

Mandatory vaccination in Club lodges

Introduction

There is a motion put to the AGM, to require the Club to implement a specific policy to require all people entering club lodges to prove that they are fully vaccinated or exempt from vaccination. The committee does not support this motion and urges members to vote against it.

The committee strongly supports the motivation for this motion, which is to provide a safe workplace and snowsport accommodation for our managers, contractors, members and guests.

The reasons why the committee recommends against this motion are:

- The Club has policies in place that we believe are more effective in managing risk from COVID-19 within the lodges than a mandatory vaccination policy would be. We continually review these policies to keep them up to date. These policies have served the Club well for two years. If a new COVID-19 variant pops up or some other factor changes the situation warranting additional measures then we will adopt new measures as appropriate.
- We aim for consistency with public policy. Current public policy mandates proof of vaccination only in very specific high-risk venues such as aged care facilities, hospitals and large indoor music festivals. Our lodges don't match any of these.
- Excluding people on the basis of their vaccination status could be discriminatory and negate the value of those people's memberships.
- The motion proposes a specific policy wording that is not implementable in our lodges without increasing staffing and administrative costs.

The committee, COVID subcommittee and club managers have worked tirelessly and successfully over the past two years that the pandemic has run, to keep people safe in our lodges. We believe that the policies that the Club has in place are appropriate in managing the current COVID-19 risks.

For these reasons, the committee urges members to vote against this motion and to allow the Club to continue to manage the risks in accordance with health and legal recommendations to the best of its ability and in the best interests of all members, guests, employees, contractors and the Club.

Motivation

This motion is clearly motivated by a deep concern for the safety and well-being of members, guests, employees and contractors of the Club, as well of the Club itself. The committee shares this motivation and appreciates the good intentions Bruce Hartican and Simon Bass show in proposing this motion. It is easy to see that the first reaction many members will have to this motion is to agree with it. For the past year we have all been strongly encouraged to roll up our sleeves and get vaccinated, for the protection of society as well as ourselves. Nearly all of us answered this call, almost 95% of all Australian residents over 16 are fully vaccinated and Canberra has earned distinction as the most vaccinated city in the world.

Advice

The Club is a member of SLOPES (Ski Lodge Organisation of Perisher, Smiggins and Guthega) along with every other club in the Perisher Range Resorts and several clubs in Thredbo and Charlotte Pass. SLOPES has been instrumental in aiding clubs formulate policy for COVID-19. SLOPES has forwarded legal advice on mandatory vaccination on three occasions. On 6 October 2021 SLOPES forwarded legal advice on checking vaccination status:

<https://brindabellaskiclub.org.au/wp-content/uploads/2022/03/SLOPESLegalAdviceMandatoryVaccination.pdf>.

In summary:

- The NSW Public Health Order that was due to come into effect on 11 October required certain businesses to “take reasonable steps” to ensure that no unvaccinated adult was on their premises. The business types were specified. Ski lodges did not fall into any of the statutory definitions.
- As there was no legal requirement for us to check vaccination status, imposing a mandatory rule requiring vaccinations has a degree of legal risk, for example under the Disability Discrimination Act 1992 (Cth), the Anti-Discrimination Act 1977 (NSW) and the Privacy Act.
- A carefully drafted policy would be required for any club wishing to implement a vaccine mandate. This advice foreshadowed that such a draft policy would be made available.

On 20 October 2021 SLOPES forwarded further legal advice including the promised draft policy: <https://brindabellaskiclub.org.au/wp-content/uploads/2022/03/SLOPESLegalAdviceMandatoryVaccination.pdf>

In summary:

- The advice reiterated that there was no legislative requirement to check vaccination status or negative COVID test however clubs have obligations to take proactive steps to reduce risk of COVID in the lodges.
- The advice stated “There are other control measures Clubs can adopt other than compulsory vaccinations to reduce the level of risk. Such measures may include compulsory physical distancing, the wearing of face masks, increased hygiene standards, restrictions of the use of common areas etc.” The Club already had all these measures in place and these continue.
- The advice recognised that “There may be practical issues in checking for proof of vaccinations” particularly during a time when there is no resident manager.
- The draft policy required people to prove that they were fully vaccinated in one of three ways, all involving showing documentation in person. Exemption was also covered.
- The draft policy stated that “the Club will not collect or store vaccination information about any person.”

The committee understands that this did not supersede the advice of 6 October; it was foreshadowed and was consistent with that advice.

On 9 February 2022 SLOPES forwarded further legal advice titled “Vaccination and Testing Policy – Update”: included in <https://brindabellaskiclub.org.au/wp-content/uploads/2022/03/SLOPESLegalAdviceMandatoryVaccination.pdf>

In summary:

- While the Public Health Orders changed significantly on 15 December 2021, it is still the case that there is no legal requirement for clubs to check vaccination status or “check in” members or guests.
- It would be lawful for clubs to implement mandatory procedures in relation to vaccines, proof of vaccination and testing.
- Clubs should view relevant information and not keep any record of it to avoid obligations regarding “*sensitive health information*” under the Privacy Act. Clubs should include in any policy how they will handle such health information.

This is again consistent with the previous advice. There are difficulties in checking vaccination status when there is no manager present.

Effectiveness

Policy needs to be effective in order to be worthwhile.

