



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH AND COMMUNITY WELLBEING
Mr Johnathan Davis MLA (Chair), Mrs Elizabeth Kikkert MLA (Deputy Chair),
Mr Michael Pettersson MLA

Reference – Budget Estimates for 2021-22

Exhibit A

Tabled by Mrs Giulia Jones MLA – Committee public hearing, 21 October 2021

18 October 2021

Giulia Jones MP
jones@parliament.act.gov.au
GPO Box 1020,
Canberra, ACT 2601

Dear Mrs Jones,

We are writing to oppose the mandating of vaccinations in order to retain appointed positions across workplaces in the ACT. This letter collectively represents the voices of 79 ACT teaching, early childhood and childcare workers and 290 supporters. Our position is supported by not only our personal experiences, rights and opinions but also evidence and data presented by the Australian Bureau of Statistics, Fair Work Australia, Department of Health, and Australian and international acts and policies.

Collectively, we acknowledge the seriousness that COVID-19 poses to public health globally. As compassionate professionals, we have navigated the transition to and from home learning as a result of lockdowns, while providing unwavering support to our much loved students and families. We know too well the long-reaching implications that COVID-19 is having on our communities and the fears many face, including our own. Those who choose not to get the vaccine are well within their human rights to do so and their choice must be respected without pressure, coercion or discrimination. The vaccine mandate and plans to stand down and/or redeploy eligible staff has put undue stress on many people in the ACT and across Australia, impacting their physical, mental and emotional health. We are all experiencing some form of distress, as we are 'pushed aside', embarrassed and labelled as conspiracy theorists, anti-vaxxers or 'selfish'. However, our fears are real and there is more than enough proven, statistically significant and well-sourced data to support our concerns.

Vaccination

Mandating the COVID-19 vaccine for education professionals is an unwarranted measure as the vaccine has not been proven to prevent the spread of COVID-19 to unvaccinated students under 12 years. The vaccine is still in its experimental phase, with no long-term safety data available. In an Australian Fair Work Commission decision released in September 2021, Vice President Hatcher and Commissioner Riordan stated a number of evidenced claims that did not support the mandating of COVID-19 vaccinations. Fair Work Australia outlined that the data and science shows that 'unlike many other vaccinations, COVID vaccinations are not designed to stop COVID. They are designed to **reduce the symptoms of the virus**, however a fully vaccinated person can contract and transmit COVID.'¹

¹ Fair Work Commission, Decision from *Jennifer Kimber vs Sapphire Coast Community Aged Care*, 27 September 2021, <https://www.fwc.gov.au/documents/decisionssigned/html/2021fwcfb6015.htm>

To our knowledge, there are no statistically significant scientific studies that link the COVID-19 vaccines to a reduction in transmission. Furthermore, the vaccines are only provisionally approved for use in Australia and are accordingly still part of a clinical trial 'with many long-term effects unknown and this is recognised by the Therapeutic Goods Administration (TGA) in Australia.'² Fair Work Australia stressed 'that side effects exist is not a conspiracy theory.' Many people in our group expressed their fear that any adverse reactions that might occur from the vaccine could see only some workplaces liable rather than the vaccine manufacturers. In the case of NSW, recent legislation has given an employer responsibility for any adverse events, with many people raising that any liability would be difficult to report and seek compensation for.

Reasoning

The reasoning behind the mandating of vaccinations is outlined on the ACT Department of Education and Training (DET) website as being due to 'several transmission events in ACT schools and early childhood education settings.' The ACT DET acknowledges that 'while children are less likely to become seriously ill with COVID-19, there is still a risk of transmission and illness because there is not currently an approved vaccine for children under 12 years of age.' As mentioned, the COVID-19 vaccines have not been developed to prevent the transmission of the virus so this measure is ineffective and redundant to the claim. If the measure is for other reasons such as to appease parents to reduce fears, we urge you to consider our fears for our own health, human rights and privacy. The Fair Work Ombudsman has publicly stated that employers will need to have a 'compelling reason' before requiring vaccinations, and that "the overwhelming majority of employers should assume that they can't require their employees to be vaccinated against coronavirus".³ Safe Work Australia has also publicly stated that 'most employers will **not** need to make vaccinations mandatory to meet their [health and safety] obligations' and 'mandatory vaccination cannot be justified.'⁴ With close to 98% of Canberrans vaccinated, we would argue this move is not justified. **What is clear, however, is that the vaccine is not an effective or adequate control measure to deal with the transmission of COVID-19 in education and childcare settings, and those who choose not to have the vaccine are NOT putting our children and young people at risk with their decision.**

