
HALDIMAND COUNTY

Report CSS-04-2021 Haldimand County Vaccination Policy

For Consideration by Council on September 21, 2021



OBJECTIVE:

To implement a corporate wide COVID-19 vaccination policy for all Haldimand County staff, elected officials, board/committee appointees, volunteer firefighters, students and volunteers including the Haldimand County Library Board and its staff and volunteers and to consider specific provisions related to mandatory vaccination for high risk areas in the municipality.

RECOMMENDATIONS:

1. THAT Report CSS-04-2021 Haldimand County Vaccination Policy be received;
2. AND THAT the Haldimand County Vaccination Policy attached to Report CSS-04-2021 be adopted, effective September 27, 2021;
3. AND THAT the COVID-19 Vaccination Policies for Grandview Lodge and the Haldimand Paramedic Service be endorsed and amended as outlined in Report CSS-04-2021, including the requirement for mandatory vaccination of all staff in these high risk settings, with effective dates for proof of full immunization to be no later than November 16, 2021, and with staff in non-compliance being placed on an unpaid leave of absence;
4. AND THAT Haldimand County participates in the pooled legal fund organized by AdvantAge Ontario, with staff monitoring participation for effectiveness going forward.

Respectfully submitted: Cathy Case, General Manager of Corporate & Social Services

Approved: Craig Manley, MCIP, RPP, Chief Administrative Officer

EXECUTIVE SUMMARY:

In accordance with public health and scientific data, vaccinations are safe, highly effective and significantly reduce the risk of serious illness and hospitalization. As an employer, Haldimand County has an obligation under the Occupational Health and Safety Act to provide a safe work environment for its staff. As the local government, it is critical to provide safe and reliable continuity of service to the County's taxpayers at a responsible cost. Implementation of a reasonable and responsible vaccination policy will allow for the following:

- Safety of the public;
- Safety of staff and County representatives;
- Return to the intended work environments;
- Ensure continuity of services to the public with adequate staffing levels and at reasonable costs

The senior management team of the County has reviewed options related to vaccination policy and is recommending adoption of a corporate wide policy that requires mandatory disclosure of vaccination status and mandatory testing of unvaccinated staff on a routine basis. The policy would apply to all County representatives including staff, elected officials, board/committee appointees, volunteer

firefighters, students and volunteers and Library Board members, staff and volunteers. It does not include staff from Grandview Lodge or the Paramedic Service as they are subject to separate policies related to vaccination. The corporate policy outlines the logistics of implementation and the consequences of non-compliance. It also requires all new hires and internal transfers to be fully vaccinated as a condition of employment.

Additionally, staff is requesting that Council consider amending existing policies for high risk settings in the County, namely Grandview Lodge (21% unvaccinated rate) and Haldimand County Paramedics (6% unvaccinated rate) to make vaccination of all staff in these areas mandatory.

Lastly, AdvantAge Ontario, the association covering municipal long term care homes in Ontario, has coordinated a pooled legal fund to address any challenges to such policies and staff are recommending joining the pooled legal fund to leverage collective resources in defending the need for mandatory vaccination in long term care.

BACKGROUND:

The Corporation of Haldimand County includes several representatives in the following groups:

- Elected Officials
- Staff
- Students
- Volunteers
- Volunteer Firefighters
- Board/Committee Appointees
- Library Board and its staff and volunteers

In accordance with the Ontario government, some settings are considered higher risk than others. In Haldimand County there are two such settings: Grandview Lodge Long Term Care Facility and the Haldimand County Paramedic Service. These high risk settings were mandated by the provincial government to implement vaccination policies for their respective workplaces. Grandview Lodge was required to have a policy in place by July 1, 2021. The Paramedic Service was later added by the Province as a high risk healthcare group and was required to have a policy in place by September 7, 2021. Those policies were implemented as Divisional policies and are currently in effect. Generally speaking both policies mimic one another and include the following key principles:

- As set out by the Province as a minimum requirement, staff have three options:
 - Option 1: Provide proof of full vaccination against COVID-19.
 - Option 2: Provide a valid medical exemption.
 - Option 3: Take an education course.
- Those who choose to take the education course and remain unvaccinated are required to sign a Declination Form indicating they understand the potential consequences of their decision not to be fully vaccinated.
- Mandatory rapid testing is required for all unvaccinated staff, currently on a 3X per week for Grandview or 3X per block for paramedics (less for casual or part time staff)
- During high periods of transmission (such as an outbreak at GVL), unvaccinated staff will not be permitted to work in the home and will be placed on an unpaid leave of absence.
- All new hires and internal job postings now require full vaccination as a condition of employment.

