

Memorandum

To: Executive Leadership Team
From: Melisa Kappely, Chief People Officer
Date: 11 February 2022
Subject: Office Vaccination Consultation Outcome

Purpose

1. To update you on the results of the consultation and next steps towards a final outcome for requiring Stats NZ employees be fully vaccinated to enter Stats NZ offices and attend indoor/outdoor events.

Background

2. With the highly contagious Delta and Omicron variants of Covid-19 many employers to reduce the risk of contraction, transmission and resulting consequences of having COVID-19, have mandated for their workforces to be vaccinated. Stats NZ like other employers has been looking at these scenarios not only for the safety of its employees but for the respondents, stakeholders and communities that we engage with.
3. In late 2021 Stats NZ consulted with employees in Field Collections and Census involved in the activities of surveying indoors, outdoors and involved with stakeholder and community engagement. The outcome of this consultation was that under all levels of the traffic light system, Stats employees and contractors or anyone else undertaking these activities would be required to be fully vaccinated.
4. Stats NZ then formed the view that it is necessary to consult further on the nature of the health and safety risks and the role that having a vaccinated workforce may play in keeping people safe in office-based roles. A further risk assessment was undertaken to understand whether restricting office access and attendance at events to vaccinated employees is desirable as a control for the safety and protection of its employees, contractors and external visitors.
5. The risk assessment demonstrated that entering Stats NZ offices and attendance at events were deemed to be high risk of transmission of the virus without any controls. This was due to different variables, such as, Stats employees working in close proximity within the offices to other employees (including vulnerable employees), unknown contacts external to the organisation at the offices and events and travelling between different Stats offices. With controls applied, such as, PPE, distancing, QR codes, following the traffic light system and requiring employees to be fully vaccinated to enter Stats offices was found to significantly reduce the risk.
6. An initial step in the office environment was undertaken by Stats NZ requiring all external visitors (including contractors) to present their My Vaccine Pass to reception to enter the Stats offices for any business including meetings and events.
7. For Stats employees in office-based roles in Christchurch, Auckland and Wellington consultation commenced on 17 January with the proposal that Stats NZ employees entering any Stats offices or attending indoor/outdoor events be fully vaccinated. The consultation pack provided included the rationale for the proposal, draft Covid-19 Controls Policy, question and answers and the draft risk assessment. There was a consultation period of two weeks to provide feedback, the PSA were also consulted.

Findings

Submissions and Vaccination Status

8. During the consultation period 96 employees submitted feedback via email on the proposal from approximately 1330 employees (and contractors) who received the consultation pack. Of the submissions 77 employees indicated their preference to the proposed policy with 64% in favour and 36% not in favour of the office mandate for vaccinations.
9. All submissions were considered and reviewed on an individual basis. The feedback received was considered and it identified some areas that need further thinking and exploration. The feedback included commentary on why people were in favour or not, the consultation process and timings, the risk assessment, Policy and also included questions across a range of areas. The feedback is likely to lead to minor changes in the COVID-19 Controls Policy, process and timeline. A summary of the feedback is attached in Appendix One and all raw submissions will be circulated to the ELT for consideration.
10. In general, staff in favour of mandating vaccination thought the proposal was reasonable and fair. Many who considered themselves a vulnerable person, immune-compromised, or someone with underlying health conditions described feeling much safer in the office knowing that those around them had taken the precaution to prevent the spread of the virus by being vaccinated. Many against the mandate believed it was unreasonable and disproportional for staff to have their employment terminated given the level of risk and severity. That it would be divisive and cause unnecessary conflict, social division, and would result in enforced segregation. Whilst others stated that whatever the reasons for staff not being vaccinated should be treated with respect and not as second class citizen for exercising autonomy over their body.
11. There was quite technical feedback regarding the risk assessment, a common question raised in the feedback was that the risk assessment provided was based on the Delta rather than the Omicron variant. The risk assessment was based on Delta as this was the information available from Ministry of Health (MOH) at the time. The MOH have since updated their advice based on the Omicron variant and a new risk assessment has been drafted and circulated to the Stats NZ National HSW Committee and Health & Safety Reps for feedback. The risk assessment for Omicron continues to include vaccination as a control but introduces additional controls, as NZ moves through the phases under the red traffic light system. Additional controls include boosters, masks on the move and reducing the number of people in the office as part of business continuity planning. As new variants emerge or the environment changes the risk assessments (including controls) and the COVID-19 Policy will be reviewed, updated and consulted on as appropriate.
12. Employees during the consultation period were also asked to provide their vaccination status including the expiry date of the vaccine passport. There were 869 employees that submitted their status confirming that they are fully vaccinated with 7 people indicating that they were unvaccinated or did not want to disclose their status. Four hundred and seventy people are yet to confirm their status which includes 100 contractors.

