What we will cover:

Health and safety at home

COVID-19 vaccination queries

Discussion

Working from home safely

What legal responsibilities do employees have for staff working from home regularly?

Who has responsibility for providing a safe and effective workstation?

What are the key health and safety risks when working from home?

Should policies be introduced to address burnout?

Working from home safely

Consider:

- Duties under HWSA apply where work is carried out

- Reasonably practical measures to minimise risks

- Less control but can have influence

Common hazards:

- Workstation set up – physical harm

- Electrical equipment – shocks, trips

- Isolation – psychological harm

COVID-19 Vaccinations

Balancing health and safety obligations with employees' human rights

Legislative protections:

- New Zealand Bill of Rights Act 1990: right to refuse medical treatment

- Human Rights Act 1993: prohibited grounds of discrimination

- Privacy Act 2020: collecting, storing and accessing personal information

- Employment Relations Act 2000: obligations of good faith; full and fair process

Key orders produced in response to COVID-19:

- COVID-19 Public Health Response (Vaccinations) Order 2021

- COVID-19 Public Health Response Act 2020

COVID-19 Vaccinations – Common questions

Can you make vaccination mandatory for workers?

- Vaccination Order or COVID-19 Exposure Risk Assessment

Can you ask whether a person is vaccinated?

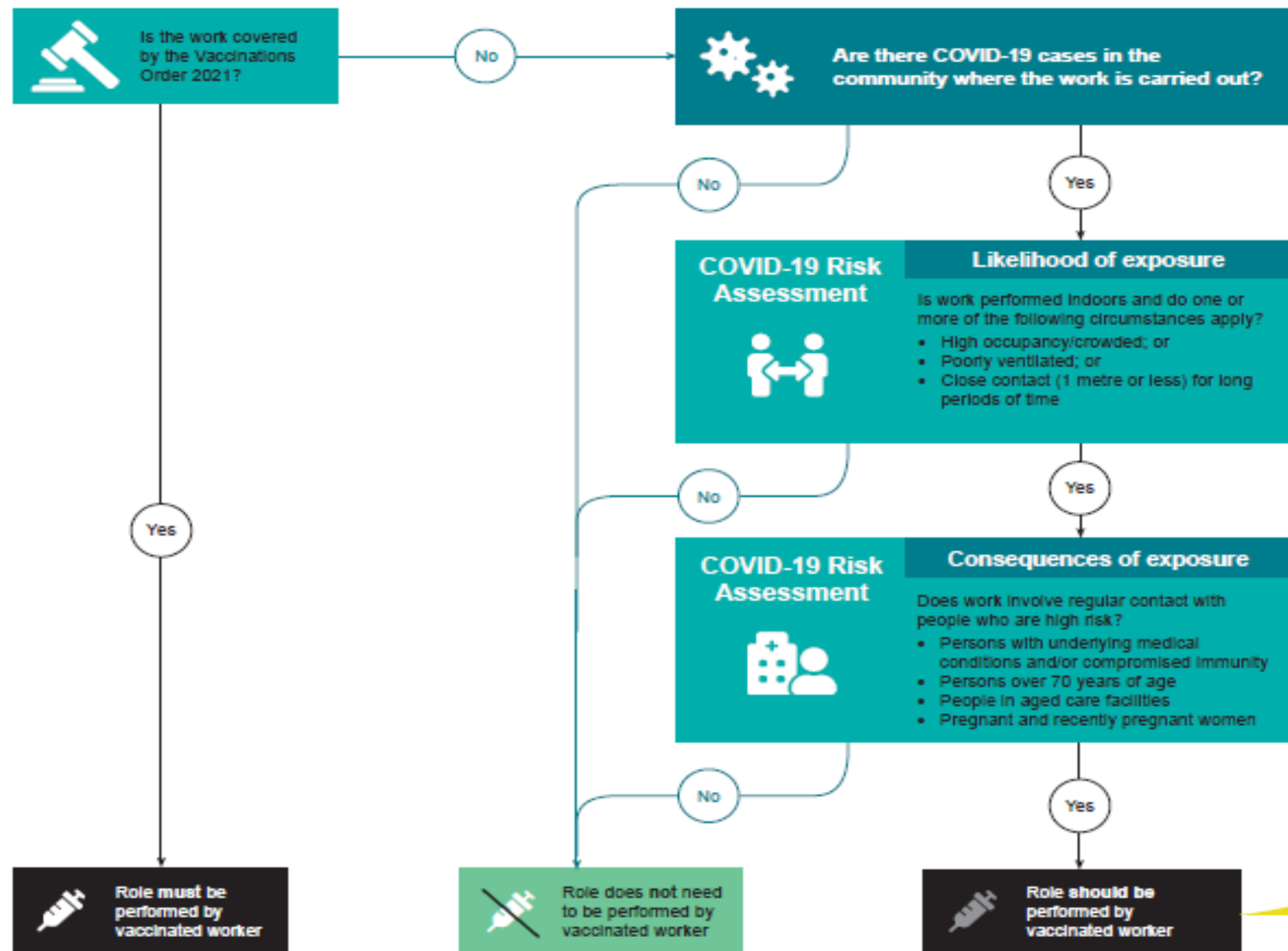Can you restrict access to your premises to only vaccinated persons?