Since the first County policy for Grandview Lodge came into effect, many healthcare settings and a large consortium of private long term care home chains have implemented policies that require

mandatory vaccination of all staff, and provided timelines in which staff must become fully vaccinated or risk being placed on unpaid leaves or face termination.

In addition, since the province released its requirements for healthcare organizations to implement policies related to vaccination, but failing to mandate vaccination, the decision regarding whether vaccination will be mandatory in a particular workplace falls squarely on the shoulders of the employer. The federal government implemented mandatory vaccination for various federally regulated sectors that are deemed higher risk such as the travel sector (air, rail, etc.) Numerous municipalities have implemented policies ranging from providing proof of vaccination status and testing requirements to mandatory vaccination of staff. Many private sector companies have done the same.

The Haldimand Norfolk health district currently has one of lowest vaccination rates in all of Ontario.

Vaccinations are safe, highly effective and significantly reduce the risk of serious illness and hospitalization. As an employer, Haldimand County has an obligation under the Occupational Health and Safety Act to provide a safe work environment for its staff. As the local government, it is critical that we provide safe and reliable continuity of service to the County's taxpayers at a responsible cost. Implementation of a responsible vaccination policy will allow for the following:

- Safety of the public;
- Safety of staff and County representatives;
- Return to the intended work environments;
- Ensure continuity of services to the public with adequate staffing levels and at reasonable costs

As rates of infection once again increase in communities across the country during the current 4th wave, unvaccinated staff are more likely to bring the virus to work. Currently public health experts anticipate that COVID-19, even with vaccinations will continue to be a public health concern for the foreseeable future as new strains emerge and given that a sizable percentage of the population remains unvaccinated. Implementing a corporate policy that puts safety measures in place that are reasonable, yet effective, is key to preventing staff shortages that will impact services and increase costs (i.e. overtime, increased WSIB costs, etc.), and equally as important, provide a safe work environment for staff and to help protect members of the public accessing municipal services.

This report will outline the recommendations of the senior management team of the County with respect to requiring mandatory disclosure of vaccination status by all Haldimand County representatives and measures for those who remain unvaccinated to address our requirement to ensure a safe work place. Additionally it provides information for Council with respect to the high risk groups in the County – Grandview Lodge and the Paramedic Service – to consider amending the existing policies to mandate vaccinations for all staff in those areas.

ANALYSIS:

Attachment #1 is a draft Haldimand County Vaccination Policy that, if approved, will apply to all staff, elected officials, board/committee appointments, students including those on unpaid placements/internships, volunteers, volunteer firefighters, Haldimand County Library Board members and its staff and volunteers.

The basic principles of the policy are:

- Mandatory disclosure of vaccination status by all representatives outlined above, by October 18, 2021. Anyone disclosing they are unvaccinated by choice will need to attest on the form that they are aware of the impacts or consequences that could arise if they contract or transmit the virus within the work place.

- As of October 19, 2021 those staff who are unvaccinated will be required to submit proof of negative rapid antigen tests before they can attend work, as follows:
 - Those who work for or conduct County business 24 hours or more per week must be tested 2 times per week
 - Those who work or volunteer for or conduct County business less than 24 hours per week must be tested once per week
 - Volunteer firefighters must be tested once per week, within 48 hours prior to their training night
- Costs associated with tests, including time and mileage, are not covered by the County (some exceptions apply for medically exempted individuals)
- Anyone who fails to submit the required testing on time, or receives a positive test, may not attend work or a County facility and will remain unpaid until such negative test is produced
- Falsifying or misrepresentation of information on Vaccination Disclosure Forms, Screening Records, Rapid Antigen Testing Results Forms or other required disclosure forms, will be grounds for dismissal or legal recourse
- All new employees and internal job transfers will be required to be fully vaccinated to meet conditions of employment, as of the date the policy becomes effective. This will include new Board/Committee appointees, volunteer firefighters, students & volunteers and Library Board staff and volunteers.

