

Can Employers Force Their Staff To Have The Covid Vaccine

12 July 2021



Presenters

Beverley Sunderland | Crossland Employment Solicitors

Beverley set up Crossland Employment Solicitors in March 2008. Top ranked in Chambers' Guide and Elite status in Legal 500, Beverley draws on her experience from thirty years in the law, as well as her time as a Commercial Director for a PLC and as in-house lawyer. She is a very experienced advocate in both the Employment Tribunal and the Employment Appeal Tribunal and has also taken cases as far as the Court of Appeal when required. To view Beverley's full bio, please click [HERE](#).

Jay Bhayani | Bhayani HR & Employment Law

Jay is a specialist employment law solicitor and an expert in her field. She has over 25 years' experience of dealing with all aspects of HR and employment matters and specialises in complex and sensitive issues, using her experience and knowledge to find tactical solutions. To view Jay's full bio, please click [HERE](#).

David Gilmore | DG Legal

David founded DG Legal in 2000. He has provided advice and assistance to hundreds of law firms and other legal organisations. He delivers specialist consultancy and training on a wide range of topics including business management & strategy, tendering, compliance and quality assurance. In 2016 David was appointed as a Commissioner advising Lord Bach on policy relating to Justice and Legal Aid. To view David's full bio, please click [HERE](#).

Agenda

- The argument in favour of forcing staff to have the covid vaccine
- The argument against forcing staff to have the covid vaccine
- Case Study – Care homes
- Case Study – Shops
- Case Study – Law firms
- Case Study – Workplace affairs
- Q&A



Insisting that employees have a COVID-19 vaccination

Beverley Sunderland

Crossland Employment Solicitors

The Argument For...



Competing Rights/Obligations

- Under health & safety legislation an employer is obliged to keep all employees/visitors/patients safe. HSE website:

‘It is an employer's duty to protect the health, safety and welfare of their employees and other people who might be affected by their business. Employers must do whatever is reasonably practicable to achieve this.

This means making sure that workers and others are protected from anything that may cause harm, effectively controlling any risks to injury or health that could arise in the workplace.’

- BUT employees with a philosophical belief which should be protected by the Equality Act 2010, and Article 8 of the European Convention on Human Rights and a right to life under Article 9
- BUT employees have a right not to suffer discrimination on the grounds of pregnancy or disability.