Can you require third parties to be vaccinated?

Should testing be a control measure?

Can you enforce mask wearing?

What privacy obligations do you owe regarding a person's vaccination status?

Should the role be performed by a vaccinated worker?

Is the work covered by the Vaccinations Order 2021?

— No → Are there COVID-19 cases in the community where the work is carried out?

Yes ↓ (from vaccinations order) → Role must be performed by vaccinated worker

No (from COVID-19 cases) → continues down

Yes (COVID-19 cases) ↓

COVID-19 Risk Assessment

Likelihood of exposure

Is work performed indoors and do one or more of the following circumstances apply?

- High occupancy/crowded; or
- Poorly ventilated; or
- Close contact (1 metre or less) for long periods of time

No → continues left

Yes ↓

COVID-19 Risk Assessment

Consequences of exposure

Does work involve regular contact with people who are high risk?

- Persons with underlying medical conditions and/or compromised immunity
- Persons over 70 years of age
- People in aged care facilities
- Pregnant and recently pregnant women

No → Role does not need to be performed by vaccinated worker

Yes → Role should be performed by vaccinated worker

Role must be performed by vaccinated worker

Role does not need to be performed by vaccinated worker

Role should be performed by vaccinated worker

Key tips

- Consult and engage with workers, clients and others who may be impacted
- Support and encourage workers to get vaccinated e.g. remove barriers to access, time, misinformation
- Consider whether workers, clients and others have genuine grounds not to be vaccinated i.e. religious, ethical, health, medical, political beliefs, and how they may be accommodated
- Ensure people understand consequences, potential or otherwise, of not being vaccinated
- Ensure information on vaccination status and health information is collected, stored and used only for the purpose of managing risks of COVID -19

Standard control measures

- PPE
- Physical distancing
- Working from home
- Cleaning/hygiene
- Ventilation
- Contact tracing
- Testing (if required)

Olivia Lund
Partner, Wellington

d +64 4 471 9433
m +64 27 836 0538
olivia.lund
@duncancotterill.com

Potential examples

- Aged care facilities
- Bars/restaurants
- Churches
- Concerts
- Construction sites
- Early childhood providers/ schools
- Large events e.g. weddings/funerals
- Gyms
- Hospitals, medical centres, healthcare providers
- Movie theatres
- Nightclubs
- Shopping malls
- Sports stadiums

Key Takeaways

Working from home / remote working

- Obligations extend to anywhere work is carried out

- Includes workstation set-up, psychosocial wellbeing, security and privacy

Covid-19 vaccinations

- Balancing act between health and safety obligations and employees' rights

- Ability to require role to be performed by vaccinated worker , asking for vaccination status and excluding unvaccinated persons depends on risk assessment