

COVID-19 Vaccination Requirements – Policy and Procedure

Owner: Human Resources
Last reviewed: 08/08/2022

CHA/2022/5889
Version: 1.2

1. Purpose

This policy and procedure sets out requirements for existing and prospective workers¹ in the Department of Agriculture and Fisheries (DAF) to be vaccinated against COVID-19 and procedures associated with this requirement.

This policy operates as a direction to all workers.

2. Policy

2.1 Background

COVID-19 has had a significant global impact. At the end of May 2022, more than 520 million cases had been reported, resulting in over 6.2 million deaths worldwide.²

The virus is circulating throughout Queensland, with new variants and strains emerging³ and expected to continue to emerge over the coming year. Cases in Queensland have increased significantly since the opening of borders. As at 27 May 2022, total cases numbered 1,164,669⁴ and 1034 deaths have been attributed to COVID-19, 1027 of which have occurred since January 2022.⁵

Health advice from state and national government and peak-body authorities continues to advise that the COVID-19 vaccines being used in Australia are safe and effective and offer protection against infection and, when large portions of the population are vaccinated, in decreasing the spread of COVID-19.^{6,7,8}

This policy outlines the requirements for existing DAF workers – employees, contractors and other workers - to be vaccinated against COVID-19. The requirements have been determined in consideration of the work health and safety risk posed by COVID-19.

Most DAF workers will already be vaccinated.

This policy outlines the evidence and record keeping requirements relating to workers who are already vaccinated, and the support options available for workers who are in the process of becoming fully vaccinated.

The policy also supports a case management approach for workers with recognised medical contraindications.

DAF employees who do not comply with specific vaccination requirements may be liable to disciplinary action.

Where DAF contractors do not comply with this policy, appropriate action may be taken in respect of this non-compliance under the terms of the relevant contract, which may include ending the contractor's engagement.

Vaccination requirements are one component of the department's COVID-19 management strategies. Additional measures that appropriately respond to impacts of COVID-19 will continue to be implemented.

¹ 'Workers' includes DAF employees and other persons performing work for or on behalf of the department including volunteers, persons undertaking work experience, contractors and consultants. 'Employee/s' refers to a person employed by DAF under the Public Service Act 2008.

² [WHO Coronavirus \(COVID-19\) Dashboard | WHO Coronavirus \(COVID-19\) Dashboard With Vaccination Data](#)

³ <https://www.abc.net.au/news/2022-04-09/qld-coronavirus-covid-new-variant-deltacon/100958122>

⁴ [Queensland COVID-19 statistics | Health and wellbeing | Queensland Government \(www.qld.gov.au\)](#)

⁵ [Daily Deaths - COVID Live](#)

⁶ [COVID-19 vaccines: Frequently asked questions | NCIRS](#)

⁷ [Work health and safety during COVID-19 - Guide to keeping your workplace safe, clean, healthy and informed on vaccinations \(worksafe.qld.gov.au\)](#)

⁸ www.qld.gov.au/health/conditions/health-alerts/coronavirus-covid-19/protect-yourself-others/covid-19-vaccine/about/about-the-covid-19-vaccine

3. Principles

Vaccination of workers as set out in this policy and procedure will help ensure:

- a healthy and safe workplace is maintained
- users of government services, particularly those with increased vulnerability, are protected

The vaccination requirements detailed in this policy have been determined in consideration of the risks of COVID-19 and the availability and efficacy of controls to manage and mitigate the risk and follows renewed consultation with staff, health and safety representatives, and relevant unions.

4. Authority

For all workers:

- [Work Health Safety Act 2011](#) particularly Division 2 *Duties*

For DAF employees:

- Sections 11 and 98 [Public Service Act 2008](#)
- Ability at common law for Chief Executives to give lawful and reasonable directions to their employees in relation to their employment

For DAF contractors:

- Contractual arrangements
- *Public Sector Ethics Act 1994*
- The Code of Conduct

For other persons performing work for or on behalf of the department including volunteers and persons undertaking work experience:

- Any relevant contractual arrangements
- *Public Sector Ethics Act 1994*
- The Code of Conduct

5. Human rights compatibility

The department is committed to respecting, protecting and promoting human rights. Under the [Human Rights Act 2019](#), the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights.

Consideration has been given to the potential impacts on human rights in deciding on the COVID-19 vaccination requirements outlined in this policy. It is acknowledged that human rights may be limited by the vaccination requirements of this policy, however it has been determined that any limitation is reasonable and justified for the purposes of managing the risk from COVID-19.

When making a decision under this policy and procedure, decision makers must comply with their obligations under the Act (refer to [Comply with Human Rights Act](#)).

6. Scope

This policy and procedure applies to all existing and prospective workers of the department.

The term 'workers' includes DAF employees and other persons performing work for or on behalf of the department including volunteers, persons undertaking work experience, contractors and consultants.

7. Delegations

Delegations are to be exercised in accordance with roles specified within this policy and the [Human Resource delegations and authorisations](#). Delegation schedules are reviewed on a regular basis to ensure they remain current and relevant to the operational needs of the department. It is recommended that delegate authority

levels are confirmed prior to exercising any powers in relation to determination.

8. Procedure

8.1 Vaccination requirement

- (a) Vaccination requirements apply to workers in Group A and Group B(1) (“role/s in scope”):

Group A	Workers who fall within scope of a Chief Health Officer (CHO) public health direction. This includes workers whose role/duties require them to attend locations within scope of the CHO public health direction on specific high-risk settings
Group B	(1) All other workers, except those who have no personal contact with stakeholders, members of the public or other workers in the course of their work. (2) Workers who meet the following criteria are excluded from this group: <ul style="list-style-type: none"> a) workers whose roles involve minimal interaction with stakeholders, members of the public or other workers; and b) all of this interaction occurs in outdoor settings (where distance can be assured); and c) an Approved risk assessment for the worker is in place to reduce the risk to a low rating.

- (b) A person subject to a vaccination requirement under clause 8.1(a) is required to:
- (i) be fully vaccinated against COVID-19⁹; and
 - (ii) provide evidence of vaccination
- unless otherwise provided for in a relevant CHO public health direction or this policy.
- (c) Workers in roles in scope under clause 8.1(a) are required to have been vaccinated in line with the below timeframes:

Group	First Dose	Second Dose
A	As required by CHO public health direction	As required by CHO public health direction
B(1)	11 February 2022	11 March 2022

- (d) Any existing or future worker who undertakes a role in scope in clause 8.1(a) after the above dates, must be vaccinated in accordance with the requirements of this policy prior to commencing in the role, as a condition of engagement for that role.
- (i) Vaccination requirements will be included in recruitment processes (including expressions of interest (EOIs)) for any role in scope identified in clause 8.1(a).
 - (ii) Where a person is applying for/being considered for a role in scope under clause 8.1(a), they may be required to provide confirmation of their ability to comply with the vaccination requirements. A person who does not provide requested confirmation is not required to be further considered for the role.
- (e) Subject to clause 8.1(g), workers in roles in scope under clause 8.1(a) who are not vaccinated or who do not provide proof of vaccination (or exemption) in line with this policy, are considered unvaccinated and are not permitted to undertake the relevant role.

⁹ A person who is absent from the workplace, for example, on long term leave, is not considered to be undertaking a role for the purposes of this policy. A worker in this situation would be expected to comply with a vaccination requirement prior to returning to their usual role.

- (f) Subject to clause 8.1(g), supervisors/managers of workers in roles in scope under clause 8.1(a) *must not* permit a relevant worker who is not vaccinated or who does not provide proof of vaccination or exemption in line with this policy to undertake the relevant role.
- (g) In exceptional circumstances, a worker in a role in scope under clause 8.1(a) may request their Deputy Director-General, Executive Director or General Manager (whichever is their immediate senior executive) approve a delay to the vaccination requirements set out in clauses 8.1(b) and 8.1(c) via the [Vaccination Delay Request form](#).
- (h) Requests for delays will be determined in consultation with Corporate Human Resources and the outcome advised to the worker and their supervisor/manager, including providing reasons for the decision.
- (i) Approval of a delay is not appropriate where the worker has a recognised medical contraindication under clause 8.4.
- (ii) A delay may only be approved where:
- the exceptional circumstances are time-limited in nature with a known end date
 - the worker gives a written undertaking that they intend to comply with the vaccination requirements of the policy in the future; and
 - temporary reasonable adjustments or other arrangements can be put in place.
- Example where approval of a delay might be appropriate:*
- *Where a worker engaged in a role in scope under clause 8.1(a) is also participating in a trial (with a known end date) for a COVID-19 vaccine that is not currently approved for use in Australia.*
- Example of where approval a delay would not be appropriate:*
- *Where a worker has declined to be vaccinated with a currently approved vaccine because they are waiting for the approval of an alternative vaccine on an unknown date in the future.*
- (iii) Where approval is granted to delay the vaccination requirements in accordance with this clause, options for temporary reasonable adjustments should be explored between the manager and worker. Temporary reasonable adjustments may include, but are not limited to:
- remote working
 - meaningful alternate duties
 - temporary transfer or secondment
 - offering access to accrued paid leave options in line with industrial entitlements.
- (iv) Once the approved delay period relating to the exceptional circumstances has expired, the employee must comply with the vaccination requirements of this policy. Failure to do so will constitute non-compliance with this policy and action may be taken in accordance with clause 8.5.
- (v) Where an employee considers that a decision about an exceptional circumstance is unfair and unreasonable, an employee may seek an internal review of the decision in accordance with the provisions of *Directive 11/20: Individual employee grievances*. Where an employee is dissatisfied with the outcome of the internal review of a decision, they may seek an external review provided for in that directive.

8.2 Evidence of vaccination

- (a) A worker in a role in scope under clause 8.1(a) must provide acceptable evidence of vaccination within seven (7) days of the date specified in 8.1(c). In addition, an existing worker may be directed to provide evidence of vaccination at any time where it is reasonably required. A failure to comply with such a direction may result in disciplinary action or contractual action.
- (b) An employee required to provide evidence of vaccination under clause 8.2(a) must:
- (i) complete the COVID-19 Immunisation Collection Form in Aurion ESS; and

- (ii) provide evidence of vaccination to their supervisor prior to or as soon as practicable upon submitting the Immunisation Collection Form. This can occur by physically showing the supervisor/manager the evidence of vaccination or providing the supervisor with a copy of the evidence of vaccination.

For example, a worker in a role in scope under clause 8.1(a) can show their supervisor the vaccination certification on their mobile phone or can download and email the supervisor a copy of the vaccination certificate.

- (c) The supervisor must review and either approve or reject the vaccination verification form as soon as practicable.
- (d) A supervisor must not approve a COVID-19 Immunisation Collection Form until they have sighted (viewed) the evidence of vaccination. Approval of a COVID-19 Immunisation Collection Form without having sighted evidence may result in disciplinary action.
- (e) If an employee needs to update their vaccination information, they are required to submit a new form (e.g. to confirm receipt of a second dose and a booster).
- (f) An employee not required to provide evidence of vaccination may still voluntarily elect to do so using the process outlined above.
- (g) Where a volunteer, work experience student, contractor, consultant or anyone engaged in any other capacity in a role in scope under clause 8.1(a):
 - (i) has a record in Aurion ESS (e.g. as a non-payroll volunteer; non-payroll contractor etc), the above process may be used to collect and record the person's vaccination status; or
 - (ii) does not have a record in Aurion ESS (or it not reasonably practicable to use this), the supervising employee must sight evidence of vaccination or exemption and must retain a record of the date on which this occurred. Contact HR for a suitable template.

8.3 Support for employees who are not yet fully vaccinated

- (a) An employee required to be vaccinated under this policy and procedure may attend a vaccination appointment during work time, without loss of pay. This includes attendance to receive a booster vaccination.

An employee who is not required to be vaccinated under this policy and procedure may attend a vaccination appointment during work time without loss of pay, only where it is not reasonably possible for the person to attend a vaccination appointment outside of normal working hours.

- (i) This includes reasonable travel time to and from the vaccination appointment, as relevant to each specific circumstance.
 - (ii) Arrangements for the purposes of attending a vaccination appointment should be discussed and agreed between the employee and their supervisor/manager prior to the employee's attendance at the appointment.
- (b) All workers are encouraged and supported to access official sources of information about COVID-19 vaccinations and the risks of disease and illness associated with COVID-19. Information can be obtained from:
 - Queensland Health <https://www.health.qld.gov.au/>
 - Australian Government Department of Health <https://www.health.gov.au/>
 - (i) Where appropriate, workers should be supported to attend an appointment with their personal medical/general practitioner to discuss any concerns or individual circumstances associated with vaccinations.
 - (c) Managers should encourage and support workers to comply with the vaccination requirements set out in this policy.
 - (i) Workers who have not complied with this policy are encouraged to engage with their manager to discuss the implications of non-compliance including the commencement of a discipline process or contractual action.

- (ii) Communications that occur in this context must be respectful.

8.4 Exemption (employees who do not comply due to a medical contraindication)

- (a) An employee may have a recognised medical contraindication to COVID-19 vaccines. A medical contraindication may be permanent or temporary.
- (b) Where an employee has a medical contraindication, they are required to provide evidence of the contraindication to the Executive Director Human Resources. The evidence required is a copy of their *Australian Immunisation Register (AIR) immunisation medical exemptions* form and is submitted using the department's online [Vaccination Exemption Request form](#).
- (c) The evidence must detail whether the contraindication is permanent or temporary.
- (d) Requests for exemption will be determined by the Executive Director Human Resources and the outcome advised to the person and their supervisor/manager, including providing reasons for the decision.
- (e) Where it is determined that an employee has a recognised medical contraindication (and the exemption is approved):
 - (i) The employee is not required to comply with the vaccination requirements of this policy, for the period specified in the evidence relating to the medical contraindication
 - (ii) the employee must complete the COVID-19 Immunisation Collection Form in Aurion ESS
 - (iii) the employee's supervisor must review and approve the Immunisation Collection Form as soon as practicable.
- (f) Management of employees who have requests and/or have an approved exemption is to occur in line with Appendix A.
- (g) Where an exemption is not approved, the employee must comply with the vaccination requirements in this policy. Failure to do so will constitute non-compliance with this policy and action may be taken in accordance with clause 8.5.
- (h) Where an employee considers that exemption decision is unfair and unreasonable, an employee may seek an internal review of the decision in accordance with the provisions of *Directive 11/20: Individual employee grievances*. Where an employee is dissatisfied with the outcome of the internal review of a decision, they may seek an external review provided for in that directive.

