Mandatory COVID-19 Vaccination

Ethical / Human Rights Considerations

17th February 2022
Mandatory Vaccination Policies Internationally

- High Vaccination rates reduce cases, hospitalisations and deaths
- 93.4% less likely to die of the infection after 3 doses
- Unvaccinated 4x more likely to be hospitalised, 11x more likely to be admitted to ICU
- Mandatory Vaccination Policies aim to achieve very high vaccination coverage needed for optimal control of SARS-CoV-2.

- Austria, mandatory vaccination for all adults. COVID-19 vaccination obligatory over 60s (Greece, Czechia) over 50s (Italy).

- Australia, Belgium, Canada, Croatia, Czech Republic, Finland, France, Germany, Greece, Hungary, Italy, Latvia, New Zealand, Poland, USA have introduced vaccine mandate for health and social care workers.
Mandatory vaccination policies impose individual negative consequences for non-vaccination. Scale/type of consequence for non-compliance vary, as do exemptions.

- Mandatory Vaccination represents a considerable interference with individual liberties and autonomy.

- Basic tenet of liberal societies that state restriction of liberty is justified only to prevent harm to others (e.g. mortality, morbidity, transmission of infection, overburdening of healthcare system)

- Vaccine mandates require strong justification and (i) evidence that the measure will achieve the intended goal, in this case avert a grave threat to public health resulting in significant harm; (ii) that a mandate is proportionate to the anticipated benefit (iii) that no less restrictive measure would be effective
WHO Key Ethical Decisions

- Necessity and proportionality
- Sufficient evidence of vaccine safety
- Sufficient evidence of vaccine efficacy and effectiveness
- Sufficient supply
- Public trust
- Ethical process of decision making
Human Rights

- Interference with rights justifiable on basis of harm to others/protection of health.
- Must be (i) prescribed by law (iii) necessary in a democratic society and (iii) proportionate.

- Case law ECtHR, mandatory vaccination legitimate interference with Article 8 (freedom from interference with physical and psychological integrity). In determining proportionality, effectiveness and durability of the vaccine(s) against severe disease and/or onward transmission of infection; the risks of vaccine/contracting SARS-CoV-2 & probability of both, exemptions, penalties. Impact of novelty of virus/accelerated review procedures of the current COVID-19 vaccines?

- Autonomy, bodily integrity and privacy unenumerated rights under Article 40.3 of the Irish Constitution. any such interference must be justified and proportionate.

- Mandatory vaccination requirements are being legally challenged in a number of countries including the UK, USA, Canada, New Zealand, Australia, France, Italy and South Africa
### Vaccine Mandate General Population

- Level of population immunity high vaccination and natural infection.
  - 95.2% >18 yrs two doses
  - 71.4% >18 yrs 3rd/booster dose

- Emerging from 5th wave Omicron infection, generally less severe disease

- Lower VE against Omicron infection and symptomatic disease.
- VE against infection with Omicron dec with time after primary/booster dose
- VE against transmission modest, wanes over time

- Reasons for remaining unvaccinated varied.
  - Vaccine uptake linked to ethnicity, socio-economic status, educational attainment
  - Potential to exacerbate existing social inequalities, anti-vaccination sentiment and erode trust

- Implementation complex, expensive, time consuming
Vaccine Mandate Healthcare Workers

- Data in respect of vaccine uptake in HCWs not readily available; HCWs are high risk of infection
- High uptake protects HCWs and vulnerable patients

- Fulfilment of professional and ethical responsibilities; do no harm, duty of care

- Commitment to do no harm extends to healthcare institutions who have a moral and legal duty to protect HCWs and patients from healthcare acquired infection

- Current Policy based on intervention ladder; interventions become progressively more restrictive; provision of information, additional testing/PPE requirements, redeployment.

- Unintended consequences; staff shortages, erode trust employee and employer, impact on morale
Conclusions & Recommendations

- Given the high levels of immunity in the population as a result of vaccination and natural infection, and in light of vaccine waning and vaccine escape in the context of Omicron as well as the improving epidemiological situation, it would be difficult to justify a population wide vaccine mandate on the basis of necessity or proportionality. The successes Ireland has already achieved in relation to COVID-19 has been largely based upon trust and transparency rather than penalties and enforcement. It is vital that continued efforts be made to engage, listen with respect, communicate effectively, and offer practical and targeted support to those who have yet to be vaccinated, given the direct benefit COVID-19 vaccination offers in terms of reducing the risk of severe disease, hospitalisation and death.

- The current HSE policy in relation to unvaccinated health care workers is in line with the principle of least restrictive alternative advocated by the WHO. Mindful of the potential adverse consequences of introducing a vaccine mandate for this group, any change in policy would have to be informed by a more complete understanding of COVID-19 vaccine uptake in HCWs, both in health and social care settings. Less intrusive measures must first be shown to be ineffective before more intrusive measures should be considered. Thus, continued exploration of why some HCWs have not taken up the offer of a COVID-19 vaccine as well as an evaluation of the effectiveness of the current measures in place should be undertaken prior to any change in policy. In this regard, and particularly related to future preparedness, continued efforts should also be made to improve and strengthen vaccination information systems such that there is a close to real-time understanding of vaccine uptake amongst this group.