



Brolink

Vaccination Policy

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Policy Owner: Human Resources

Release Date: 01 February 2022



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Covid-19 Vaccination Policy	
Type of Policy:	Brolink South Africa
Scope of Policy:	Company
Governance Area Addressed:	People Management
Approving Authority:	Brolink Executive Committee
Company Exco Sponsor:	Executive Head: HR
Policy Owner	Brolink Human Resources
Other Related Policies / documents	<ul style="list-style-type: none"> • OHS Policy (Remote Work) • Code of conduct • Information Security and Confidentiality • Exceptions Process to COVID-19 vaccinations
Frequency of review or update:	Annual
Date of next review	January 2023
Version number:	01/2021
Policy Effective Date	1 January 2022

1. Context

The Covid-19 pandemic continues to disrupt workplaces, economies, and lives in significant ways. While health and safety protocols to combat the spread of Covid-19 initially focused on non-pharmaceutical interventions like wearing facemasks, regular sanitizing or washing of hands and maintaining social or physical distances, several vaccines have since been approved as safe and recommended to inoculate against the coronavirus.

Governments around the world have been rolling out campaigns to vaccinate their populations in an effort to curb the spread of infections and reopen economic and social activities affected by Covid-19. In South Africa all adults of 18 years and older living in the country became eligible for vaccination with effect from 1 September 2021.

Businesses have been called upon to assist in the vaccination effort to extend the reach and expedite a return to normality. For the Company, it is also important that we provide safe workplaces to all our employees so that there is minimal risk of contracting the virus. A vaccinated workforce will also be able to resume personal interactions with clients without exposing them or themselves to serious health and safety risks. A return to the office environment will require preparations and assurances about the safety of the offices.

2. Purpose and Scope

This policy outlines the Company's approach to complying with its legal obligations to provide workplaces that do not pose health and safety risks to its employees and other people who come into its workplaces. The obligations are imposed on employers and employees under the Occupational Health and Safety Act and the Occupational Health & Safety Direction under the Disaster Management Act the relevant extracts of which are attached to this Policy. This policy recognises and provides for the use of approved Covid-19 vaccines as a reasonable measure for the Company to address the health and safety risks associated with the coronavirus in the workplace.

Working out of office / remotely has proved to be sub-optimal and accordingly the policy is operationally necessary to maintain and enhance the Company's ability to service its clients better, including improving employee morale and the Company's institutional culture of teamwork.

The policy applies to all the Company's employees, contractors and persons employed through a labour broker operating from Brolink offices.

The policy will inform the Return to Work / Covid-19 Compliance Plans, which, in accordance with the Occupational Health and Safety direction, will be referred to the health and safety committee for consultation.

3. Approach to vaccination

The Company considers vaccination as an important and necessary tool in the fight against the Covid-19 pandemic and in the provision of a reasonably safe workplace to all its employees. The Company also recognises that most roles in the business will require employees at one time or another to interact with fellow employees or third parties, including clients and potential clients. This is more likely once employees return to the office. For these reasons and in line with the Company's assessment of risk to the health and safety of employees and third parties, the Company requires all employees to accept the Covid-19 vaccines when they are made available.

4. Information about Covid-19 Information

The Company will continue to provide relevant information about the pandemic and the vaccines, including the safety data and positive impact of vaccines on lives. Employees will have opportunities to interact with the information and ask questions that will improve their understanding and acceptance of vaccines.

The Company equally disapproves of the generation, publication, and circulation of false and/or misleading information about vaccines, especially through its electronic communication and digital systems.

5. Duty to provide safe workplace

All employees of the Company are entitled to expect a workplace that does not pose health and safety risks for them, including the risk of contracting Covid-19. The Company has a legal and moral obligation to provide and maintain a safe workplace, which includes ensuring that employees are vaccinated against the coronavirus for their own protection, that of their fellow employees and third parties with whom they come into contact at work.

6. Choice not to vaccinate

The Company recognises that some employees may have valid grounds for choosing not to take the vaccines, including medical grounds. Where an employee shows a valid objective reason for not vaccinating, the Company will treat the employee's case as one of incapacity (and accordingly try to accommodate the employee) and only thereafter as one of the operational requirements and will process the case in line with the Company's policies and the applicable employment laws. Relevant considerations will include the nature of the job and the ability of the employee to perform optimally without the need to interact in person with other employees or clients, the availability of alternative jobs where interaction with others is not a requirement, etc. At all times the rights and reasons of the employee will be balanced against the health and safety considerations of other employees and third parties and the Company's operational needs.

Employees who have valid reasons for not vaccinating will be required to submit a negative Covid-19 test result (Rapid Antigen) on a weekly basis before they may be allowed to access the offices. The cost of the test will be for the employee's account.

Employees who refuse the vaccines without a valid reason and who cannot or who refuse to be accommodated in alternative positions may eventually be exited from the Company in terms of the applicable employment laws.

