

## Full Bench backs vax directive

In our most authoritative decision to date, the Full Bench of the Fair Work Commission has supported the right of an aged care facility to require staff to get the flu vaccine as part of their employment.

A receptionist took issue with the vaccine mandate citing a skin allergy as her reason for hesitation. In light of the receptionist's refusal to get the flu shot, the aged care provider terminated her employment. Providing some guidance to the current COVID-19 vaccine question, upon hearing from a specialist immunologist, the Full Bench did not consider the skin allergy as a sufficient basis for the receptionist to refuse the vaccine.

Although a highly relevant decision in the current environment, it aligns with a string of recent judgements by the FWC, which have upheld the right of employers in particular industries, such as childcare and aged care, to require staff to get vaccinated in support of work health and safety obligations. While employers in these industries should get comfort from the outcome, including in relation to the use of COVID-19 vaccines, this is not a green light to all businesses to implement vaccine mandates. Whether an employer has this right depends on the circumstances.

It's only a matter of time before we see challenges to, and get the FWC's views on, COVID-19 vaccine requirements across various industries and work environments. While they wait for that clarity, every business needs to assess what measures it needs to take to protect employees, customers, and others particularly as we move towards opening back up.

Not easy questions to answer but we're here to help.

Questions? Give us a call.

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