



# COVID-19 Vaccinations in the Workplace

## Toolkit for BC Tourism & Hospitality Employers



## Toolkit Contents:

- [FactSheet: COVID-19 Vaccines- What Tourism & Hospitality Employers Need to Know About Vaccine Policies](#)
- [Legal Article: COVID-19 Workplace Vaccination Policy](#)
- [Article: How to Support Employee's Mental health as COVID-19 Restrictions Start to Ease](#)
- [Tool: COVID-19 Vaccine Q&A - Addressing Employee hesitations](#)
- [Tool: Sample Time off Request form](#)
- [Tool: Sample Sick Leave Policy](#)
- [Tool: Sample Mandatory Vaccination Policy](#)
- [Resource links](#)

## Introduction

As BC enters the restart phase, vaccines form a big reason for the optimism surrounding expectations of a return to some semblance of normalcy. Increased supply and better logistics have enabled a steady increase in vaccines being administered. With second doses being offered sooner than earlier estimates, there is hope that a significant portion of the population will be fully vaccinated in the upcoming months.

For tourism and hospitality employers, all this is very welcome news. However, the vaccine rollout has also been creating some anxiety for employers, as they try to understand the impact of the rollout on their workplaces. Do employers need to have a vaccine policy in place? Can employers demand proof of vaccination from their employees? How can employers balance health and safety concerns with human rights or privacy ones? What do employers need to consider if they want to implement a vaccine policy?

This toolkit contains practical information, resources and downloadable tools to tourism and hospitality employers answer some of these difficult questions.

Should you have any questions or need additional guidance, please feel free to contact us: [HR@go2hr.ca](mailto:HR@go2hr.ca)

# FACTSHEET: COVID-19 Vaccinations – What Tourism & Hospitality Employers Need to Know

## COVID-19 Vaccinations - Where Are We Now?

- The information related to COVID-19 vaccinations continues to evolve at a rapid pace. The information provided in this toolkit is accurate as of the day of publishing. For current information, please refer to the [COVID-19 Vaccinations](#) page on the go2HR website
- COVID-19 vaccinations will play a critical role in the prevention and spread of COVID-19 in Canada and world-wide
- COVID-19 vaccinations available in Canada are safe, effective and free of charge; they are progressively being rolled out to all segments of the population
- BC's COVID vaccination program is a phased approach, prioritizing high risk populations and communities. It is currently projected that by July 1, 2021, all BC adults will have had the option to receive a vaccine. More info: [COVID-19 Immunization Plan - Province of British Columbia \(gov.bc.ca\)](#)
- The BC government recently launched [BC's Restart: A plan to bring us back together](#), a careful four-step plan focused on the gradual easing of public health restrictions, providing that the following criteria are met:
  - o Declining COVID-19 case counts
  - o Increasing vaccination rate in people 18+
  - o Declining COVID-19 hospitalizations, including critical care
  - o Declining COVID-19 mortality rate
- The BC government recently announced up to 3 hours of paid leave for workers to get vaccinated

## Vaccinations in BC Workplaces:

- In most workplaces in BC, employers cannot require staff to be vaccinated
- No federal, provincial or local health authority in Canada, including BC, has indicated that they will mandate COVID-19 vaccinations (including healthcare)
- An employer may, *in some situations*, implement a mandatory vaccination policy as a condition of continued employment. However, mandatory policies may be subject to legal challenges that could give rise to significant liabilities and be difficult to defend. Mandatory policies should not be implemented without legal advice.

## BC Employment Standards

- BC employment standards legislation provides employees with [up to 3 hours of paid leave](#) to be vaccinated against COVID-19, no matter how long they have been employed, retroactive to April 19, 2021
- Employers are permitted to request reasonable proof of eligibility for the leave (e.g. confirmation of a vaccine appointment) but cannot ask if they actually received the vaccine
- Employers should allow a reasonable timeframe for an employee to provide proof

## Privacy Legislation (Personal Information Protection Act - PIPA)

- An individual's personal medical information is confidential, private information that must only be accessed, used, disclosed and destroyed in accordance with privacy legislation
- BC Privacy laws restrict an employer from requesting access to unnecessary personal medical information, including proof that someone received a vaccine
- Employers do not have the right to disclose their employee's personal health information. They have a duty to protect the confidentiality of workers' private medical records. This information may only be shared with others if it relates to the employer's duty to accommodate the employee.