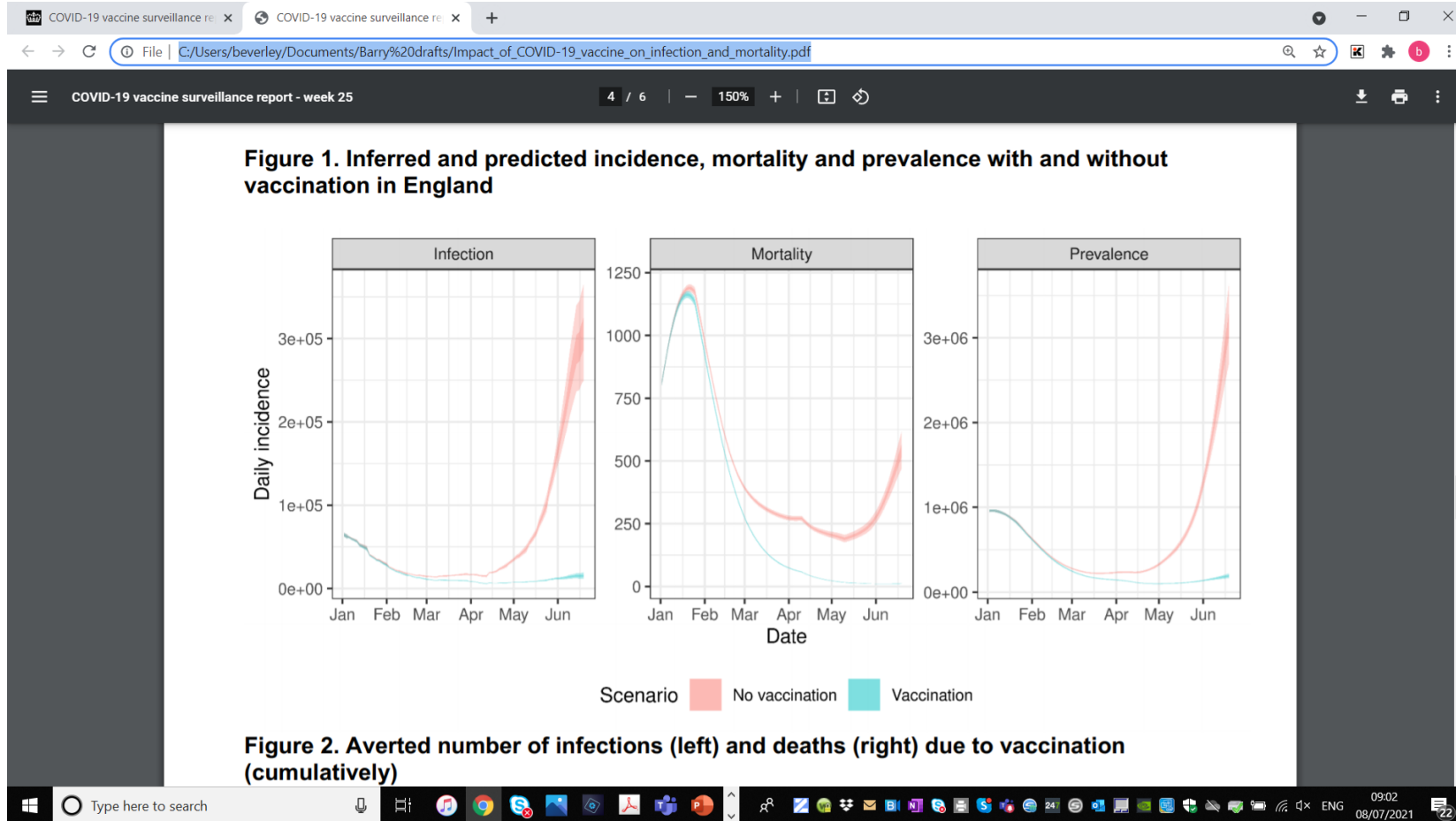
Does the vaccine reduce transmission?

28 April 2021: Public Health England announces that a study has shown that just one dose of vaccine prevents transmission by up to 50%.

<https://www.gov.uk/government/news/one-dose-of-covid-19-vaccine-can-cut-household-transmission-by-up-to-half>

What does the science say?

Public Health England Report 28 June 2021



Equality Act 2010

There are four potential areas for discrimination claims with a 'no jab/no job policy' as you potentially exclude:

- The younger generation but all adults are now eligible.
- Women who are pregnant although the advice has now changed to say it is safe.
- Those with underlying health conditions or allergies which means they cannot have a vaccination.
- Those who have a philosophical belief about vaccination.

Philosophical Belief

- It is a belief and not an opinion or viewpoint based on the present state of information;
- The belief is genuinely held;
- The belief concerns a “weighty” and substantial aspect of human life and behaviour;
- It is “worthy of respect in a democratic society”;
- It is held with “sufficient cogency, seriousness, cohesion and importance”.

So, Bill Gates trying to inject trackers into everyone is unlikely to be a belief but someone who has refused every vaccine since they became an adult on the grounds of their firmly held beliefs might pass the test.

European Convention on Human Rights

- This still applies despite Brexit
- Article 8 - Right to respect for private and family life – including forced medical procedures
- Article 9 – Freedom of thought, conscience and religion

