

**HR Procedure**

# Health and Social Care Act 2008 (Regulated activities) (Amendment) (Coronavirus) Regulations 2021 (‘The regulations’)

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| Version Control | Changes Made | Author |
| Oct 2021 | policy agreed/ratified on 7th October 2021 at Corporate JCG and to be implemented with immediate effect | Joel Burchett  Adrian Maitra |
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Purpose

Managers are to use this procedure to consult with staff who either choose not to be vaccinated (and are not medically exempt) or who do not disclose their vaccination status, to ensure that staff in scope understand that they will need to prove they are fully (double) vaccinated against coronavirus following 11th November 2021 to continue in their roles. The purpose of this procedure is to consider all available alternatives such that as many staff as possible can be retained within the organisation following 11th November 2021, with dismissal being an option of last resort.

Scope

The procedure applies to all Cumbria County Council staff who come under the new legislation regarding mandatory vaccination against coronavirus: Health and Social Care Act 2008 (Regulated activities) (Amendment) (Coronavirus) Regulations 2021 (‘The regulations’). This includes staff whose roles are based in a residential care home (cohort 1) and staff who have to enter residential care homes during the course of their normal duties (Cohort 2). Specifically, the procedure allows for consultation with those staff in cohort 1 or cohort 2 who remain unvaccinated, or whose vaccination status remains unknown.

The Procedure

**STAGE 1 – 13th September to 8th October 2021** Line Managers hold meetings with employees where vaccination status is unknown (or the employee has already declared that he/she is unvaccinated or medically exempt). Employees informed of right to have TU rep present

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**STAGE 2 – not before w/c 11th October 2021** Meeting with Trade Unions to feedback on discussions with staff and provide information about proposals (based on that feedback) and commence consultation on proposals (and potential alternative, including redeployment, AEP). Meeting invite letters sent to affected staff.

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**STAGE 3** – **not before w/c 18th October 2021** 2nd consultation meeting with affected staff to consult on the impact of the pending vaccination law has on their ability to continue in their job role (based on their vaccination status) and potential alternatives (including AEP). Discussion to take place of any support that may be needed to help staff find a workable alternative. Staff to be allowed a trade union representative or work colleague for support and are to be informed of this prior to the meeting.

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**STAGE 4 – not before w/c 1st November 2021** Further meeting with Trade Unions to feedback on the proposals from Stage 1 and Stage 3 meetings and consult on issues and alternatives (see above), or any change in circumstances.

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**STAGE 5 – not before 1st November 2021** 3rd consultation meeting with affected staff. Confirm that unless alternatives available (or proven change in circumstances) dismissal is likely be “firmed up” at final meeting. Consideration given to any further support that may help staff find a workable alternative. Staff to be allowed a trade union representative or work colleague for support and are to be informed of this prior to the meeting.



**STAGE 6 – not before w/c 8th November 2021** Final meeting with Trade Unions to feedback on Stage 5, consult on outstanding issues, (and any change in circumstances) and firming up of dismissals from 11 November.

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**STAGE 7 – not before w/c 15th November 2021** Final meeting with affected staff. Dismissal with notice and staff continue to be supported via AEP during notice period. Letters confirming dismissal (and informed of right of appeal). Staff to be allowed a trade union representative or work colleague for support and are to be informed of this prior to the meeting. (see detailed procedure for stage 7 & 8 below)



**STAGE 8 – TBD** Appeal hearings - To be heard by an appointed Council Officer

**NB - Stages and dates can be amended or merged as agreed with Trade Unions and/or individual staff members. Where employees are engaged in exploring an alternative option (e.g. a trial period or waiting to hear back from an interview etc.) careful consideration should be given to not moving on to stage 7 until this option has been reasonably exhausted.**

Dismissal Meetings and Appeals Procedure

The manager must write to the employee confirming the circumstances that are leading to potential dismissal and inviting them to a meeting to discuss the matter and advising them of their right to be accompanied by a trade union representative or work colleague. The employee will be notified of the meeting as soon as possible but must be given not less than five working days' notice in writing of the date, time and place of the meeting.

The manager will notify a senior manager, who will conduct the meeting.

If an employee first reports sick on the day of the meeting and the employee informs the council they are unfit to attend, the meeting will usually have to be postponed.

The matter may need to be referred to the Employee Wellbeing Service/ to obtain advice on their condition/fitness.

The meeting should then be rearranged according to this information.

Where an employee simply fails to attend his/her meeting he/she should be written to and informed of the following:

(a) That the meeting has been rearranged for a specific later date and time.

(b) That if they are unable or unwilling to attend the meeting, without good cause, the meeting will proceed in their absence.

(c) A representative may attend in their absence to present their case.

(d) Any written submission which the employee may wish to submit will be considered.

The employee and/or their representative will be given the opportunity to state their case. The manager and others who have been involved in providing support to the employee or seeking redeployment will provide information on what actions have been taken.

After the meeting the senior manager must notify the employee in writing of the decision and notify the employee of their right to appeal against the decision if they are not satisfied with it. This will include details of the senior manager who the appeal should be addressed to.

Where the senior manager decides that dismissal is the appropriate outcome, the employee should be given their notice, and informed of their right of appeal to another senior manager who is independent of the original process. If the employee does wish to appeal, they must inform the relevant senior manager within 5 working days of the date of notification of the decision of the meeting. The appeal will be acknowledged within 5 working days.

Where the action proposed is dismissal the employee will be invited to have their appeal heard by another senior manager who was not involved in the original decision. Employees have the right to be accompanied by a trade union representative or work colleague at the appeal meeting.

The employee will be informed in writing of the outcome of their appeal.

There is no further right of appeal.