

Municipality of Lakeshore – Report to Council

Strategic & Legal Affairs

Legal Services



To: Mayor & Members of Council

From: Truper McBride, Chief Administrative Officer
Kristen Newman, Corporate Leader – Strategic & Legal Affairs
Lisa Granger, Division Leader – Workforce Development

Date: September 22, 2021

Subject: Employee Vaccination Policy for the Municipality

Recommendation

Direct the Clerk to read by-law 83-2021 adopting Council Policy - Employee COVID-19 Vaccination Policy, as presented at the September 28, 2021 Council meeting.

Background

A number of municipalities throughout Ontario have implemented policies requiring employees, contractors and visitors to municipal facilities to be vaccinated in order to reduce the transmission of COVID-19, in all the municipalities in this region except Lakeshore and the Town of Essex. The constantly evolving medical evidence seemingly indicates that the Delta variant is more transmissible and has a higher likelihood of causing severe illness and outcomes to those that are infected by that variant but there is no conclusive evidence at this time.

Comments

At the time of writing this report, the Windsor Essex County Public Health Unit (WECHU) website indicated a COVID confirmed case count of 19,440 in the Windsor Essex County region of which 18,669 were resolved. The delta variant of COVID-19 is the variant of concern as the Public Health Unit has advised that the rising number of cases due to the Delta variant is alarming. Based on information from the WECHU website, it appears that the delta variant comprises more than 90% of the confirmed cases since July 1, 2021. This is further supported by the list of regional workplace and community outbreaks all involving the Delta variant.

According to WECHU, being fully vaccinated is the best protection for people to avoid becoming sick to the point of requiring ventilation and or dying. Accordingly, from a health and safety perspective, the most effective way of protecting Lakeshore staff is

mandating the vaccination for staff, contractors and patrons. Administration anticipates presenting an additional policy to Council regarding contractors.

For Lakeshore staff, Administration has developed the vaccination policy (Schedule A to By-law 83-2021) for all staff and contractors. The vaccination policy includes provisions for exemptions based on the respective prohibitive grounds listed in the Human Rights Code. Employees, volunteers, temporary employees and students will have until December 1, 2021 to become fully vaccinated or be approved for an exemption.

For patrons of the Atlas Tube Recreation Centre, Administration has developed and implemented appropriate protocols to comply with the Provincial regulations. Administration will review the use the Province's vaccine passport system once it is available.

Municipalities await the details surrounding the implementation of the Province's vaccine passport system. Administration understands the system to be one whereby a QR code will be created to reflect the immunization record of each individual in Ontario.

It is unclear as to whether the QR code will be created for those that have medical exemptions to the COVID-19 vaccine.

Financial Impacts

The cost of the legal opinion will be paid from the budgeted funds in the corporate legal account.

Financial implications resulting from the introduction of a mandatory vaccination policy are currently unknown. A likelihood exists that a person may challenge a mandatory vaccination policy under the *Occupational Health and Safety Act* or pursuant to the *Charter of Rights and Freedoms*. Whether the Municipality opts to implement a mandatory vaccine policy for employees there is a likelihood that the Municipality may experience a legal challenge when it implements the Provincial Passport Vaccination Program. As such, the Municipality may incur legal costs in defending such claims.

If directed to pursue a mandatory vaccination program for employees, Administration will work with CUPE and IBEW to try and implement a program with the Union's support that would mitigate the risk of grievances and legal expenditures and any damages that may result.

Continued disruption in the workplace due to transmission of COVID-19 to staff members impacts productivity of staff members. Throughout the pandemic, if staff were required to leave the workplace and could not work from home (for example, Equipment Operators), the Municipality paid both the employee and employer shares of the OMERs pensions and continued the employee's extended health benefits.

Report Approval Details

Document Title:	MandatoryVaccinationPolicy-ForEmployees.docx
Attachments:	
Final Approval Date:	Sep 23, 2021

This report and all of its attachments were approved and signed as outlined below:

Kristen Newman

Jessica Gaspard

Truper McBride