



CSP Response to Covid Certification consultation

Question 1: Which of the following best describes the capacity in which you are responding to this call for evidence?

The Chartered Society of Physiotherapy is the professional body and trade union for 60,000 physiotherapists, physiotherapy support workers and physiotherapy students in the UK. 85% of registered physios are members of the CSP.

Question 2 - In your view, what are the key considerations, including opportunities and risks, associated with a potential COVID-status certification scheme? We would welcome specific reference to:

a) clinical / medical considerations

Covid status certification could give a false sense of security, risking spread of the virus. Transmission is still possible after vaccination or infection.

Some studies are suggesting there is less transmission by people who have been vaccinated, however these are not yet conclusive. Critically they do not suggest total elimination of risk.

For this reason, PPE, IPC and social distancing are still required when working with or coming into contact socially with the most vulnerable people. However, certification may encourage some people to believe they are not a risk to others and act in ways which could spread the virus.

b) legal considerations

Legislation currently prevents people being forced to receive any medical treatment, which includes vaccines – the Public Health (Control of Disease) Act 1984. We are concerned that certification could be used as a way to pressure people to accept vaccination when the law is designed to prevent compulsory medical treatment.

By using certification as a requirement for employment, or to access services, employers and others would effectively be gaining a very significant means of pressurising staff to be vaccinated, thereby undermining the existing legal protection.

c) operational / delivery considerations

The main problem is that focusing on using certification to incentivise vaccination does not address the issues which are preventing some people from being vaccinated:

1. Some people are medically contra indicated, so can't take the vaccine
2. Some have other legitimate health concerns
3. Some are hesitant because they have good reason to be distrustful of the state or health services

4. It does not address practical barriers to getting vaccinated - issues such as poor communication, lack of transport, costs, geography and having limited time are real issues which vaccination passports won't address.

d) considerations relating to the operation of venues that could use a potential COVID-status certification scheme

It is unclear which venues would be able to use certification, but one of the issues physiotherapists have faced is the unintended consequences of restriction on one class of venue impacting on others services provided in the same building. If certificates were required to allow people into sporting and leisure venues this could impact on physiotherapy services based in such venues, and who have an obligation to treat all people.

If certification were introduced there will need to be a general requirement on anyone imposing access restrictions to allow access to health services, in the public, charitable and independent sectors, regardless of their policy on the use of the certificates.

e) considerations relating to the responsibilities or actions of employers under a potential COVID-status certification scheme

We are concerned that less scrupulous employers may use a Covid certification scheme to add make certification a pre-requisite for new staff, and thus create two tiers of employee status as well as undermining the legislation that prevents people from being forced to receive a medical intervention.

Such a move may also be discriminatory to the small number of people that have a legitimate reason for not receiving the Covid vaccine. (E.G. Pregnancy)

For staff already employed, any attempt to, force them to become vaccinated by using a Covid certification scheme is likely be unlawful; however, there is a concern that some employers may consider such steps where employees have not accrued employment rights or where they have, they may consider fire and rehire on different terms and conditions of employment.

Employers should continue to meet their obligations under the Health and Safety at Work Act by undertaking both generic and specific risk assessments in order to reduce as far as is reasonably practicable the risks associated and posed by the employment environment and those faced by each employee.

No one intervention alone will be adequate to reduce the level of risk posed, and only through a broad range of measures will the risk of Covid transmission be reduced as far as reasonably practicable within any given employment work place.

As an alternative, we believe that the Health and Safety Executive (HSE) should be adequately resourced in order to be able to undertake assessment and enforcement action as required that relate to any potential breaches of the Health and Safety at Work Act.

f) ethical considerations

As a basic tenet of medical ethics it is inappropriate for our members to vaccinate someone against their will. This would include situations where individuals have been unduly pressured to be vaccinated. We are concerned that certification could be used by unscrupulous employers and organisations to put undue pressure on people, and this may lead to our members being put in a position where they are acting unethically.

In a free society we should respect the ethical objections to vaccination of some individuals. These should only be overridden if there is no other way to ensure the safety of others who are at high risk, which is unlikely to be the case. In most cases vulnerable patients and co-workers will themselves have been vaccinated. PPE is still advised even after vaccination. Where these measures are not sufficient the option of organising work so that an unvaccinated person is not working with vulnerable people will be possible in many work settings.

It should be noted that statutory clinical regulators do not regard vaccination for health care professionals as an ethical requirement to practice.

g) equalities considerations

Use of Covid certificates is likely to discriminate against some protected characteristics.

Given that both the practical barriers, and levels of vaccine hesitancy, are higher in some religious and ethnic communities, the use of certification would disproportionately advantage some communities and disadvantage already disadvantaged groups.

There are concerns about the impact on pregnant women because they are contra indicated for vaccination. If employers start to require Covid certification women may be forced to reveal pregnancies and expose themselves to potential discrimination as a result. Similar concerns apply to some people with long-term conditions or disabilities.

h) privacy considerations

Even if certification were wholly voluntary, there is a real threat that it would contravene the right to privacy. Health status and records are personal data under GDPR. By its very nature a certification scheme would require medical information to be recorded on the certificate and be available to third parties.

Where individuals have reasons not to have been vaccinated, for example due to having a long term health condition which is contra indicated, or they may be pregnant, this is highly personal data. They may well not wish to have to share this with employers or service providers, but if certification is required they may have to justify their lack of a certificate.

Rob Yeldham

Director of Strategy, Policy & Engagement

Chartered Society of Physiotherapy

yeldhamr@csp.org.uk