## Human Rights Legislation

- Human Rights legislation protects Canadians and British Columbians from discrimination on a number of grounds, including (but not limited to): religion, political belief, physical disability, and sex
- This legislation requires employers to provide accommodation for employees who choose, for different reasons, not to get vaccinated or cannot receive the COVID-19 vaccine based on a protected ground, to the point of undue hardship
- Some examples of how this could appear in the workplace, include:
  - o Employees may choose not to get vaccinated based on their political beliefs, have a disability which puts them at higher risk of side effects or be pregnant and hesitant as the mRNA vaccine has not been sufficiently tested on pregnant women
  - o Accommodations could include flexible work arrangements, working from home or other COVID-19 safety protocols physical distancing, barriers, masks

## WorkSafeBC & Vaccines

- WorkSafeBC is encouraging employers to support and facilitate vaccination of workers to the extent they are able and encouraging workers and the public to receive the vaccine when it is available to them
- Under Occupational health and safety legislation, employers DO have a general duty obligation to ensure safety in the workplace (e.g. encouraging and facilitating access to vaccines in some situations), however the legislation does not currently include a duty to require or mandate vaccinations
- If it can be shown that an adverse reaction, injury, or death from COVID-19 vaccine arose out of and in the course of the worker's employment (e.g. it was a mandatory requirement of employment or if the worker sustained an injury (or death as a result of the COVID-19 vaccination), it may be a compensable claim under WorkSafeBC. More information: [COVID-19 vaccination and the workplace - WorkSafeBC](#)
- BC public health officials have indicated that all [current restrictions, provincial health officer \(PHO\) orders](#), and guidelines remain in place for everyone, regardless of whether they have received the vaccine.
- Employers are required to maintain their [COVID-19 Safety Plan](#), including all protocols put in place to prevent the transmission of COVID-19 within the workplace.
- Workers who are fully vaccinated and workers who have had a prior COVID-19 infection need to continue to adhere to their employer's COVID-19 protocols.

## LEGAL ARTICLE – COVID-19 Workplace Vaccination Policy

### *Can employers require that employees take the COVID-19 vaccine?*

With over 50 per cent of eligible British Columbians having had their first dose of a COVID-19 vaccine, we know employers are wondering whether they can mandate that their employees take the vaccine.

[Read Article...](#)

## ARTICLE - How to Support Employee Mental Health as COVID-19 Restrictions Start to Ease

*Adapted and with text from “[Managing the mental health effects of COVID-19 in the workplace: A guide for employers](#)”, WorkSafe BC.*

As an employer, supporting the health and safety of your workers, including their mental health, is especially important during this stressful time. You may be in the best position to both identify mental health issues in your workers and to respond to them in appropriate, meaningful ways. And, according to research conducted during the pandemic, when workers feel their safety has been addressed by their employers, they report less anxiety and less depression.



**Tip:** *Each stage of BC’s Restart Plan outlines changes that may bring new or different worries—as well as hope and optimism—for workers. Employees can provide valuable insight into the challenges your workplace and workforce may face at each stage. Don’t forget to consult with them as you plan.*

### Common Reactions to Stress - What You Might See in Your Employees During This Time:

- |   |   |
|---|---|
| <ul style="list-style-type: none"><li>• Working too much or too little</li><li>• Reduced productivity, difficulty concentrating on tasks, easily distracted</li><li>• Late to work or absent</li><li>• Social isolation, withdrawal from others</li></ul> | <ul style="list-style-type: none"><li>• Agitation, irritability, anger, sadness, fatigue</li><li>• Hypervigilance</li><li>• Other <b>changes</b> in mood and behaviours</li></ul> |
|---|---|

**Tip:** *Another reason to check-in regularly with employees is to get to know their “normal” and potentially notice sooner if they could use some help. Too often, we miss or avoid tough conversations because of a lack of relationship with workers.*

## How Can You (Employers) Support Employees?

Start with education, provide factual information, and continue to take the necessary steps to ensure physical safety. Trusted sources you can refer to include the World Health Organization, the BC Centre for Disease Control, and the Public Health Agency of Canada. Try to find a balance between information related to business operations, mental health and pandemic response, and positive stories.

You can also consider how your workplace can play a role in promoting wellbeing, such as:

- facilitating the scheduling of breaks and coverage for employees on breaks if necessary;
- being mindful of the separation between home and work life (e.g. don't ask employees to check emails or respond to work calls after hours);
- sharing self-care strategies and promoting mental health resources such as the ones listed below.

