



**COVID-19
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ETUC BRIEFING
NOTE
ON MANDATORY
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1 OCTOBER 2021**

ETUC briefing note on mandatory Covid-19 vaccination schemes

Mandatory vaccination at workplaces is increasingly discussed. Such schemes are being implemented or discussed in the Europe – for the public sector, within the health sector, but also for the private sector. Other similar initiatives, like ending compensation for unvaccinated employees who are required to observe mandatory quarantine have also been established in some Member States.

These initiatives raise several questions, e.g., occupational health and safety, labour law, privacy and fundamental rights issues. But it also challenges us as trade unions.

With this Covid-19 briefing, ETUC aims at providing a compilation of evidence from its affiliated members provide for a better understanding of the different approaches taken across the EU. It will also serve as the basis for an upcoming debate of ETUC around the formulation of a trade union response.

Contributions have been received from Austria, Belgium, Croatia, Finland, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, The Netherlands, Turkey, and the UK.

This compilation responds to questions on whether compulsory vaccination schemes have been established across the EU, and in the positive case, whether this apply only to certain sectors and if these have been negotiated by social partners. This document also aims at taking stock of the positions of the different organisations on this issue.

As shown in detail in the compilation, no trade union Confederation has taken a decision in favour of compulsory vaccination. Virtually all respondents advocate for voluntary vaccination schemes and engage in campaigns to encourage workers and the whole population to get vaccinated. Many ETUC members have expressed concerns against compulsory vaccination schemes for workers, particularly in matters of potential redundancies and discriminatory practices and on the basis of the respect to fundamental rights.

In countries where mandatory vaccination schemes have been established, concern has been raised by some respondents on the bypassing of trade unions in the setting up of these measures. There is a strong call to respect social dialogue in the discussion about vaccination schemes and any work-related measure related to the vaccination condition.

Considering the great deal of interest on this topic, ETUC will engage in further work on this issue with its member organisations.



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At European level, the European Trade Union Committee for Education is also collecting on-ground feedback from its member organisations, as workers in the educational sector across Europe are reporting increasing concerns regarding ongoing discussions by national governments to make vaccinations mandatory for their workers. In the previous months, ETUCE has been advocating for teachers to be prioritised in the national vaccination campaigns while safeguarding the individual free choice of each teacher to get the vaccine or not. While currently facing increasing attempts from governments to impose the COVID-19 vaccines, ETUCE has taken the decision that vaccinations for teachers and education personnel should remain voluntary-based and that any threat to working conditions and salaries of non-vaccinated education staff is unacceptable. ETUCE further support that any decision taken at the national level needs to be negotiated and agreed with the social partners, taking into account the national context. This is also enshrined in the ILO recommendations, stating that the social partners should be involved in any discussion on whether mandatory vaccinations are the necessary and appropriate means to protect and ensure workers' health and safety. Some developments at national level in this sector are included in the country compilation shown below.

One note of caution, this briefing note captures a dynamic situation which is subject to ongoing change. We therefore kindly ask affiliates to provide us with further information on COVID 19 vaccination-related measures that have been introduced in your country so that we can update this briefing note.

Austria

There is no general compulsory vaccination for employees in Austria. However, some employers have imposed compulsory vaccination against Covid-19 for new employees, e.g., in the educational and in the health care sector. In these cases, the vaccination is a precondition to get the job. Also, unvaccinated unemployed workers refusing a job on vaccination grounds may see their benefits being suspended for up to six weeks. This condition does not apply to people who cannot be vaccinated, and the decision to suspend benefits will be made on a case-by-case basis.

In principle, the ÖGB advocates a high proportion of vaccinated population, but sees voluntary access to vaccination as the more successful way to achieve this goal.

Belgium

The Federal Ministries of Employment and Health have requested an opinion to the social partners on the possibility of an obligatory vaccination for health workers, which will be complete in two week-time by the time of the publication of this briefing note.

There are also discussions around the introduction of a tool that can provide a company's staff vaccination rate on an anonymous basis has been available for occupational physicians will in



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companies with more than 50 staff. This tool will aim at providing information on the percentage of vaccinated employees in order to adapt the workplace with the appropriate health measures.

