

# COVID-19 VACCINATION POLICY

<b>Section</b>	Institute Governance and Management		
<b>Approval Date</b>		<b>Approved by</b>	Chief Executive
<b>Next Review</b>		<b>Responsibility</b>	Executive Director
<b>Last Reviewed</b>		<b>Key Evaluation Question</b>	6

## POLICY

Nelson Marlborough Institute of Technology Limited (NMIT) is committed to enabling a safe working and learning environment for kaimahi, ākongā, contractors and visitors.

This policy gives effect to, and builds on, the position statement of Te Pūkenga (as approved by its Council on 7 December 2021). The purpose of that statement was to provide NMIT with certainty on COVID-19 vaccination requirements in relation to certain kaimahi and ākongā pending the completion of risk assessments by NMIT.

**NMIT as a PCBU (Person Conducting a Business or Undertaking), has a primary duty of care under the Health and Safety at Work Act 2015, and must ensure the health and safety of kaimahi, ākongā and visitors to its places of work. While risk controls, such as physical distancing, hand sanitising and the wearing of face coverings, are important to prevent transmission of the virus, the Government position, based on scientific evidence, is that vaccines are the most effective control.**

## PURPOSE

To establish and communicate the position of NMIT on vaccination against COVID-19 for NMIT kaimahi, ākongā, contractors, visitors and tenants.

## SCOPE

This policy applies to people in governance roles, kaimahi (including employees, contracted staff, contractors, volunteer workers, people gaining work experience) and ākongā of NMIT, visitors to workplaces managed by NMIT and tenants of NMIT.

This policy does not apply to non-education commercial tenants with independent access to NMIT leased land.

This policy does not apply to secondary school students who are involved in secondary-tertiary provision at a NMIT site, as per the Ministry of Education guidelines in the COVID-19 Protection Framework.

This policy will be reviewed as Government mandates and direction are released and will be updated when deemed necessary by the Board of Directors guided by the Chief Executive.

## PRINCIPLES

This policy is based on principles set by Te Pūkenga namely:

- To provide certainty to kaimahi and ākongā regarding NMIT's vaccination expectations.
- To take a risk-based approach that strikes the balance between inclusion and equity for ākongā and health and safety obligations for all.
- We accept that a risk-based approach may lead to different positions in exceptional circumstances to meet the needs of our community, iwi aspirations and the requirements of any Covid-19 laws and regulations.
- We encourage and support proactive measures and early interventions where a high risk of transmission exists.

- e) We will take a partnership approach to strongly encourage everyone within the NMIT community to be fully vaccinated, subject to medical advice.
- f) We understand and respect that some people may decide not to receive the vaccine for their own reasons. In relation to vaccinations NMIT must, therefore, be capable of responding to this situation to the extent possible.
- g) We will collect and retain only the personal information needed to satisfy the intent of this statement (and underlying positions taken) and will do so in accordance with the Privacy Act 2020.
- h) We accept that any policy needs to be flexible enough to adapt to the rapidly changing COVID-19 environment.

## PROCEDURES AND GUIDELINES

### COVID-19 CONTEXT

1. Of relevance to the tertiary sector are:
  - a) the COVID-19 Public Health Response (Vaccinations) Order 2021 (Vaccination Order) made under COVID-19 Public Health Response Act 2020
  - b) the risk assessment guidance produced by WorkSafe
  - c) the vaccination assessment tool to meet regulations under the COVID-19 Public Health Response Act 2020; and
  - d) such further directives that may be issued by the Government.
2. This policy is supported by risk assessments where required.
3. All risk assessments have been premised on the need for kaimahi and ākongā to have confidence they can attend premises as safely as practicable.

The practical reality is that:

- a) kaimahi and ākongā co-exist in an environment where there are learning spaces, retail spaces and hospitality spaces; and
- b) dividing campuses and/or programme delivery into groups that are vaccinated or unvaccinated is not feasible.

### COVID-19 RISK ASSESSMENT

4. Except where required by legislation introduced to support the traffic light system, this policy requiring vaccination will not be adopted by NMIT unless or until it has completed a health and safety risk assessment and engaged with stakeholders, including staff, unions and learners.