In essence the County intends to ensure a safe work environment by requiring either full vaccination or regular testing for its staff. All staff will continue to require daily temperature screening and the County will continue to follow Public Health and Ministry of Health guidance with respect to masking and social distancing in all work areas. Through the approach there will be a high degree of certainty for staff that they will be protected from contracting the virus at work. It is hoped that this will encourage unvaccinated staff to consider receiving the vaccinations due to the cost and inconvenience of obtaining regular tests while at the same time recognizing that this decision is individual.

If the vaccination policy is approved, it is expected that by November 1st, the HCAB office will be able to move from 50% capacity to 75% capacity, with the objective of achieving normal full capacity by the end of 2021/early 2022 subject to any Provincial restrictions. Staff will continue to monitor the impact of the fourth wave on the community and the workplace and amend timelines if necessary.

The policy would not apply to Grandview Lodge or Paramedic Service staff as those policies are separate and independent to the higher risk nature of those areas. These areas are considered “higher risk” in terms of: a) the employee’s health and safety when subjected to patients who may be transmissible as well as, b) the health and safety of vulnerable patients or residents that are in the care of Haldimand staff. Due to the nature of the direct care they provide to people in a vulnerable state, versus the rest of staff who may come into contact with the public but not in a direct physical care manner, staff are presenting different options related to vaccination policies for these two groups.

Attachment #2 and Attachment #3 are the policies currently in place for Grandview Lodge and Haldimand Paramedics, respectively. As noted above, these policies follow the minimum requirement set out by the Province for vaccination policies in high risk settings. The percentage of staff in the Haldimand Paramedic Service that are unvaccinated is 6%. The percentage of Grandview Lodge staff who are unvaccinated is 21%. Vaccinations became available for long term care staff in Haldimand in February 2021. Currently 34 staff at the municipal long term care home remain unvaccinated, with the largest area being PSW’s. Despite all attempts at removing barriers to vaccination, providing educational sessions and information, appointment bookings, etc. the numbers are much lower than desirable for a long term care setting. Considering the fact that the long term care sector was arguably the hardest hit sector of the pandemic, with an extraordinary loss of life of vulnerable residents, we are still faced with a 21% non-vaccinated rate. In addition to the risk factor for vulnerable or frail Grandview

Lodge residents, there is also the element of protecting staff in the home from transmission, and from staff shortages due to potential COVID-19 sickness which is much more likely to have severe symptoms for those who are unvaccinated and require time off work. Work shortages due to illness, isolation requirements, etc. equate to challenges in meeting residents needs adequately, can have a negative financial impact related to overtime and increased PPE costs, and creates a greater chance of workplace injury and burn out. From a resident needs perspective, outbreaks result in restrictions for residents such as isolation to their rooms, elimination of recreational, spiritual, social and physical activity, etc. Although there is a high vaccination rate among residents at Grandview, many have underlying conditions that, if COVID-19 were to be contracted, could be detrimental.

After almost 9 months of vaccine availability in Haldimand, and attempts at educating unvaccinated staff to the importance of vaccination from an individual health perspective, a residents rights perspective, and a community and social responsibility perspective, we are still faced with one in five staff at Grandview Lodge who remain unvaccinated. While the vaccination rate amongst paramedics is better (94%), there are concerns with the 6% of staff that remain unvaccinated, including high risk settings, vulnerability of patients, direct care and close contacts (including amongst medic partners). Therefore it is appropriate to ask Council to consider amending the Grandview Lodge and Haldimand Paramedic Service policies to make full COVID-19 vaccination mandatory for all staff in these areas. If Council chooses to adopt such a policy provision the following is suggested:

- Amend the existing policies for these areas to include a deadline for mandatory proof of vaccination (suggest 8 weeks after implementation)
- Failure to provide proof of full vaccination by the stipulated deadline will result in staff being in non-compliance with the policy and immediate placement on an unpaid leave of absence, which could lead to termination
- Contingency plans will be put in place to attempt to address any work shortages as a result of unpaid leaves of absence or termination

It is important to recognize those staff who have chosen to be vaccinated and we continue to be optimistic that the remaining staff, who are without medical contraindications, will continue to act in the best interest of the Grandview resident community and work towards achievement of full vaccination at Grandview Lodge.