At company level, Swiss airlines intends to lay off flying personnel who do not get vaccinated against the coronavirus. The airline made vaccination mandatory for pilots and cabin crew in August and established December 1 as the deadline for every worker to be vaccinated.

Croatia

Croatia has introduced compulsory COVID certificates for two sectors: health care and social care. This obligation does not impose obligatory vaccination but the possession of COVID certificate (i.e., either a proof of vaccination, proof of recovery from Covid-19 or a PCR negative test). Those without a certificate will have to undergo testing once a week. The testing will be free of charge during the first month of the introduction of the scheme, and afterwards the cost will have to be paid by workers themselves.

The scheme has not been introduced as the outcome of social dialogue negotiations. The trade union of healthcare and social care of Croatia (SSZSSH), an UATUC affiliate, has requested meetings with the Government and the competent ministries, and the issue has been a matter of discussion within a broader debate at the tripartite level concerning the obligatory vaccination and not within a formal social dialogue procedure. The Trade Union has requested that the decision on compulsory vaccination scheme for healthcare workers is properly tackled through formal social dialogue.

The Croatian government has also decided not to extend job retention schemes for unvaccinated workers [the same relates to the (non)possession of Covid certificates]. More precisely, subsidies will be granted for all workers in companies where 70 % of workers are vaccinated; those where less than 70 % are vaccinated will receive the subsidy proportional to the share of workers with Covid certificates in the total number of workers at the level of the company. This decision applies since 2021.

The issue of vaccination and Covid certificates was a subject of the meeting at the tripartite level (Ministry of Labour, representative trade union confederations, including UATUC, and employers' association) held early September at the employers' initiative, to discuss the question of the (non)refusing the testing (if a worker does not have Covid certificate) as well as the issue of costs of issuing Covid certificates for business trips and if workers may refuse testing, as one of the problems faced in practice. The employers, namely, want to unilaterally (through by-laws or employer's decision) shift the costs of testing on workers. The position of the social partners, at the time being, is that the Ministry will not draft an opinion on steps taken in case when workers refuse testing to get the Covid certificate for business trips, since this affects other issues which fall outside the scope of competence of the Ministry, and courts would rule on case-by-case basis. Trade union confederations and the Ministry agreed that the issue should be settled at the bipartite level, e.g. through collective agreements, especially since the issue of costs for business trips is not regulated by law.



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While UATUC supports broader vaccination efforts, it has also not taken an official position on the matter of compulsory vaccination schemes – Covid certificates. SSZSSH – UATUC, the trade union of healthcare and social care has not taken a formal decision on the issue yet, however the position is that until a law stipulates differently, all workers should be treated equally, including workers in the healthcare and social care, in a way that vaccination is regulated as a right and not an obligation, therefore they oppose compulsory vaccination.

UATUC has opposed the introduction of additional criteria for granting subsidies for preservation of jobs, based on percentage of vaccinated workers i.e. possession of the Covid certificate.

Finland

No general compulsory vaccination schemes have been established, but according to the Act for Infectious Diseases (not the labour code), vaccination schemes are compulsory in the health sector. This Act is prior to the outburst of Covid and at the time of its discussion, trade union participated in hearing where they expressed their opposition to compulsory vaccination, yet the Ministry of Health passed the law anyway which was latterly adopted in the Parliament.

The three Finnish confederations believe vaccination should be voluntary; they have however taken an active role in supporting and promoting vaccinations, both for the general public and for specific professional groups (and especially in the health sector), as well as for the importance of observing the protective and preventive measures recommended, both those who are vaccinated and those who are not. The trade union confederations state that vaccination is an invasive measure and may include side effects or risks for certain people (e.g., due to their previous health condition). For this reason, both privacy and freedom of choice should be respected. An exception in this principle now would pose an unprecedented and undesirable example for other potential situations in the future.

France

After a quite radical legal proposal, the final revised text by the Constitutional Council does not mention dismissal.

The Constitutional Council have modified a first quite radical legal proposal in which workers could be made redundant if they reject to get vaccinated. The new version normalizes that if workers in the identified sectors or workplaces where vaccination is deemed mandatory refuse to get vaccinated, employers can suspend the work contract and remuneration but not dismiss the worker. Within 3 days since the communication of the worker on his / her refusal to get vaccinated, employers have to consult with the workers in question to find an alternative (within the enterprise).