8.5 Non-compliance with vaccination requirements

- (a) A discipline process may be commenced in circumstances where an employee does not comply with the requirements of this policy and procedure, as provided for under *Directive 14/20: Discipline*.
- (b) A discipline process will not be commenced:
 - (i) where an employee has a recognised medical contraindication or an approved delay for complying with the vaccination requirements (due to exceptional circumstances)
 - (ii) where an employee has submitted an application to delay compliance with the vaccination requirements (due to exceptional circumstances) and is awaiting a decision.
- (c) Where a contractor fails to comply with this policy, appropriate action may be taken in respect of this non-compliance under the terms of the relevant contract, which may include ending the contractor's engagement.
- (d) Workers who currently performing roles not requiring vaccination and/or on long term leave are not considered non-compliant as the vaccination requirement takes effect from their date of return.

9. Responsibilities

The responsibilities under this policy are detailed in the above procedures.

10. Forms

- COVID-19 Immunisation Collection Form ([Aurion ESS](#))
- [Vaccination Exemption Request form](#)
- [Vaccination Delay Request form](#)
- Manual [Application for COVID-19 vaccination exemption or delay](#)

11. Individual employee grievances and appeals

An employee who is the subject of a decision or action is entitled to lodge an internal review in accordance with the departmental [Individual Employee Grievance Management Policy and Procedure](#) should they feel that the decision or action is unfair, biased or limits their human rights.

Employees who are unsatisfied with the outcome of their employee grievance may be entitled to lodge:

- an appeal in accordance with [PSC Directive - Appeals](#), or
- a complaint with an external oversight body; including but not limited to the [Queensland Human Rights Commission \(QHRC\)](#) or Queensland Ombudsman.

For further information on lodging an appeal, refer to [Queensland Industrial Relations Public Service Appeals](#). For other external reviews, contact the relevant oversight body for information.

12. Definitions

Approved risk assessment means a risk assessment that has been approved by the Executive Director of Human Resources.

Chief executive: in the context of exercising a decision-making power, includes a person to whom the chief executive has delegated the decision-making power.

COVID-19 vaccine is a vaccine for COVID-19 that is approved for use in Australia or recognised by the Therapeutic Goods Administration.

COVID-19 vaccine trial means a medical trial for a COVID-19 vaccine under either the Clinical Trial Notification or Clinical Trial Approval schemes regulated by the Therapeutic Goods Administration.

COVID-19 vaccine trial participant means a person who:

- a. is an active participant in a **COVID-19 vaccine trial**; and
- b. provides a medical certificate or letter from a medical practitioner, registered under the *Health Practitioner Regulation National Law (Queensland)* associated with the **COVID-19 vaccine trial** confirming that:
 - i. the worker is participating in a Phase 3 or 4 **COVID-19 vaccine trial**; and
 - ii. the worker has received at least one active dose of the COVID-19 vaccine being trialled.

Eligible health professionals means any of the following:

- fellows of the Royal Australian College of General Practitioners (as defined by the *Health Insurance Act 1973 Cth*); or
- fellows of the Australian College of Rural and Remote Medicine (as defined by the *Health Insurance Act 1973 Cth*); or
- on Medicare's Vocation Register of General Practitioners (as defined by the *Health Insurance Act 1973 Cth*); or
- practice registrar on an approved 3GA training placement; or
- paediatrician; or
- public health physician; or
- infectious diseases physician; or

- clinical immunologist.

Evidence of vaccination includes (unless otherwise detailed in a CHO public health Direction):

- written confirmation of COVID-19 vaccination provided to the person as part of the vaccination process, such as a record of vaccine card
- vaccination information displayed on the Check in QLD app
- a COVID-19 digital certificate or printed vaccination certificate from the Australian Immunisation Register
- an online or printed immunisation history statement for COVID-19 vaccination
- an International COVID-19 Vaccination Certificate:
 - in a printed or electronic form from the Department of Home Affairs that confirms completion of an Australia Travel Declaration and vaccination against COVID-19 overseas; or
 - through Medicare online account through myGov or the Medicare mobile app; or
 - an official record of vaccination provided to the person when vaccinated against COVID-19 overseas.

Evidence of vaccination may be printed or electronic.

Fully vaccinated means the primary course of two doses.

Medical contraindication means a temporary or permanent contraindication that is notified to the Australian Immunisation Register (AIR) by an **eligible health professional** completing an Australian Immunisation Register (AIR) immunisation medical exemptions form in relation to a person and recorded on the person's Immunisation History Statement (IHS).

Note: a temporary vaccine exemption may apply until a specified date due to acute major illness, significant immunocompromise of short duration and recognised overseas vaccination.

Workers includes DAF employees and other persons performing work for or on behalf of the department including volunteers, persons undertaking work experience, contractors and consultants.

13. Related information

This document should be read in conjunction with.

- [CCE Directive 11/20: Individual Employee Grievances](#)
- [CCE Directive 14/20: Discipline](#)
- [Minister for Industrial Relations and CCE Directive 1/20: Employment Arrangements in the Event of a Health Pandemic](#)
- [Individual Employee Grievance Management Policy and Procedure](#)

14. References

- [Public Health and Social Measures linked to vaccination status Direction | Queensland Health](#)
- [COVID-19 Vaccination Requirements for Workers in a high-risk setting Direction | Queensland Health](#)

15. Further information

Should you require any further information or clarification, please contact:

- your supervisor/manager, or
- [your Human Resource support](#).

16. Privacy and storage of information

- (a) All information will be managed in accordance with the department's **Recordkeeping Policy**. This

policy and procedure support the department's commitment to its responsibilities under the *Public Records Act 2002*. This should be read in conjunction with other related policies and procedures, including **Recordkeeping email policy and procedure** and **Retention and disposal policy and procedure**. In addition, personal information should be managed in accordance with *Information Privacy Act 2009*.

- (b) Personal Information will be collected and recorded in relation to the COVID-19 vaccination requirements in this policy, including COVID-19 vaccination dates and status, the type of proof of COVID-19 vaccination, evidence of a medical contraindication, or evidence of being a COVID-19 vaccine trial participant. Collection and use of information for this purpose is authorised under sections 11 and 98 of the *Public Service Act 2008*.
- (c) Information (including information about a worker's vaccination status) may be shared with other organisation where required to ensure compliance with vaccination requirements or where authorised or required by law. De-identified information about employee vaccination rates will be reported in accordance with any relevant state or federal requirements and may be used to inform ongoing decision making of the department in the management of COVID-19.
- (d) Records will be stored in a secure database (Aurion) that is accessible to authorised persons only and dealt with in accordance with the *Information Privacy Act 2009* and the *Public Records Act 2002*.
- (e) For additional privacy information go to [Information Privacy: DAF intranet](#). To access the department's record keeping information go to [recordkeeping framework and policies](#).

Privacy Statement

The Department of Agriculture and Fisheries collects personal information from you, including information about your COVID-19 Vaccination status (including exemptions).

We collect this information in Aurion ESS in accordance with the QSS Privacy Statement.

We collect this information to identify and manage the risk of our workers contracting and transmitting COVID-19 and the corresponding risks to the health and safety of individuals and the ability of the agency to continue to deliver its services.

Where vaccination is mandatory (for example because of a Chief Health Officer direction or departmental policy) we collect this information to monitor and report on compliance with directions and policy.

The Chief Health Officer's public health direction and the DAF Covid-19 Vaccination Requirements Policy & Procedure allows or authorises us to collect this personal information.

We will only use your information for this purpose. It will otherwise not be used or disclosed unless authorised or required by law. Your personal information will be handled in accordance with the Information Privacy Act 2009.

17. Review

This policy and procedure will be reviewed at 6-month intervals or as otherwise sooner required.

18. Approval

Signed:

Robert Gee

Director-General

Department of Agriculture and Fisheries

Date: 08 / 08 / 2022

19. Version history

Date	Version	Action	Description/comments
11.01.22	0.1	Consultation Draft	Consultation Draft
02.02.22	0.2	Revised Draft	Revised Draft
03.02.22	1.0	Approved by DG	
14.06.2022	1.2		Revised Draft in response to a review of the Risk Assessment June 2022
08.08.2022	1.2	Approved by DG	

20. Keywords

COVID-19; vaccination; exemption; coronavirus; verification.

Appendix A

Group	During consideration	Exemption Approved
<ul style="list-style-type: none"> ○ Workers who enter into or reside in discrete Indigenous communities as part of their role ○ Workers who work face-to-face and/or in close proximity with non-departmental First Nations stakeholders in non-incident settings. 	<p>During consideration and if an exemption is approved, persons in this category are not permitted in discrete Indigenous communities or at locations where they work face-to-face with non-departmental First Nations stakeholders in non-incident settings.</p> <p>Alternative work arrangements must be considered. Options include:</p> <ul style="list-style-type: none"> • remote working • flexible work • meaningful alternative duties • transfer (temporary or permanent) • offering access to accrued annual or long service leave. <p>Each scenario should be considered on a case-by-case basis, considering the circumstances and context of the matter when determining the appropriate course of action. Arrangements will be subject to review on a regular basis. Where alternatives are not available, the matter should be discussed with the Executive Director Human Resources to determine options which may include accessing leave.</p>	
<ul style="list-style-type: none"> ○ Workers who enter premises/property not owned/controlled by DAF for the performance of regulatory/compliance/enforcement functions or the provision of government services and support <i>Premises/property should be interpreted broadly and includes business, residences, land, vessels and vehicles.</i> 	<p>Persons applying for exemption from a vaccination requirement are not permitted in relevant premises while the exemption request is considered, other than in an emergency.</p> <p>In emergency situations, masks must be worn unless unsafe to do so and social distancing must be maintained wherever possible.</p>	<p>Case by case risk assessment to be performed by a supervisor or manager in consultation with the worker and a DAF WHS officer to ascertain whether persons who are exempt from vaccination may safely be permitted in premises. This assessment will focus on health and safety. Assessment may result in attendance subject to conditions (such as mask wearing) designed to increase safety.</p>
<ul style="list-style-type: none"> ○ All other workers required to be vaccinated. 	<p>Case-by-case risk assessment to be performed by a supervisor or manager in consultation with a DAF WHS officer to ascertain whether persons who are applying for an exemption from vaccination may safely attend DAF or shared site. This assessment will focus on health and safety. Assessment may result in attendance subject to conditions (such as mask wearing) designed to increase safety.</p>	<p>Case by case risk assessment to be performed by a supervisor or manager in consultation with the worker and a DAF WHS officer to ascertain whether persons who are exempt from vaccination may safely attend DAF or shared site. This assessment will focus on health and safety. Assessment may result in attendance subject to conditions (such as mask wearing) designed to increase safety.</p>



February 2023: WH&S risk assessment — COVID-19

The Department of Agriculture and Fisheries (DAF) has undertaken a review of the work health and safety risks associated with COVID-19 to ensure we continue to discharge our responsibilities under the *Work Health and Safety Act 2011 (WHS Act)*.

Background

February 2022

On 4 February 2022, the Director-General approved the *Covid-19 Vaccination Requirements Policy & Procedure*, which instituted a vaccination requirement for all DAF workers, except those who had no personal contact with stakeholders, members of the public or other workers in the course of their work.

At that time, Queensland was experiencing a significant and sustained community outbreak of the new highly virulent Omicron strain of COVID-19, with scope for further variants to develop. Vaccination was considered a necessary control to protect the health and safety of DAF workers and other impacted by our work.

The policy and procedure required each DAF work to receive two doses of vaccine and to provide evidence of their vaccination.

By the end of May 2022, over 93% of DAF's workers had provided evidence of having received two doses of vaccination, in line with policy requirements. During that same month, an average of 3.72 DAF workers reported positive infection each day.

June – August 2022

The policy was reviewed in June 2022, after the Chief Health Officer (CHO) lifted public health and social measure restrictions for a range of venues following a relaxation in Queensland. In doing this, the CHO removed vaccination mandates on a range of discretionary settings including hospitality settings, stadiums and showgrounds.

At the time of review, more was known about the Omicron strain. It was understood vaccine protection against symptomatic infection with the omicron variant waned to approximately 40-45% efficacy by four to six months. It was understood vaccinated workers would still contract and transmit the virus. However, health advice remained vaccination was the most effective way to reduce deaths and severe illness.

In the circumstances, a decision was made by the Director-General on 8 August 2022 to retain a mandatory vaccination requirement, with a new minor exception. At that date the rolling 7-day average number of daily deaths in Queensland was 17.

February 2023

On 23 January 2023, the DAF Leadership Board agreed to review the existing COVID-19 risk assessment status and vaccination requirement as per the policy review schedule.

The COVID-19 landscape has evolved again. Governments and community have learned to live with COVID-19. All official public health measures put in place by the CHO have been removed. Instead, the community is guided by a traffic light advice system of recommendations aligned to green/low rate of community transmission; amber/moderate levels of transmission; and red/high rates of transmission (see appendix 2).

In addition, accessibility to antiviral medication has improved. This introduces another treatment, beyond vaccination, for reducing the likelihood of serious or severe disease from a COVID-19 infection^{1,2}.

As of 9 February 2023, Queensland is at the green traffic light level.

