***INSTRUCTION PAGE i***

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**Following is a template letter** that can be used in the situation where your employer has ignored any communications you have sent outlining alternative methods of working or redeployment. This template letter can be applied to the situation where you are mandated to be vaccinated by government order, or your employer has unilaterally requested you be vaxxed.

If you have been forwarded this letter by a friend, family member or colleague then please go to <https://voicesforfreedom.co.nz/resources> to see the outline of the employment process, to get access to the other letter/s, and to get access to the employment webinars hosted by Voices For Freedom.

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***INSTRUCTION PAGE ii***

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**HOW TO USE THIS LETTER?**

1. Read the letter carefully so that you understand what you are sending – this letter is **your letter**.
2. The points you need to complete or closely consider for your situation are highlighted yellow. Keep this information factual and do not hesitate to get it checked by a friend, colleague or family member.
3. This letter is only to be used if you are a worker, your employer has carried out a health and safety risk assessment but has not considered all options to allow you to continue working effectively and in particular, your ability to work from home. In this letter, you are advising your employer that you wish to explore with them what work you can carry out in the circumstances and point out that you have worked from home previously. Your employer is obliged to engage with you about this.
4. Do not forget to include your email in the letter so that your employer knows where best to respond to you in writing.
5. Sign off the letter.
6. Print or email the letter – make sure you keep a copy. DO NOT include these first two pages of instructions.

Your employer will likely respond to this letter and if they do, then you will need to consider their response and may need to obtain advice specific to your situation.

**[Your Name**

**[Email address**

**[Any other contact details**

**[Employer's Name**

**Address**

**Address]**

[Date]

FOR: [Manager | Executive Board]

**COVID-19 – ORDER TO BE VACCINATED AGAINST COVID-19**

1. I refer to my employment agreement of [date] and note that there is that there is no express provision within that employment agreement that I must be vaccinated in order to carry out my role as [role as specified in your employment agreement] (**Role**).
2. I refer to your letter of [date] in which you advised that I am required to be vaccinated by [date] in order to remain employed (**Injection**).
3. In my letter to you of [date], I set out concerns to you regarding your request, the risks of SARS-COV-2 (**Covid 19**), and the Injection. To date, I have not received a satisfactory response.
4. In my letter, I also suggested to you alternative arrangements, including regular testing, working from home, [any other suggestions you made] (**Proposals**). You have not engaged or consulted with me on the Proposals I have made. Instead, my Proposals have been overlooked and I was told that I would be required to get the Injection to remain employed.

**Employment obligations**

1. We have mutual obligations to act in good faith[[1]](#footnote-1) and to not mislead or deceive one another[[2]](#footnote-2). We also understand that we have to be active and constructive in maintaining a productive employment relationship which includes being responsive and communicative[[3]](#footnote-3).
2. I also acknowledge your health and safety obligations under the Health and Safety at Work Act 2015 (**HSWA**), to:
	1. eliminate risks to health and safety, so far as reasonably practicable; and
	2. if it is not reasonably practicable to eliminate risks to health and safety, to minimise those risks so far as is reasonably practicable.
3. Furthermore, **you** have a responsibility to assess the potential risks and benefits of any health and safety measures you propose to implement including those mandated by the Order as well as an obligation to consider alternative options to maintain my employment. It is not a suitably acceptable response to say the government has recommended it. You have to engage under the HSWA and engage with me as your employee.

**Good faith obligations confirmed**

1. In response to Covid-19 vaccination mandates and requests, the Employment Court has recently confirmed that as my employer, you are required to consider my Proposals.
2. IN *WXN v Auckland International Airport Limited* the Employment Court held that:

*[165] Good faith is a developing concept. Its scope is informed by particular circumstances. The Act focuses on maintaining and preserving employment relationships, rather than terminating them. It is arguable that in circumstances such as the COVID-19 context, where a “no jab, no job” outcome is under consideration, there is an active obligation on the employer to constructively consider and consult on alternatives where there is an objectively justifiable reason not to be vaccinated.*

1. The judge in that case noted that the employer had not considered the employee’s proposals and had not adequately responded to the concerns raised in WXN’s letter. Nor had the employer consulted with WXN’s colleagues about his proposals. The judge found that this was likely a breach of the employer’s obligations and ordered the employee to be reinstated so that the Employment Relations Authority could determine whether or not a proper process had been followed and whether or not, after properly considering WXN’s proposals, WXN would have been able to continue working.

**Alternative Proposals**

1. As mentioned above, I suggested that I could continue working for [company name] while still allowing you to meet your obligations. The proposals I made were:
	1. To work remotely.
	2. To test weekly and only attend the workplace upon receipt of a negative test result.
	3. [proposal made by you]
	4. [add any other proposals to this list].
2. I have for [Insert time period during which you worked from home] from [date] to [date], been working from home. I have done this effectively and efficiently. There is no reason I cannot continue to do so and have not received any feedback as to why this cannot be possible. Nor have I received a response in relation to my other proposals. I have not been further consulted on this and [company name] has not consulted with my colleagues about any of my suggestions.
3. In the interests of preserving our employer/employee relationship, this is an option which must be considered, particularly as proper consideration of my proposals could result in my remaining employed rather than unemployed.

**Next steps**

1. I invite you to withdraw your letter of [date], stating that in order to maintain my employment, I must receive the Injection.
2. I look forward to you seriously considering my Proposals and how they could mitigate the risk that Covid-19 poses and how we can work together to ensure that I can continue being a part of your team. I look forward to further discussions in relation to this with you and with my colleagues.
3. In the meantime, I confirm that I am willing ready and able to carry out and perform my role.

Sincerely

**Your Name**

**Your contact details**

1. S4(1)(a) Employment Relations Act 2000. [↑](#footnote-ref-1)
2. S4(1)(b) Employment Relations Act 2000. [↑](#footnote-ref-2)
3. S4(1A)(b) Employment Relations Act 2000. [↑](#footnote-ref-3)