**Tip:** *Employees may have questions about COVID-19 Safety Plans, how to respond to guests who don't comply with COVID-19, vaccinations or other policies that you may have in place. Being proactive in anticipating questions and concerns, and being prepared to explain the considerations behind your decisions, can go a long way in helping employees feel safe, confident and cared for.*

## Stay Connected and Prioritize Communication

Communication should be consistent, timely, and clear. Ensure your workers feel they can share concerns they may have with you or their supervisors.

If you're worried about a worker's stress, anxiety, or wellbeing in general, start a conversation with them. You don't have to have all the answers or know the “right” thing to say. Some simple prompts to get started:

“I know there is a lot changing around us, how are you managing?”

“I have noticed [*name the changes you have been observing*]. What can I do to support you?”

If the employee's concerns go beyond what you can help with at work, you might consider saying something such as, “I don't have the answers, but let's find someone who can help.”

**Tip:** *Remember that workers may have family or close friends in other provinces or abroad and continue to be deeply affected by the pandemic, even while BC's restrictions start to ease. Be sure to check in with your employees frequently so you can anticipate the support or information they may need.*

## TOOL: COVID-19 Vaccinations Q&A – Addressing Employee Hesitations

The topic of vaccinations can be a challenging one for employers to discuss with employees, to help provide guidance we have captured below some of the more common questions and provided guidance for responses.

### **SAMPLE Employer Support Statement:**

Vaccination will play a critical role in the prevention of COVID-19 among workers and the public.

At [BUSINESS NAME] we strongly support BC's COVID-19 Immunization plan and encourage all employees who are able to get vaccinated to do so. We offer paid time off to all employees to get vaccinated, and (any other support?).

If you have any questions or concerns, please see your manager or human resources. [INSERT CONTACT INFORMATION]

### **What If...**

#### **I can't afford to take time off to get vaccinated?**

- In BC, all employees are entitled to up to 3 hours of paid leave in order to get vaccinated.
- If you need time off during work to attend a vaccination appointment, please let your manager know.
- We ask that you please provide as much notice as possible and a copy of your vaccine appointment confirmation at the time of your request.

#### **I don't know if I am eligible to get vaccinated?**

- To find out if you are eligible, please visit the provincial government's [B.C.'s COVID-19 Immunization Plan website](#).

#### **I don't know how to book an appointment?**

- You can register [online](#) (fastest option), by phone or in person at all Service BC offices.
- More information: [How to get vaccinated for COVID-19 - Province of British Columbia \(gov.bc.ca\)](#)

#### **What if I feel ill after I get the vaccination and can't come to work?**

- We want to support employees who choose to receive the vaccine. If you find that you are in this situation please speak with your manager. Our sick leave policy is... (advise employees if they would be entitled to paid or unpaid time off, etc.)

#### **I am unable to get vaccinated for COVID-19 for personal reasons. I don't want that to affect my job. What should I do?**

- We value our employees and respect your privacy. Please speak to your manager about your course of action.

#### **Once I am vaccinated, do I still have to follow our COVID-19 Safety Plan protocols or the Provincial Health orders?**



- Yes. We are currently required to continue to follow our COVID-19 Safety Plan (include link) and [provincial health orders](#) to protect ourselves and others.

**Our employees have been telling us (voluntarily) whether or not they are planning to get vaccinated. Can we inform guests that we have non-vaccinated employees on our team?**

- Yes, but do not identify individual employees.

**What if we hear indirectly that an employee doesn't want to get vaccinated, can we reassign them to non-guest contact work?**

- It's best to be transparent, and to not guess or act on rumour
- Have a policy in place regarding the collection/use/disclosure of vaccination status.
- And, beware of risk ... e.g. human rights complaints of adverse treatment based on "perceived" disability (i.e., infection or infection risk); or constructive dismissal, if the reassignment amounts to a unilateral change of a fundamental term of employment.

**Can we ask guests if they have been vaccinated? Can we deny bookings/services if they haven't?**

- The jury is still out on this one. Right now, the simple answer is "no", but this might change (think, airlines and see what's happening in the US). We might see a move to Vaccination Passports, but we are not there yet and neither is the law. This is, obviously, a developing area.
- There will *always* be human rights considerations – that is, a duty to accommodate (to the point of undue hardship) those who cannot or will not get vaccinated for reasons associated with a protected characteristic under the Human Rights Code (e.g., disability, religion or sex).

**What can we do if employees don't want to work with other employees, because they refuse to get vaccinated?**

- This is really a question about workplace safety and invokes the protocols associated with an employee's right to refuse "unsafe" work – see [HERE](#) for more information.
- In short, if sufficient safety protocols are in place – i.e., if the workplace is "safe", notwithstanding the fact that some employees are not vaccinated – an employee will not likely have the right to refuse to work.