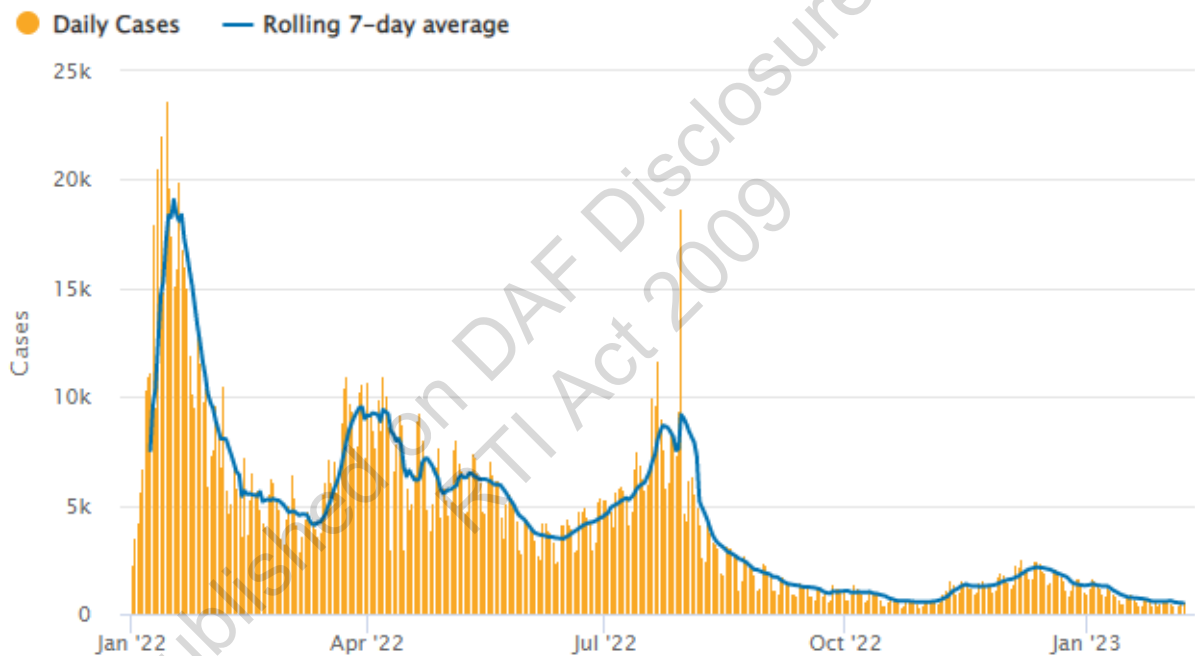
The risk profile

Infection risk (likelihood risk)

At the last review point of the risk assessment in June 2022, DAF was averaging 3.74 positive cases per day. By the end of July 2022, DAF recorded an average of 6 positive COVID-19 cases daily. There has been a notable downward trend since this time. In January 2023, DAF averaged 0.94 daily cases.

This reflects the pattern of transmission in the broader Queensland community which has reduced significantly over the last 12 months, depicted in graph 1 below³.

Graph 1



Severity or death risk (consequence risk)

The data available in graph 2 is showing a similar downward trend in Queensland hospitalisations. Indicating a reduction of serious or severe disease from COVID-19 infection.

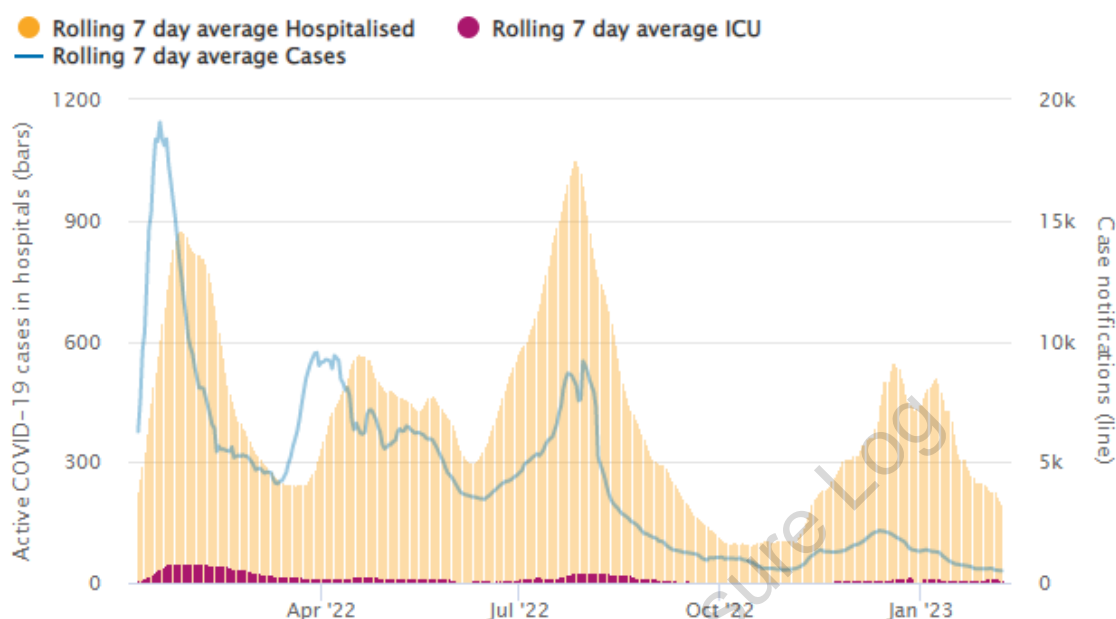
¹ Updated eligibility for oral COVID-19 treatments | Australian Government Department of Health and Aged Care

² COVID-19 Oral Antiviral Treatments | Australian Government Department of Health and Aged Care

³ Coronavirus (COVID-19) case numbers and statistics | Australian Government Department of Health and Aged Care

Graph 2

Viewing data for: Queensland



As of Thursday January 26, the rolling 7-day average of deaths in Queensland was 2⁴.

For over 12 months, DAF has tracked reported positive cases of COVID-19 across its workers. As of 31 January 2023, there have been 1,095 positive cases reported by DAF workers, with 19 people requiring minor medical treatment, one person hospitalized and zero COVID-19 related deaths. The department has not received any WorkCover claims relating to COVID-19 infection in the workplace. This data provides a solid base of evidence indicating that the likelihood of serious or severe disease from contracting COVID-19 in the workplace is unlikely and possibly rare.

Table 1 below provides a summary of Queensland and DAF COVID-19 statistics of 7 February 2023⁵.

Table 1

	QLD	DAF
Positive Cases (Total)	1,785,982	1095
Hospitalisations	183	1
Deaths (Total)	2,677	0

Conclusion

The department now has the benefit of 12 months of workplace data to inform the risk of serious or severe disease from a COVID-19 infection in the DAF workplace. The data informs us that one person has reported being admitted to hospital, there have been no deaths and no WorkCover claims have been made relating to COVID-19 disease. This data, complemented by the available state and national data trends, suggests that the risk of serious or severe disease from a COVID-19 infection in the workplace is unlikely.

⁴ Coronavirus (COVID-19) case numbers and statistics | Australian Government Department of Health and Aged Care

⁵ Queensland COVID-19 statistics | Health and wellbeing | Queensland Government (www.qld.gov.au)

In these circumstances, and having regards to human rights considerations, there no longer appears to be a compelling case for mandatory vaccination.

Recommendations:

1. The vaccination requirement be removed.
2. The department continue to encourage and support workers to receive their booster, including providing paid leave to workers to obtain a booster vaccination.
3. The department maintain and promote all the other controls — including the newly assessed control of antivirals, detailed in the risk assessment.

Published on DAF Disclosure Log
RTI Act 2009

DAF Risk Assessment – June 2022

Work Health and Safety Obligations and Risk

The *Work Health and Safety Act 2011* (WHS Act) imposes a duty on the Department of Agriculture and Fisheries (DAF) to ensure the health and safety of workers, as far as is reasonably practicable, by eliminating risks to health and safety; and where this is not possible, to minimise the risk as far as is reasonably practicable. The department also has a duty of care to any other people who may be at risk from work that DAF carries out.⁶

Section 18 of the WHS Act provides that in determining what is reasonably practicable in relation to ensuring health and safety requires taking into account and weighing up all relevant matters including:

- likelihood of the hazard or the risk concerned occurring
- degree of harm that might result from the hazard or the risk
- what the person concerned knows, or ought reasonably to know, about the hazard or the risk, and ways of eliminating or minimizing the risk
- availability and suitability of ways to eliminate or minimise the risk
- after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

Section 28 of the WHS Act also imposes duties on workers while at work, to:

- take reasonable care of their own health and safety
- take reasonable care that their actions or omissions do not adversely affect the health and safety of other persons
- comply, so far as they are reasonably able, with any reasonable instruction that is given by a responsible person to all the person to comply with this Act
- cooperate with any reasonable policy or procedure of the business relating to health or safety at the workplace that has been notified to workers.

COVID-19 – Nature of risk

COVID-19 (SARS-CoV-2) is a strain of novel coronavirus — a type of respiratory infection — that affects humans, with a broad range of symptoms including:⁷

- fever
- respiratory symptoms
- coughing
- sore throat
- shortness of breath
- fatigue.

COVID-19 spreads from person to person through:⁸

- direct contact with an infectious person (e.g. shaking hands)
- contact with droplets (from an infected person's cough or sneeze)

⁶ [Work Health and Safety Act 2011 \(legislation.qld.gov.au\)](https://www.legislation.qld.gov.au)

⁷ [Novel coronavirus \(COVID-19\) \(health.qld.gov.au\)](https://www.health.qld.gov.au)

⁸ [COVID-19 disease, symptoms and variants | Australian Government Department of Health](https://www.health.gov.au)

- touching objects or surfaces that have droplets from an infected person, and then touching your mouth or face.

COVID-19 can transmit when infected persons are pre- or asymptomatic, as well as symptomatic. While most people who contract COVID-19 experience mild to moderate symptoms, severe illness and fatalities do occur and some experience long COVID which can result in long-term complications.⁹

COVID-19 can impact anyone, however there is increased risk of severe illness for:

- Aboriginal and Torres Strait Islander peoples and people in remote communities
- older people
- people with certain medical conditions (such as chronic illness or weakened immune systems)
- people in aged care facilities
- people with disability.

Transmissibility and severity are affected by the strain of COVID-19. Omicron variant XBB is the dominant variant in Australia. Omicron is a highly transmissible variant, though to date, data indicates it generally causes less severe illness than previous variants, however, can still result in severe illness, hospitalisation, and death.¹⁰

Controls

The risk of COVID-19 is unable to be eliminated from the workplace, therefore reasonably practicable steps to minimise the risk must be implemented.

While controls that rely on administrative actions and personal and protective equipment (PPE) are important, their effectiveness is directly impacted by human behaviour. Inconsistent adoption of the actions and/or improper use of PPE can significantly reduce their effectiveness.

Vaccination may be considered a higher order (biological engineering) control.¹¹

Control	Use	Limitations
Rapid Antigen Testing	Testing may be applied in highest risk settings in accordance with departmental policy	Daily testing for the entire workforce is not viable. Testing is not reliable, particularly where person is asymptomatic. ¹²
Physical distancing / barriers	Workers to maintain physical distancing. Physical barriers (e.g. screens) may be installed in some locations.	Physical distancing cannot be maintained in all circumstances (e.g. field or lab duties requiring persons to work side-by-side). Physical barriers are not able to be used in all settings.
Staying home if unwell, or close contact	Regular communications urging people to stay home if unwell or close contact. An employer may direct a person who is unwell to leave the workplace.	Directions to stay home cannot be issued to members of the public and/or non-departmental stakeholders (other than in limited circumstances e.g. to meeting participants on departmental premises / organised venues).

⁹ [Understanding post-COVID-19 symptoms and 'long COVID' | healthdirect](#)

¹⁰ [New COVID-19 variant leads to increase in cases | Australian Government Department of Health and Aged Care](#)

¹¹ [How to manage work health and safety risks Code of Practice 2021 \(worksafe.qld.gov.au\)](#)

¹² [COVID-19 rapid antigen self-tests \(tga.gov.au\)](#)

Getting tested if symptomatic	Reducing spread through early identification of positive cases. Department may be able to require production of a negative test result to return to the workplace.	People can be infectious (and transmit COVID-19) when pre- or asymptomatic. With the announced change to isolation requirements for close contacts this is of particular relevance. DAF cannot require production of negative test results for members of the public and/or non-departmental stakeholders (other than in limited circumstances e.g. prior to extended travel on vessels).
Good personal hygiene	Employers can encourage good personal hygiene practices.	Enforcement of good hygiene practices is extremely difficult and/or not possible other than in limited circumstances (e.g. could require persons to sanitise hands before entering a meeting).
Alternative working arrangements	Employers can direct employees to work remotely including establishing workgroup teams.	There are very few roles / activities / services are suitable for 100% remote working. Personal circumstances of employees may limit ability to adopt particular work patterns required with workgroup / teams. Extended remote working arrangements lose the benefits associated with face-to-face contact.
Increased cleaning / sanitisation of surfaces	Increased cleaning of high-touchpoint surfaces (such as handles, lift buttons) and requirement for employees to wipe in/out of desks.	While increased cleaning can reduce risks, it is not possible to sanitise shared touchpoints between every person. Departments cannot control cleaning practices in non-departmental premises.
Antiviral treatment	COVID-19 oral antiviral treatments nirmatrelvir and ritonavir (Paxlovid) and molnupiravir (Lagevrio) are available through the PBS for eligible patients ¹³ .	Antiviral medication can reduce the severity of infection. Departments cannot control who has access to antiviral treatment.
Vaccination	Vaccination reduces the risk of severe illness, including long COVID; as well as reducing likelihood of transmission and reinfection.	Efficacy against transmission reduces over time (however efficacy in preventing severe illness remains). Vaccines are not fully effective until at least two doses have been administered and are most effective with a booster.