### COVID-19 VACCINATIONS

5. Only kaimahi, ākongā and visitors who have a vaccination pass are permitted onsite.
6. Non-disclosure of vaccination status or lack of proof of a vaccination pass will be reasonably deemed to mean not vaccinated.
7. The Chief Executive or delegate may approve a variation to policy clause 5 when an approved risk assessment identifies a low risk to all NMIT kaimahi, ākongā and visitors.
8. For kaimahi and ākongā, proof of vaccination is required in the following instances:

- a) if part of their role or learning requires that they attend the premises of a placement provider or other third party who requires visitors to be vaccinated;
  - b) their programme of study falls within scope of the Vaccination Order (or such other legislation as requires vaccination); and
  - c) a risk assessment otherwise supports this – this applies in relation to current and future kaimahi and ākonga.
9. Records of vaccination status will be held in accordance with the Privacy Act 2020 and any applicable Government directives.
10. For any kaimahi who is unvaccinated NMIT will:
- a) engage in a review process that gives all parties full understanding of the other parties' considerations and concerns
  - b) support the employee to get vaccinated if vaccination is the agreed option
  - c) if vaccination remains unacceptable to the employee, but necessary for NMIT, redeployment, if available, will be genuinely considered by NMIT; and
  - d) if redeployment is neither viable for NMIT nor agreeable to the employee, then a paid notice may be served by NMIT. The employee will be given a reasonable opportunity to challenge the decision and present a feasible alternative.
11. The circumstances of each ākonga unable to complete their course due to this policy, or a requirement of a third-party placement provider, will differ. Accordingly, it is not possible, nor appropriate, to present a definitive procedure to cover all circumstances.

All decisions will be made by the Chief Executive or delegate having regard to:

- a) the alternative options that can realistically be offered to an ākonga in that scenario
  - b) the relevant programme in which an ākonga is enrolled
  - c) the stage an ākonga is at and the possibility of that ākonga being able to successfully enter the workplace if they continue to pursue that programme of study
  - d) the current terms and conditions of enrolment relating to an ākonga.
12. When determining whether an exception can be made, the following criteria must be referenced:
- a) can an exemption be safely granted?
  - b) will an exemption contravene or undermine any legislative mandates?
  - c) can affected ākonga transfer into online learning (bearing in mind that limited resources do not enable dual modes of delivery once there is a return onsite)?
  - d) is continuation in the particular course of learning practical or in the best interests of the ākonga in light of the limitations on future employment options in that field?; and
  - e) what options have been discussed?

13. Where an opportunity to transfer to another programme is feasible, NMIT will transfer the fees paid (or payable) towards that programme. Only fees paid for currently enrolled and/ or future courses will be transferred. Any deficit will be payable by the learner. Any excess will be held as a credit.
14. In relation to requests for refunds, the default position is that refunds will be assessed in accordance with the NMIT's Fees, Charges and Refunds Policy. Should the request be based on exceptional circumstances, the position is that a choice not to be vaccinated is not an exceptional circumstance as it is a matter within the control of the ākonga.

## REFERENCES

## DEFINITIONS

- *Vaccinated*

COVID-19 Public Health Response Act 2020 Section 5 Interpretation

In relation to a person, means the person has received all the required doses of a COVID-19 vaccine or combination of COVID-19 vaccines that—

- (a) the Minister or Director-General specifies in a COVID-19 order:
- (b) the Director-General specifies in a notice made under subsection (3)(b)

- *Vaccination Pass*

An official record of a person's vaccination status for use in Aotearoa New Zealand.

- *Tenant*

A person to whom a landlord grants temporary and exclusive use of land or a part of a building, usually in exchange for rent.

## Internal

- NMIT COVID Risk Assessment Process

## External

- Privacy Act 2020 (Section 22, Information Privacy Principle 1)
- Education and Training Act 2020
- COVID-19 Public Health Response Act 2020
- Health and Safety at Work Act 2015 (primary duties of PCBUs)
- Human Rights Act 1993 (Sections 21, 22, 29, 38, 39(2)(b) and (2A) (b), 40, 41(2) and (3), 57, 60 (2) and (3))
- New Zealand Bill of Rights Act 1990 (sections 5, 11)
- Employment Relations Act 2000
- Public Service Act 2020 (Section 95(a))
- Te Pūkenga Position Statement on Vaccinations
- [COVID-19 Protection Framework](#)
- COVID-19 Public Health Response (Vaccinations)
- [Guidance produced by the Ministry of Education](#)
- [Guidance produced by WorkSafe](#)
- [Vaccines and the workplace » Employment New Zealand](#)

- [COVID-19 Workforce Vaccinations Guidance | Te Kawa Mataaho Public Service Commission](#)