

Tribunal finds contractual vaccination requirement was reasonable

In the recent case of *Allette v Scarsdale Grange Nursing Home*, the Employment Tribunal had to consider whether an employee's dismissal for her refusal to get the Covid vaccine was fair. We consider the implications for employers.

- Scarsdale Grange Nursing Home implemented a contractual vaccination policy with the primary aim of protecting the health of its staff, vulnerable residents and visitors, and a secondary aim of not breaching its insurance policy.
- The employee refused the vaccine because she had deep distrust for it. She later tried to argue that her refusal was based on her Rastafarian beliefs, but her failure to mention this until the disciplinary hearing led to both the employer and tribunal agreeing that it was raised maliciously and disingenuously, so that she could accuse the home of being discriminatory.
- The tribunal found that the decision to implement a vaccination policy was proportionate in the circumstances and that her gross misconduct dismissal was within the range of reasonable responses, in particular in light of the employee's unreasonable reasons for refusing the vaccine (she had no medical authority or clinical basis for refusal).
- Whilst this case may be less applicable in England due to the recent mandatory Covid vaccine regulations for staff within care homes and wider health and social care settings (the dismissal took place before the regulations came into force), it's important for those not covered by the regulations, as well as for organisations in Scotland and Wales who want to make Covid vaccination a contractual requirement.

Work from home guidance removed in England

The government announced last week that from 19 January 2022, workers in England will no longer be told to work from home. Most employers will now be familiar with the process of welcoming staff back to the workplace, although it may be useful to assess what worked well and what didn't previously. Reflective exercises can ensure effective measures are put in place this time round to make the return a success.

Did you know?

A risk assessment should still be completed to ensure all necessary Covid-secure measures are in place such as one-way systems, screens/barriers, regular cleaning and mask wearing reminders.

Resistance builds to healthcare vaccine mandate

There are reports that the Prime Minister is coming under increasing pressure from Tory MPs and health and social care bodies to reconsider the implementation of the new mandatory Covid vaccine regulations affecting some health and social care workers in England. According to the Guardian, Boris Johnson told backbench Conservative MPs on Friday, he was "looking again" at the policy.

Did you know?

Whilst this news causes more uncertainty for employers, for now, they should continue with their preparations to comply with the regulations by 1 April 2022 but keep an eye on developments.

Online portal opens for SSP Rebate Scheme

The online portal for submitting claims under the government's Coronavirus SSP Rebate Scheme opened on 19 January 2022. Employers with fewer than 250 employees can claim up to 2 weeks SSP per employee back from the government, where the SSP is because the employee was sick with Covid, or self-isolating and the absence started on or after 21 December 2021.

Did you know?

The government re-opened the scheme on 21 December 2021 but employers weren't able to actually go and put their claims in to get the money back, but now they can.

Employers introducing a contractual vaccination policy should follow a full and fair procedure and consider reasonable adjustments for those with reasonable grounds for refusing vaccination. 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.