The Queensland Government Accommodation Office has consulted with Queensland Health regarding air-conditioning / airflow in buildings. QGAO have confirmed existing Australian standards are appropriate and no changes are required.

¹³ [Oral treatments for COVID-19 | Australian Government Department of Health and Aged Care](#)

Risk assessment

Risk Category Work health and safety: <i>Exposure to or transmission of COVID-19</i>	Inherent Risk			Controls excluding a vaccine mandate	Current Residual Risk			Controls including a vaccine mandate	Updated Residual Risk		
	Likelihood	Consequence	Risk Rating		Likelihood	Consequence	Risk Rating		Likelihood	Consequence	Risk Rating
Category A Workers who interact with persons who are particularly vulnerable to health impacts of COVID-19, particularly Aboriginal and Torres Strait Islanders including in discrete communities	Likely	Major	High	<ul style="list-style-type: none"> Staying at home if unwell or close contact Alternative work arrangements Getting tested if symptomatic Utilisation of RAT prior to interaction Physical distancing Use of face masks Good personal hygiene practices Access to antiviral medication (available through a medical or nurse practitioner for those people at higher risk of severe illness)* 	Unlikely	Moderate	Medium	All controls listed in column A. Maintaining requirement to be fully vaccinated	Unlikely	Moderate	Medium
Category B Workers who interact with non-departmental stakeholders, including interactions in: <ul style="list-style-type: none"> non-departmental premises shared tenancies service centres office and field settings vehicles & vessels 	Likely	Major	High	<ul style="list-style-type: none"> Staying at home if unwell or close contact Alternative work arrangements Getting tested if symptomatic Utilisation of RAT in limited circumstances in accordance with usage policy Physical distancing Use of face masks Good personal hygiene practices Timely and consistent information Increased sanitation/cleaning of surfaces Access to antiviral medication (available through a medical or nurse practitioner for those people at higher risk of severe illness)* 	Unlikely	Moderate	Medium	All controls listed in column A. Maintaining requirement to be fully vaccinated	Unlikely	Moderate	Medium

Risk Category Work health and safety: <i>Exposure to or transmission of COVID-19</i>	Inherent Risk			Controls excluding a vaccine mandate	Current Residual Risk			Controls including a vaccine mandate	Updated Residual Risk		
	Likelihood	Consequence	Risk Rating		Likelihood	Consequence	Risk Rating		Likelihood	Consequence	Risk Rating
Category C Workers who interact with other departmental workers	Likely	Major	High	<ul style="list-style-type: none"> Staying at home if unwell or close contact Alternative work arrangements Getting tested if symptomatic Utilisation of RAT in limited circumstances in accordance with usage policy Physical distancing Use of face masks Good personal hygiene practices Timely and consistent information Increased sanitation/cleaning of surfaces Access to antiviral medication (available through a medical or nurse practitioner for those people at higher risk of severe illness)* 	Unlikely	Moderate	Medium	<p>All controls listed in column A.</p> <p>Maintaining requirement to be fully vaccinated</p>	Unlikely	Moderate	Medium
Category D Workers who have minimal interaction with other persons, including: a) working 100% from home due to evidenced medical condition b) roles where interaction is minimal and occurs in outdoor settings (where distance can be assured) and can be effectively controlled.	Unlikely	Major	Medium	<ul style="list-style-type: none"> Staying at home if unwell or close contact Alternative work arrangements Getting tested if symptomatic Physical distancing Use of face masks Good personal hygiene practices Timely and consistent information Increased sanitation/cleaning of surfaces Access to antiviral medication (available through a medical or nurse practitioner for those people at higher risk of severe illness)* 	Rare	Moderate	Low	<p>All controls listed in column A.</p> <p>Approved Risk Assessment for Category D(b)</p>	Rare	Minor	Low

* Supplies of the oral treatments have been provided to state and territory governments through the National Medical Stockpile for use in their COVID-19 care arrangements with a focus on those who will benefit most: people living in rural and remote areas, First Nations communities, and people with disability, especially in supported living settings¹⁴.

¹⁴ [Oral treatments for COVID-19 | Australian Government Department of Health and Aged Care](#)

Risk ratings and tolerance

The risk assessment has been undertaken using the departmental risk framework. In accordance with DAFs risk appetite statement tolerance for WHS risks which is **low**.

Due to the nature of COVID-19, it is acknowledged that the risk may not be able to be reduced to the desired tolerance level. In such circumstances, the risk should be reduced as low as reasonably practicable. Controls that reduce the likelihood and/or consequence should be adopted even where the overall risk rating is not reduced.

Likelihood	Qualitative description	Quantitative description
Almost Certain	The event is expected to occur in most circumstances	May occur once a month or more frequently
Likely	The event will probably occur in many circumstances	May occur once every year
Possible	Identified factors indicate the event could occur at some time	May occur once every 2 or 3 years
Unlikely	The event could occur at some time but is not expected	May occur once every 5 years
Rare	The event may occur only in exceptional circumstances	May occur once every 10 years

Consequence	Description
Insignificant	No injuries or only first aid treatment required. Incident of low-level short-term inconvenience.
Minor	Minor injury or sickness requiring medical treatment. Potential Minor threat to safety systems. Low level incident.
Moderate	Serious injury or sickness requiring medical treatment. Safety system breach. Significant incident.
Major	Single fatality or extensive injuries requiring hospitalisation. Safety system major failure.
Critical	Multiple fatalities. Large scale medical attention/hospitalisation. Complete breakdown of safety system.

Likelihood	Consequence				
	Insignificant	Minor	Moderate	Major	Critical
Almost certain	Medium	Medium	High	Extreme	Extreme
Likely	Low	Medium	High	High	Extreme
Possible	Low	Medium	Medium	High	High
Unlikely	Low	Low	Medium	Medium	High
Rare	Low	Low	Low	Medium	Medium

COVID-19 ADVICE



When the traffic light is: Please follow this advice:

RED (Tier 2)

Wear a mask indoors

AMBER (Tier 1)

Wear a mask:

- In healthcare settings
- Indoors, if you can't socially distance
- On public transport
- If you are older or medically at risk
- If you're around people who are vulnerable to COVID-19

Take a rapid test (RAT) every 2 days if someone in your household has COVID-19

GREEN (Baseline)

Stay home if you're sick

Keep up to date with your vaccinations

Take a rapid test (RAT) if you get COVID-19 symptoms

If you get COVID-19:

- Register your RAT result
- Stay home until you're well again
- Wear a mask for 7 days after your test
- Avoid visiting hospitals, aged care or disability care for 7 days after your test
- Ask household members to closely monitor for symptoms

Wear a mask if required by the healthcare provider, venue or household

Chronology of Consultation

The broad consultation process undertaken by DAF regarding the proposed vaccination requirement included:

- **1 March 2023** – DG email to all staff detailing the Department’s February 2023 Risk Assessment and proposed COVID-19 vaccination removal, inviting feedback by COB 15 March 2023.
- **1 March 2023** – Manager, Work Health and Safety emailed all departmental Health and Safety Representatives, Trained Safety Advisor, Workplace Health and Safety Leads providing copy of proposed policy and the revised risk assessment with the opportunity to respond by 15 March 2023.
- **1 March 2023** – Unions notified of the Department’s February 2023 Risk Assessment and proposed COVID-19 vaccination removal and invited to attend an out of session Agency Consultative Committee (ACC).
- **2 March 2023** - DAF Download to all staff reminding staff of consultation.
- **6 March 2023** – Director, Procurement Services, released the “DAF Direct: Consultation COVID-19 vaccination requirements – March 2023” email to all SOA contingent labour suppliers under SOA GGS0060 for feedback by 5pm, Tuesday 14 March 2023.
- **7 March 2023** – IPA Personal provide feedback they support the risk assessment.
- **7 March 2023** – DAF Download to all staff reminding staff of consultation.
- **8 March 2023** – DAF Direct to all staff reminding staff of consultation.
- **8 March 2023** – Manager, Work Health and Safety reminded all departmental Health and Safety Representatives, Trained Safety Advisor, Workplace Health and Safety Leads of the opportunity to respond by 15 March 2023.
- **13 March 2023** – Out of session ACC meeting held to discuss preliminary feedback. Agreed feedback would be provided by 17 March 2023.
- **13 March 2023** - DAF WHS Steering Committee meeting held.
- **15 March 2023** – All staff survey closed.
- **19 March 2023** – email from [sch4p4(6) Personal info] Together Queensland Union (TQU) Delegate, with TQU’s feedback.

REVIEW OF THE DAF HUMAN RIGHTS ASSESSMENT

– COVID-19 Vaccination Requirements Direction

A chief executive is required to consider the potential impacts on human rights when deciding to remove the requirement to be vaccinated against COVID-19.

A decision and/or action is compatible with human rights if it:

- does not limit a human right, or
- limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with [section 13](#) of the *Human Rights Act 2019*¹.

For the reasons that follow, it is considered that maintaining a vaccination requirement is no longer compatible with human rights. This document sets out the consideration of the impact (limitations) on human rights of a decision to remove the requirement for double vaccination.

Human rights that are affected

<input checked="" type="checkbox"/> Right to equality and non-discrimination (section 15)	<input type="checkbox"/> Cultural rights – generally (section 27)
<input checked="" type="checkbox"/> Right to life (section 16)	<input type="checkbox"/> Cultural rights – Aboriginal peoples and Torres Strait Islander peoples (section 28)
<input type="checkbox"/> Protection from torture and cruel, inhuman or degrading treatment (section 17)	<input type="checkbox"/> Right to liberty and security of person (section 29)
<input type="checkbox"/> Freedom from forced work (section 18)	<input type="checkbox"/> Right to humane treatment when deprived of liberty (section 30)
<input type="checkbox"/> Freedom of movement (section 19)	<input type="checkbox"/> Fair hearing (section 31)
<input type="checkbox"/> Freedom of thought, conscience, religion and belief (section 20)	<input type="checkbox"/> Rights in criminal proceedings (Section 32)
<input checked="" type="checkbox"/> Freedom of expression (section 21)	<input type="checkbox"/> Children in the criminal process (section 33)
<input type="checkbox"/> Peaceful assembly and freedom of association (section 22)	<input type="checkbox"/> Right not to be tried or punished more than once (section 34)
<input checked="" type="checkbox"/> Taking part in public life (section 23)	<input type="checkbox"/> Retrospective criminal laws (section 35)
<input type="checkbox"/> Property rights (section 24)	<input type="checkbox"/> Right to education (section 36)
<input checked="" type="checkbox"/> Privacy and reputation (section 25)	<input type="checkbox"/> Right to health services (section 37)
<input type="checkbox"/> Protection of families and children (section 26)	

¹ [Human Rights Bill 2019 \(legislation.qld.gov.au\)](http://legislation.qld.gov.au)

Section 15(2) and (4) - Right to equality and non-discrimination

- *A decision to maintain vaccination requirement:* The potential consequences that flow from maintaining a vaccination requirement may be the right to equal enjoyment of human rights and the right to equal and effective protection from discrimination (e.g., on the basis of religious belief and/or impairment) as it may result in differential treatment.
- *A decision to remove vaccination requirement:* A decision to remove the vaccination requirement will remove the eligibility requirements to obtain employment.
- **Compatibility:** The Risk Assessment shows that there is arguably no longer a compelling basis to treat vaccinated and unvaccinated workers differently to maintain or obtain employment as part of keeping people healthy and safe.

Section 16 - Right to life

- *A decision to maintain vaccination requirement:* Maintaining a vaccination mandate, theoretically, may impact on a person's right to life due to the potential for adverse side effects from vaccination, however the risk of such a severe reaction has been assessed as unlikely.
- *A decision to remove vaccination requirement:* The removal of the vaccination requirement may be perceived to impact a person's right to life should the person contract COVID-19 in circumstances where work is a significant contributing factor.
- **Compatibility:** The department is required to protect people from real and immediate risks to life. The Risk Assessment raises doubt as to whether there is a "real and immediate" risk to life, sufficient to justify a vaccination requirement.

Section 21 - Freedom of expression

- *A decision to maintain vaccination requirement:* A potential consequence that flows from maintaining a vaccination requirement may be the right to hold an opinion or belief that is contrary to the vaccination requirement. No person should be subject to discrimination or victimisation because of any actual or perceived opinions that they hold (see section 15 above).
- *A decision to remove vaccination requirement:* A worker's right to hold an opinion that they should only work with vaccinated workers is relevant. A worker's subsequent freedom of expression may be subject to lawful restrictions, such as not to discriminate or victimise.
- **Compatibility:** The right to freedom of expression may be impacted by a vaccination requirement. The right to freedom of expression provides for a person's right to hold an opinion without interference and freedom to seek, receive and impart information and ideas. The Risk Assessment shows that there is arguably no longer a compelling basis to treat vaccinated and unvaccinated workers differently to maintain or obtain employment as part of keeping people healthy and safe.

Section 23(2)(b) - Taking part in public life

- *A decision to maintain vaccination requirement:* Consequences that may flow from maintaining a vaccination mandate may be impacts on the right to have access to public life, as non-compliance with a mandate has a potential to exclude suitable applicants from employment or result in termination of employment and/or a change of duties as to how an employee performs their role.
- *A decision to remove vaccination requirement:* No limits to human rights.
- **Compatibility:** The Risk Assessment indicates that there is a better approach to managing the risks to COVID-19 other than restricting the right to participate in public life, through employment, based on a vaccination requirement.

Section 25(a) and (b) - Privacy and reputation

- *A decision to maintain vaccination requirement:* The consequence of maintaining a vaccination mandate may be limitations on the right to privacy and reputation if an employee is required to

disclose and provide evidence of their vaccination status where it is no longer reasonably necessary to protect the health and safety of workers.

- *A decision to remove vaccination requirement:* No limits to human rights.
- **Compatibility.** The Risk Assessment demonstrates that there are approaches to managing the risks to COVID-19, other than requiring information on vaccination status.

