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(Please note that "Information Only" reports do not require Integrated Impact Assessments, Legal or Finance Comments as no decision is being taken)

Title of meeting: Cabinet

Subject: Vaccination as a condition of deployment (VCOD) for Health and Social Care workers

Date of meeting: 8th February 2022

Report by: Andy Biddle, Director Adult Social Care

Wards affected: All

1. Requested by

Councillor Jason Fazackarley, Cabinet Member for Health, Wellbeing & Social Care

2. Purpose

To advise Cabinet of the implementation of the Vaccination as a Condition of Deployment (VCOD) for Healthcare Workers legislation, effective as of 1 April 2022, and the impact on Portsmouth City Council and its staff.

3. Information Requested

The Government has conducted a public consultation on mandatory coronavirus (COVID-19) vaccinations for deployment in health and social care settings in England which ran from 9 September until 22 October 2021.

On 9 November 2021, the Government published Regulations (in draft) and its consultation response, in which it confirmed that the proposal is going ahead.

The legislation that will implement the proposal will require health and social care staff in England who have direct, face-to-face contact with patients/service users to have a full course of COVID-19 vaccinations. The consultation also covered the proposal to make flu vaccinations compulsory for deployment in health and social care settings in England. However, the Government has decided not to proceed with this proposal at this time.

Separate legislation is already in force requiring staff working who enter care homes in England to have a full course of COVID-19 vaccinations unless they have an exemption. This legislation came into force on 11 November 2021.

The scope of those who the regulation affects is those workers who have face-to-face contact with patients and/or service users and who are deployed as part of Care Quality Commission, (CQC) regulated activity. The requirements would not apply to those

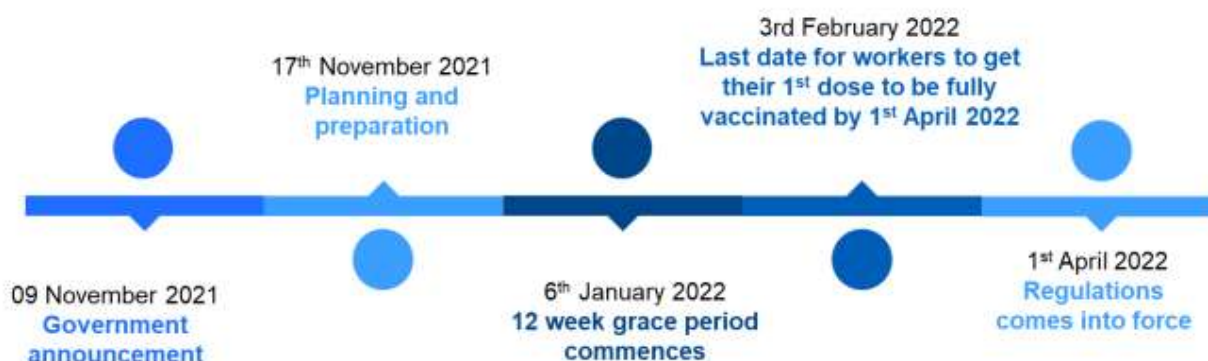
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employed, or otherwise engaged, in the provision of CQC regulated activity if they *do not* have face to face contact with patients and/or services users/patients.

Expectation is that the requirement will come into force on 1 April 2022, following a 12-week grace period from the date of the implementing Regulations being finalised.

Key actions and indicative timeline (subject to parliamentary passage – dates may change):



6 January 2022 -commencement of a 12-week grace period from the date of the legislation being finalised until the requirement takes effect, the final Regulations would need to be in place by this date.

3 February 2022 -the last date for individuals to have had their first dose so that they can have their second dose by 1 April 2022 (minimum time between doses being 8 weeks).

1 April 2022 -proposed implementation date, from this date, it will be unlawful for providers to deploy unvaccinated individuals in patient/service user-facing roles.

On 10 November 2021, NHS England and NHS Improvement (NHSEI) set out this timetable in its communication to employers headed "Vaccination as a condition of deployment (VCOD) for all healthcare workers".

On 6 December 2021, NHSEI published phase 1 of its operational guidance, Vaccination as a condition of deployment (VCOD) for healthcare workers: Phase 1 - Planning and preparation.