Germany



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On September 22nd, the Health Ministers for the Federal State and the 16 Länder decided the end salary compensation for employees who have not been vaccinated against Covid-19 and who have to quarantine. Compensation shall continue to be granted to persons for whom there was no public recommendation for vaccination against COVID-19 in a period of up to eight weeks prior to the order of discontinuation or the ban on activities. The same applies if a medical contraindication to COVID-19 vaccination is confirmed by a medical test.

There is no legal obligation to vaccinate against Sars-CoV-2, not even for certain occupational groups. It is also not currently expected that such a duty will be introduced. In principle, the employer cannot demand such vaccination.

As there is no obligation to vaccinate, the employer cannot take action against those who have not been vaccinated or do not intend to be. The employer therefore remains obliged under the employment contract to employ, regardless of the vaccination status. There must also be no discrimination in the employment relationship on the basis of vaccination status.

In contrast to this, in some federal states (e.g. Hamburg and Baden-Württemberg) there are legal ordinances that allow establishments to introduce a so-called “2G option”, which allows for some public functions exclusively for vaccinated and recovered persons. Employees who work with the public or with customers are also to be covered by the “2G option” according to the regulations of the Länder. The effects of these models on employment relationships are to be very critically evaluated, but a legal classification is only possible by considering all aspects of the individual case and legal advice is therefore recommended.

A real debate on compulsory vaccination schemes has not been taken place so far since all politicians were against it until now. DGB supported this position. Vaccination is not an instrument of occupational safety and health and cannot replace it. Occupational health and safety must ensure safety and health at work regardless of the vaccination status of workers.

DGB also supports campaigns to get more people vaccinated voluntarily since it is more effective to promote vaccination than to keep increasing the pressure on those unvaccinated. For months, the DGB and its member unions have been playing an active role in accelerating the pace of vaccination in Germany and they called on employers to promote vaccinations and make them possible during working hours.

Nevertheless, as the example of Hamburg shows, there are some attempts to implement an indirect compulsory vaccination. DGB has taken a critical stand against this. Besides, DGB is against ending compensation for unvaccinated employees who are required to observe mandatory quarantine.

Hungary



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The vaccination is compulsory in the health and social sector and the Government is currently discussing the possibility of extending the measure to the educational sector. This regulation currently applies in the public sector and was not negotiated by the trade unions. The government is currently considering extending it to the private sector.

SZEF adopted a closing resolution at its congress of May 13th which recommended all workers to be vaccinated voluntarily. This call was complemented by a demand to restoring and strengthening social dialogue, since this issue and other similar questions should be discussed with the social partners.

Italy

Mandatory vaccination schemes for the prevention of SARS-CoV-2 infection have been established in Italy for the health professionals and healthcare workers who carry out their activities in public and private health, social and care facilities, pharmacies, para-pharmacies and professional practices, workers employed in residential, social care and medical facilities, who are obliged to undergo free vaccination.

Where possible, the employer shall assign the unvaccinated worker to duties which do not entail any risk of spreading the infection (even inferior in the occupational scale to those previously performed). When it is not possible to assign the worker to different tasks, no salary nor any other remuneration shall be paid for the period of suspension. The suspension shall remain in effect until the mandatory vaccination is carried out or, in case of no vaccination, until the national vaccination plan is completed and, in any case, no later than December 31, 2021.

The mandatory vaccination requirement does not apply to the subjects exempted from the vaccination campaign on the basis of appropriate medical certification.

The above-mentioned measures regarding vaccination have not been consulted with social partners.

In Italy, besides the mandatory vaccination requirement for the workers of the sectors described above, there is a Green Pass requirement, which certifies one of the following conditions:

- Completed vaccination against SARS-CoV-2 at the end of the prescribed cycle.
- Recovery from COVID-19, with simultaneous termination of the prescribed isolation following infection with SARS-CoV-2, in accordance with the criteria established in the circular letters of the Health Ministry.
- Negative quick antigenic or molecular test for SARS-CoV-2 (the molecular test makes the Green Pass valid for 72 hours, while the quick antigen test is valid for 48 hours).

A decree adopted on September 21 and currently known as "Super Green Pass", established that the Green Pass will be mandatory from October 15, 2021 for all workers,



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both public and private, self-employed, professional firms, lawyers, commercial agents, domestic workers, caregivers, taxi drivers, freelancers and, in general, all subjects who carry out their work, training or voluntary activities in the workplace for any reason.

