**Managers Zoom Conference to discuss COVID restrictions and implementation issues**

**Thursday 25 November 2021 10am – 11am**

**Facilitated by** SociaLink Western Bay of Plenty

**Advisory**: Lucy Nolan of Sharp Tudhope

**Disclaimer**: Please note: the advice given during this zoom is not intended to be specific legal advice, but rather a generic overall discussion with some informal guidance. You are encouraged to use the tools already developed via Ministry of Health, Worksafe and Business.govt.nz

Please note: these are only very brief notes. For the full info and discussion please listen to the recording or watch the zoom.

**Some useful links:**

* Traffic Light Framework: <https://covid19.govt.nz/alert-levels-and-updates/covid-19-protection-framework/>
* MBIE Advice: <https://www.business.govt.nz/covid-19/covid-19-protection-framework/>
* Needs Assessment: Model courtesy of Neighbourhood Support NZ. <https://socialink.org.nz/wp-content/uploads/2021/11/COVID-Role-Review-Risk-Assessment-3-Nov-21.docx>
* De-escalation training. <https://www.eventspronto.co.nz/event4943>

A range of questions had been presubmitted.

* *How does this work with volunteers and contractors?*

Volunteers and contractors are treated the same as staff in all respects.

* ***I am a volunteer at St Peters Church and oversee 2 community activities. I am interested in learning more about effects on these activities, and how others might be dealing with similar situations****.*

 Advised to download the [Traffic Light framework](https://covid19.govt.nz/alert-levels-and-updates/traffic-light-system/) which gives some guidance as to what is permitted under the different traffic lights. There are pdf downloads in large print, audio and easy read.

* ***If people are booking a meeting room for a private meeting is that considered a gathering or event?***

 Not much guidance on this. Consider it as a gathering. But if there are only a few people could just use social distancing and masks.

* ***So if you are running an educational course or youth group, etc at a church, that is a "Gathering"?***

 Yes, and see the Traffic Light Protection Framework

* ***Is there a timeline for the current traffic light framework?***

 Not any real guidance on this. This will evolve over time. We just need to keep ourselves informed.

* ***As a support and information provider we are unclear whether we can ask for or restrict some of our group based activities to those with vaccines. We have an obligation to make our services as safe as possible, we also have an obligation not to deny people access to basic health and disability services. Would we be within our rights to make certain group based services only  available to vaccinated people and offer unvaccinated the option of virtual (zoom based alternatives)?***

Overarching duty to keep everyone safe keepping in mind the vulnerability of those people. Also bearing in mind the opinionsof staff. Zoom based is a good option in those cases. Trying to keep everyone happy is a challenge and taking the safer option such as zoom, may be a good choice.

* ***As a more overarching question can we ask status of all our clients?***

If you are providing a service, it is justified to ask about their vaccination status, but they dont have to answer. You must tell them that if they dont answer we can only assume thee are not vaccinated and take the appropriate or the safest steps as defined in the framework.

 Our overarching responsibility is to keep everyone safe – the risk for the vulnerable is greater, and staff need to be safe also.

* ***What if you have an event that is requiring a vaccine pass to attend and someone who is not vaccinated but does have a negative covid test wants to attend?***

 There is no provision for testing as yet. No certificate – no entry.

* ***Where an employee refuses to vaccinate, can we terminate employment?***

You need to follow best practice procedure – ensure that you have completed risk assessments for all roles, is there another role that person can be diverted to, must consult with all parties and look at **All** other options. There will be more guidance on this process in future and you must get workplace specific professional advice to ensure a drastic step such as that is absolutely necessary. It will be easier to manage with future employees as vaccination can be made a condition of employment.

* ***If a new employee is currently on a 3 month trial period, and has made it clear they are not going to vaccinate, however the role requires it but is not mandated, would it be appropriate to end the employment based on suitability for the position having changed during the trial period?.***

It is possible to terminate an employee’s employment pursuant to a trial period clause for remaining unvaccinated in a role that must be filled by a vaccinated person. However, we would not give the employee a reason for the termination – an employer is not obliged to provide reasons when they terminate under a trial period clause (section 67B(5)(b) of the Employment Relations Act 2000).  This is because, while an employee cannot bring a personal grievance in respect of a dismissal under a trial period clause, they can still bring a personal grievance for discrimination. You would not want to risk being exposed to a claim, so you would simply terminate pursuant to the trial period clause with no statement of reasons.

* ***Is there an end date for the current traffic light framework?***

Not at this stage. Keep watching for the briefings

* ***Sailability’s question cannot socially distant because in small boats, some are small children what is the next best thing – are we safe just wearing masks?***

If in close contact you must consider the Protection Framework; you will need to undertake a risk assessment for each role and consider what mitigation measures you could put in place. Given you are working with children there is heightened risk. If you can not mitigate the risk you may not be able to operate.

***How are counsellors considered?***

Schedule 2 of the public order amendment lists all people and how they should be treated. – There is also guidance via Worksafe using [this link and go to the Services](https://www.worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid/how-to-decide-what-work-requires-a-vaccinated-employee/). Counsellors would be considered as Health Care workers.

* ***If staff has an exemption and the client is ok with this situation?***

You should do a risk assessment. Maybe some guidance under the framework.

Exemptions from vaccination are granted at Ministerial level, not at General Practitioner level. And any exemption granted lasts for 6 months.

* ***Are there special rules for a person with multiple roles?***

Must carry out a risk assessment on each role.

* ***Is there anything in the legislation to protect the employees who are choosing not to be vaccinated - i.e does the current legislation override the Bill of Rights about medical freedom to choose***

There is nothing about alternative options, except to use PPE, social distancing and other public health tools.

* ***We run community pottery classes where the tutors and students are in close contact for extended periods of time. While it is clear how vaccine certificates could work for the adults, with children under 12, we can't. This is complicated when children are coming from households with unvaccinated households potentially exposing other children. Are there any guidelines around this, for example, are we able to only accept children from households with vaccinated adults and older children?***

Recommend using the H&S risk assessment tools and applying social distancing etc, just as schools are doing.

* ***the Worksafe website has a set of 7 questions to ask to guide you in terms of risk. There is no scoring system at all. We have put numbers on this to assess risk to our employees/ counsellors. Do you have any guidance on what constitutes "high risk"? Over 50% score? High risk implies that vaccinations are required. To me the Worksafe risk assessment is very general and a weak tool.***

Putting numbers is quite an analytical thing to do, as COVID circulates in the community things will change – so many factors now and changing all the time.

* De-escalation training is being offered on 10 December. To find out see our website. [Register here.](https://www.eventspronto.co.nz/event4943)

**Enormous thanks to Sharp Tudhope for fielding all the questions.**