

Should employers mandate vaccination?

Creating an ethical vaccination policy for COVID-19

Ethics Briefing
January 2021

Throughout the COVID-19 pandemic, leaders have faced highly-charged ethical dilemmas. As the global vaccine rollout gathers pace, another pressing issue emerges: **should employers mandate vaccination for their employees?**

1. Key Ethical Considerations

Organizations are examining their approach to vaccination for employees. Many are seeking legal advice on the permissibility of mandatory programmes, while others consider incentivised campaigns. But determining the right approach demands engagement with ethical questions on rights and responsibilities, as well as broader questions of public health and social justice, and the trade-off between public health and individual liberty. As leaders face the challenge of managing complex trade-offs as they determine the right thing to do, they must weigh competing ethical considerations:

Contribution to public health

- Widespread vaccination is seen as the likeliest route towards reducing harms from COVID-19. It is now widely acknowledged that companies have a responsibility to contribute to the public good: in the absence of state-mandated vaccination programmes, employers may see influence with their employees – and potentially their customers – as an important means to accelerate mass vaccination.
- But employers should also take into account that heavy-handed measures – such as mandating rather than encouraging vaccination – may risk a backlash that creates resentment and impedes uptake of the vaccine.

Duties of care

- Employers have a duty of care to provide a safe workplace for their employees, and to protect third parties with whom their employees come into contact. Mandating vaccination may be seen as a reasonable precaution against COVID-19, as well as an important contribution towards public health and immunity.
- But employers also have a moral duty not to cause harm to their employees. Mandating vaccines that in many jurisdictions have been approved under emergency use measures will impose a degree of risk for each individual, which must be assessed against any collective benefits of a vaccination programme.

Individual autonomy, rights and freedoms

- Measures to promote the public good – and even individuals' own wellbeing – are typically constrained by individual rights. The decision to receive a vaccine is a personal one, and with vaccines still in the early stages of rollout, there remain questions on their efficacy, and on potential side effects and longer-term harms.
- The bar for constraining individual choice is therefore extraordinarily high. Any employer considering a mandatory vaccination programme must take seriously the duty to protect individual autonomy, rights and freedoms, and impose a high bar for any decision to impose vaccination.

Fairness

- Corporate vaccination policies will inevitably create risks and benefits. In addition to considering the rights of individuals and impacts on public health, an ethical policy must consider fundamental issues of fairness.
- Herd immunity entails that an individual who chooses not to be vaccinated can still benefit from the advantages of a widespread vaccination program. This creates a classic 'free-rider' problem, which may be seen as unfair to those vaccinated. A mandatory or incentivised program can help to address this unfairness while protecting vulnerable groups.
- The legacy of unequal treatment by governments and medical establishments means that ethnic minorities may be over-represented in the groups most reluctant to be vaccinated. Policies that penalise those who are reluctant to be vaccinated risk creating unfair outcomes for these groups.



2. Creating an ethical framework for vaccination policy

Leaders seeking to navigate the ethical decisions implicit in a vaccination programme should create a consistent, transparent and robust framework for decision making and for evolving policy over time:

- **Map ethical considerations and quantify impacts:** Organizations will need to consider specific issues in their sector and geography. To what extent are vaccines readily available? What impact would a programme have on fair distribution? How much risk are customers and employees exposed to? What will be the contribution of mandatory vaccination to public health? How will policies impact underrepresented or vulnerable groups?
- **Acknowledge, and make explicit, ethical trade-offs:** Contributing to societal immunity will frequently conflict with the liberty and rights of employees. Leaders should be explicit that there is no solution that fully satisfies all relevant considerations, and that creating an ethical policy is an exercise in managing trade-offs.
- **Create a framework for navigating trade-offs:** Leaders should set out potential solutions that establish the company's objectives, responsibilities, and any necessary and legitimate reasons to incentivise or mandate vaccination. This exercise helps to establish the business necessity and moral imperatives that might justify the organization prioritising public health and their duty of care above individual autonomy:
 - A solution that starts from a position that individual liberties should not be curtailed unless necessary, and therefore prioritises the **autonomy of employees**, may make vaccination optional. Information and access to expert advice may be offered to support employees in making informed decisions.
 - Organizations with a clear necessity to promote **public health and the protection of the workforce** – such as healthcare providers, for example, or in settings with exposure to vulnerable people – may see a need to mandate vaccination except in cases of medical or religious exemption.
 - A solution that seeks to prioritise the **health of customers** and third parties may choose a middle ground, differentiating by job role, with mandatory vaccination for frontline roles or close-contact settings, and voluntary programs for other employees including those who can be redeployed or work remotely.
- **Consider unintended consequences:** Leaders should test the strength of ethical deliberation on proposed solutions through anticipating and resolving possible objections:
 - In environments where trust in institutions is already precarious, might mandating vaccination spark an employee backlash and reduce the likelihood of vaccine uptake?
 - In an environment of mandatory vaccination, providing only medical and religious exemptions, might a stigma attach to unvaccinated employees?
 - Might differential access to vaccines create unfair outcomes for vulnerable and marginalised groups?
- **Ensure that your decision framework is aligned with your broader ethical stance:** Doing justice to the intricacies of specific ethical challenges requires leaders to ensure consistency with the organization's existing principles. Integrating specialist expertise and advice will be critical to a robust approach.

3. Engaging Employees & Managing Tensions

Many of the challenges implicit in making contentious decisions can be mitigated through open dialogue, structured decision making, and inclusive consultation. To manage the process effectively, leaders should:

- **Engage with their workforce** and other stakeholders, building trust in decision making and being transparent about ethical tensions and trade-offs. Providing reliable information, discussing the role of values in informing decisions, and consulting openly with employees – including groups likely to be disproportionately impacted – will be essential to fostering trust in the quality of decision making.
- Plan for how **dissent and differing opinions** will be handled, with priority given to disseminating and discussing reliable information; creating safe spaces for employees to explore different perspectives; and establishing clear parameters for how objections will be heard, deliberated, and resolved.
- Ensure that the proposed solution is **sufficiently responsive** to new information and examples of best practice, with scenarios laid out for how new evidence may impact future policy decisions.
- Establish clear routes to provide **exemptions** to policy decisions – such as exemption from mandatory vaccination on medical or religious grounds, or other personal reasons – and set out clear parameters for recording, sharing, and protecting confidential information.

To discuss further with a Principia specialist in your sector, please contact research@principia-advisory.com