

England care homes facing resistance from workers over vaccine

A number of care homes in England are being challenged over their compliance with the law on mandatory Covid vaccines. We explore what employers should know below:

- The Secretary of State for Health and Social Care, Sajid Javid, has been asked in an open letter to explain the legal standing of the new regulations requiring care home workers in England to be fully vaccinated.
- The regulations state that, from 11 November 2021, the registered person in the care home cannot allow someone to enter the home without evidence showing that have been fully vaccinated subject to some exemptions.
- Workers are presenting their employers with correspondence based on assertions that existing laws prohibit the imposition of laws which require someone to have a vaccination.
- Care home owners who are taking steps to abide by the new law now find themselves in a complicated position; they must act in compliance with it or face action from the Care Quality Commission (CQC).
- The Government is accountable for the lawfulness of legislation it imposes; not employers.
- It remains to be seen whether Mr Javid will respond to the letter, or whether the CQC will step in.
- The requirement to be fully vaccinated by 11 November 2021 remains in place and care home employers should continue to prepare for any action they need to take as a result.

The right to disconnect and 'opting out'

The right to disconnect could be implemented in UK law quickly and easily, says think tank Autonomy. A report indicates that it should be on an 'opt out' basis meaning that the default position for employers would be that they had to ensure their employees had the right not to work over their normal hours unless they could clearly demonstrate why staff needed to do so.

Did you know?

The right to disconnect would not prevent employees from doing overtime; it is designed to prevent a standardised practice of employers calling employees outside of their working day and expecting a response.

TUC calls for permanent furlough scheme

Although confusing and difficult to track at some points, the Job Retention Scheme offered a lifeline for millions of employers and employees through the Covid pandemic to prevent redundancies. The TUC has acknowledged its success and called for a permanent scheme to protect workers in the future. It would guarantee 80% of employees' wages or national minimum wage, whichever is higher for the furlough period.

Did you know?

The Chancellor has refused to extend the existing Job Retention Scheme past the end of September 2021. Employers should now decide what action to take with employees if there is insufficient work.

"Lack of efficiency" makes dismissal unfair

A bank that dismissed an employee over concerns about her trading processes delayed the procedure to an extent which made the dismissal unfair. The bank did not intentionally delay the procedure, the tribunal found; it was caused by the "lack of efficiency" on the part of the decision maker. The tribunal noted that compensation payable to the claimant maybe reduced in light of her conduct.

Did you know?

Compensation for unfair dismissal can be reduced, sometimes to nil, where it is considered that the claimant would have been dismissed even where a fair procedure was followed. This is called a 'Polkey' reduction.

Care home workers face losing their jobs if they are not fully vaccinated by the deadline. Employers should always follow a fair procedure, including considering redeployment in this case, to achieve a fair dismissal. Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.