Proposed Approach

13. Based primarily on the risk assessment, also taking into consideration the feedback, my recommendation is that we should proceed with requiring Stats NZ employees to be fully vaccinated to enter Stats NZ offices and or attend indoor/outdoor events effective from 14 March.
14. A Decision Document will be prepared for your consideration and, if agreed to, to communicate the outcome to employees. This will include responses to the feedback, rationale for the decision, the confirmed Policy and draft responses to the questions that have been raised by employees. This Decision Outcome document will be circulated to ELT for feedback (if any) and consideration by 18 February with the outcome to be announced early the week commencing 21 February.
15. Assuming a decision is made to proceed with the proposal, when the Decision Document is released, employees who have not submitted their status will be resent the link and asked to confirm their status within the following two-weeks or they will be considered unvaccinated.

16. Employees who have been classed as unvaccinated at the end of the two-week period will be engaged with on a case-by-case basis. Their individual circumstances will be discussed through with their Senior Manager in good faith and alternative working duties (if necessary) will be considered.
17. To determine if a person's role can be undertaken from out of the office on a permanent basis then a consistent set of criteria will be developed and applied. This is likely to include the following factors: tasks undertaken that require high proximity to others, interaction with external stakeholders or the community, events or meetings that require face-to-face interactions and the critical task requirements of their role that are more effectively delivered in person (i.e., negotiations, providing sensitive feedback, onboarding new employees). Where the requirement to come into the office is very infrequent (e.g., quarterly) then Rapid Antigen Testing could be considered an option as a viable control when it becomes readily available. We will work with individuals on a case-by-case basis to explore their individual circumstances and the tasks they fulfil at Stats. A process for working through individual cases will be discussed and agreed with ELT.

Recommendation

You are asked to:

- Agree to considering the recommendation that we proceed with requiring Stats NZ employees to be fully vaccinated to enter Stats NZ offices or attend indoor/outdoor events (with limited exceptions based on the roles requirements).

Please note:

- The summary of feedback is attached in Appendix One for your consideration
- All raw submissions will be circulated to the ELT for consideration and if required a session can be arranged to answer any questions
- A Decision Document will be prepared for your consideration and will be circulated by 18 February



Melisa Kappely
Chief People Officer

11 February 2022

Appendix One

Summary of Submissions from Consultation

	Responses in Favour
	<ul style="list-style-type: none"> • Most staff that replied supported the proposals deeming them reasonable and fair • Many who considered themselves a vulnerable person, immuno-compromised, or someone with underlying health conditions described feeling much safer and more comfortable being in the office knowing that those around them had taken the precaution to prevent the spread of the virus by being vaccinated, whilst others did not want to effectively exclude such staff members as it would not be safe for them without such a policy • For other staff they were in favour of implementing the policy believing that it would make them safer and provide much needed reassurance, and that the policy was necessary to protect all staff, their whānau, and our communities • Others detailed that working in a safe workplace environment was a fundamental right and that given the rise of close proximity collaborative working and flexible workspaces where physical distancing in meeting rooms, bathrooms, kitchenettes and lifts are almost impossible to ensure, vaccination of all office staff was an effective health and safety measure • Many spoke of their preference to work from the office for a multitude of reasons including higher productivity, social connection, separation of work and home life • Others favoured implementation of the policy as it would facilitate their return to the office for those currently working from home given their current concerns regarding the risk of infection, and for others, it would provide them with a sense of security going forward to remain working in the office especially if Omicron was spreading in the community • Some felt that as a government organisation and as public servants we have a duty to role model behaviours that the Government is asking of citizens such as getting vaccinated, and to reinforcing the message that the COVID-19 vaccine is safe and effective in controlling the spread of the disease • Stats NZ has already adopted a policy that both Collection Operations and visitors must be vaccinated and so we should adopt a consistent approach
	Responses Not in Favour
	<ul style="list-style-type: none"> • Many who were against implementing a vaccination mandate for office staff believed that it was unreasonable given the risk and its severity, that it would be divisive and cause unnecessary conflict, social division, and would result in enforced segregation, whilst others stated that whatever the reasons for staff not being vaccinated should be treated with respect and not as second class citizens for exercising autonomy over their body • The potential impact of staff having their employment terminated was disproportionate, and unvaccinated staff were being overly disadvantaged as another approach could be to encourage those who consider themselves vulnerable to work from home or directly consult with them to understand their preference and develop tailored plans for them • Others raised privacy and wellbeing concerns given if a staff member chooses not to disclose their vaccination status, it would be assumed that they were unvaccinated, and so pose a significant risk to psychological safety as it would create a situation where staff would in effect have their personal medical choices 'outed' leading to discrimination by other staff, impacting morale and their relationships with others • That the policy proposed was inconsistent with Stats NZ's own COVID-19 Protection Framework as under both the Orange and Red settings, staff have the option to work from home if they are more comfortable doing so, and under the Green setting, people concerned about positive cases in their environment have the option to work remotely. Therefore, following those established guidelines for both vaccinated and unvaccinated was a fairer approach