Are the limits imposed under law?

The authority for the removal of the direction / requirements flows from:

- *Work Health and Safety Act 2011 and regulations*, which sets out the duties of a person conducting a business or undertaking, and the duties of workers.
- Sections 11 and 98 of the *Public Service Act 2008*, which set out the responsibilities of chief executives in relation to employees and operations of their department.

What is the nature of the rights that would be limited?

As detailed above, the decision to remove the vaccination mandate will largely have a positive impact on human rights in connection with taking part in employment, but nevertheless has the potential to impact human rights such as right to life. Conversely, maintaining the COVID-19 vaccination requirement also has the potential to impact several human rights that, in effect, would result in differential treatment of people and access to public life.

What is the purpose of limiting the human rights?

The purpose of the COVID-19 vaccination requirement has been to:

- reduce the risk of people becoming severely ill or dying following contraction of the virus in the workplace; vaccinated people have a much lower chance of developing more serious symptoms from COVID-19 or needing hospital treatment or dying in comparison to unvaccinated people.
- protect the health and safety of workers and other persons contemplated by work health safety legislation

Do the limits help achieve the purpose?

The Risk assessment indicates that there is no longer a real or immediate risk to life that supports the continuation of the vaccination requirement.

As detailed in the Risk Assessment as of 31 January 2023, there have been 1,095 positive COVID-19 cases reported by departmental workers, with 19 people requiring minor medical treatment, one person hospitalized and zero COVID-19 related deaths. The department has not received any WorkCover claims relating to COVID-19 infection in the workplace.

This data, complemented by the available state and national data trends, suggests that the risk of serious or severe disease from a COVID-19 infection in the workplace is unlikely.

Is / are there reasonable alternatives that would be less restrictive on human rights, but which would achieve the same purpose?

The risk of COVID-19 is unable to be eliminated from the workplace and may not be able to be reduced to a desired tolerance level. Therefore, reasonably practicable steps to minimise the risk must be implemented which reduce to the risk to as low as reasonably practicable.

The department employs a broad range of safeguards, these controls are focussed on reducing transmission. We know that some of these controls (such as social distancing, the wearing of face masks, observing good hygiene/cleaning routines, and staying home if unwell) when used in

combination can be effective in reducing residual risk, they can be weakened by complacency, poor practice, and the inconsistent application of control requirements. Nevertheless, the concerns associated with effectiveness of these controls can be addressed through continual monitoring and reviewing the risk, including the need to consider reasonable adjustments for individual circumstances and additional controls measure if traffic light level changes over time.

Although vaccination provides the highest-level option available as it not only reduces the likelihood of transmission, but also reinfection and severe illness, the department has achieved a high vaccination rate which can be maintained by encouraging and supporting workers to receive their booster, including providing paid leave to workers to maintain currency of vaccination. Furthermore, vaccination is no longer the only control that reduces the severity of illness with the availability of antiviral medications to eligible people.

Does the decision strike a fair balance between the limitation on human rights and the purpose of the direction / requirements?

- Given the updated assessment of current risk of serious or severe disease as unlikely, it is difficult justify the impact to human rights which flow from maintaining a vaccination mandate. **It is considered the protective benefits of vaccination no longer outweigh the potential impacts/risks.** In the circumstances, it is considered that the decision to remove the COVID-19 vaccination requirements and reinforce other COVID-19 controls strikes a fair balance on human rights.

2023 Consultation - Together Union Response Regarding DAF Covid-19 Mandate

On 19 March 2023, Together Union advised that it had surveyed DAF members and found there to be general support for mandatory vaccination to continue.

This table provides an overview of the feedback and the current knowledge and strategies in place to address comments and concerns raised.

Feedback theme	Summary of feedback	DAF response to feedback
Work health and safety	<p>The Qld Health Covid-19 Advice 020323 traffic light advisory [link given in the 8 March 2023 DG Direct], clearly states that when the light is green light as is currently the case “Always Keep up to date with your vaccinations”.</p> <p>Having a fully vaccinated workforce lowers the risk of spread to close contacts by reducing the viral load of an infected person. In this way it also limits the workforce as a source of spread within the community & vulnerable others in particular.</p> <p>Allowing a workforce with reduced levels of vaccination makes the workplace less safe & a potential source of cross-infection to vulnerable others, some of who may not be fully vaccinated & prone to serious illness.</p> <p>Latest Qld Health data indicates that human mortality from Covid persists with 12 to 17 persons per week dying of Covid in Qld and many more hospitalised.</p>	<ul style="list-style-type: none"> • All COVID-19 public health measures put in place by the CHO have been removed and the Queensland community is guided by a traffic light advice system of recommendations aligned to rates of community transmission. • The traffic light system is a <i>recommendation only</i> and not a legal requirement. • Making or sustaining a lawful mandatory vaccination requirement requires a balancing exercise between safety imperatives and human rights considerations. Since the vaccination requirement was put in place in February 2022 there has been a clear downward trend in both daily cases, numbers of persons admitted to ICU and number of deaths. DAF’s own data shows that in the past 12 months of the 1095 people infected with COVID-19 - one person has been admitted to hospital, no deaths have occurred, and no work cover claims have been made related to COVID-19. This has resulted in a re-assessment of the risk of severe illness or death as unlikely. This suggests that there is no longer a compelling safety case sufficient to justify a detrimental impact on our workers’ human rights. • DAF is committed to ensuring the health and safety (both physical and psychological) of workers and others. The department acknowledges the requirement to continue to monitor and review the risk associated with COVID-19 and ensure control measures are effective.

<p>At risk population</p>	<p>Those who are not vulnerable to the serious consequences of being infected by Covid should not have greater influence with the decision maker/s than that of vulnerable workers seeking a safe & healthy workplace which should be every worker's right.</p> <p>Greater flexibility in working arrangements that better protect vulnerable workers who would otherwise work in the office should be an obvious safeguard implemented if the vaccination mandate is abolished.</p> <p>At the first sign of increasing Covid incidence in the workplace, DAF as an employer of choice ought to compensate vulnerable employees for the cost of anti-viral medications required to keep a vulnerable worker alive once infected.</p>	<ul style="list-style-type: none"> • The <i>Work Health and Safety Act 2011</i> (WHS Act) imposes a duty on the department to ensure the health and safety of <u>all</u> workers, as far as is reasonably practicable, by eliminating risks to health and safety; and where this is not possible, to minimise the risk as far as is reasonably practicable. • DAF continues to use the Public Service Commission's Supporting employees in vulnerable groups during the COVID-19 response to maintain our commitment to the health and wellbeing of employees. • DAF will support vulnerable employees and those who contract COVID-19 to seek medical advice for their circumstances. Should their work environment and work be a significant contributing factor, the employee may be eligible to apply for workers compensation. • Employees are encouraged to discuss flexible work arrangements that meet personal and business requirements.
<p>Workforce management issues</p>	<p>Consistent with its "employer of choice" aspirations, DAF should be the exemplar of maintaining workplace health and safety in this regard.</p> <p>How does DAF plan to deal with concerns of those who believe that the mandate should remain? Are their human rights less important than those who believe that the mandate should be terminated?</p>	<ul style="list-style-type: none"> • The February 2023 draft Risk Assessment indicates that there is no longer a compelling case to treat vaccinated and unvaccinated workers differently to maintain or obtain employment as part of keeping people healthy and safe. • DAF will provide support for employees who have vaccination concerns to engage with their medical practitioner in relation to such concerns. All staff are also reminded of the availability of the department's employee assistance service, accessible to staff and their families on a confidential basis.



TO: **Director-General**

TITLE COVID-19 Vaccination Requirements

ACTION REQUIRED For decision

PRIORITY Urgent

CRITICAL DATE as soon as practicable

EXPLANATION OF CRITICAL DATE AND ROLE OF SIGNATORY

The proposed requirement deals with critical safety matters that need to be decided in a timely manner.

RECOMMENDATIONS

That you:

- a. Consider the proposed draft *DAF COVID-19 Vaccination Requirements – Policy & Procedure* (the proposed Policy) provided at **Attachment 1**, the consultation draft *DAF COVID-19 Risk Assessment* (the draft June Risk Assessment) provided at **Attachment 2**, and the draft *DAF Human Rights Assessment* provided at **Attachment 3**.

Agreed / Not Agreed / Noted / Please Discuss

- b. Consider all feedback received on the above proposed Policy and draft June Risk Assessment through the recent consultation process.

Noted / Please Discuss

- c. Consider the proposed continuation of a mandatory COVID-19 vaccine requirement within the department in the terms set out in the proposed Policy, taking into account the feedback received through consultation, and considering the impact your decision may have on human rights in accordance with the Human Rights Act 2019. It is open to you to approve the proposed Policy, reject the proposed Policy, or consider alternative proposals. For the reasons set out in this briefing note, it is recommended that it is open to you to approve the proposed Policy with the amendments proposed in this briefing note.

Approved / Not Approved / Please Discuss

sch4p4(6) Personal information

Robert Gee
Director-General
Department of Agriculture and Fisheries

Date: 8, 8, 22

① Further work to continue to boosters to continue

② work from home needs communication continued

③ Regular Review to occur.

DIRECTOR-GENERAL'S COMMENTS

KEY ISSUES

1. On 20 June 2022, the Director-General emailed all staff (Attachment 4) detailing a proposal to retain a mandatory vaccination requirement through the proposed Policy for all workers except those who have no personal interaction with other persons in the course of their work.
2. An additional exclusion was included in the proposed Policy for those workers who meet the following criteria:
 - Workers whose roles involve minimal interaction with stakeholders, members of the public or other workers; and
 - All of this interaction occurs in outdoor settings (where distance be assured); and
 - An Approved risk assessment for the worker is in place to reduce the risk to a low rating.
3. A draft Risk Assessment, revised in June 2022 was also released for consultation purposes via the DAF Download (Attachment 5). Feedback via a survey was sought by 4 July 2022.
4. Consultation occurred with unions through the Agency Consultative Committee and key labour hire companies. Feedback was additionally sought from the department's Health and Safety Representatives and the Work Health and Safety Steering Committee.
5. The Director-General may now make a decision regarding the proposed Policy. It is open to you to approve the proposed Policy, reject the proposed Policy, or consider alternative proposals.
6. The Director-General has authority to issue the proposed Policy as a lawful and reasonable direction to each departmental employee to obtain the prescribed number of doses of COVID-19 vaccination under ss 11 and 98 of the *Public Service Act 2008* (the Act); and obligations within the framework of work health and safety legislation. Employees (and contractors) are required to comply with departmental policies.
7. In making your decision, you must satisfy yourself that your decision is compatible with human rights under the *Human Rights Act 2019* and take into account feedback from the consultation process.

SENSITIVITY

High

BACKGROUND

8. In February 2022, the department implemented the *COVID-19 Vaccination Requirements – Policy and Procedure* (the Policy) outlining vaccination requirements in addition to existing safeguards to keep DAF workers safe in the workplace.
9. The department's Policy required all workers to provide evidence of having received their first vaccination by 11 February 2022, and their full vaccination (second dose) by 11 March 2022. The policy provided processes for seeking either a delay to vaccination in exceptional circumstances or an exemption due to a recognised medical contraindication.
10. Since implementation of the Policy, the unprecedented events pertaining to the Covid 19 pandemic has evolved, notably:
 - Omicron is the dominant variant across the globe and within our community;
 - more than 92 per cent of eligible Queenslanders aged over 16 years have received a double dose of a COVID-19 vaccination, and over 62 per cent have been boosted.

- the Public Health and Social Measures Linked to Vaccination Status Direction (No. 4) has been revoked, thereby removing vaccination mandates on a range of discretionary settings, including hospitality settings, stadiums and showgrounds;
 - the quarantine requirements for close contacts have been relaxed, with changes to the definition of close contact that allows non-symptomatic household members to attend the workplace;
 - testing requirements have been revised (including self-testing and reporting, close contacts testing); and
 - compulsory mask wearing occurs in limited settings only, including but not limited to, public transport, rideshares/taxis, airports, flights, or if experiencing COVID-19 symptoms.
11. The changing of these settings prompted the department to review its risk assessment of COVID-19 in the workplace, to ensure we continue to manage the risks, meet our obligations under the *Work Health, and Safety Act 2011* (WHS Act), and provide, as far as is reasonably practicable, a safe working environment.
12. The conclusion of the draft June Risk Assessment was that, unless mandatory vaccination for workers falling within categories 1-3 of the four (4) categories is maintained, the risk rating for those categories will remain high.
13. The risk assessment generally reflects that non-vaccination controls are directed towards transmission, reducing the likelihood of this occurring, while vaccination as a control can reduce consequence.

Work Health Safety Obligations

Duty of care

14. Section 19 of the *Work Health and Safety Act* (the WHS Act) requires that a person conducting a business or undertaking must ensure, *so far as is reasonably practicable*, the health and safety of workers engaged by the person, and workers whose activities in carrying out the work are influenced or directed by the person, while the workers are at work in the business or undertaking. Section 19(3)(a) expressly states that a person conducting a business or undertaking must ensure, so far as is reasonably practicable, the provision and maintenance of a work environment without risks to health a safety.¹
15. A person conducting a business or undertaking must also ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking (s19(2)).
16. The term “worker” is defined broadly and includes employees, contractors, work experience students and volunteers (s7).
17. In this context, “reasonably practicable” is defined in s18 of the WHS Act to mean that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters including –
- i. the likelihood of the hazard or the risk concerned occurring; and
 - ii. the degree of harm that might result from the hazard or risk; and
 - iii. what the person concerned knows, or ought reasonably to know, about –
 - (1) the hazard or the risk; and

¹ [Workplace Health and Safety Act 2011](#)

- (2) ways of eliminating or minimising the risk; and
 - (3) the availability and suitability of ways to eliminate the risk; and
 - (4) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of the eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
18. The WHS Act also prescribes duties for workers: to take reasonable care for their own health and safety; to take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons; to comply, as far as they are reasonably able to, with any reasonable instruction; or to cooperate with any reasonable policy related to health and safety of the workplace (s28 WHS Act²).