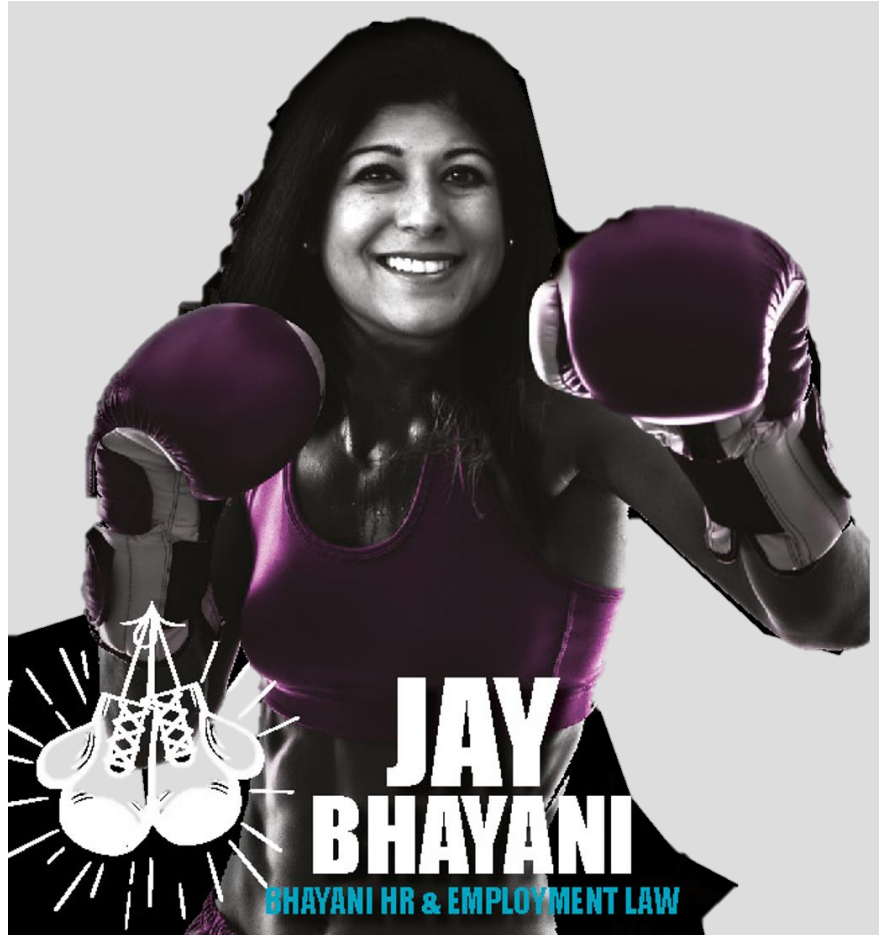
Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

Objective Justification

- A business must have a legitimate aim. Keeping staff, patients and customers safe is a legitimate aim.
- It will be easier to objectively justify a policy of vaccinations if the role is caring for those who are themselves vulnerable or who cannot have a vaccination because of medical conditions.
- There will be employees with health conditions or loved ones at home who need protection. An employer has a legal obligation to do all it reasonably can to protect employees.
- A business must have balanced up the rights of the employee with that legitimate aim and considered whether they could do things differently to fairly achieve a balance.

e.g rather than say 'no job' can they introduce regular testing or place non vaccinated employees in an area of the business that has the least interaction with others, ask them to wear a mask and PPE and maintain social distancing.

The Argument Against

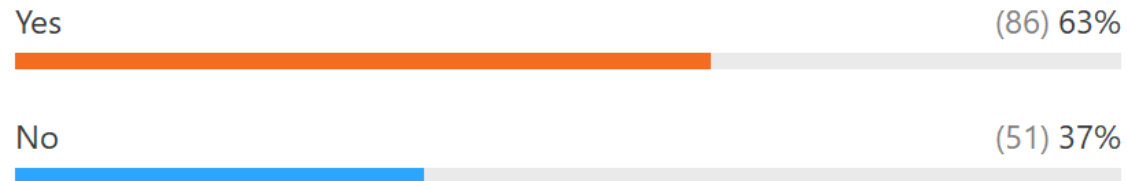


Case Study – Care homes

During the live webinar, we asked attendees **Do you think employers should be able to force staff working in a care home to have the Covid vaccine?**

The Poll results are as follows:

1. Do you think employers should be able to force staff working in care home to have the Covid vaccine?



Case Study – Shops

During the live webinar, we asked attendees **Do you think employers should be able to force staff working in shops to have the Covid vaccine?**

The Poll results are as follows:

1. Do you think employers should be able to force staff working in shops to have the Covid vaccine?



Case Study – Law Firms

During the live webinar, we asked attendees **Do you think employers should be able to force staff working in law firms to have the Covid vaccine?**

The Poll results are as follows:

1. Do you think employers should be able to force staff working in law firms to have the Covid vaccine?



Case Study – Workplace affairs

Any Questions?

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