Public and private workers will not be allowed to enter the workplace if they do not show the Green Pass. In the absence of the Green Pass, both public and private workers will be considered unjustified absentees, from the first day. Special arrangements are in place for workers in private companies with up to 15 workers where, in the event of failure to provide the Green Pass, after the fifth day they will be suspended from work and may be replaced for the whole duration of the contract (but not beyond 10 days), renewable once. In all the above-mentioned cases, there is no pay or any other remuneration, starting from the first moment of unjustified absence, with the right, however, to maintain the employment relationship, without disciplinary consequences.

Penalties are envisaged for the worker found without Green Pass in the workplace and for the employer who does not draw up the organisational arrangements for checks. The employer can formally appoint another person to carry out checks, which should preferably take place at the moment of access to the workplace.

Measures regarding the mandatory nature of the Green Pass have been subject to consultation with social partners, but the request to make the tests free for all unvaccinated workers has not been accepted. The free test is envisaged only for the subjects exempt from the vaccination campaign on the basis of appropriate medical certification.

Ireland

There are not compulsory vaccination schemes against Covid-19 in Ireland. There are a number of legal obstacles to this, in particular rights to bodily integrity under our constitution that have been established by the Supreme Court. In 1965, the Supreme Court first recognised that the right to bodily integrity is protected by Article 40.3.2 of the Constitution . That was more recently affirmed by the Supreme Court in a case involving the taking of a blood test from an infant whose parents objected to the procedure . It is now well settled that a person may not be required to undergo a medical procedure against their will. Even where a person is incapable of making a decision concerning their own welfare, a necessary medical procedure can only be undertaken on foot of a court order. The right to bodily integrity is also protected by Article 8 of the European Convention on Human Rights.

In regard to the second question, ICTU has encouraged vaccination and Ireland now has one of the highest vaccination rates in Europe. Notwithstanding the fact that there has been widespread participation in the vaccination programme, there are cohorts of workers who may not be vaccinated. However, ICTU agrees with the Government's non- mandatory approach accepts that there are strong Constitutional, legal and human rights reasons underpinning same. While the issue will inevitably result in some conflict in workplaces, ICTU



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believes that this should be managed within an overall framework agreement with the employer side, in both the public and private sectors.

Latvia

The new regulation imposes an obligation to vaccinate for certain professions - employees working in education, including those in pre-school, primary and secondary education and higher education, employees in non-formal education and teachers within professional development programs, students in colleges and universities, and service providers who are contact with the learners at the place where services are provided. The requirement of obligatory vaccination is also imposed on healthcare providers, including employees of pharmacies working with clients, as well as those working in long-term social care.

The regulation also creates autonomy for employer to determine necessity to get vaccinated. From October 11, the employer may impose a vaccination requirement on employees if the employee works in direct contact with customers, in direct contact with other employees, as well as the fact of vaccination is necessary to ensure the continuity of the company's operations.

The new vaccination requirements will take effect on November 15. During the transition period from 11 October to 15 November, for employees of health, social care and education institutions who have started vaccination process expenses of Covid testing for work duties will be covered from the state budget. In other sectors of employment, employees will take the Covid tests at their own expense or agree with the employer on another solution. The regulation does not provide for any work alternatives for unvaccinated employees. Moreover, the regulation is not clear on dismissal of workers who refuse to get vaccinated. These workers can be sent to furlough without remuneration paid for this period. The government will design the draft regulation for dismissal of unvaccinated workers.

LBAS official position is that vaccination should be facilitated by the government. It should however remain a voluntary activity, providing workers with a possibility to fulfil work duties with a negative Covid tests.

In addition, LBAS and its affiliated trade union Latvian Trade Union of Education and Science Employees (LIZDA) raise concerns that the adopted regulation will result in raising numbers of teachers who will leave jobs due to non-consent to get vaccinated. This in turn will raise workload of remaining teachers. LBAS already previously highlighted the shortage of education workers; this latest regulation will only worsen the situation.