Phase 2 of the NHSEI guidance is expected to be published once the draft Regulations have been finalised (likely to be in January 2022). This second phase of the operational guidance will cover implementation of the new rules, including advice on redeployment and formal steps for staff who remain unvaccinated on 1 April 2022.

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Which regulated activities are covered?

The legislation will apply to providers of activities regulated by the Care Quality Commission (CQC). The requirement covers both privately and publicly funded CQC-regulated activities. This includes not only hospital settings, but also GP surgeries, dentists, mental health services, and where care is delivered in a person's home.

The requirement is limited to health and social care employers in England.

Which individuals are covered?

Subject to medical exemptions, the requirement to be vaccinated will apply to anyone aged 18 or over whom the provider "may employ or otherwise engage" for the purposes of the provision of CQC-regulated activities. This means that, as well as full-time and part-time employees, the requirement also extends to agency workers, trainees, volunteers and contractors.

The Government's consultation response confirms the scope is wide. The response states: "This will include front-line workers, as well as non-clinical workers not directly involved in patient care but who nevertheless may have direct, face to-face contact with patients, such as receptionists, ward clerks, porters and cleaners."

There is an exclusion for individuals who do "not have direct, face-to-face contact with a service user". This could include:

- managerial and administrative staff working on sites away from patient/service user areas; and
- individuals providing care remotely, for example through telephone consultations.

Appendix 2 of Vaccination as a condition of deployment (VCOD) for healthcare workers: Phase 1 - Planning and preparation provides example scenarios to assist deciding who will be covered.

Within PCC additional impact is being assessed; however, initial indications are the following areas staff will be required to be vaccinated:

- Sheltered Housing staff at Ian Gibson Court (IGC) CQC registered (HNBS)
- Approved Mental Health Professional Service (ASC)
- Section 75 Portsmouth Rehabilitation 7 Reablement Team staff based at St Marys Hospital (ASC)
- Section 75 Staff within Solent Adult Mental Health (ASC)
- All staff whose job role requires them to attend Queen Alexandra Hospital (CQC registered) i.e. the majority of ASC staff.

As well as the following, non-employees:

- Best Interest Assessors (Deprivation of Liberty Safeguards independent assessors)
- Some supported living settings
- Maritime House staff

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- Community Connectors

Vaccination will also need to be included as a requirement as part of the procurement and contracting requirements.

Covid 19 Booster requirement:

The regulations do not currently require evidence of boosters, but employers are strongly advised to provide supportive advice to workers to encourage uptake of the booster vaccine if eligible.

Flu vaccination requirement:

It is not presently proposed that flu vaccinations will be introduced as a regulation, however the government will review this ahead of winter 2022/23.

Clinical exemptions:

Some individuals may have grounds not to have the vaccine for clinical reasons. Anyone in this category will have to use the NHS COVID Pass <https://www.gov.uk/guidance/covid-19-medical-exemptions-proving-you-are-unable-to-get-vaccinated> to show their exemption status. It is not unlawful to ask candidates about their vaccination status as part of the recruitment process.

Data considerations:

Vaccination status is confidential and 'special category' data for purposes of data protection legislation.

Implications:

There is potential that those staff who choose not to be vaccinated and are unable to be redeployed will be dismissed as redeployment options will be minimal.

Work required as a result:

- Working with rest of PCC services to understand what staff/services are affected
- Developing a corporate policy on Covid 19 vaccination
- Updating of procurement and contracting terms
- Updating the privacy statement
- Undertake a data protection impact assessment (DPIA)
- Updating recruitment process to include a provision about the vaccination
- Updating contracts of employment
- Manage those staff who are not willing to be vaccinated through to potential dismissal
- Continue promotion of consistent, accessible and factual safety data to employees on the vaccination
- Increase engagement with targeted communities where uptake is lowest, including
- extensive work with BAME and faith networks to encourage healthcare workers to receive the vaccine - sharing available resources from health colleagues

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Signed by (Director)

Appendices:**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
<u>C1470-vcod-for-healthcare-workers-planning-and-preparation-guidance.pdf</u> (england.nhs.uk)	