

## Proposal for mandatory vaccine-only COVID certification in a Plan B scenario

Under Plan B, the government expects that mandatory vaccine-only certification for visitors to venues and events, and vaccine-or-test certification for the workforce would be introduced for the following venues and events:

- all nightclubs, and other venues open after 1am with alcohol, music and dancing
- indoor, crowded settings with 500 or more attendees where those attendees are likely to be in close proximity to people from other households, such as music venues or large receptions
- outdoor, crowded settings with 4,000 or more attendees where those attendees are likely to be in close proximity to people from other households, such as outdoor festivals
- any settings with 10,000 or more attendees, such as large sports and music stadia

There are some settings that will be exempt from requirements to use the NHS COVID Pass, such as:

- communal worship
- wedding ceremonies
- funerals
- other commemorative events

***Which settings should also be in scope of certification, or be excluded from certification? (maximum 150 words)***

It will be important to clearly explain to the public why it is that the venues identified in the proposal have been chosen for the scheme and not others. Many other settings, including smaller crowded venues or settings in which many unvaccinated people gather, such as pubs, bars, or restaurants, may also be high-risk or pose an equal transmission risk to the settings identified in the proposal. It should be clearly stated whether the choice of venues is made on the basis of transmission risk, or on the basis of other policy considerations (such as the burden on businesses to implement and enforce the scheme, the burden on state to enforce it, and so on).

From an ethical, human rights, and equality point of view, it is important that the choice of settings for which the mandatory vaccine-only certification scheme is not and is not seen to be arbitrary. It is therefore important to have a sound and publicly accessible justification for its scope.

***Please provide any additional comments you have on requirements on people working at venues where certification would apply. (maximum 500 words)***

Vaccination against Covid-19 is not significantly burdensome for most individuals. The interference with bodily integrity and autonomy involved is relatively minor compared to the lockdown restrictions that have been implemented as part of the UK's response to Covid-19. Moreover, the risks of vaccination are very low, and indeed being vaccinated overall benefits most vaccinated individuals, as well as reducing the risk they pose to others.

It is likely that a vaccination certification scheme would interfere with individuals' rights under Article 8 of the European Convention on Human Rights, which protects private and family life, including personal autonomy, bodily integrity, and privacy. But Article 8 is a qualified right. A vaccination certification scheme that interferes with individuals' rights under article 8(1) will be justified if it: (i) pursues a legitimate aim, (ii) is in accordance with the law and (iii) is necessary in a democratic society, which involves considerations of proportionality. A vaccination

certification scheme would pursue a legitimate aim: the protection of life and (individual and public) health, and the protection of the rights and freedoms of others. In addition to the risk of mortality that SARS-CoV-2 infection poses to individuals, there is increasing evidence of serious and potentially enduring morbidities and long-term health complications following Covid-19 infection. A vaccination certification scheme may therefore be necessary and proportionate.

Vaccination passport schemes can mitigate some of the negative effects (including on disadvantaged groups) that social restrictions carry, while also keeping people who work or spend time in high-risk environments safer than they would be without such a scheme. People working in high-risk jobs otherwise have limited possibilities to avoid infection, and infection is associated with risk of long-term morbidities.

In addition, a mandatory vaccine-only certification scheme may allow us to avoid social restrictions, which are burdensome and whose burdens affect marginalised or disadvantaged groups in society more severely, and aid economic recovery, especially in sectors that have been hardest hit by social restrictions.

But it is vital that the scheme is not and is not seen to be arbitrarily applied. For example, it is hard to see how the exclusion of all police officers, local authority officers and emergency services responders, or individuals working for international organisations could be justified. A more reasonable policy would be to exempt from vaccination requirements ‘police officers, local authority officers and emergency services responders **who are performing essential roles and cannot at reasonable cost be replaced by vaccinated colleagues**’.

If the scheme allows for a range of exemptions that do not admit of easy justification, the scheme is at risk of seeming, and perhaps being, arbitrary and discriminatory. Medical and age-based exemptions suffice.

*There will be a small number of exemptions.*

*The following have an exemption from vaccination, which they will demonstrate through the COVID Pass or international equivalents:*

- *UK COVID-19 vaccine clinical trial participants or vaccine trials participants who have taken part in a clinical trial in any country whose proof of participation is recognised that is recognised for UK border purposes*
- *anyone with a clinically approved medical reason why they cannot vaccinate*

*The following have an exemption from certification:*

- *anyone aged under 18 years of age*
- *police officers, local authority officers and emergency services responders acting in their official duties*
- *a diplomat or someone working for an international organisation*

***Are there any groups, particularly those with protected characteristics, that you think would benefit from vaccine certification becoming mandatory in the settings listed? (maximum 150 words)***

Disabled individuals (including people who are clinically vulnerable to Covid-19 and cannot gain full protection from or receive vaccination), who have been disproportionately affected by the pandemic, will benefit from mandatory vaccine certification. Knowing that others are vaccinated

and thus pose a reduced transmission risk enables them to participate in societal activities that would otherwise carry an unacceptably high risk of death or injury to them.

Ethnic minorities, among whom rates of death and injury due to Covid-19 have been higher, benefit from measures that control infection spread, of which mandatory vaccine-only certification is one.

***Are there any groups, particularly those with protected characteristics, that you think would be placed at a disadvantage from certification becoming mandatory in the settings listed? (maximum 150 words)***

If members marginalised or disadvantaged groups are less willing or able to get vaccinated, a vaccination requirement may exacerbate their disadvantage. However, it is important to note that such groups are also likely to be disproportionately negatively affected by the alternatives to a mandatory vaccine-only certification scheme, including by social restrictions, which the government may have to impose if infection rates escalate. And disadvantaged groups are also disproportionately negatively affected by policy choices that permit high prevalence of Covid-19 infection while failing to impose social restrictions: ethnic minorities and socio-economically disadvantaged groups have been much more burdened by Covid-19 infection when infection rates have been high. Disadvantaged groups would therefore also be disproportionately negatively affected by not introducing vaccination requirements.

***Thank you for taking the time to share your thoughts. We welcome any further comments you may have relating to this consultation. (maximum 500 words)***

Vaccine passport schemes and vaccine mandates are now used with great success in many other jurisdictions. This should encourage the government to consider their implementation here, too. A vaccination certification scheme may encourage uptake of vaccination (as it has in other jurisdictions that have introduced them, such as France and some provinces in Canada). Even those who are young and were previously healthy may be seriously affected by acute Covid-19 infection, or develop long-term health complications as a result of it, including neurological and other organ damage. Given that being vaccinated against SARS-Cov-2 will typically be beneficial for individuals themselves, as well as for the wider society, it is ethically acceptable for the state to adopt policies that exert some pressure on individuals to be vaccinated; there is no obligation on the state to remain neutral in respect of vaccination.

Individuals who are reluctant to get vaccinated will not, then, be pressured into doing something that is contrary to their best interests (though it may be contrary to their preferences). Just as seatbelt and vision requirements for motorists benefit individuals themselves, while also benefitting other road users, vaccination against Covid-19 benefits both the individual who receives it and their loved ones and wider society. Furthermore, it is morally obligatory for the state to take action to protect individuals from Covid infection. Vaccination requirements are one of the least harmful and restrictive ways to discharge this obligation.

It will be necessary to conduct an equality impact assessment on the proposed policy, as well as alternative options (including the inclusion of more venues in scope), to more fully understand the potential impacts on individuals with protected characteristics.