7. Assistance with vaccination

To facilitate the uptake of vaccines the Company will offer reasonable assistance to employees, including allowing reasonable paid time off to attend to vaccination and providing own or partners' vaccination sites for the convenience of employees.

8. Incentives for vaccination

Where appropriate, the Company may recognise employees who have vaccinated and/or incentivise employees to take up vaccines by providing benefits to them. Recognising and/or incentivising good behaviour does not absolve other employees from observing their obligations under this policy.

9. Proof of vaccination

To facilitate decision-making about workplace arrangements, including on readiness to return to the office, employees will be expected to share their vaccination status. The information is also necessary to enable the Company to fulfil its reporting obligations to relevant authorities. This information will be treated in strict confidence in compliance with the Company's information confidentiality policies and will only be used for legitimate purposes in terms of this policy. The Company will, as far as possible, assist employees to provide their proof of vaccination through secure digital platforms.

10. Responsibilities

The health and safety of employees when they are at work is the joint responsibility of the Company and each employee. The Company will facilitate access to vaccines for employees to eliminate or minimise the risk of Covid-19 infections at work.

It is the statutory and contractual duty of every employee to cooperate with the Company's efforts to ensure a safe workplace by taking the vaccines when they are made available. Employees who have a valid reason not to vaccinate have a duty to disclose such reason to the Company.

Management will treat the personal information of employees (including their vaccination status) disclosed to the Company in strict compliance with the Company's policies governing confidentiality of information.

11. Legislation

This policy must be read and applied in conjunction with the applicable legislation, especially the Occupational Health and Safety Act 85 of 1993, Compensation for Occupational Injuries and Diseases Act 130 of 1993 and the Consolidated Directions on Occupational Health and Safety in workplaces issued under regulations of the Disaster Management Act 57 of 2002.

12. Review

While this policy is scheduled for review annually, it is an intervention necessitated by the Covid-19 pandemic. Accordingly, the policy may be reviewed sooner depending on developments around the coronavirus and health measures designed to combat it.

13. Occupational Health and Safety Act¹

Key Extracts

Section 8. General duties of employers

- (1) Every employer shall provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees.
- (2) Without derogating from the generality of an employer's duties under subsection (1), the matters to which those duties refer include in particular-
 - (a) the provision and maintenance of systems of work, plant and machinery that, as far as is reasonably practicable, are safe and without risks to health;
 - (b) taking such steps as may be reasonably practicable to eliminate or mitigate any hazard or potential hazard to the safety or health of employees, before resorting to personal protective equipment; ...
 - (h) enforcing such measures as may be necessary in the interest of health and safety;...

Section 9. General duties of employers and self-employed persons to persons other than their employees

- (1) Every employer shall conduct his undertaking in such a manner as to ensure, as far as is reasonably practicable, that persons other than those in his employment who may be directly affected by his activities are not thereby exposed to hazards to their health or safety.

Section 14. General duties of employees at work

Every employee shall at work-

- (a) take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions;
- (b) as regards any duty or requirement imposed on his employer or any other person by this Act, cooperate with such employer or person to enable that duty or requirement to be performed or complied with;
- (c) carry out any lawful order given to him, and obey the health and safety rules and procedures laid down by his employer or by anyone authorized thereto by his employer, in the interest of health or safety; ...

38 Offences, penalties and special orders of court

- (1) Any person who -
- (a) contravenes or fails to comply with a provision of section ... 8, 9, ... 14, ... shall be guilty of an offence and on conviction be liable to a fine not exceeding R50 000 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

¹ http://www.saflii.org/za/legis/num_act/ohasa1993273/

Occupational Health & Safety Direction²

Direction 3. Risk assessment and plans for protective measures

(1) Every employer must-

(a) undertake a risk assessment-

(i) to give effect to the minimum measures required by these Directions, taking into account the specific circumstances of the workplace and the requirements of the OSHA Regulations for Hazardous Biological Agents; and

(ii) within 21 days of the coming into force of the amendment to this Direction, in accordance with sections 8 and 9 of the OSHA, taking into account the operational requirements of the workplace, whether it intends to make vaccination mandatory and, if so, to identify those employees who by virtue of the risk of transmission through their work or their risk for severe COVID-19 disease or death due to their age or comorbidities that must be vaccinated;

(b) on the basis of these risk assessments, develop a plan or amend an existing plan-

...

(ii) outlining the measures that the employer intends to implement in respect of the vaccination of its employees in accordance with this Direction and taking into account the Guidelines in Annexure C;

(c) consult on the risk assessment and plan with-

(i) any representative trade union, as contemplated in section 14(1) of the Labour Relations Act, 66 of 1995;

(ii) any health and safety committee established in terms of section 19 of the OSHA or, in the absence of such a committee, a health and safety representative designated in terms of section 17(10) of the OSHA or employee

representative;

...