Vaccination is broadly recognised as being a highly effective tool in fighting disease, both at a personal level in reducing the likelihood of infection and the severity of the disease should a breakthrough infection occur and at the society level in reducing the spread of the disease

through herd immunity. Vaccination has been credited with eliminating smallpox and significantly reducing numerous other nasty scourges including measles, polio, whooping cough to mention a few. There is strong support for encouraging everyone to be fully vaccinated against COVID-19 and it is terrific to see that the aim of having widespread vaccination in the community has been achieved with nearly 100% of ACT residents over 16 and almost 95% of residents over 16 in NSW and elsewhere in Australia being fully vaccinated, with more having had their first shot. Vaccination of the remaining few remains an important protection for those individuals.

Considering the residency of members (~43% ACT, ~51% NSW, ~6% the rest of Australia) it is reasonable to expect that 97% or 98% of members are fully vaccinated. In other words, perhaps 10 or 15 adult members may have had only a single dose or have a reasonable exemption from vaccination. A subset may be vaccine hesitant and this proposed policy would exclude those individuals from the lodges.

Recent experience has shown that COVID-19 vaccination does not eliminate the risk of infection. We are seeing breakthrough infections, particularly with the Omicron variant. Hence knowing that an individual is vaccinated does not demonstrate that they are free of infection. They may be asymptotically infected and still be infectious.

Considering the low number of people affected and the fact that vaccination does not prevent infection, excluding unvaccinated individuals from our lodges would have very marginal benefit if any in reducing risk of COVID-19 transmission in the lodges.

The policies and procedures that the Club has had in place have been effective in keeping COVID-19 out of the lodges. These include:

- Pre-trip declaration by all guests that they are free of symptoms, have not recently tested positive or been under any direction to isolate or not travel
- Temperature check and reminder of the declaration on arrival
- Reduced lodge capacity to eliminate sharing rooms with people outside your booking
- Mask wearing in the lodges
- COVID-19 cancellation and refund policy
- Enhanced cleaning and disinfecting protocols

Implementation

In order to implement the policy as drafted, the Club would have to employ a manager to be on site at each lodge in order to check vaccination status so that the club did not need to electronically receive and keep a record. As we were entering the summer season with very light lodge usage in Guthega, it was not viable to have a manager in Guthega over summer. Another option would be to close the Guthega lodges outside winter. The COVIDSafe Subcommittee also considered redrafting the policy to support checking vaccination status without a face-to-face meeting. After much consideration, the subcommittee could not find

a way to implement such a policy without increasing costs and effort, including costs for further legal advice. Finally, the NSW Public Health Order requiring checking of vaccination status ended in mid-December 2021 in conjunction with cessation of a number of other health restrictions. This change aligned to reduced risk of serious illness in NSW and surrounding regions due to high vaccination rates and signalled our health authorities taking a more relaxed approach to managing COVID in our community.

Consistency with Public Policy

One of the key aims in developing COVIDSafe policy for the Club has been consistency with public policy. This helps members and guests to understand and accept the policies hence improves compliance. It also ensures that we are following the best available advice from public health officials that has been considered appropriate for our environment. All of the points in the pre-trip declaration that may lead to cancellation, mask wearing, enhanced cleaning protocols and so on have been consistent with public policy.

When the NSW Public Health Order covering checking vaccination status was introduced it listed specific business types required to check vaccination status. Ski lodges did not fit within any of the statutory definitions. The Order came into force in October 2021 and ceased in December 2021, a period with low lodge usage. Current legislation requires confirmation of vaccination in very limited high-risk settings such as aged care facilities, hospitals and indoor music festivals with over 1000 patrons.

Public policy is shifting towards treating COVID-19 as endemic rather than pandemic. Despite very high vaccination rates in the community, we see widespread transmission of the disease. However, the severity of infections is reducing and the peak of hospitalisations has passed. State and international borders have re-opened with quarantine reduced or eliminated. Mask wearing requirements are reducing. We believe that it is appropriate to continue to keep Club policy aligned with public policy, with no current requirement for checking of vaccination status. We will continue to keep abreast of public policy and adapt our policies as appropriate.

Equity

Brindabella Ski Club is built on equity and fairness. We have members from diverse backgrounds who all have equal rights to lodge access, snow sports training and participation, committee membership etc. A policy to decline lodge access to unvaccinated members would erode that equity, significantly degrading the value of club membership to those individuals. Should the Club offer to refund their membership fees? Juniors are important club members – they are the Club's future. Vaccination rates are lower in younger age groups (ages 12-15: ~84% 1st dose / ~79% 2nd dose, ages 5-11: ~48% 1st

dose / <2% 2nd dose), partly because they have become eligible later. Families with young children are more likely to be impacted by the proposed policy than older members.

Conclusion

The Brindabella Ski Club committee believes that the Club has managed the COVIDSafe plan well through the past two years, ensuring that appropriate policies have been kept in place, up to date and operational. The motivation for these policies is to minimise the risk that COVID-19 entered the lodges or was transmitted within the lodges, in the best interests of the Club and its members, guests, employees and contractors. The policies have been effective to date. The policies have been consistent with public health policy and equitable among all members.

We believe that a policy requiring all lodge users to demonstrate or declare that they are fully vaccinated or exempt does not meet all these aims. It is not consistent with public policy, it is not equitable, it would have limited effectiveness and has significant issues in implementation.

For these reasons the *Committee recommends that members vote against the motion proposing a policy to require all lodge users to demonstrate that they are fully vaccinated or exempt.*