Consultation Obligations

19. Consultation obligations under the WHS Act are set out in ss 47-49 of the WHS Act.

20. Section 47 of the WHS Act requires that:

- (a) The State (through the Department) and Director-General, as persons “conducting a business or undertaking” (PCBU) must, as far as is reasonably practicable, consult with workers who are or are likely to be directly affected by a matter relating to work health or safety; and
- (b) If the PCBU and the workers have agreed to procedures for consultation, the consultation must be in accordance with those procedures, provided these procedures are not inconsistent with s48 WHS Act.

21. Section 48 (1) of the WHS Act states that consultation requires:

- (a) That relevant information about the matter is shared with workers; and
- (b) That workers be given a reasonable opportunity –
 - i. to express their views and to raise work health or safety issues in relation to the matter; and
 - ii. to contribute to the decision-making process in relation to the matter; and
- (c) That the views of the workers are taken into account; and
- (d) That the workers consulted are advised of the outcome of consultation in a timely way.

22. Section 48(2) requires that if the workers are represented by a health and safety representative, the consultation must involve that representative.

23. Feedback has been actively sought through the Agency Consultative Committee, which is the principal consultative body for unions and agency management, created under the *State Government Entities Certified Agreement 2019*.

Authority for direction about Vaccination Requirements and requirement to comply

Public Service Employees

24. A chief executive may give lawful and reasonable directions to their employees. Under the Act, a chief executive of a department is, for the State, responsible for the employment of public service employees of that department (s11). The broad responsibilities of a chief executive are detailed in s98 of the Act and include managing the department in a way that promotes the effective, efficient and appropriate management of public resources.

25. A public service employee includes public service officers, general employees, temporary and casual employees employed under the Act.
26. Under the Act, contravention of a direction (without reasonable excuse) is grounds for discipline (s187(1)(d)).
27. In this context, the proposed Policy is necessary if you decide to retain a mandatory vaccination requirement, because it acts as the direction for each employee. Employees (and contractors) are required to comply with departmental policies. The proposed Policy contains the direction to employees to obtain the prescribed number of doses of COVID-19 vaccination.
28. Whether a direction mandating COVID-19 vaccination for employees is reasonable is determined on a case-by-case basis, taking into account factors such as an employer's obligations under the WHS Act, the nature of the workplace, the extent of community transmission at the time, vaccine availability as well as whether the direction is compatible with human rights.

Contractors and others

29. Contractors are required to comply with departmental policies. The proposed Policy contains the direction to obtain the prescribed number of doses of COVID-19 vaccination.
30. The *Public Sector Ethics Act 1994* provides for codes of conduct for public officials and states that they may also apply to other persons such as contractors, volunteers and students on work experience.
31. The Code of Conduct for the Queensland Public Service applies to employees of Queensland public service agencies. The term 'employees' in this context expressly includes "...any volunteer, contractor, consultant or anyone who works in any other capacity for a Queensland public service agency".
32. The Code of Conduct requires employees to "...adhere to the policies...of our employing agency..."
33. DAF generally uses the whole-of-government (WoG) standing offer arrangements – for Temporary and Preferred Supplier Panel (PSP) – to engage contracted staff. The PSP Registration Deed includes the following clauses:

16.4 Worker Conduct

(a) Compliance with Customers policies, procedures and Code of Conduct

The Supplier must advise Workers that during the term of the Contract they will be required to comply with the Code of Conduct for the Queensland Public Service and Customer policies and procedures as if they were employees of the Customer.

34. Clause 16.5 of the PSP Registration Deed provides for performance management of a worker where performance is not satisfactory and clause 14 provides broad rights to terminate a worker's engagement.
35. Contracts which depart from the WoG standing offer arrangement will need to be considered on a case-by-case basis to ensure the department has a contractual mechanism to address any circumstances where contracted staff do not adhere to departmental policy.

Risk assessment to inform proposed Vaccination Requirements

36. The draft June Risk Assessment categorised workers into four (4) categories, based on the risk of exposure to COVID-19. This is a reduction from seven (7) tiers in the original risk assessment of January 2022, due to the creation of a single category that included workers who interact with non-departmental stakeholders, including interactions in:

- a) Non-departmental premises
- b) Shared tenancies
- c) Service centres
- d) Office and field settings
- e) Vehicles and vessels.

37. In undertaking the recent risk review, the risk of exposure (and transmission) was assessed at a similar level in these settings with non-departmental stakeholders, so they were collapsed into a single tier to simplify presentation of the risk analysis.

38. The four (4) categories of interaction include:

- Category A – workers who interact with persons who are particularly vulnerable to health impacts of COVID-19, particularly Aboriginal and Torres Strait Islanders including in discrete communities;
- Category B – workers who interact with non-departmental stakeholders, including interactions in:
 - Non-departmental premises
 - Shared tenancies
 - Office and field settings
 - Services Centres
 - Vehicles and Vessels
- Category C – workers who interact with other departmental workers;
- Category D – workers who have minimal interaction with other persons, including:
 - those working 100% from home due to an evidenced medical condition; and
 - roles where interaction is minimal and occurs in outdoor settings (where distance can be assured) and can be effectively controlled. This is a new carve-out to the scope of the vaccination mandate. It was assessed as a circumstance in which the risk of transmission in the workplace could be reduced to a sufficiently low level. Note there is a requirement for an Approved Risk Assessment to be in place, undertaken by the Executive Director of Human Resources before a worker will fall within this carve-out.

39. The overall risk assessment conclusion is that, unless mandatory vaccination for workers falling within categories 1-3 is retained, the risk rating will remain high.

40. The residual work health and safety risk is particularly concerning considering the clear legal obligation under work health and safety legislation to ensure, as far as is reasonably practicable:

- the health and safety of workers engaged by DAF, or whose activities in carrying out the work are influenced or directed by DAF, and
- that the health and safety of other persons is not put at risk from work carried out by DAF.

41. DAF's risk appetite states: *"DAF is committed to providing a safe workplace for all employees, visitors, and contractors. DAF has no appetite for decisions, practices or behaviours which could be expected to lead to employees, visitors or contractors being harmed or increasing the risk of preventable harm."*

42. The risk assessment reflects that, even with the additional control of mandatory vaccination, the risk of transmission cannot be eliminated from the workplace. However, vaccination will reduce the potential for major adverse consequence for individuals.

Feedback received from consultation

43. A chronology of consultation undertaken is at Attachment 6.

DAF workers

44. The consultation period for DAF staff ended on 4 July 2022. In total, feedback was received from 260 respondents, representing approximately 9.6 per cent of total departmental workers (which totals approximately 2700). Of these:

- 144 respondents (or 5.3 per cent) did not support the proposal, and
- 116 respondents (or just over 4.3 per cent) supported the proposal.

45. The results of this consultation are available to you as follows:

- A summary of common themes/issues, with proposed responses, for your consideration (Attachment 7), and
- Feedback in full (Attachment 8).

The Agency Consultative Committee/Unions

46. Union delegates requested that commentary on liability for disciplinary action for non-compliance, included in the Background section (clause 2.1), be also clearly reflected in the substantive body of the policy. DAF maintains that the disciplinary process is clearly articulated under clause 8.5 Non-compliance with vaccination requirements.
47. Aside from that, the Together Union was supportive of the vaccination mandate and updates proposed (see email dated 11 July 2022, Attachment 9)
48. The Australian Workers' Union was also consulted and provided a copy of the Policy and risk assessment. The AWU raised no issues with the proposal (see email dated 12 July 2022, Attachment 10).

Work Health and Safety Committees

49. The DAF Work Health and Safety Steering Committee met on 30 June 2022 and discussed the proposed Policy and draft June Risk Assessment. Committee members were supportive of the department's continued position, however raised:
- the importance of a consistent approach across all business groups in dealing with
 - breaches in compliance
 - leave provisions
 - the need for clarity on contractor vaccination
 - the requirement for examples to be provided to clarify the conditions under which workers would be excluded from the vaccination requirement under 8.1 Group B(2). For example, if workers access common amenities such as kitchens, lunchrooms and bathroom facilities, does this preclude them from this group.
 - concerns from workers questioning the disparity of the Policy when they deal with other stakeholders who are not vaccinated.

50. The Committee formally endorsed the draft Risk Assessment and the proposed Policy, based on continuing health advice that vaccination is recommended (Attachment 11). The Committee recommended that DAF Leadership Board proceed with its implementation.
51. The DAF WHS Leads were also consulted as part of the department's broader WHS Committee Structure.
52. The Director, Work Health and Safety emailed the Health and Safety Representatives (HSR) and the Trained Safety Advisors the 'All Staff' communique on 20 June 2022. No response was received during the consultation period. The Director, Work Health and Safety followed up the WHS leads of the business groups that lead the HSRs, and only one response was received (see Attachment 12) stating:

"The only comments were along (t)he lines of there not being much of a change".

Labour hire companies

53. No feedback was received from the labour hire companies.

Human Rights Assessment

54. A revised human rights impact assessment is attached (Attachment 3).
55. In recognising the evolving implications of the dominant variant, the purpose of limiting human rights centres on
- reducing the risk of the severity of infection as opposed to transmission, and
 - protecting the health and safety of workers and other persons as contemplated by work health safety legislation.
56. In considering *reasonable, less restrictive alternatives*, it has been acknowledged that
- complacency weakens the effectiveness of lower order controls (e.g. social distancing, good hygiene, masks, staying at home when ill);
 - these lower order controls are directed to prevention of transmission, rather than reduction of severity; and
 - while certain office-based roles can be performed at home for some of the time, permanent (or long-term) working from home arrangements are not tenable as some attendance in the workplace is integral to the performance of roles.

Recommended approach

57. Whether a direction to continue mandating COVID-19 vaccination such as the proposed Policy is reasonable is determined on a case-by-case basis, taking into account factors such as an employer's obligations under the WHS Act, the nature of the workplace, the extent of community transmission at the time, vaccine availability as well as whether the direction is compatible with human rights.
58. The coronavirus health situation continues to evolve. Since the draft June Risk Assessment up until 1 August 2022, there have been a further 348,222 positive COVID-19 cases, and a further 533 deaths; for approximately 35% of all deaths in Queensland have been attributed to COVID-19³.

³ [Queensland COVID-19 Statistics](#) comparison between 27 May 2022 and 1 August 2022

Further work is expected over 2 years with Chief Medical Officer starting new wave

59. Following careful review and consideration of all feedback provided through consultation, the position presented in the department's risk assessment has not been revised. Vaccination continues to be recommended by Australian health authorities.

Vaccination against COVID-19 is the most effective way to reduce deaths and severe illness from infection. The protective benefits of vaccination continue to far outweigh the potential risks.

Like all medicines, COVID-19 vaccines may cause some side effects. The most frequently reported include injection-site reactions (such as a sore arm) and more general symptoms, like headache, muscle pain, fever and chills. The reporting rate of adverse events following immunisation (AEFI) equals 2.2 per 1000 doses.

Since the beginning of the vaccine rollout to 23 January 2022, about 60.6 million doses of COVID-19 vaccines have been given. The TGA has identified 13 reports where the cause of death was linked to vaccination from 900 reports received and reviewed⁴.

60. In his most recent letter, dated 21 July 2022, the Acting Chief Health Officer stated that vaccination remains our best protection against severe COVID-19, including new sub-variants (Attachment 13).
61. In this context, it is arguably open to you form the view that continuing a mandatory vaccination requirement of the kind in the proposed Policy is reasonable on the following basis:
- Queensland is continuing to experience a significant and sustained community outbreak of the highly virulent Omicron strain of COVID-19, with further variants continuing to develop;
 - Vaccination against COVID-19 helps reduce the severity of the illness, the vaccines are readily available, and the protective benefits of vaccination far outweigh the potential risks;
 - Workers in scope interact with either stakeholders, members of the public, other government employees (or private co-tenants) or fellow DAF employees, and as a result face a very real risk of contracting COVID-19;
 - The department has an obligation under s19 of the WHS Act, as far as is reasonably practicable, to ensure the health and safety of workers engaged (or influenced/directed) by DAF;
 - The proposed policy is tailored to allow for exemptions where an employee has a recognised medical contraindication;
 - The proposed policy is compatible with human rights, as set out in the attached compatibility assessment;
 - Whilst approximately 5.3% of staff who responded to the survey opposed the proposed Policy, it was supported by 4.3% of staff who responded, as well as by unions and the DAF WHS committee.
62. If you are minded to make a decision to issue a retained mandatory vaccination requirement we recommend you:
- endorse the proposed policy, and
 - determine workers are provided paid leave to obtain a booster vaccination.

*Further
work
expected*

⁴ [COVID-19 vaccine safety report - 30-06-2022 | Therapeutic Goods Administration \(TGA\)](#)

Decision - Making

63. The revised policy proposes key decisions be made as follows:

- Approval of delay in exceptional circumstances – Clause 8 (1)(g) – Deputy Director-General, Executive Director/General Manager (whichever is the worker's immediate senior executive).
- Request for exemption on grounds of medical contraindication – Clause 8.4 – Executive Director, Human Resources.
- Approved risk assessment for workers who meet the exclusion criteria – Clause 8.1 (a) Group B (2) – Executive Director, Human Resources.

RESOURCE IMPLICATIONS

64. Immediate:

- There is likelihood that some workers may choose to resign and leave the workforce if the proposed policy in its current state is retained/implemented. The quantum is unknown.
- Managers have expressed concerns about increasing workloads within their units/programs/projects, particularly in an environment where there is already a sense of resource constraint.
- Business contingency planning and succession planning will need to be considered.

