

Volunteers and the COVID-19 vaccine

Legal information for community organisations

This fact sheet addresses the questions:

- ▶ Can our organisation make COVID-19 vaccination mandatory for our volunteers?
 - ▶ Can our organisation end a volunteer relationship if a volunteer refuses to be vaccinated? Are there any risks in doing this?
 - ▶ Could our organisation be responsible if an unvaccinated volunteer is diagnosed with COVID-19 in the course of their volunteering?
 - ▶ What information should we provide to our volunteers about the COVID-19 vaccine program?
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Can our organisation make COVID-19 vaccination mandatory for our volunteers?

Your organisation may be able to make COVID-19 vaccination mandatory for your volunteers.

Currently there are no laws or public health orders that require anyone to be vaccinated against COVID-19

So far, the federal, state and territory governments have indicated that the COVID-19 vaccination will not be compulsory, but they strongly encourage people to be vaccinated.

Some state and territory health agencies may still pass public health orders that make it compulsory for people working in high-risk workplaces (such as aged care, travel and border security) to be vaccinated. These orders may apply to volunteers, and organisations must comply with public health orders that are issued.

Vaccination is just one measure to manage COVID-19 risks under WHS laws

If your organisation has one or more paid employees, it's legally required to adhere to your state's work, health and safety (WHS) laws. If your organisation is entirely run by volunteers with no employees, you may not have to adhere to WHS legislation, but it's recommended you do so as a matter of best practice.

Under WHS laws, organisations have a duty to manage the risk of exposure to COVID-19 in the workplace. Specifically, you must do all that is reasonably practicable to minimise the risk of exposure to COVID-19 in the workplace. Some control measures include physical distancing, good hygiene, regular cleaning and ensuring volunteers don't attend work if they are unwell.

Safe Work Australia has made clear that it is unlikely that a requirement for workers to be vaccinated will be reasonably practicable. However, it will ultimately depend on the organisation's particular circumstances.



In deciding whether to make the vaccination mandatory for your volunteers, you should undertake a comprehensive risk assessment of your workplace and implement the most effective control measures to control the risk of someone being infected with COVID-19.

This may involve consideration of both mandatory and non-mandatory approaches to vaccination. There can be risks with both approaches (see below). You should also consult with volunteers about your vaccination strategy and consider whether making vaccination mandatory could result in the breakdown of volunteer relationships.

Can our organisation end a volunteer relationship if a volunteer refuses to be vaccinated? Are there any risks in doing this?

If you are required by law or a public health order to have your volunteers vaccinated, you should act in accordance with the law and end the volunteer relationship if a volunteer refuses to be vaccinated.

However, if vaccination is not mandatory and someone refuses to be vaccinated, there are a number of things you should consider before ending the volunteer relationship.

Your organisation may choose to end a volunteer relationship for any number of reasons. This may include if a volunteer's presence could be detrimental to the health and safety of others in your organisation or to the people your organisation works with.

In deciding whether you should end the volunteer relationship if a volunteer refuses to be vaccinated, you should consider the risk of exposure to COVID-19 and what other control measures you have implemented. You should also consider whether the volunteer will be working closely with vulnerable people.

Public health authorities have identified some people as being at greater risk of more serious illness with COVID-19, including:

- Aboriginal and Torres Strait Islander people 50 years and older with one or more chronic medical conditions
- people 65 years and older with one or more chronic medical conditions
- people 70 years and older, and
- people with compromised immune systems

If you decide to end the volunteer relationship, it's important to properly manage the process of ending the relationship – to this end you should ensure that:

- you consult properly with the volunteer
- the process is fair and transparent
- you explain the reasons for ending the volunteer relationship
- you confirm the arrangement has come to an end in writing to the volunteer, and
- you keep a record of any communication or correspondence with the volunteer, as well as the documentation provided to the volunteer.

Volunteers are not covered by the *Fair Work Act 2009* (Cth) (see part 2 of our [National Volunteer Guide](#)) so can't make a claim for unfair dismissal or adverse action like an employee can.

However, if a volunteer has refused to be vaccinated on medical or religious grounds and is excluded from the organisation on this basis, they may be able to make a claim under anti-discrimination laws (see part 4 of our [National Volunteer Guide](#)).



Related Not-for-profit law resources

Refer to [our webpage on volunteers](#) for our free resources on this subject, including our National Volunteer Guide.

Could our organisation be responsible if an unvaccinated volunteer is diagnosed with COVID-19 in the course of their volunteering?

It's unlikely that your organisation will be responsible.

Under negligence and WHS laws, all organisations are required to take reasonable steps to protect the safety of their volunteers. If a volunteer is diagnosed with COVID-19, the organisation could be held responsible if it failed to take reasonable precautions to manage this risk.

This may include:

- not acting quickly enough to send an infected volunteer home
- not permitting the volunteer to work from home when this was reasonably practicable
- not providing volunteers with appropriate personal protective equipment, or
- not implementing appropriate and reasonable safety-related protocols such as providing hand sanitiser and implementing physical distancing where reasonably practicable

An organisation could also be held responsible if a volunteer is diagnosed with COVID-19 in the course of their volunteering, if the organisation didn't follow public health orders. For example – an organisation could face legal consequences if it was ordered to implement a mandatory vaccination policy, but it ignored this order and an unvaccinated volunteer was infected.

We are in the early stages of understanding the impact of the vaccines on transmission of the virus, and there is still some uncertainty about whether a vaccinated person could still become infected. At this stage, if vaccination is not mandatory and an organisation is taking all reasonable measures to manage the risk of COVID-19, the risk of your organisation being held responsible for any injury, loss or damage suffered by a volunteer infected with COVID-19 is likely to be low.



Related resource

For more information, see [Safe Work Australia's webpage on COVID-19 in the workplace](#).

What information should we provide to our volunteers about the COVID-19 vaccine program?

You may want to provide your volunteers with information about Australia's COVID-19 vaccine program and encourage them to get a COVID-19 vaccination – particularly if your volunteers work with vulnerable people. You should also continue to remind volunteers to be vigilant with Covid-safe behaviours such as physical distancing, hand washing and wearing masks where required.



Related resources

The [Department of Health's website](#) provides comprehensive information on the COVID-19 vaccination roll out.

Each state and territory has also published information on the vaccination:

- [New South Wales](#)
- [Victoria](#)
- [South Australia](#)
- [Queensland](#)
- [Western Australia](#)
- [Northern Territory](#)
- [Tasmania](#)
- [ACT](#)