We as a group acknowledge the risk that COVID-19 poses in education and childcare settings and feel there are alternative measures that can be used to ensure the same level of safety and should be considered in conjunction with the current strategies. The real risk for employers is that a person who has COVID-19 will spread COVID-19 to others within the workplace. **Fair Work Australia outlines in their decision that 'no risk associated with a person who is unvaccinated and does not have COVID, notwithstanding the misleading statements by politicians that the unvaccinated are a significant threat to the vaccinated, supposedly justifying "locking out the unvaccinated from society" and denying them the ability to work.'**⁵ The primary duty of care for employers under health and safety law requires the employer to 'ensure health and safety so far as is reasonably practicable by eliminating or at best minimising risks to health and safety, so far as is reasonably practicable.' This would suggest that there are other control measures to implement and put in place that we will address later.

² Therapeutic Goods Australia <https://www.tga.gov.au/covid-19-vaccines-undergoing-evaluation>

³ Fair Work Commission (See footnote 1)

⁴ Safe Work Australia,

<https://www.safeworkaustralia.gov.au/covid-19-information-workplaces/industry-information/general-industry-information/vaccination?tab=tab-toc-employer>

⁵ Fair Work Commission (See footnote 1)

Acknowledging community fears in regards to transmission in schools is vital. However, more must be done to rationalise the fears of parents and communities at large. The Australian Bureau of Statistics presents readily available information on COVID-19 case numbers and mortality rates. Sadly, there has been a total of 141,033 reported cases and 1,515 deaths of or **with** COVID-19 (for example, in the presence of other health conditions). In 2020, COVID-19 is ranked 38th in leading causes of death, behind heart disease, suicide, influenza, pneumonia amongst many others in Australia. Case reports are highest in those aged 20-59, however, the majority of deaths (88%⁶) of or **with COVID** (alongside co-morbidities) have been reported in people aged 70 years and over, with most being past the average life expectancy of 80 years old⁷.

Of relevance to our sector, and going to our point, only 4.5% of cases have been in school aged children and 'their symptoms are milder and they are less likely to develop severe illness'.⁸ In the ages of 0-9 (childcare and primary school age) **no deaths** have been reported in Australia, and two in the 10-19 age bracket (upper primary, highschool and college)⁹ with reports both teenagers had serious underlying health conditions. **This would argue that there could be more information shared with our community about the purpose and efficacy of the vaccine for stopping transmission alongside the very minimal risk of infection and death from COVID-19 for our children and young people.**

When speaking with those in our group opposed to mandating the vaccines, we heard of the many fears and reasons for each decision. From maintaining medical privacy, the experimental nature of the vaccine, having good overall health, past adverse reactions or vaccine injuries, religious objections, the known (and unknown) adverse reactions from the COVID-19 vaccine (e.g. cardiac disorders, impacted menstruation and fertility, blood clotting and tremors) and death just to name a few. To support this, the World Health Organisation's vigiaccess.org database records potential adverse reactions worldwide of greater than 2.2 million (where deaths are recorded as around 11,000). It became apparent that each and every individual in our group who chooses not to get the vaccine is guided by their own valid judgements and rationale for what is right or wrong for their body and their circumstances. As such, **the decision to retain our bodily autonomy and assess our own personal risk should not cost us our roles (i.e. a classroom teacher), employment (noting redeployment is not available in all education sectors) or livelihood, or at the least, the use of well-earned leave or entitlements like maternity leave.**

COVID-19 vaccinations, in accordance with Australian Government policy, must be freely available and **voluntary** for all Australians, based on informed consent and a robust risk assessment. We would argue that **loss of employment, redeployment, coercion and discrimination borders on involuntary for educators, based on pressure to retain an income or role.** Similarly, the experimental nature of the vaccine, biased information and misinformation/misunderstanding (in regards to vaccine efficacy in reduction of transmission) does not allow for 'informed consent.' Safety and Quality Australia states that 'informed consent is a person's decision, given voluntarily, to agree to a healthcare treatment, procedure or other intervention that is made: following the provision of accurate and relevant information about the healthcare intervention and alternative options available; and with adequate knowledge and understanding of the benefits and material risks of the proposed intervention **relevant to the person** who would be having the treatment, procedure or other intervention.' This outlines that each and every Australian has the right to choose their medical path subject to the adequate and accurate information being provided. Consent is

⁶ Coronavirus (COVID-19) case numbers and statistics, (health.gov.au), 2021.