- A strong feeling amongst others was that a vaccination mandate was not essential as there are numerous routes-in for COVID-19 within the office environment and other preventative measures could be taken to reduce risk e.g. testing; face masks; ventilation; social distancing
- Some argued that the policy breached the Employment Relations Act 2000, contravened the New Zealand Bill of Rights Act 1990, and that it is not reasonable for Stats NZ to require vaccinations when using the Government's own vaccination assessment tool for assessing such a requirement
- Some felt the consultation period and the consideration of feedback was too short given the significance of the impact and implications of such a decision on staff, and so both the consultation and decision period should be extended
- Some believed that Stats NZ had failed to afford procedural fairness and natural justice, whilst another questioned the extent to which iwi and TTRAM had been consulted and Te Tiriti o Waitangi obligations considered
- Others stated that the process lacked transparency as Stats NZ had not committed to release all feedback received, and that an anonymous feedback mechanism was not provided
- That the timeframe in which to be fully vaccinated was unrealistic especially if staff needed to consult their GP, to seek an exemption through the Ministry of Health process, or if they preferred to receive the new Novavax vaccine
- It would negatively impact on Stats NZ's commitment to diversity and inclusion, conflict with our Wellbeing Policy, make our recruitment challenges even harder, exacerbate business continuity concerns, and go against the Stats Way and our "bringing our whole selves to work" ethos
- Others felt that it was unreasonable to require a 100% vaccination rate for office based staff given the Ministry of Health target of 90%, and with vaccination rates within Stats NZ already likely to be above that number, it would be a high cost for possibly small gains, and this low number of unvaccinated staff would not significantly change the risk likelihood
- Others questioned the safety of the COVID-19 vaccination itself and its efficacy when it came to the omicron variant as they stated it did not eliminate the spread of COVID-19 infections, only diminishing the risk and impact, and so vulnerable staff could still catch COVID-19 within a fully vaccinated office
- It was also raised there would be implications for Stats NZ under the Health and Safety at Work Act 2015 in relation to recklessly causing death, serious injury or serious illness due to mandating a vaccination
- Others were opposed to restrictions on freedoms by government and government employers both in terms of the vaccination and the issuing, collecting and storing of the Vaccine Pass itself
- That Stats NZ was acting without a Government mandate and so should only be taking such measures if imposed on it
- The policy information referred to community transmission, but Stats NZ is not under any legal obligation to resolve community transmission.
- Given the financial implication of losing employment, some felt this should be considered coercion, and so Stats NZ was putting staff under undue influence and duress to agree to an unwanted medical treatment
- The risk of transmission arises when a staff member has COVID-19, and so a unvaccinated staff member should not be considered to be any more of a risk than a vaccinated staff member. Vaccination status was irrelevant as should any staff member contract COVID-19 they will need to isolate and work from home by default
- Stats NZ conflates exposure to COVID-19 with infection, illness and transmission despite the majority of those exposed to COVID-19 not contract it, and even less become unwell as a result
- Office staff would not be engaging in work activities that put them at a greater risk of exposure to COVID-19 than they would be on public transport or public spaces

Risk Assessment Considerations

Further Consideration

- **Risk assessment:**
 - With specific regard to:

- Risk Context 1 (Frequent contact with customers, visitors and contractors at Stats NZ offices):
 - To increase the risk likelihood given concerns around Stats NZ's offices being shared with other agencies or organisation
 - To reduce the risk likelihood given the risk assessment fails to establish contraction and transmission of COVID-19 above the risk faced outside of work, and so the work environment possess no or only a marginal additional risk
- Risk Context 2 (Attending indoor community events):
 - To increase the risk likelihood due to some indoor venues having uncontrolled public access
 - To reduce the risk likelihood given the risk assessment fails to establish contraction and transmission of COVID-19 above the risk faced outside of work, and depending on the traffic light system status, unvaccinated individuals would be unable to attend such events at certain times regardless
- Risk Context 3 (Attending outdoor events):
 - To reduce the risk likelihood given the risk assessment fails to establish contraction and transmission of COVID-19 above the risk faced outside of work
- Risk context 4 (Frequent visits to multiple stats offices [Wellington, Christchurch, Auckland]):
 - To reduce the risk likelihood given the risk assessment fails to establish contraction and transmission of COVID-19 above the risk faced outside of work
- Risk Context 5 (Work at a Stats NZ Offices in close contact with other workers [Wellington, Christchurch, Auckland]):
 - To increase the risk likelihood due to the large volume of recruitment and travel planned
 - To reduce the risk likelihood given the risk assessment fails to establish contraction and transmission of COVID-19 above the risk faced outside of work
- The risk assessment should explore additional control measures such as temporarily suspending hotdesking, activity-based working, social gathering, use of meeting rooms, travel to other Stats NZ offices, implementing mandatory mask wearing, or by limiting desk and meeting room use, along with restricting the numbers of staff in the office by implementing a rostering system to limit exposure and support business continuity, and that working from home for unvaccinated staff should itself be a control measure
- The risk assessment includes only the worst case scenario of fatality, which results in a disproportionate focus on perceived risk, especially due to the belief that omicron does not present a morbid risk and so should be reviewed
- Stats NZ should provide clear guidance and reinforcement of all control measures, along with detailing the function of the controls and the logic supporting the implementation of them, how the effectiveness of the controls are monitored, and conduct a risk assessment of each proposed control measure especially the COVID-19 vaccination given that there are known adverse effects associated with the vaccine and that there are significant consequences on the mental health, wellbeing of staff given the mandatory requirement for vaccination
- Clarification provided around whether a similar policy has been or will be adopted by other agencies or organisation in the same building, and what steps Stats NZ will make to reduce unknown contacts/external visitors or enforce the same standard of requirements on them as these other agencies and organisations will have customers, clients, visitors, contractors, and service providers sharing the lifts, toilets, and communal areas with Stats NZ staff.
- A criteria detailing when the controls proposed may be relaxed in the future
- Further information on the data and methodology relied on to formulate the risk assessment, that all statements are specific and substantiated, and the basis on which

	<p>conclusions were reached are clear</p> <ul style="list-style-type: none"> ○ There is no consideration to how the omicron variant will change the risk profile from both the perspective of the increased transmission rate associated with this variant and so the likelihood of all five risk contexts should be raised to almost certain, and evidence that that vaccines appear to be less effective at managing spread of omicron compared to delta and so this needs to be reflected in the risk assessment. ○ Several preferred to focus frequent rapid antigen, breath, and atmospheric testing rather than vaccination, and that a negative test result would provide more reassurance than vaccination status ○ Details on how Stats NZ will ensure that unvaccinated staff will not come into physical contact with others in the office or at Stats NZ events ○ Consideration should be given to the possible exposure to COVID-19 whilst commuting to work, especially when using public transport, and this should also inform our Travel Policy e.g. only using providers that require proof of vaccination status ○ The risk assessment only compares no control measures against a suite of control measures including vaccination, and should therefore undertake a third assessment which contained all other control measures expect the vaccination so that the residual risk could be evaluated ○ As the vaccination profile of staff was unknown at the time of the risk assessment this should be updated post consultation which would reflects the revised risk based on these numbers ○ The risk assessment does not adequately demonstrate or explain the likely or relative risks of contracting COVID-19 in the workplace on a site by site or role by role basis e.g. a receptionist who deals regularly with external visitors will require different risk mitigations to an analyst who predominantly works from home and interacts with their team via Microsoft Teams, nor does it detail the impact of this e.g. serious illness or death ○ To provide a more accessible simplified document in plain and consistent language, separating out the policy from the guidelines, as some found the consultation document unclear and the risk matrices confusing ○ Consideration should be given in the risk assessment to employees who predominantly work from home but enter the offices for only limited activities ○ Given that unvaccinated staff are unable to attend events and many public and private facilities, they have a lower risk of being exposed to COVID-19 and so vaccinated staff would pose a higher transmission and/or contraction risk to other staff
	<p>Feedback re Covid-19 Controls Policy</p>
	<ul style="list-style-type: none"> ○ Some questioned how staff that have medical exceptions to the vaccinee would be supported and how alternative work would be identified that would be different to those without medical exceptions ○ Additional support offered to those that have side effects or that aggravate pre-existing illnesses or conditions as a result of receiving a COVID-19 vaccination ○ Redundancy terms should apply if termination of employment is the final result of not providing evidence of fully-vaccination status ○ Concerns that the determination of whether a role can be exclusively preformed from home without a set criteria is open to interpretation and possible inconsistent determinations, and that although it could be decided that a role could theoretically work from home for an extended period this may not be desirable in the longer term as being together in the office is crucial to team culture, including sharing and learning from one another, and that Microsoft Teams is a supplemental system which does not replace in-person face-to-face contact. Also by allowing unvaccinated staff to exclusively work from home, this could create inequitable outcomes for vaccinated employees who may not be able to benefit from such an agreement ○ The Policy document does not explicitly state that all office based staff will need to be

