

Qantas Group Vaccination Policy Frequently Asked Questions

1) What is the Union's position on employers requiring employees to be vaccinated?

Our view is that public health experts should be responsible for categorising what groups of workers must be vaccinated in order to perform their jobs, not individual employers.

However, this does not necessarily make it illegal for Qantas to issue a direction to staff that they need to be vaccinated against COVID-19.

In relation to Qantas' proposed policy we are working with delegates and Health and Safety Reps to ensure Qantas follows the proper process, including:

- Qantas providing risk assessments,
- Updated information on government regulations,
- A fair implementation process and timeline,
- Details on how they will manage exemptions.

It is our role always to challenge and test managerial assertions, which we will continue to do.

2) Can Qantas require an employee to be vaccinated against COVID-19?

Employers can give lawful and reasonable directions to their employees. Failure to follow these lawful and reasonable directions can result in a valid reason for disciplinary action, which might include termination of employment.

However, what constitutes a lawful and reasonable direction depends firstly, whether the direction itself is lawful and secondly, factors such as your job functions, whether you have any medical conditions and risk of COVID exposure. These factors must be considered in arriving at the view of what is reasonable in the circumstances. The Fair Work Ombudsman has released guidance on this issue, and has said that the matters to be taken into account when deciding whether a particular direction is reasonable include:

- the nature of each workplace,
- the extent of community transmission of COVID-19 in the location where the direction is to be given, including the risk of transmission among employees, customers or other members of the community,
- the effectiveness of vaccines in reducing the risk of transmission of serious illness,
- work health and safety obligations,
- each employee's circumstances, including their duties and the risks associated with their work,
- whether employees have a legitimate reason for not being vaccinated (for example, a medical reason) and

- vaccine availability.

There have not yet been any legal cases about whether or not requiring employees to be vaccinated against COVID-19 is a lawful and reasonable direction. There are some cases that have concluded that the particular circumstances had the result that requiring employees to be vaccinated against influenza is a lawful and reasonable direction in some industries. We think this means there will be circumstances where requiring employees to be vaccinated against COVID-19 would be considered a lawful and reasonable direction. A failure to follow a lawful and reasonable direction can have disciplinary consequences as mentioned earlier.

However, every circumstance is different and for us to provide definitive advice we will need to know your particular circumstances.

Qantas has not made any directions yet. Qantas is consulting with the ASU and employees before making any directions.

3) What if I cannot have the vaccine?

There may be circumstances in which an employee cannot have a vaccine for a bona fide medical reason. If an employee asserts that they cannot have a vaccine for a medical reason, it will assist if the employee can substantiate that position by obtaining medical evidence from their treating medical practitioner or an expert medical practitioner.

Engaging in disciplinary action against an employee who cannot be vaccinated for a medical reason may be prohibited by disability discrimination legislation. It may, depending on the circumstances, constitute a form of indirect discrimination.

However, situations may arise where the inherent requirements of an employee's role require them to be vaccinated against COVID-19. In those circumstances, it may be lawful for the employer to refuse to provide them with work or to terminate the employment. Again, the facts of each case will be critical.

4) My contract does not say I need to be vaccinated; how can they force this onto me?

Without seeing your contract, we cannot comment on the content, but broadly speaking, it will not necessarily be a barrier, because employers can give reasonable directions on top of what is contained in your contract of employment.

5) Can my manager ask me about vaccination status?

Generally yes. We recommend being upfront and honest about your vaccination status. Your employer does need to treat that information securely and sensitively. We have sought more information about how Qantas will protect employee privacy.

6) Can my employer ask me about the medical reasons behind why I cannot be vaccinated?

Generally yes. If you are asked to sign a medical release or consent form, we recommend receiving advice first.

7) Can I refuse the vaccine on philosophical grounds?

If the direction to be vaccinated is lawful and reasonable, this will not be sufficient. Employers can give a lawful and reasonable direction. However, what constitutes a lawful and reasonable direction depends on many factors such as your job functions, whether you have any medical conditions and risk of COVID exposure.

8) I am pregnant, and I do not want to receive the vaccination yet.

You should speak with your doctor and seek their recommendations. We have sought further information from Qantas about the prospect of temporary exemptions for people who are prepared to be vaccinated in the future, but not right now.

You should also go to ATAGI's information on pregnancy and vaccines. You can read more by [clicking this link](#).

9) Can my employer sack me if I am not vaccinated?

Each case will fall on its facts. Issues we need to consider are why you have not received any vaccine. It may include a lack of supply or medical reasons. If Qantas' direction is deemed lawful and reasonable, then yes, they will be able to terminate your employment.

However, for us to provide definitive advice, we would need to know your circumstances.

10) I have a preferred vaccine that I have not been able to access yet. Will this be an issue?

Each case will fall on its own facts. If you intend of being vaccinated but are unable to within the timeframe, we recommend you take and note down all reasonable steps to secure your appointment.

11) Will the Union support me if I do not want to be vaccinated?

We will work with you to assess your situation and provide advice and support at that stage.

12) Can I refuse to work with an unvaccinated colleague?

Your employer needs to place your health and safety at the highest priority. But this is a complicated question and one we cannot provide advice on without knowing the details.

13) Will Qantas be liable for any injury or illness I experience from receiving the vaccine?

The Federal Govt is indemnifying employers for any side effects where workers have lost more than \$5000 due to receiving the vaccine.

Additionally, while the workers compensation laws in each State and Territory differ slightly, the answer is that it is likely that an injury or illness would be covered by workers compensation.