Lithuania

No compulsory vaccination schemes have been established in Lithuania. However, mandatory test should be undertaken every 7-10 days in the following sectors: health care; social services and activities; education; pharmacies; international freight transport; public transport and



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private transport of passengers; leisure; entertainment; and cultural activities (if organizing events or providing visitor service); catering; public administration; industry; army; retail; and migration services. Vaccinated workers or those who can proof recovery are exempted from this obligation.

The development of these schemes is a result of a uneven process of social dialogue. The Lithuanian trade unions achieved that those workers who are not vaccinated would not be suspended from work and that tests would be free for workers. Currently the Lithuanian Trade Union Confederation is seeking that the testing time would be considered as working time, a demand which face the opposition of some employers.

While supporting the importance of vaccination for workers, LPSK is against mandatory vaccination schemes. The Confederation states that those workers who are not vaccinated should not be suspended from their work, a demand which has successfully been respected.

Poland

Compulsory vaccination schemes have not been established in Poland and the trade unions have not taken an official position on this issue.

Portugal

In Portugal, vaccination against COVID 19 is not mandatory under any circumstances. Vaccination in Portugal is generally not mandatory.

The CGTP-IN understands that the requirement of vaccination would be completely unacceptable and a clear violation of the Constitution of the Portuguese Republic, as it would violate the principle of equality that our fundamental law stipulates. The CGTP-IN understands that any discrimination in access to employment and work, namely in terms of health conditions, should be prohibited. The Confederation supports nonetheless the importance that companies develop, as part of their occupational health and safety services, information campaigns advising workers to opt for vaccination against COVID-19.

Regarding the compulsory testing schemes, the CGTP-IN also understands that there is no legal basis for employers to demand systematic and massive testing of workers and to impose on workers the cost of testing (as some employers have been trying to do).

Slovenia

No compulsory vaccination schemes have been established in Slovenia. However, testing schemes are compulsory for workers who are not fully vaccinated. ETUCE has reported that education trade unions from Slovenia report that the government is currently discussing to make vaccinations directly or indirectly (through the obligation of the Green Pass) mandatory



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for teachers and education personnel with the consequences for non-compliant workers to be dismissed or suspended from their job.

The current legislation instructs that the employer may demand more frequent testing. The employer must organise safe conditions for testing and must also carry the costs of the testing. The state budget pays the cost of testing for persons with the personal physician confirmation that they have not been vaccinated for health reasons.

ZSSS has issued several documents in which it explains that the employer may recommend vaccination to the employees but shall not discriminate in any way non vaccinated workers.

ZSS has no intention take a stand on compulsory vaccination. While understanding that vaccination is a personal decision, ZSSS however recommends to its members and all Slovenian workers to get vaccinated against Covid-19. A considerable amount of people in Slovenia have strong personal concerns concerning safety of covid vaccines and the anti-vaccination civil movement is very active on social media. The results of the last 15th government survey on vaccination situation in Slovenia reports that as many as 29,1 % of surveyed persons report that they have no intention to be vaccinated.

Slovakia

Vaccination schemes are voluntary and financed by the public health insurance (without any additional fees for all categories of employees).

The trade union movement have not taken a position on the vaccination schemes.

Spain

Spanish legislation establishes, as a general principle, that vaccination is a right not an obligation, however, specific regulations provide for the possibility of compulsory vaccination under very specific conditions.

Following decisions being taken in other EU countries, Spain has also opened the debate on the compulsory nature of vaccines, but this is limited to workers in the health and social-health sector, and not to the population as a whole. Recently, the authorities have recommended the possibility of carrying out 2 diagnostic tests per week for workers who refuse to be vaccinated.

The Spanish strategy on Covid-19 vaccination includes the record cases of refusal of vaccination in the public register, in order to know the possible reasons for reluctance in different population groups.

Some Autonomous Communities (regions) are in favour of compulsory vaccination in the health and social sectors. Some of these autonomous governments have already carried out several attempts that have been suspended by the Constitutional Court or the High Courts of



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Justice (regional Courts). In any case, the Ministry of Health is, for the moment, against this measure. As an example, it is worth mentioning that the Constitutional Court recently suspended as a precautionary measure the Galician Health Law which included the obligation to be vaccinated against COVID-19 and provided for fines for those who did not do so. The suspension is based on the fact that this regulation implies "a coercive bodily intervention practiced outside the will of the citizen".