FINANCIAL/LEGAL IMPLICATIONS:

There are minimal financial or legal implications expected in implementing the corporate wide vaccination policy as drafted. The corporate policy is reasonable, yet less rigorous than many others and staff feel it would withstand any grievance or arbitration process.

With respect to mandating vaccination for the higher risk functions such as long term care and paramedics, non-compliance in these areas will result in staff being placed on unpaid leaves of absence. The financial impact in doing this is considered to be minimal. The legal considerations are outlined below:

- Whether or not an employer can require its staff to be vaccinated for COVID-19 has not yet been the subject of a legal challenge or arbitration in Ontario, however many employers have implemented mandatory vaccination in these settings which suggests most feel there is authority to do so;
- An employer must be mindful of its occupational health and safety-related obligations. In particular, under the *Occupational Health and Safety Act*, employers have a duty to protect their workers from health and safety risks, therefore in the face of evidence demonstrating that the COVID-19 vaccination is an effective measure for reducing the risk of transmitting the virus,

employers are within their rights to mandate immunization in order to protect all other employees in the workplace and precisely in workplaces where vulnerable populations exist;

- Does a municipality owe a duty of care to the public and, more specifically, patients and long term care residents that would not be met should a vaccination policy not be implemented? This would be for a court to determine whether or not tort liability should be recognized should something tragic occur in the event of an outbreak traced back to an unvaccinated employee;
- Generally, mandatory influenza vaccination policies have been allowed by arbitrators in private healthcare institutions as a reasonable exercise of management authority. It should be noted that there are significant differences between seasonal influenza and COVID-19. Furthermore, arbitral decisions are not binding on other arbitrators or courts therefore it is still unknown what future arbitration results or court judgements will conclude;
- The two high risk areas of the County include staff covered by three different unions. In a unionized environment, the County could be subject to a policy grievance or individual grievances. However, in unionized environments, there are cases where arbitrators have found that limiting an employee's individual rights was justified in order to ensure the pressing objective of patient safety. It is still unknown if specific mandating of COVID-19 vaccinations will be upheld in the context of residents rights and resident safety;
- The key matter that will be important to monitor is how terminations related to non-compliance are viewed through an arbitrator or the court system. Unpaid leaves of absence are more straight forward, and would be the first step in addressing non-compliance;
- Consistent enforcement of the policy from the time of its introduction is critical across the corporation.

Based on the above, employers will need to be prepared to defend a decision regarding mandatory COVID-19 vaccination from potential legal challenges and with uncertain results. To that effect, recently AdvantAge Ontario, the association that covers municipal long term care homes in the province, has formed a coalition of several homes to address mandatory vaccination. To date there are 15 homes involved with more to come once policies are adopted. This coalition was formed to help smaller homes have the support of one another to announce these policies jointly. In doing so, they are seeking interested parties to join a pooled legal fund to collectively address any potential legal challenges that may arise from the implementation of such policies. If Council chooses to amend the Grandview Lodge and Paramedic Services policies to require mandatory vaccination for all staff, it is recommended that Haldimand County participates in the pooled legal fund. Pooled legal costs would be funded from the annual operating budget and more specifically the applicable legal expenses account. If approved, staff would monitor participation as well as the financial and legal impact to the County based on the decisions made by participants, and if determined necessary, would discontinue participation.

STAKEHOLDER IMPACTS:

There are a variety of stakeholders impacted by the decision to implement corporate mandatory vaccination disclosure policies as well as mandatory vaccination in high risk settings. The protection of all County representatives and staff, the public and the vulnerable populations served, is paramount. Adoption of such policies allows the County to meet its employer obligations under the Occupational Health and Safety Act, and also to provide leadership to its communities, promoting vaccination as a means to end the pandemic.

REPORT IMPACTS:

Agreement: No

By-law: No

Budget Amendment: No

Policy: Yes

ATTACHMENTS:

1. Draft Haldimand County Vaccination Policy
2. Grandview Lodge COVID-19 Vaccination Policy
3. Haldimand Paramedic Service COVID-19 Vaccination Policy