65. Short term:

- Exemption and delay applications have and may continue to cause disruption to workforce availability where alternative work arrangements cannot be made.
- The application process will increase workload for Level 1, Level 2 and Level 3 HR delegates and relevant Human Resources and WHS Officers.
- Applicants who are dissatisfied with the outcome will be able to seek an internal review; additionally, it is envisioned that disciplinary procedures will be brought against non-compliant employees. Both internal review and disciplinary procedures will require case management, assignment of an appropriate delegate, potential QIRC appearances and Crown Law assistance.

66. Longer-term:

- It is possible that applications will be lodged with WorkCover, Statutory and/or through Common Law avenues. This will require internal resources to address the particulars regarding the alleged contribution of work in establishing the veracity of the claim, and external QSS resources in medical case management.

HUMAN RIGHTS CONSIDERATIONS & PRIVACY

Human Rights

67. Under the Human Rights Act 2019, you are required to consider the potential impacts on human rights when deciding and issuing a direction requiring mandatory vaccination. The draft DAF Human Rights Assessment has been updated.

68. It identifies human rights which may be affected, the nature of the rights which may be limited, the purpose of limiting human rights and how vaccination may achieve that purpose. The assessment does not identify reasonable alternatives which would be less restrictive on human

rights but achieve the same purpose. It concludes that the decision strikes a fair balance between the limitation on human rights and the purpose of the vaccine requirements.

Privacy

- 69. An agency can require an employee to disclose their vaccination status if the agency needs it for a lawful purpose directly related to its functions or activities, which can include preventing or managing risks associated with COVID-19.
- 70. Clause 16 of the revised policy explains why information is being collected, the authority for collection, how it will be used, stored and handled. It includes a privacy statement confirming that personal information will be handled in accordance with the *Information Privacy Act 2009*.

COMMUNICATIONS STRATEGY

71. To be agreed by the Departmental Leadership Board

PREVIOUS REF/S

72. CTS: 01447/22 Covid 19 Vaccination Requirements

ATTACHMENTS

Attachment 1	COVID-19 Vaccination Requirements Policy and Procedure version 1.2
Attachment 2	COVID-19 Risk Assessment
Attachment 3	Human Rights Assessment – COVID Controls - DRAFT – 20 June 2022
Attachment 4	Directors-General email to all staff – 20 June 2022
Attachment 5	DAF Download to all staff – 30 June 2022
Attachment 6	Chronology of consultation
Attachment 7	DAF Worker Consultation Feedback Summary and Response
Attachment 8	Full Staff Feedback – 4 July 2022
Attachment 9	Email from s.78B(2) Together Union
Attachment 10	Email from s.78B(2) Australia's Workers Union Queensland
Attachment 11	DAF WHS Steering Committee Meeting Minutes
Attachment 12	Email from WHS Lead re: HSR Feedback
Attachment 13	Chief Health Officer Correspondence 13 April 2022 – 21 July 2022

Work from home balance.

1/ P2 Masks - not enough.

2/ Boosters - more consultation and consideration.

Business Group	Corporate		
Name:	Author:	Deputy Director-General:	Endorsed:
Position:	Ashley Bacon Executive Director, Human Resources, Corporate	Sinead McCarthy Deputy Director General, Corporate	Sinead McCarthy Deputy Director General, Corporate
Telephone:	sch4p4(6) Personal information		
Date:	04 / 08 / 2022	05 / 08 / 2022	/ / 2022



TO: **Director-General**

TITLE COVID-19 Vaccination Requirements

ACTION REQUIRED For decision

CRITICAL DATE As soon as possible

EXPLANATION OF CRITICAL DATE AND ROLE OF SIGNATORY

The proposed workplace health and safety decision impacts all Department of Agriculture and Fisheries (DAF) employees and contingent workforce.

RECOMMENDATIONS

That you:

- a. Consider the consultation draft February 2023: WH&S risk assessment – COVID-19 (the February 2023 draft Risk Assessment).

Agreed / Not Agreed / Noted / Please Discuss

- b. Consider all feedback received on the February 2023 draft Risk Assessment and the proposal to remove the COVID-19 Vaccination Requirements – Policy and Procedure (the Policy and Procedure).

Noted / Please Discuss

- c. Consider the removal of the Policy and Procedure for the reasons set out in this briefing note, taking into account the feedback received through consultation, and considering the impact your decision may have on human rights in accordance with the *Human Rights Act 2019*. It is open to you to approve the removal of the Policy and Procedure or consider an alternative proposal. For the reasons set out in the briefing note, it is recommended that it is reasonable for you to approve the removal of the Policy and Procedure.

Approved / Not Approved / Please Discuss

- d. Where the decision is to remove the Policy and Procedure, endorse that the Department continue to encourage and support workers to receive vaccinations and boosters, including providing paid leave to workers to obtain those vaccinations/boosters.

Approved / Not Approved / Please Discuss

Robert Gee
Director-General
Department of Agriculture and Fisheries

Date: / /

DIRECTOR-GENERAL'S COMMENTS

Published on DAF Disclosure Log
RTI Act 2009

KEY ISSUES

1. On 8 August 2022, the Director-General approved the continuation of a mandatory COVID-19 vaccination requirement within the department in the terms set out in the Policy and Procedure (**Attachment 1**).
2. On 1 March 2023, the Director-General emailed all staff (**Attachment 2**) detailing a proposal to remove the mandatory vaccination requirement based on the February 2023 draft Risk Assessment (**Attachment 3**).
3. All staff were provided the opportunity to give feedback on the February 2023 Risk Assessment via survey from 1 to 15 March 2023. Overall, 466 people responded to the survey, with 66% of respondents supportive of the proposal to remove the Policy and Procedure.
4. Similarly, feedback was sought from the department's Health and Safety Representatives, the Work Health and Safety Committee and key labour hire agencies which were supportive of the proposal to remove the Policy and Procedure.
5. Consultation also occurred with the unions. The Together Queensland Union advised that they found there to be general support amongst their DAF members for mandatory vaccination to continue.
6. The Director-General may make a decision regarding the proposal to remove the Policy and Procedure. It is open to you to approve the removal of the Policy, to retain the current Policy and Procedure or consider alternative proposals.
7. The Director-General has an obligation within the framework of work health and safety legislation to provide a safe workplace this includes monitoring current controls and policies.
8. In making your decision, you must satisfy yourself that your decision is compatible with human rights under the *Human Rights Act 2019* and take into account feedback from the consultation process.

CONSULTATION – INTERNAL STAKEHOLDERS

All workers and workplace health and safety representatives.

CONSULTATION – EXTERNAL STAKEHOLDERS

Relevant Unions and key labour hire companies.

BACKGROUND

1. In February 2022, the department implemented the Policy and Procedure outlining vaccination requirements in addition to existing safeguards to keep DAF workers safe in the workplace.
2. The department's Policy and Procedure required all workers to provide evidence of full vaccination (second dose) by 11 March 2022.
3. The Policy and Procedure was reviewed in June 2022, in response to the Chief Health Officer (CHO) lifting the public health and social measure restrictions for a range of venues following a relaxation in Queensland. In effect, the CHO removed the vaccination mandate on a range of discretionary settings including hospitality settings, stadiums and showgrounds.
4. On 8 August 2022, the Director-General approved (**Attachment 4**) the continuation of a mandatory COVID-19 vaccination requirement, and this decision was communicated to all workers.
5. On 23 January 2023, the DAF Leadership Board agreed to review the existing COVID-19 risk assessment status and vaccination requirements as per the Policy and Procedure review schedule.

Work Health Safety obligations

6. Section 19 of the *Work Health and Safety Act 2011* (the WHS Act) requires that a person conducting a business or undertaking must ensure, so far as is reasonably practicable, the health and safety of workers engaged by the person, and workers whose activities in carrying out the work are influenced or directed by the person, while the workers are at work in the business or undertaking. Section 19(3)(a) expressly states that a person conducting a business or undertaking must ensure, so far as is reasonably practicable, the provision and maintenance of a work environment without risks to health and safety.
7. A person conducting a business or undertaking must also ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking (s19(2)).
8. The term “worker” is defined broadly and includes employees, contractors, work experience students and volunteers (s7).
9. In this context, “reasonably practicable” is defined in s18 of the WHS Act to mean that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters –
 - a. the likelihood of the hazard or the risk occurring, and
 - b. the degree of harm that might result from the hazard or risk, and
 - c. what the person concerned knows, or ought to reasonably know, about –
 - i. the hazard or risk, and
 - ii. was of eliminating or minimising the risk, and
 - iii. the availability and suitability of ways to eliminate the risk, and
 - iv. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
10. The WHS Act also prescribes duties for workers: to take reasonable care for their own health and safety, to take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons; to comply, as far as they are reasonably able to, with any reasonable instruction; or to cooperate with any reasonable policy related to health and safety of the workplace (s28).

Consultation Obligations

11. Consultation obligations under the WHS Act are set out in ss 47-49 of the WHS Act.
12. Section 47 of the WHS Act requires that:
 - (a) The State (through the Department) and Director-General, as persons “conducting a business or undertaking” (PCBU) must, as far as is reasonably practicable, consult with workers who are or are likely to be directly affected by a matter relating to work health or safety; and
 - (b) If the PCBU and the workers have agreed to procedures for consultation, the consultation must be in accordance with those procedures, provided these procedures are not inconsistent with s48 WHS Act.
13. Section 48 (1) of the WHS Act states that consultation requires:
 - (a) That relevant information about the matter is shared with workers; and
 - (b) That workers be given a reasonable opportunity –
 - i. to express their views and to raise work health or safety issues in relation to the matter; and
 - ii. to contribute to the decision-making process in relation to the matter; and
 - (c) That the views of the workers are taken into account; and
 - (d) That the workers consulted are advised of the outcome of consultation in a timely way.

14. Section 48(2) requires that if the workers are represented by a health and safety representative (HSR), the consultation must involve that representative. Feedback has been actively sought from the HSRs.
15. Feedback has been actively sought through the Agency Consultative Committee, which is the principal consultative body for unions and agency management, created under the *State Government Entities Certified Agreement 2019*.

February 2023 draft Risk Assessment to inform WH&S controls

16. In February 2023, the department undertook a review of the work health and safety risks associated with COVID-19 to ensure we continue to discharge our responsibilities under the WHS Act.
17. The February 2023 draft Risk Assessment (February Risk Assessment) considered the evolution of the COVID-19 landscape, within which Governments and community have increasingly learned to live with the virus. All official public health restrictions put in place by the CHO have been removed. Instead, the community is guided in its response to COVID-19 by a traffic light system of recommendations aligned to green/low rate of community transmission; amber/moderate levels of community transmission; and red/high rates of community transmission. In addition, accessibility to antiviral medication has improved, introducing another treatment, beyond vaccination, for reducing the likelihood of severe or serious disease from a COVID-19 infection.
18. At this juncture, the department has the benefit of 12 months of workplace data to better inform the risk of serious or severe disease from a COVID-19 infection in the DAF workplace. This data, complemented by the available state and national data trends, suggests that the risk of serious or severe disease from a COVID-19 infection in the workplace at this time is less likely than previously assessed, and, upon re-assessment, rates as unlikely.
19. More current data supports the February 2023 Draft Risk Assessment:
 - a. In January 2023, DAF was averaging 0.94 daily cases; in April 2023, the average is 0.20 (down from an average of 6 per day in July 2022). This indicates that the notable downward trend in cases has been sustained.
 - b. Similarly, the pattern of transmission in the QLD community remains reduced, and the State is 'green' on the traffic light system, reflecting a low level of transmission.
 - c. On 17 March 2023, Queensland's 7-day rolling daily average for COVID-19 positive deaths was two (down from 17 in August 2022). This is the most recent data available and is consistent with the figures considered in the February 2023 draft Risk Assessment.
 - d. On 3 April 2023, the Queensland 7-day rolling average COVID-19 Intensive Care Unit treated cases was four. This is the most recent data available and is consistent with the figures considered in the February 2023 draft Risk Assessment.
 - e. DAF workers who have reported being hospitalised (one) or having received minor medical treatment (19) has remained unchanged since February 2023 draft Risk Assessment.
20. The February 2023 draft Risk Assessment concludes that the available data suggests that the risk of serious or severe disease from a COVID-19 infection in the workplace is unlikely, and that, in the circumstances, and having regard to human rights considerations, there no longer appears to be a compelling case for mandatory vaccination. It recommends:
 - a. The vaccination requirement be removed.
 - b. The department continue to encourage and support workers to maintain currency of their vaccination, including providing paid leave to workers to do so.
 - c. The department maintain and promote all other controls including the newly assessed control of antivirals, detailed in the risk assessment.

Feedback received during consultation

21. From 1 to 15 March 2023, all staff were provided an opportunity to review the February 2023 draft Risk Assessment and respond to the proposal to remove the COVID-19 vaccination requirement.
22. Overall, a total of 466 people responded to the survey:
 - a. 157 (34%) did not support DAF removing the COVID-19 vaccination requirement Policy and Procedure.
 - b. 308 (66%) supported the recommendation to remove the Policy and Procedure.
22. Feedback during consultation confirmed that the perceived limitations on human rights was the primary reason for people supporting the removal of the vaccination requirements. A copy of all comments received is provided for your information (**Attachment 5**). A summary of the themes/issues and departmental considerations is also enclosed (**Attachment 6**)
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27. TQ delegates outlined concerns regarding mortality rates in Queensland and ongoing support for the vulnerable. A summary of feedback and recommended responses is provided for in **Attachment 9**.
28. No written feedback was received from the Australian Workers Union.
29. Key labour hire agencies were provided the opportunity to comment on the February 2023 draft Risk Assessment on 6 March 2023. Feedback was received from IPA which confirmed their support for the removal of the vaccination requirement (**Attachment 10**).
30. A consultation chronology is enclosed (**Attachment 11**).

