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HRC Statement on Proposed COVID-19 Vaccination Policy for Work Permit Holders

The Human Rights Commission continues to follow the ongoing COVID-19 global pandemic and its implications for Cayman Islands residents. Most recently the Commission noted the Cayman Islands Government's newly proposed regulations requiring COVID-19 vaccinations in specified groups.

For persons currently on a work permit or applying for a work permit, the grant or renewal of a work permit can be provided with conditions, such as the requirement to be vaccinated (in this case, against COVID-19). A more extensive legal commentary of this was presented in a Cayman Compass article titled "Can employers insist staff get the COVID-19 vaccination?" (30 April 2021)¹.

Government has a duty to protect the lives of all individuals in the Cayman Islands, as outlined in section 2 of the Bill of Rights (right to life), a duty it has already exercised throughout the COVID-19 global pandemic, such as with the implementation of border closures and shopping days by last name, curfews, limitations on gatherings over certain numbers, requirements for wearing facemasks, etc. The mandating of vaccinations against COVID-19 for grants or renewals of work permits is another condition which Government can put in place once assessed that it is lawful, rational, proportionate and procedurally fair (i.e. in line with section 19 of the Bill of Rights on lawful administrative action). However, the Government policy would have to allow for exceptional circumstances in which exemptions could be granted, such as cases where medical contraindications exist.

The Commission has also noted discussion of potential restrictions employers can put on employees regarding vaccination against COVID-19. The matter was examined in detail in a public statement released by local law firm HSM in April of this year², and whilst the Commission cannot provide legal advice or endorse one particular perspective, employers may find this analysis useful.

¹ <https://www.caymancompass.com/2021/04/30/can-employers-insist-staff-get-the-covid-19-vaccination/>

² <https://hsmoffice.com/law/can-employers-in-the-cayman-islands-mandate-the-covid-19-vaccine-6150/>

Human rights is a balancing act and, in balancing the rights of individuals, Government has a responsibility to balance all rights. Section 16 of the Bill of Rights (non-discrimination) allows for discrimination in limited circumstances, where the discrimination “has an objective and reasonable justification and is reasonably proportionate to its aim in the interests of defence, public safety, public order, public morality or public health.”

The Human Rights Commission joins the Cayman Islands Government in encouraging persons to be vaccinated. Individuals can find the latest vaccination schedule and other information about the COVID-19 vaccination programme here: <https://www.hsa.ky/public-health/coronavirus/>.

Ends.