

## **Vaccine anxiety and the return to work**

The Covid-19 pandemic has introduced a number of challenges for employers in the workplace. With the majority of the population working remotely since the beginning of 2020, the focus of employers predominantly revolved around employees' remote workstations and ensuring a consistent and smooth workflow. Fast forward to 2021, with the end (hopefully) in sight, there has been a shift of focus from remote work stations to the "new normal" as employers begin planning for the return of employees to the workplace. In September 2020, Matrix Recruitment carried out a national survey on the return to work.<sup>1</sup> Figures show that 43% of workers have expressed anxiety on the return to work. This is worrying for employers who are looking forward to returning to the new normal once the vaccination programme has been rolled out and indeed, introduces a new set of hurdles for the employer to overcome.

### **Can employers mandate the vaccine?**

In short, employers will not be able to mandate the vaccine amongst its employees. The vaccination programme is a public health programme, meaning employers do not operate any control over whether or not employees will be vaccinated. The Health and Safety Authority (the "HSA") has published guidelines on its website relating to biological agents and vaccinations.<sup>2</sup> As Covid-19 is considered a biological agent, these guidelines will apply.

The guidelines state that *"where a risk assessment shows that there is a risk to the health and safety of employees due to working with/exposure to a biological agent for which an effective vaccine is available [...] employers should offer vaccination, free of charge to their employees."* It is important to note that currently, there is no obligation on employees to avail of the vaccine and there is no indication that the vaccine will become mandatory in the future. For those who choose to avail of the vaccine, this may lead to heightened anxiety in instances where those employees are working with people who are not vaccinated.

### **Risk of discrimination**

The Covid-19 vaccine also poses a risk for claims based on discrimination. Employees may choose not to avail of the vaccine for religious reasons. The Employment Equality Acts 1998 - 2015 prohibit discrimination in the workplace on nine protected characteristics, including religion. Others who may refrain from being vaccinated include individuals who have suffered side effects from previous vaccines or indeed pregnant employees who may choose to refrain from being vaccinated until they have their child.

Privacy issues may also arise as to whether or not an employer is entitled to question an employee as to whether they have been vaccinated. Under GDPR, health data is considered as a special category of personal data. Employers should familiarise themselves with GDPR and refer to the Data Protection Commission's [website](#) for guidance in this area. This is an extremely sensitive issue and employers should err on the cautious side when handling the vaccination or non-vaccination of its employees.

### **What can employers do to reduce anxiety amongst employees?**

#### **1. Maintain Communication**

Employers should ensure to maintain communication with its employees on any planned return to work or the rollout of any employer-backed vaccination programme, if and when this becomes available. The more information provided to employees, the better.

#### **2. Reassurance**

Employers should reassure employees that the organisation is taking all necessary steps to prevent the spread of Covid-19 on employees' return to the workplace.

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<sup>1</sup> Please access the survey by [clicking here](#).

<sup>2</sup> Please access the guidelines by [clicking here](#).

3. **Mental Health Charter**

The Matrix Recruitment survey reports that by September 2020, 34% of employers had already introduced a mental health charter or offered additional mental health services for their employees. Offering additional mental health services will allow employees to address any concerns regarding their return to work and the Covid-19 vaccination with a healthcare professional directly.

4. **Update company policies**

Employers will need to ensure that their health and safety policies are updated once they begin returning to the workplace. Employers will need to carry out a risk assessment and take all necessary steps to remove or minimise the spread of Covid-19. Implementing a mental health policy may also be beneficial to ensure employees that their concerns regarding the return to work and the Covid-19 vaccine are managed appropriately.

**Key takeaways for employers**

As it currently stands, employers cannot mandate employees to avail of the Covid-19 vaccine. Employees who are anxious about being vaccinated, working with people who are not vaccinated, and other pandemic related anxieties are likely to experience a dip in work performance and prolonged absence. This is a tricky issue to handle for employers and one that is better dealt with through ongoing mental health policies and approaches that ensure that when the working population return to the workplace, we will all be operating at optimum performance levels all the time.

*HRLegal regularly advises employees on how to comply with legal developments, updating company policies and carrying out risk assessments. For further information on how your business can prepare for these changes, please contact Una Clifford ([uclifford@hrlegal.ie](mailto:uclifford@hrlegal.ie)) or Bláthnaid Evans ([blevans@hrlegal.ie](mailto:blevans@hrlegal.ie)) on 01 639 3000.*