⁷ Coronavirus (COVID-19) case numbers and statistics, (health.gov.au), 2021.

⁸ Factsheet: COVID-19 and children (health.gov.au), 2021

⁹ Coronavirus (COVID-19) case numbers and statistics, (health.gov.au), 2021.

required for all participation in a clinical trial like the provisional status of the COVID-19 vaccines and, to date, there is no risk assessment provided to the majority of employees. **Our group represents the belief that we are not in a position to provide informed consent to having the COVID-19 vaccinations.**

Human Rights

The COVID-19 vaccinations are experimental vaccines and mandating them for teachers, educators and childcare workers is unlawful and a breach of human rights. This is because our human rights are violated because workers are required to get the vaccine to keep their **appointed** permanent, contract or casual position or employment. The *Human Rights Act 2004* states that 'no one may be subjected to medical or scientific experimentation or treatment without his or her free consent' and that an individual has the 'right not to be subject to medical intervention'¹⁰. The focus of the Fair Work Australia decision above highlighted the extent to which mandatory COVID-19 vaccinations can be justified and stresses that it's unlawful to mandate a vaccine as to do so 'impinges on other laws, liberties and rights that exist in Australia.'¹¹ Other documents like The Nuremberg Code, The UN Universal Declaration of Human Rights, Declaration of Helsinki by the World Medical Association and the *Australian Human Right Commission Act 1986 (just to name a few)* reinforces informed and freely given consent and is rightly viewed as a protection of a person's human rights.

Coercion

Coercion is incompatible with consent and denying a person the ability to work in their appointed position if the person does not have a COVID-19 vaccine is what we consider as coercion. We oppose this vaccine mandate as it is legally, ethically and morally wrong to coerce a person to participate in a clinical trial or medical procedure. According to Fair Work, Australia 'Coercion is the practice of persuading someone to do something using **force or threats**. Some have suggested that there is no coercion in threatening a person with dismissal and withdrawing their ability to participate in society if that person does not have the COVID vaccine. However, nothing could be further from the truth.'¹² Further, the Australian Government's Consumer Guide to Clinical Trials also states "it is important that you never feel forced to take part in a trial".¹³

All actions appear to fall under the ACT State of Emergency - a temporary measure based on the circumstances of public health and is due to cease on 14 November 2021. The State of Emergency determines the requirement for a number of measures, including the recent mandating of vaccination for certain educational and childcare workers. In the Chief Health Officer's Statement in October 2021 it was outlined that there should be restrictions on access to particular high risk settings by workers and those in contact with vulnerable groups who have not received a COVID-19 vaccination. This statement made an argument of considering certain human rights (i.e. 'The right to life') when protecting public health over the rights to equality, consent to medical treatment or to work). We would argue that one does not overwrite another and in this instance, the vaccine of one person does not protect another! Additionally, with an experimental vaccine and unknown long term effects, future public health should additionally be considered. It was stated

¹⁰ Human Rights Act, 2004, <https://hrc.act.gov.au/humanrights/>

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¹² Fair Work Commission (See footnote 1)

¹³ Australia's National Statement on Ethical Conduct in Human Research, <https://www.nhmrc.gov.au/about-us/publications/national-statement-ethical-conduct-human-research-2007-update-d-2018#block-views-block-file-attachments-content-block-1>

that the decision 'may impact on a person's right to work and right to privacy, but as it is being imposed to protect the lives and health of the vulnerable groups within our community, it will also positively engage the right to life in that it is being imposed to protect life and the security of the community.'¹⁴ While a Public Health Order is temporary, once a vaccination has taken place, it is permanent, and as discussed above, can lead to long-term consequences, both physically and mentally. **With so many other measures in place to reduce transmission (masks, check ins, lockdowns, reduction in travel), we ask the question - with vaccinated and unvaccinated people both able to catch and transmit COVID-19, how is the mandating of vaccines an appropriate measure to enforce?**

