



DHSC – Consultation on mandatory vaccination as a condition of employment

Consultation Response – October 2021

The Council of Deans of Health welcomes the opportunity to contribute to this consultation. The Council represents 100 UK university faculties engaged in education and research for nursing, midwifery and the allied health professions. In order to better reflect the views and concerns of the Council this contribution takes the form of a narrative response.

Overview

The Council recognises the importance of using Covid-19 and flu vaccinations to protect staff, patients, and the general population. It is vital to consider the broader impacts of a mandate, particularly towards students and higher education institutions (HEIs). This is in light of the mandate applying to students on healthcare placements and the vital role that HEIs play in developing the workforce pipeline. While supportive of vaccinations and with an understanding as to the rationale behind a mandate, HEIs nevertheless face challenges in its implementation, including the risk of legal challenge if student contracts are judged to have been breached due to the inability to secure placements and so progress vaccine hesitant students.

Recommendations

- Government awareness of the challenges facing HEIs in mandating vaccinations and support for implementation, particularly in addressing unvaccinated students unable to progress on programmes
- Clear communication and guidance to HEIs including legal clarification in the cases of students unable to progress due to unvaccinated status who could claim their contract has been breached
- Timely decision-making to allow for smooth implementation as well as ongoing engagement to address any issues that arise

Consideration of Potential Impacts

As the Department for Health and Social care has confirmed, any potential new vaccination mandates would not only apply to staff but any students undergoing frontline placements. This represents nearly all

nursing, midwifery, and allied health profession students who require specific training in frontline placements as set out by the relevant regulator such as the Nursing & Midwifery Council¹ or Health & Care Professions Council. Internal member feedback suggests vaccination rates are very high amongst healthcare students and continues to improve but this is not universal. This does compare favourably to the wider vaccination uptake amongst age 18-24 individuals which sits at below 80%². HEIs themselves have made great strides in increasing this number via information campaigns, personal discussions, and campus vaccination centres. This has not only increased rates amongst their students but amongst staff and the local populace as well.

Unvaccinated Student Concerns

Despite these efforts, a small percentage of students remain unvaccinated and may remain so even in the face of vaccine mandates. Some care home providers have reported that a minority of staff have not completed their vaccination course despite the Covid-19 vaccination mandate coming into effect from 11 November. This suggests that mandates alone do not completely reduce the unvaccinated numbers, in line with Government expectations³. As vaccine hesitancy is higher amongst certain groups, younger and minority ethnic students are likely to be disproportionately disadvantaged. These concerns are particularly acute for Covid-19 vaccinations but may exist for flu vaccination as well.

Impact on Workforce Pipeline

Healthcare students that are unvaccinated are unlikely to be able to graduate as, by being unable to take part in placements, they will be unable to meet the regulator's standards for education. This will leave these students partially qualified, having already made significant time, money and career commitments. Short term risks to the workforce pipeline remain low due to high student vaccination rates. Longer-term recruitment concerns could exist in perceptions towards nursing, midwifery, and the allied health professions among some groups. The mandate must be approached sensitively and with a consideration as to how to persuade those most hesitant at receiving a vaccination rather than simply seeming punitive.

Recommendations

- Government should model the number of students likely to remain unvaccinated despite a mandate and implement targeted programmes to increase uptake.
- Government must continue to seek ways to persuade those who remain vaccine hesitant and utilise communications to positively explain the benefits of vaccination for the students and patients.
- Where appropriate, alternative pathways for unvaccinated students could be explored.

¹ Nursing & Midwifery Council, 2018. [Part 3: Standards for pre-registration nursing programmes](#), p14

² NHS England, 2021. [COVID-19 Vaccination Statistics: Week ending Sunday 10th October 2021](#), p4

³ Department of Health & Social Care, 2021. [Statement of impact – The Health and Social Care Act 2008 \(regulated Activities\) \(Amendment\) \(Coronavirus\) Regulations 2021](#).

Considerations of Implementation

Mandatory Covid-19 and flu vaccination will affect HEIs in multiple ways. An immediate issue will be unvaccinated students unable to go on healthcare placements. HEIs will work to find non-frontline placements for unvaccinated students, however the system is already under great stress and will be unable to fully accommodate many additional students at such short notice. This is only a temporary solution as frontline placements are a mandatory part of programmes. HEIs have no authority to mandate vaccination for their healthcare students but will be faced with students in a state of limbo with no obvious way forward. HEIs could face pushback from these students who could claim their student contracts have been breached.

Higher Education Statutory Obligations

Students who are not vaccinated and cannot progress on their healthcare programmes may feel that they have been treated unfairly as no Covid-19 or flu vaccination mandates were detailed at the time of recruitment or acceptance. This could see HEIs facing legal challenges with perceptions that they have broken a contractual arrangement with students who they provide programmes for. HEIs can ill afford the time and monetary costs this may entail especially as the new recruitment cycle gets under way. While supportive of the vaccination programme, HEIs have not made the decision on the mandate themselves and so there is ambiguity about where recourse for students who do feel aggrieved lies. In effectively being told to implement a vaccine mandate scheme, HEIs require guidance and support in how to address legal, or other, challenges they may face.

Implementation Concerns

It is vital that students are explicitly stated as coming under the mandate within any regulation and HEIs are provided additional guidance and support for implementation. No national system of vaccine verification has been chosen. If the NHS Covid Pass is to be used, this must be clearly communicated to HEIs. Verification must be equally accessible for all students including for international students who may have been vaccinated outside of the UK. HEIs are also unaware of what data they can legally ask for given GDPR regulations around health data. This is already causing issues as certain trusts have begun requiring Covid-19 vaccination for student placements. How a mandate is communicated to reticent students, especially those towards the end of their courses but resistant to vaccination, is a concern.

Recommendations

- HEIs must be supported well in advance as to how to approach students who are unable to finish their courses.
- HEIs must be provided clear guidance and protected from legal concerns within an implementation time frame that allows HEIs to prepare for upcoming recruitment cycles.
- Government should issue clear timely guidance around data collection and vaccination verification to prevent delays to student placements.

- Mandate implementation should not increase monetary or time costs to HEIs including both verification methodology and occupational health certifications.

For more information contact:

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