

# Volunteers and the COVID-19 vaccine

Legal information for community organisations

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## This fact sheet addresses the questions:

- ▶ Can our organisation make COVID-19 vaccination mandatory for our volunteers?
  - ▶ What evidence of vaccination should we accept from our volunteers?
  - ▶ Can our organisation end a volunteer relationship if a volunteer refuses to be vaccinated? Are there any risks in doing this?
  - ▶ What information should we provide to our volunteers about the COVID-19 vaccine program?
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### Note

This fact sheet provides information on whether organisations can mandate COVID-19 vaccination mandatory for their volunteers. This information is intended as a guide only, and is not legal advice. If you or your organisation has a specific legal issue, you should seek legal advice before making a decision about what to do.

## Can our organisation make COVID-19 vaccination mandatory for our volunteers?

Yes, in some instances your organisation may need to make COVID-19 vaccination mandatory for your volunteers.

### Laws or public health orders that mandate vaccination against COVID-19

States and territories have issued a variety of public health directions that make it compulsory for particular workers to be vaccinated against COVID-19. See the [Fairwork Ombudsman website](#) for a summary of current state and territory public health directions.

Some of these orders apply to volunteers.

If a volunteer is subject to a mandatory vaccine requirement under a public health order, your organisation must require your volunteers to be vaccinated in accordance with the deadlines set out in the public health order. You will need to consider any medical contraindication exemptions in enforcing the public health order.

### Mandatory vaccination where there is no law or public health order

Even where your volunteers are not subject to a public health order, your organisation may decide to make COVID-19 vaccination mandatory for your volunteers.

Under various safety laws, an organisation has a duty to manage the risk of exposure to COVID-19 in the workplace. It must do all that is reasonably practicable to minimise the risk of exposure to COVID-19 in the workplace.

Whether it will be reasonably practicable to require workers to be vaccinated will ultimately depend on the organisation's particular circumstances:

- the nature of the workplace and how that impacts COVID-19 exposure (for example – it may be a small workspace, making it difficult to socially distance; it might not be necessary for workers to be on-site and instead be possible for workers to do the work from home)
- the prevalence of COVID-19 in community (for example, whether the workplace is in an area of concern with a greater risk of COVID-19 transmission)
- other safety measures being implemented and their adequacy in protecting staff and members of the public
- particularities of the volunteer and their position, and
- vaccine availability and reasonableness of the timeframe for complying with the direction – considering the current supply and access issues to the vaccine



#### Relevant resource

The [Fair Work Ombudsman](#) has published guidance about when it might be lawful and reasonable to make COVID-19 vaccination mandatory where a public health order does not apply.

Even though these laws apply differently to volunteers, many organisations are using this guidance to determine whether mandatory vaccination for volunteers is a reasonably practicable safety measure.

### What evidence of vaccination should we accept from our volunteers?

Where there is a public health order requiring a volunteer to be vaccinated, your organisation is entitled (and may be required) to obtain evidence from the volunteer of their vaccination status.

Organisations may also seek this information where an organisation has made mandatory COVID-19 vaccination mandatory as a reasonable safety measure.

Evidence of COVID-19 vaccination should include either the COVID-19 digital certificate or immunisation history. Both are accessible through Medicare accounts.

A volunteer's vaccination status is sensitive health information and must be treated in accordance with applicable privacy laws.

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

If an organisation has made COVID-19 vaccination mandatory and a volunteer has not been vaccinated by the applicable deadlines, the organisation may need to change or end the volunteer relationship.

Whether the organisation may need to change or end the volunteer relationship, will depend on the facts.

If a volunteer refuses to be vaccinated on medical or religious grounds, under anti-discrimination laws (see part 4 of [our National Volunteer Guide](#)), the organisation may be required to adjust the volunteer's role. For example, this may involve changing the volunteer's role so that they do not work directly with service-users.

If these circumstances do not apply, the organisation may need to end the volunteer relationship.



If an organisation decides 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

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



### Related Not-for-profit law resources

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

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

All organisations should encourage their workers to be vaccinated.



### Related resources

Each state and territory has published information about the vaccination program and how to book a vaccine appointment:

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