- vaccinated, only the consultation document does
- Questioned the appropriateness of using the Vaccine Pass as a means of confirming vaccination status as they do not prove if someone was vaccinated or not, as people with exemptions to vaccination are provided with a My Vaccine Pass. If Vaccine Passes are used to verify vaccination status, both new and existing staff should be made aware of the risks related to COVID-19 in their work duties and how these duties compare to risk factors described in the HRC and WorkSafe's policies
 - A request for Stats NZ to considers mandating other vaccines such as measles for staff who interact with the community
 - A policy review date should be detailed
 - The proposed 1 March 2022 implementation date should be brought forward as a result of omicron now being present in the community
 - Some proposed Stats NZ set two dates, one date for staff to have received their first COVID-19 vaccination and a second date for full vaccination
 - To stand down staff without pay should they not provide their vaccination status and they be unable to work from home
 - Some asked for Stats NZ to provide an exemption process either without question, or on the basis of personal, medical, or belief reasons without the requirement of a Ministry of Health certificate
 - All unvaccinated staff should temporarily be able to work from home until such a time that the policy is reviewed or the pandemic becomes endemic, should this not be possible, every effort should be made to find alternative roles even if it is completely different from their current work, and should this also not be possible, unpaid extended leave for a stated period be provided.
 - That fully vaccinated status remain as two main vaccinations and not any subsequent boosters, whilst others requested that boosters be added to the requirement when staff become eligible to receive them

Questions

- Will unvaccinated staff be offered additional payment and/or equipment should it be accepted that they can work from home indefinitely?
- Have contractors that are paid directly or indirectly e.g. Deloitte by Stats NZ be required to prove vaccination status?
- Will staff be required to wear masks in all parts of the office, if so, what quality masks are required e.g. P2 or N95, and will these be provisioned for staff?
- What ventilation systems exist in Stats NZ offices to reduce aerosol transmission e.g. HEPA filters?
- How will vaccination record be stored, how long for, and will this be shared externally?
- Will there be a requirement for staff to have ongoing boosters, and if so, what timeframe would be provided?
- Will exposed or isolating staff be provided with additional COVID-19 leave in addition to their sick leave allowance?
- Is the Vaccine Pass expiry date being used for any specific purpose?
- Does Stats NZ intend on immediately tightening hygiene practices such as: mandatory face masks at desks; increasing the availability and checks on disinfectant wipes, hand sanitiser, and wooden sticks for making hot drinks; increasing the frequency of professional cleaning of desks, equipment and shared spaces?
- What documents and guidelines did Stats NZ reply on in developing the policy and risk assessment?
- What will the process be for deciding if a role can be undertaken from home, and how long would that be in effect for?
- Where staff, union delegates and Health and Safety representatives involved in the process of developing the policy and risk assessment?
- Did the PSA agreed on the policy and the circumstances around termination of employment?
- Will Stats NZ provide compensation for staff injured as a result of receiving the COVID-19 vaccination as a result of the mandatory requirement?

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| | <ul style="list-style-type: none">• Why would Stats NZ dismiss staff when other viable options are available?• How was close proximity defined?• Should an office based staff member have symptoms consistent with COVID-19, will Stats NZ require the relevant office to be vacated?• Why is the vaccination mandate only coming into effect now?• What were the risks of death or serious illness to Stats NZ employees by age category, and what were the sources of data regarding survival rates relied on to assess the risk?• How did Stats NZ determine that staff were at higher risk of infection and transmission of COVID-19 in each work environments in comparison to the risk outside of work?• What alternatives were considered as a risk mitigation strategy?• What methodology was used to determine the definitions in the risk assessment of Likelihood i.e. Rare, Unlikely, Possible, Likely, Almost Certain?• How have Stats NZ been able to identify that all staff in all units and offices are working within distances of less an 2m?• What is Stats NZ's definition of 'Severe Illness'? |
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