Implementation of decision

31. Current health advice to Queenslanders is stay home if you're sick; keep up to date with your vaccinations, maintain good hygiene, take a rapid antigen test if you get COVID-19 symptoms and wear a mask if required by a healthcare provider, venue, or household.
32. Following your decision, an all-staff communication to advise of this decision will be progressed to you for approval. This messaging will emphasise DAF's encouragement of all employees to remain currency of vaccination and follow Queensland Health advice.
33. If your decision is to support the removal of the vaccination requirement and Policy and Procedure, relevant policies, procedures and forms in human resources and procurement will be updated.

EMPLOYMENT OPPORTUNITIES

N/A.

RESOURCE IMPLICATIONS

Human Resources

1. It is anticipated that the management of employees who identify as vulnerable workers may become more complex with the removal of the vaccination requirement. The department may similarly see an increase of workers preferring to work from home or under other alternative working arrangements.

2. Other general workforce management matters have been identified within the consultation summary (**Attachment 6**).

HUMAN RIGHTS CONSIDERATIONS & PRIVACY

Human Rights

Under the Human Rights Act 2019, you are required to consider the potential impacts on human rights in deciding whether to remove the Policy and Procedure and the mandatory vaccination requirements. These considerations are outlined in the draft Human Rights Assessment (HR Assessment) (**Attachment 12**), which has been prepared for your consideration.

The HR Assessment identifies the removal of the vaccination requirement will largely have a positive impact on human rights, but nevertheless has the potential to adversely impact human rights such as right to life and freedom from expression.

Given the updated assessment of current risk of serious or severe disease as unlikely, it is difficult to justify the impact to human rights which flow from maintaining a vaccination mandate. It is considered the protective benefits of vaccination no longer outweigh the potential impacts/risks. In the circumstances, it is considered that the decision to remove the COVID-19 vaccination requirements and reinforce other COVID-19 controls strikes a fair balance on human rights.

Retention and collection of records and information privacy

The General retention and disposal schedule (GRDS) authorises the disposal of common and administrative records created by all Queensland Government agencies.

Part 1244 of the GRDS states that records relating to the development, promotion and implementation of programs, which encourage a healthy and safe work environment and safe work practices, including for immunisation programs, are to be retained for seven years after business action is completed.

COMMUNICATIONS STRATEGY

To be agreed by the DAF Leadership Board.

PREVIOUS REF/S

13540/22 and 01447/22

ATTACHMENTS

Attachment 1: DAF COVID-19 Vaccination Requirement Policy and Procedure

Attachment 2: DAF Direct Consultation 1 March 2023

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Attachment 7: WHS Representatives and WHS Committee Response

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Attachment 9: Together Union consultation feedback and recommended responses

Attachment 10: Labour Hire Consultation feedback

Attachment 11: Chronology of consultation

Attachment 12: March 2023 Human Rights Assessment

Business Group	Corporate Services		
Name:	Author:	General Manager / Director / Executive Director:	DLB Endorsement:
	Kate Zocchi	Ashley Bacon	Sinead McCarthy
Position:	A/Director, People and Culture	Chief Human Resource Officer	Deputy Director-General
Telephone:			
Date:	31/3/2023	3/4/2023	18/04/2023

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RTI Act 2009



TO: **Director-General**

TITLE COVID-19 Vaccination Requirements

ACTION REQUIRED For decision

CRITICAL DATE As soon as possible

EXPLANATION OF CRITICAL DATE AND ROLE OF SIGNATORY

The proposed workplace health and safety decision impacts all Department of Agriculture and Fisheries (DAF) employees and contingent workforce.

RECOMMENDATIONS

That you:

- a. Consider the consultation draft February 2023: WH&S risk assessment – COVID-19 (the February 2023 draft Risk Assessment).

Agreed / Not Agreed / Noted / Please Discuss

- b. Consider all feedback received on the February 2023 draft Risk Assessment and the proposal to remove the COVID-19 Vaccination Requirements – Policy and Procedure (the Policy and Procedure).

Noted / Please Discuss

- c. Consider the removal of the Policy and Procedure for the reasons set out in this briefing note, taking into account the feedback received through consultation, and considering the impact your decision may have on human rights in accordance with the *Human Rights Act 2019*. It is open to you to approve the removal of the Policy and Procedure or consider an alternative proposal. For the reasons set out in the briefing note, it is recommended that it is reasonable for you to approve the removal of the Policy and Procedure.

Approved / Not Approved / Please Discuss

- d. Where the decision is to remove the Policy and Procedure, endorse that the Department continue to encourage and support workers to receive vaccinations and boosters, including providing paid leave to workers to obtain those vaccinations/boosters.

Approved / Not Approved / Please Discuss

sch4p4(6) Personal information

Robert Gee
Director-General
Department of Agriculture and Fisheries

Date: 19/4/23

DIRECTOR-GENERAL'S COMMENTS

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RTI Act 2009

KEY ISSUES

1. On 8 August 2022, the Director-General approved the continuation of a mandatory COVID-19 vaccination requirement within the department in the terms set out in the Policy and Procedure (**Attachment 1**).
2. On 1 March 2023, the Director-General emailed all staff (**Attachment 2**) detailing a proposal to remove the mandatory vaccination requirement based on the February 2023 draft Risk Assessment (**Attachment 3**).
3. All staff were provided the opportunity to give feedback on the February 2023 Risk Assessment via survey from 1 to 15 March 2023. Overall, 466 people responded to the survey, with 66% of respondents supportive of the proposal to remove the Policy and Procedure.
4. Similarly, feedback was sought from the department's Health and Safety Representatives, the Work Health and Safety Committee and key labour hire agencies which were supportive of the proposal to remove the Policy and Procedure.
5. Consultation also occurred with the unions. The Together Queensland Union advised that they found there to be general support amongst their DAF members for mandatory vaccination to continue.
6. The Director-General may make a decision regarding the proposal to remove the Policy and Procedure. It is open to you to approve the removal of the Policy, to retain the current Policy and Procedure or consider alternative proposals.
7. The Director-General has an obligation within the framework of work health and safety legislation to provide a safe workplace this includes monitoring current controls and policies.
8. In making your decision, you must satisfy yourself that your decision is compatible with human rights under the *Human Rights Act 2019* and take into account feedback from the consultation process.

CONSULTATION – INTERNAL STAKEHOLDERS

All workers and workplace health and safety representatives.

CONSULTATION – EXTERNAL STAKEHOLDERS

Relevant Unions and key labour hire companies.

BACKGROUND

1. In February 2022, the department implemented the Policy and Procedure outlining vaccination requirements in addition to existing safeguards to keep DAF workers safe in the workplace.
2. The department's Policy and Procedure required all workers to provide evidence of full vaccination (second dose) by 11 March 2022.
3. The Policy and Procedure was reviewed in June 2022, in response to the Chief Health Officer (CHO) lifting the public health and social measure restrictions for a range of venues following a relaxation in Queensland. In effect, the CHO removed the vaccination mandate on a range of discretionary settings including hospitality settings, stadiums and showgrounds.
4. On 8 August 2022, the Director-General approved (**Attachment 4**) the continuation of a mandatory COVID-19 vaccination requirement, and this decision was communicated to all workers.
5. On 23 January 2023, the DAF Leadership Board agreed to review the existing COVID-19 risk assessment status and vaccination requirements as per the Policy and Procedure review schedule.

Work Health Safety obligations

6. Section 19 of the *Work Health and Safety Act 2011* (the WHS Act) requires that a person conducting a business or undertaking must ensure, so far as is reasonably practicable, the health and safety of workers engaged by the person, and workers whose activities in carrying out the work are influenced or directed by the person, while the workers are at work in the business or undertaking. Section 19(3)(a) expressly states that a person conducting a business or undertaking must ensure, so far as is reasonably practicable, the provision and maintenance of a work environment without risks to health and safety.
7. A person conducting a business or undertaking must also ensure, so far as is reasonably practicable, that the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking (s19(2)).
8. The term "worker" is defined broadly and includes employees, contractors, work experience students and volunteers (s7).
9. In this context, "reasonably practicable" is defined in s18 of the WHS Act to mean that which is, or was at a particular time, reasonably able to be done in relation to ensuring health and safety, taking into account and weighing up all relevant matters –
 - a. the likelihood of the hazard or the risk occurring, and
 - b. the degree of harm that might result from the hazard or risk, and
 - c. what the person concerned knows, or ought to reasonably know, about –
 - i. the hazard or risk, and
 - ii. was of eliminating or minimising the risk, and
 - iii. the availability and suitability of ways to eliminate the risk, and
 - iv. after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.
10. The WHS Act also prescribes duties for workers: to take reasonable care for their own health and safety, to take reasonable care that their acts or omissions do not adversely affect the health and safety of other persons; to comply, as far as they are reasonably able to, with any reasonable instruction; or to cooperate with any reasonable policy related to health and safety of the workplace (s28).

Consultation Obligations

11. Consultation obligations under the WHS Act are set out in ss 47-49 of the WHS Act.
12. Section 47 of the WHS Act requires that:
 - (a) The State (through the Department) and Director-General, as persons "conducting a business or undertaking" (PCBU) must, as far as is reasonably practicable, consult with workers who are or are likely to be directly affected by a matter relating to work health or safety; and
 - (b) If the PCBU and the workers have agreed to procedures for consultation, the consultation must be in accordance with those procedures, provided these procedures are not inconsistent with s48 WHS Act.
13. Section 48 (1) of the WHS Act states that consultation requires:
 - (a) That relevant information about the matter is shared with workers; and
 - (b) That workers be given a reasonable opportunity –
 - i. to express their views and to raise work health or safety issues in relation to the matter; and
 - ii. to contribute to the decision-making process in relation to the matter; and
 - (c) That the views of the workers are taken into account; and
 - (d) That the workers consulted are advised of the outcome of consultation in a timely way.

14. Section 48(2) requires that if the workers are represented by a health and safety representative (HSR), the consultation must involve that representative. Feedback has been actively sought from the HSRs.
15. Feedback has been actively sought through the Agency Consultative Committee, which is the principal consultative body for unions and agency management, created under the *State Government Entities Certified Agreement 2019*.

February 2023 draft Risk Assessment to inform WH&S controls

16. In February 2023, the department undertook a review of the work health and safety risks associated with COVID-19 to ensure we continue to discharge our responsibilities under the WHS Act.
17. The February 2023 draft Risk Assessment (February Risk Assessment) considered the evolution of the COVID-19 landscape, within which Governments and community have increasingly learned to live with the virus. All official public health restrictions put in place by the CHO have been removed. Instead, the community is guided in its response to COVID-19 by a traffic light system of recommendations aligned to green/low rate of community transmission; amber/moderate levels of community transmission; and red/high rates of community transmission. In addition, accessibility to antiviral medication has improved, introducing another treatment, beyond vaccination, for reducing the likelihood of severe or serious disease from a COVID-19 infection.
18. At this juncture, the department has the benefit of 12 months of workplace data to better inform the risk of serious or severe disease from a COVID-19 infection in the DAF workplace. This data, complemented by the available state and national data trends, suggests that the risk of serious or severe disease from a COVID-19 infection in the workplace at this time is less likely than previously assessed, and, upon re-assessment, rates as unlikely.
19. More current data supports the February 2023 Draft Risk Assessment:
 - a. In January 2023, DAF was averaging 0.94 daily cases; in April 2023, the average is 0.20 (down from an average of 6 per day in July 2022). This indicates that the notable downward trend in cases has been sustained.
 - b. Similarly, the pattern of transmission in the QLD community remains reduced, and the State is 'green' on the traffic light system, reflecting a low level of transmission.
 - c. On 17 March 2023, Queensland's 7-day rolling daily average for COVID-19 positive deaths was two (down from 17 in August 2022). This is the most recent data available and is consistent with the figures considered in the February 2023 draft Risk Assessment.
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RESOURCE IMPLICATIONS

Human Resources

1. It is anticipated that the management of employees who identify as vulnerable workers may become more complex with the removal of the vaccination requirement. The department may similarly see an increase of workers preferring to work from home or under other alternative working arrangements.

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Business Group	Corporate Services		
Name:	Author:	General Manager / Director / Executive Director:	DLB Endorsement:
	Kate Zocchi A/Director, People and Culture	Ashley Bacon Chief Human Resource Officer	Sinead McCarthy Deputy Director-General
Position:			
Telephone:			
Date:	31/3/2023	3/4/2023	18/04/2023

Published on DAF Disclosure Log
RTI Act 2009

Date : 1/03/2023 8:35:55 AM

From : "Department of Agriculture and Fisheries"

To : "Naomi Luck"

Subject : DAF Direct: Consultation COVID-19 vaccination requirements – March 2023



1 March 2023

Colleagues

In February 2022, we implemented the COVID-19 Vaccination Policy and Procedure outlining vaccination requirements in addition to our existing safeguards to keep DAF workers safe in the workplace.

We committed to reviewing the policy and procedure every 6 months in line with our obligations under the *Work, Health and Safety (WH&S) Act 2011*. The first review saw the continuation of vaccination requirements for DAF workers.

The department has now completed a second review, including an updated [WH&S risk assessment \(pdf\)](#).

The review considers the COVID-19 environment in which we operate, including current health information and the nature of the risk associated with COVID-19.

As a result of the review, it is **proposed to remove the mandatory COVID-19 vaccination requirements** for DAF workers.

Have your say

I'd like to hear your thoughts on this proposed policy change before I make any decision ♦ [have your say](#) by 5pm, Wednesday 15 March 2023.

Healthy workplaces

There are things you can do to help reduce the risk of catching and spreading COVID-19 and other viruses like the flu:

- wear a mask if you choose to
- stay home if you ♦re sick
- maintain good hygiene
- keep up to date with the latest [Queensland Health advice](#).

Thank you for the continued role you are all playing in keeping our workplace safe.

Regards

Bob Gee

Director-General

Department of Agriculture and Fisheries

Having trouble viewing this email? [View Online](#)

This email was sent by the Department of Agriculture and Fisheries to Naomi.LUCK@daf.qld.gov.au