(3) The plan referred to in sub-direction (1)(b)(ii) must include-

(a) the identification of those employees contemplated in sub-direction (1)(a)(ii);

(b) the process by which the obligations in terms of this Direction are going to be complied with; and

(c) subject to any collective agreement that determines otherwise whether the employer is planning to make it mandatory for employees identified in terms of paragraph (a) to be vaccinated as and when COVID-19 vaccines become available in respect of those employees;

(4) In developing and implementing a plan in terms of subsection (1)(b)(ii) an employer must take into account the rights of its employees to bodily integrity in section 12(2) and the right to freedom of religion, belief and opinion in section 13 of the Constitution.

² https://www.gov.za/sites/default/files/gcis_document/202106/44700reg11292gon499.pdf

Direction 4. Administrative measures

(1) Every employer must establish the following administrative measures:

...

(i) it must provide workers with the information that raises awareness in any form or manner, including where reasonably practicable leaflets and notices placed in conspicuous places in the workplace informing workers of-

(i) the dangers of the virus, the manner of its transmission, the measures to prevent transmission such as personal hygiene, social distancing, use of masks, cough etiquette and where to go for screening or testing if presenting with COVID-19 related symptoms;

(ii) the nature of vaccines used in the country, the benefits associated with these COVID-19 vaccines, the contraindications for vaccination and the nature and risk of any serious side effects such as severe allergic reactions; (See information supplied in the NIOH site: <https://www.nicd.ac.za/covid-19-vaccine-faq/>)

...

(k) give administrative support to assist its employees to register on the Electronic Vaccine Data System Registration Portal for COVID-19; and

(l) give its employee paid time off to be vaccinated on the date and time that may be required provided that the employee provides proof of vaccination that has occurred or is to occur during hours that the employee is ordinarily working.

Direction 13. Worker obligations

In addition to the obligations of employees under the OHSA, every worker is obliged to comply with measures introduced by their employer, as required by these Directions.

Annexure C. Guidelines if an employer makes vaccination mandatory

1. These guidelines are intended to guide employers, employer organisations, employees, trade unions, conciliators, arbitrators and the courts in determining the fairness of a mandatory vaccination policy and its implementation.

2. These guidelines deal with the key aspects of a policy requiring mandatory vaccination in the workplace. The guidelines are stated generally and departures from them may be justified in proper circumstances. For example the size of the workplace may warrant a different approach.

3. The LRA emphasises the primacy of collective agreements. These guidelines are not intended as a substitute for collective agreements or agreed procedures between employers, their employer organisations and trade unions.

4. The key principle of these guidelines is that employers and employees should treat each other with mutual respect. A premium is placed on public health imperatives, the constitutional rights of employees and the efficient operation of the employer's business.

5. Subject to any applicable collective agreement, a plan contemplated in direction 3 requires all employees identified in terms of that direction to be vaccinated in accordance with the national COVID-19 vaccination roll out plan should provide the following:

(a) Every employee identified by the employer in terms of section 3(1)(a)(ii) should be notified of-

(i) the obligation to be vaccinated as and when a vaccine becomes available for that employee;

(ii) the right of the employee to refuse to be vaccinated on constitutional or medical grounds;

(iii) the opportunity for the employee, at the employee's request, to consult a health and safety representative or a worker representative or trade union official;

(b) The employer should provide in addition to the obligations contained in direction 4 in respect of COVID-19 vaccinations and, if reasonably practicable, transport to and from the vaccination site allocated in terms of the Electronic Vaccine Data System Registration Portal.

(c) Should an employee suffer side effects as a result of a COVID-19 vaccination, the employer should give the employee paid time off to recover if the employee is no longer entitled to paid sick leave in terms of the BCEA or any applicable collective agreement or lodge a claim for compensation in terms of the Compensation for Occupational Injuries and Diseases Act, 130 of 1993.

(2) If an employee refuses to be vaccinated on any constitutional or medical grounds, the employer should-

(a) counsel the employee and, if requested, allow the employee to seek guidance from a health and safety representative, worker representative or trade union official;

(b) refer for further medical evaluation should there be a medical contra-indication for vaccination;

(c) if necessary, take steps to reasonably accommodate the employee in a position that does not require the employee to be vaccinated.

(3) For the purposes of these guidelines, reasonable accommodation means any modification or adjustment to a job or to the working environment that will allow an employee who fails or refuses to be vaccinated to remain in employment and incorporates the relevant portions of the Code of Good Practice: Employment of People with Disabilities published in terms of the Employment Equity Act, 1999 (Act No. 97 of 1999). This might include an adjustment that permits the employee to work offsite or at home or in isolation within the workplace such as an office or a warehouse or working outside of ordinary working hours. In instances of limited contact with others in the workplace, it might include a requirement that the employee wears an N95 mask.