**Once we are in a position of the 4<sup>th</sup> phase of restart and no longer have to wear masks, will employers be able to require non-vaccinated employees to wear masks?**

- Generally, an employer is always permitted to mandate "safety" apparel in the workplace – including masks. Those refusing to comply will need to establish a legitimate basis for the refusal (i.e., disability).
- That said, if a mask requirement does not appear to be rationally connected to a safety concern, there will obviously be employee relations concerns.

**How can we address anti-vaccination employees who spread misinformation to other employees in efforts to discourage them from getting vaccinated?**



- Manage much like any other disruptive behavior – think about chatter concerning politics, or religion. While an employee is entitled to his/her own opinion, such talk can become disruptive in a workplace and an employer is free to insist that it stop.

**The Federal government is distributing free rapid tests for employers. Is this something that a tourism and hospitality employer should consider?**

- Yes. Watch as that technology develops, and become more reliable and readily available (affordable).
- Effective rapid testing might provide a new or different answer to some of the questions above (i.e., perhaps mandatory vaccination or masks will become much less of a concern if effective rapid testing is available).

**If we do decide to implement a mandatory vaccination policy, what is a reasonable length of time to keep that employee personal data?**

- For as long as the Employer may need to refer to and rely on that information, and for as long thereafter as might be necessary to explain/justify employment decisions.
- When in doubt, hold (securely) for at least two years and then have it permanently destroyed.

**How can we address vaccination hesitancy amongst our employees?**

- Education, education, education ... easy access to information.
- Consider in-house “expert sessions”

**One of the considerations under WorkSafeBC in order to determine whether a COVID-19 vaccination was a requirement of employment is “#3 The worker is convinced that it was necessary to receive the inoculation or injection, in spite of objective evidence from the employer that the process was not compulsory.”**

**How can employers navigate that fine line between encouraging employees to vaccinate and not have them be “convinced” that it was necessary or mandatory?**

- Make the “voluntary” nature of policy VERY clear – put it in writing.
- Or, just accept that this risk (which appears to be exceptionally low) is worthwhile and outweighed by the value of maximizing vaccination rates.

**Employers cannot ask employees if they are vaccinated (or intend to vaccinate) but can they ask job applicants?**

- The same rules apply to applicants and employees – consent is necessary and/or clear notice of the purpose for the collection/use/disclosure of the information.

## **Tool: SAMPLE Employee Time Off Request form**



Download SAMPLE form [here](#)

**Employee Information:**

Employee Name: \_\_\_\_\_ Date of Request: \_\_\_\_\_

Department: \_\_\_\_\_

Date(s) Requested: \_\_\_\_\_ to \_\_\_\_\_ (inclusive)

Time(s) Requested: \_\_\_\_\_ to \_\_\_\_\_ (if less than 1 day)

Total # Hours Requested: \_\_\_\_\_

**Type of Leave Requested:**

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Sick Day(s) -  Paid  Unpaid  COVID-19 Leave -  Paid  Unpaid

COVID-19 Vaccination, Paid (*up to 3 hours max.*)

Personal Illness or Injury Leave  Family Responsibility Leave

Maternity or Parental Leave  Compassionate Care Leave

Bereavement Leave  Other: \_\_\_\_\_

Vacation - I acknowledge that I have (or will have) accrued sufficient time to cover requested vacation.

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Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Approved  Denied

Manager Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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## Tool: SAMPLE Employee Sick Leave Policy



Download this **SAMPLE** policy [here](#)

### Overview

At [COMPANY NAME] we believe that our employees are the reason for our success. We value our employees and want to be responsive and supportive during times of illness or personal emergency. This policy will provide guidance related to [paid and/or unpaid] leaves that are available to assist our employees in these circumstances. A paid leave is not a right, a benefit or an entitlement, but rather available to you if and when you need it.

### Guidelines

Prompt and regular work attendance is required to maintain an effective business; however, we recognize that life happens. If you must be absent from work on a given day, you are required to notify your manager [INSERT CONTACT METHOD(S)], [INSERT TIMELINE – E.G. no later than your regular starting time].

[COMPANY NAME] staff may be allowed up to **10 paid days off per calendar year for sick leave. Up to 2 of these days may be personal days** as described below. Unused sick or personal leave is not paid out to employees at any time. Absences due to sick or personal leave must be recorded as such on your timesheet.