The position on Covid-19 vaccination of the two main Spanish Confederations is very similar.

UGT states that vaccination among workers should not be mandatory, unless the health authorities require it. Vaccination is any case advisable. No worker should be forced to be vaccinated, since it is a personal decision, an individual freedom. This decision should not be left in the hands of companies as it can lead to discriminatory situations, for example, in access to jobs or internal promotions.

CCOO supported the decisions of the health authorities. CCOO considers compulsory vaccination unnecessary, given the high level of acceptance of the Covid vaccine in Spain.

Sweden

There is no general obligation to get vaccinated, which virtually means that workers have the right to refuse.

This means that employers cannot make such demands either. According to the Employment Protection Act, it is not legal to dismiss an employee due to refusing to be vaccinated.

The trade unions do not have the legal authority to enter into negotiations aiming at collective agreements stating that it directly or indirectly means a compulsion for members/employees to get vaccinated. LO is not aware that a collective agreement has been reached that regulates the issue of access to the workplace for people who have not been vaccinated. On the other hand, we know that there have been discussions between the trade unions and employers at different levels about how infection control in workplaces should be handled, especially in sectors like care, where workers are exposed to physical contact with people during their working days.

TCO has not developed any policy at this regard.

LO states that the employer must in every way encourage and facilitate the employees to be vaccinated. This means, for example, that no deduction should be made from the salary if employees have to go to be vaccinated during working hours. Employers are responsible for the work environment and must ensure that the workplace is safe. For an employee, it can in some cases mean a temporary relocation if the security cannot be achieved in any other way.

The Netherlands



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Vaccination is not compulsory in the Netherlands but administered on a voluntary basis. Some healthcare occupations and vulnerable groups have been given priority with the vaccination scheme. Furthermore, the vaccination was offered on the basis of age from old to young.

The explicit lack of legal justification for submitting test and vaccination evidence means that processing this information (including obtaining it without saving the data, or under a promise to destroy it later) is prohibited under the privacy legislation (GDPR). In line with this, an employer cannot impose a testing or vaccination obligation, because the data that forms the basis for such a policy cannot be processed.

On this moment there are no legal options in the Netherlands for employers to record the vaccination status of employees. However, the occupational doctor can check the vaccination status of the employees. The occupational doctor can give anonymous feedback about the vaccination status of the staff to the employer.

As a social partner, FNV shall be entitled to communicate its position on this issue to the government. However, the government has been determining the vaccination policy unilaterally.

On this moment, problems arise for workers in an international context, such as offshore work, international transport and cabin crew flying to various Europe countries. An unambiguous policy within Europe in which the rights of employees are guaranteed is therefore needed. The union stands against compulsory vaccination on the basis of respect to fundamental rights, more concretely the rights to privacy and physical integrity.

Turkey

There are no compulsory vaccination schemes implemented in Turkey. Alternative measures in place require non-vaccinated teachers and education personnel to take a PCR test twice a week, yet current data imply that it is not actively implemented.

There are however informal Governmental discussions which point at the possibility of making vaccination mandatory for public employees.

UK

UK government will make covid vaccination mandatory for care home staff from October and is considering whether to extend the policy to NHS staff (the whole of the national health system). The UK government ran a public consultation on mandatory vaccination for frontline



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health and social care staff in England, so it is not reserving social partners a privileged channel of negotiation.

In early January the TUC joined the Let's Vaccinate Britain [campaign](https://www.tuc.org.uk/blogs/lets-vaccinate-britain-time-trade-union-members-step).

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And our teachers' union NEU also called for teachers and other education personnel to be a key target of national vaccination campaigns.

However, the TUC remains of the view that compulsion is not the right way to approach this issue: it could be discriminatory and reduce trust and morale. Employers should instead encourage care (and other) workers to get paid time off to get vaccinated and guarantee decent sick pay. The TUC also warned against some employers' 'no jab, no job' policy.

<https://www.tuc.org.uk/news/tuc-compulsory-vaccinations-care-staff-ill-thought-through>

See also our care workers' union GMB <https://www.gmb.org.uk/long-read/why-compulsory-vaccination-not-way> and Unite <https://www.unitetheunion.org/news-events/news/2021/june/proposals-for-compulsory-vaccination-of-care-home-staff-condemned-by-unite/>

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