

M·E·M·O

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To: Mayor Amanda M. McDougall & Council
From: Marie Walsh, CPA, CGA - Chief Administrative Officer
Date: October 12, 2021
Subject: CBRM - WORKPLACE SAFETY PROTOCOL

On Sept. 28th a message was sent out to all staff and Council to inform everyone of the protocol developed for Phase 5 which I have included below. This was reviewed with our ECC team, and with input from OHS. It also took into consideration the review done by our legal department which was sent to you earlier today and is also included below. At that time there was no direction or policy for Provincial employees in place. Local Universities and other Municipalities were adopting the same protocols. Our current protocol requires all staff who are not doubly vaccinated to continue to wear masks and to be tested every three days as soon as Phase 5 is fully implemented. FYI, 36 Of over 800 employees are not vaccinated.

The Human Rights Commission has put out a facts sheet giving key information about vaccines and human rights which states "The employer would need to demonstrate the requirement for a vaccination is valid based on the characteristics of the workplace. Some of these may include close contact in the workplace, working with vulnerable populations, and if they can show it is a reasonable measure to implement for the protection of the employees and clientele. "This statement closely matches our legal review.

Therefore, I offer 3 options to Council :

1. Adopt the current protocol as a Council Policy
2. Request Staff to come back with an alternate policy that includes mandatory vaccination
3. Come back with a hybrid policy with mandatory vaccination on only certain sectors of CBRM that are working close with the general public or vulnerable populations

Yours Truly,

Marie Walsh, CPA, CGA
Chief Administrative Officer

CBRM - WORKPLACE SAFETY PROTOCOL

Unvaccinated or partially vaccinated employees will be required to wear a mask while at work and to provide negative test results on a regular schedule.

Fully vaccinated employees will be exempted from this requirement upon providing proof of vaccination. If you wish to provide proof of vaccination in order to be exempted from the testing and masking requirement, provide your immunization record, by email or hard copy, to your supervisor or manager by **Friday, October 1st**.

You can download your immunization record here:

<https://novascotia.flow.canimmunize.ca/en/portal>

For those who opt to not provide proof of vaccination status, a PCR or rapid test must be taken at 3 day intervals and results provided to your manager/supervisor. A first negative test must be presented at the work place on October 4 so may need to be obtained as early as September 30 in order for the result to be available. A full schedule of testing will be provided by your supervisor.

Time off for testing is not provided, it must be done on off-work hours. Work time missed if results can't be obtained will not be eligible for sick time. Vacation days may be used.

Important Notes:

- New employees will be required to provide proof of vaccination
- Contractors and other people entering municipal buildings will be required to mask

CBRM is viewing COVID-19 as other respiratory illnesses hazards to be mitigated under occupational health and safety legislation. Many of our workplace safety practices will remain in place as part of general occupational health and safety efforts to protect employees and clients from both respiratory illnesses. For example, where we have invested in barriers, established cleaning protocols, and provided support for hand hygiene to help prevent the spread of COVID-19, they will remain in place.

Nova Scotia Occupational Health & Safety Act: Duties of employer

- 13(1) Every employer shall take every precaution that is reasonable in the circumstances to
- (a) ensure the health and safety of persons at or near the workplace;

Legal Review

“Based on the test as set out in case law, it appears to me that if we wanted to implement a mandatory vaccination policy, we would have to ensure that we had sufficient evidence on hand to clearly establish the reasonableness of the policy. The same considerations and analysis would likely apply with respect to a vaccination policy as have been applied in the rapid testing cases. We would likely need to conduct an assessment of the risk of transmission at each of our workplaces, and make a determination as to what measures would be most appropriate to address the risk of transmission, balanced against the degree to which the measures intrude on the employee’s rights. It should be noted that many of the cases dealing with mandatory vaccination policies relate to care homes or other health care workplaces, where the primary problem that the employer is seeking to address is the risk of transmission to patients, not merely transmission among the workforce. As such, the primary problem being addressed in those cases may not exist in our case, or may not be a sufficient justification for imposing a mandatory vaccination policy in workplaces where employees do not closely interact with the public, and where other less intrusive measures may be sufficient to mitigate the risk.”