Implications for staff and schools

As a result of this unlawful vaccination mandate, many teachers, educators and childcare workers will lose their jobs, appointed positions (such as school principals, leaders, teachers, learning support assistants, daycare workers) and businesses (in the case of family daycares). Some will take stress leave to navigate this time. This impacts income, livelihood, families, hard earned career prospects, health and wellbeing. At present and likely into the future the health and wellbeing of our group is at risk. We have shared stories and concerns of physical symptoms such as: psoriasis and dermatitis flare ups, loss of appetite, digestive complications, heart palpitations, blood pressure, tremors, hyperventilation and shortness of breath. This extends to concerns for our mental health with many experiencing: insomnia, exhaustion, brain fog, panic attacks, feelings of intense grief and sadness, inability to focus, anxiety and/or depression. When considering the next few weeks at work, many have fears of current and future incidences of social anxiety, manipulation, exclusion and gossip from colleagues. This group of practitioners are some of the hardest working and at-risk of 'burnout' professionals in any job role. Over 50% of teachers already report dissatisfaction and have considered leaving the profession prior to this mandate. **What will be the flow on effect of this for school cultures, staff morale and school wellbeing with tensions and further contribution to teacher shortage?**

It is apparent that **no consideration has been made for the impact of this mandate on the schools/centres, teachers, students, children and community with no consultation about this decision.** An appropriate measure would have been to seek the opinions and input of those who did not want to be vaccinated and find ways that they could be best supported. Had teachers/educators been consulted with and given the opportunity to address some of their concerns, we may not have a group of disenfranchised individuals in this current situation. To lose teachers, educators, childcare centres, a principal or leader is incredibly disruptive, particularly at this time. Implying this is about health, yet not considering the wider impact of this decision on our communities is inconsiderate at best. We know from a 2021 Australian Education Union survey¹⁵ that more teachers are urgently required to staff ACT public schools. When there are insufficient teaching staff on the ground, school learning is negatively impacted, heavy workloads intensify and work safety is compromised. As schools return to on-site learning, students need their teachers/leaders/staff in this transition back to classrooms. This move will be an additional impost and expense for schools to seek and appoint new teachers or replace those on leave, putting more pressure on vaccinated teachers to pick up the workload when **we are ready, willing and able to work.**

¹⁴ Chief Health Officer Statement: Consideration of Human Rights Implications of Imposed Public Health Emergency Directions

¹⁵ Under-staffed, under-resourced, under-appreciated: The teacher shortage and its impact on our schools. Findings from the AEU ACT Branch 2021 Educator Survey

Suggestions moving forward

Loss of employment or job role for teachers, educators and childcare staff who are unvaccinated with the COVID-19 vaccine, where other options are in place or available, is an unethical measure. We request that there is no mandate applicable to teachers and educators. Additionally, we present some alternative suggestions to help minimise the transmission of COVID-19 in schools. The Safe Work Australia website states that for employers to meet duties under the model Work Health and Safety laws and minimise the risk of exposure to COVID-19 in a workplace, organisations and employers must continue to apply all reasonably practicable COVID-19 control measures which have already been introduced, implemented and communicated in our settings. Subject to consultations with affected staff, alternative options to consider include improved communications with community about transmission in the vaccinated and unvaccinated, ongoing COVID-19 testing, rapid antigen testing, exemptions for natural immunity or antibodies from having previously had the virus and most importantly resourcing the education and promotion of both natural and medical methods for prevention such as good nutrition, health and lifestyle, stress management, supplementation and prescription medications used here and across the world as effective prevention and treatment options for COVID.

In summary, vaccination mandates for teaching staff, educators and daycare staff is an impractical solution to reduce the transmission of COVID-19 and to protect our young people. This experimental vaccination mandate is a complete breach of privacy and human rights. Those of us who choose not to voluntarily take or consent to the vaccination are not putting the lives of our communities at risk. Redeploying, standing down or forcing stress leave upon professionals can only result in the impacted health and wellbeing of those affected, school staff, students and communities. During this critical and transitional time in our school/centre's history, such an impact will have a drastic result on school/setting culture and student outcomes. We request that other alternatives are considered, planned for and delivered, in consultation with educational professionals, that can allow us to retain our appointed positions and remain in the jobs we know, love and are passionate about to provide a high-quality educational experience for our future citizens.

Yours sincerely,

Teachers, educators, school workers and childcare providers:

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Others in support (other teachers, parents, family and community members)

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