

Our team are happy to assist in answering any of these questions, or others that may have arisen from the recent announcements.

Contact us



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