### *Illness*

It is inevitable that employees will become ill from time to time. In order to maintain a healthy workplace and prevent the spread of illness, we ask that you remain at home when you are sick.

Sick time is allocated on January 1<sup>st</sup> each year. Sick time is pro-rated for employees who commence employment after January 1. Unused sick time cannot be carried over from year to year. For any absence longer than 3 days, a doctor's note may be requested.

### *Personal Days*

[COMPANY NAME] recognizes that not all personal commitments can be taken care of outside of working hours and that emergencies may arise which require immediate attention by employees. To assist employees in responding to these types of situations, employees to use their 2 allocated personal days as outlined below:

- Parent/teacher school meetings
- Children's significant school activities; for example, Sports Day or Christmas concerts
- Emergency child-care issues
- Personal business appointments that cannot be handled outside of normal working hours such as emergency home repairs or appointments with banks and lawyers
- Personal residence move that cannot be completed outside of work hours
- Other circumstances as approved by your manager

Use of personal days must be approved in writing by your manager in advance when possible, and immediately following use if the personal day is the result of an emergency. Personal days cannot be carried over from year to year.

To request a personal day, please contact your manager [INSERT PROCESS DETAILS]

*SAMPLE Employee Sick Leave Policy Continued...*

### **Medical, Dental or Related Appointments**

We ask that appointments (e.g. medical, dental or related) be scheduled at the beginning or end of the day wherever possible, to minimize disruption to your work schedule

Please notify your manager in advance, with as much notice as possible, for all time off required to attend appointments.

If appointments are virtual or employees are able to coordinate with their manager to adjust their work schedule, there will be no impact to your sick leave or pay. Appointments of ½ day or more will reduce your annual sick leave.

### **COVID-19 Leaves (Temporary)**

Please refer to our [COMPANY NAME] COVID-19 Safety Policy for guidelines and what to do if you feel ill, have been exposed or diagnosed with COVID-19.

Employees are entitled to the following temporary leave provisions, related to the COVID-19 pandemic, as outlined and guided by [BC Employment Standards](#):

#### **COVID-19 Paid Vaccination Leave**

- Employees can take up to **3 hours of paid leave** to be vaccinated against COVID-19. If necessary, they can take additional paid leave for a second dose.
- Employees are entitled to this leave no matter how long they have been employed.
- Paid leave is retroactive to April 19, 2021.

**COVID-19 Paid Sick Leave** – You can take *up to 3 days of paid leave* between May 20 - Dec 31, 2021 if you're unable to work for any of the following reasons:

- You have been diagnosed with COVID-19 and are following the instructions of a medical health officer or the advice of a doctor or nurse
- You are in isolation or quarantine and are acting in accordance with an [order of the provincial health officer](#), an order made under the Quarantine Act (Canada), guidelines from the BC Centre for Disease Control or guidelines from the Public Health Agency of Canada
- Your employer has directed you not to work due to concern about your exposure to others

**Unpaid COVID-19 leave** - Employees may be entitled to an unpaid, leave of absence, if you are unable to work for specific reasons, related to COVID-19 as outlined by the [BC Employment Standards](#).

- If you are in this situation, please contact your manager as soon as possible so that we may support you
- Employees may be asked to provide reasonable proof that they are entitled to this leave

If you are affected by COVID-19 and require one of these leaves, please advise your manager as soon as possible [by phone or text].

## Tool: **SAMPLE** Mandatory Vaccination Policy



Download this **SAMPLE** policy [here](#)

### **COVID-19 Vaccinations & Mental Health – Resource Links**

[COVID-19 Vaccinations - go2HR](#)

[COVID-19 Vaccine \(bccdc.ca\)](#)

[COVID-19 vaccination and immunization - \(gov.bc.ca\)](#)

[How to get vaccinated for COVID-19 - \(gov.bc.ca\)](#)

[Register to Get Vaccinated \(gov.bc.ca\)](#)

[COVID-19 vaccination and the workplace - WorkSafeBC](#)

[COVID-19: Free rapid tests for your employees - Canada.ca](#)

[Leaves of absence - \(gov.bc.ca\)](#)

[Human Rights Code: Advice for Small Business Owners | Employerline.ca](#)

[BC's Hub for Workplace Mental Health – Tourism & Hospitality](#)

[Here to Help BC](#)

[Anxiety Canada](#)

[BounceBack<sup>®</sup>](#)

[Crisis Centre BC](#)

310 Mental Health Support: 310-6789 (no area code needed)

### **Contributors**

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