

People for Safe Vaccines Ltd

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3 March 2021

Safework HQ

By email only: info@swa.gov.au

To:

Safework HQ:	Ms Diane Gander
Safework New South Wales:	Ms Rose Webb
Workplace Health Queensland:	Mr Craig Allen
Worksafe South Australia:	Mr Martyn Campbell
Worksafe Tasmania:	Mr Mark Cocker
Worksafe Victoria:	Mr Colin Radford
Worksafe Western Australia:	Mr Darren Kavanagh
Worksafe Australian Capital Territory:	Mr Michael Young
Worksafe Northern Territory:	Mr Bill Esteves

Dear Sir/ Madam

COVID-19 - Safe Work Obligations

1. People for Safe Vaccines Ltd is a not-for-profit established to promote vaccine safety. Our members include workers in various industries across Australia, many of whom are concerned as to whether their employer can mandate COVID-19 vaccination. We write seeking clarification of the government's position on this important issue.

2. Commonwealth, State and Territory governments treat COVID-19 first and foremost as a public health emergency. Governments continue to impose various onerous countermeasures despite a recovery rate of greater than 99.9% for people under 70.
3. In general, risks to the public health are far greater in scale and impact than workplace risks. Government assumes the role of assessing and implementing responsive measures to public health crises. Moreover, it would be inappropriate to require most employers to assess pathology and vaccination risks. This is reflected in the practice of COVIDSafe plans, which acknowledge that suitably trained and qualified public health officers are the proper parties to respond to infection of workers on notification from the employer.
4. We are advised that vaccination may only be lawfully required in rare circumstances in strict adherence to a host of due process and substantive protections established under the Constitutional, biosecurity and public health legislative framework. Consistent with its legal obligations in these areas, the Commonwealth has made it abundantly clear that vaccination against COVID-19 will be voluntary for the Australian public and no disincentives will apply (e.g. denial of financial benefits) to those choosing not to get vaccinated.
5. Despite the clear law and policy, it appears that some employers nevertheless plan to insist that their workers be vaccinated to ensure compliance with safe work obligations, in the absence of government mandates. This confusion may be arising due to the concurrent efforts of the States and Territories in mandating the influenza vaccine in residential aged care facilities, which some of our members are disputing.
6. Employers wishing to mandate the COVID-19 vaccines may not be aware of the Therapeutic Goods Administration's published information disclosing a variety of problems that may result in serious injury or death of workers. Nonetheless, the employer would be taken to know the risks in mandating the vaccine, and face those terrible consequences which may include criminal liability, causing a workplace biohazard and financial liability due to inadequate, or potential absence of, insurance.
7. Whilst we recognise that many employers may be motivated by a genuine desire to improve workplace safety, we submit the practice of employers mandating COVID-19 vaccination is unlawful, for the following reasons.
 - (a) It exceeds the standards set under the public health regimes and is therefore *prima facie* unreasonable.
 - (b) It involves a direction to submit to an invasive medical procedure, which requires professional medical advice and informed consent.
 - (c) It fails to take into account the disproportionate risks associated with COVID-19 vaccines as against the risks of illness.
 - (d) It is not a reasonably practicable means of addressing the workplace risks posed by COVID-19.
8. In order to address the uncertainty, we request that work safety regulators in the Commonwealth and in each State and Territory commit to publishing guidance advising employers that they are not entitled to:
 - (a) mandate COVID-19 vaccines under any circumstances for workers; and/ or

(b) engage in unfair treatment of workers who choose not to get vaccinated, including without limitation denying them shifts, rostering preferences, booking them in for vaccination without consent, or by isolating, ostracising, bullying or shaming them.

9. Kindly confirm the government's position by **17 March 2021**.

Yours sincerely,



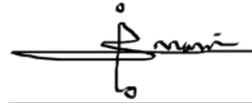
Serene Teffaha

Chief Executive Officer



Dr Judy Wilyman

Director



Mani Shishineh

Director