To the [EMPLOYER/MANAGER]

Dear [EMPLOYER/MANAGER]

**For Your Urgent Attention: Vaccination of Authorised Workers**.

I am writing to you pursuant to the current *COVID-19 Mandatory Vaccination Directions (No 6)* (the Public Health Order).

There are a number of serious concerns with employers requesting the vaccination status of their employees as well as the position taken by the Chief Health Officer in the Public Health Order.

Fundamentally, the concerns centre around the interactions between the Government’s position and forcing employers to breach their obligations to their employees that are guaranteed and protected under common law, the Fair Work legislation, anti-discrimination legislation, Occupation Health and Safety legislation and regulations and privacy laws.

I understand that this is a difficult time for both employees and employers alike given the confusion that the Public Health Orders may be creating on the ground. I will not provide, at this stage, an extended explanation as to how the conduct of the CHO is forcing employers to breach their obligations towards their employees. Suffice to say, the timelines provided for compliance deny all employees procedural fairness and natural justice, particularly in securing relevant medical exemptions where necessary.

I would like to bring to your attention the following considerations, in the meantime, around the Public Health Order and the potential ramifications to the employer:

1. The *Occupational Health & Safety Act 2004* Victoria and the regulations do not provide for a vaccine or medical intervention as a control measure in the workplace. The maximum controls that may be adopted legally include PPE and the like. I presume the Organisation is aware of this limitation, and/or has received legal confirmation with regards to this.
2. The Public Health Order is a non-permanent (temporary) executive direction that will lapse on 21 October 2021. In that regard, you are being asked to enforce unenforceable orders under the law given the timelines for compliance extend beyond 21 October 2021. Furthermore, under section 198 of the *Public Health Act 2008* Vic, an assessment is required on the revocation date to assess whether the order may continue. This assessment cannot be made retrospectively.
3. I don’t mean to lecture you on the purpose of vaccination, but it is primarily designed to produce immunity in an individual. COVID-19 vaccinations do not produce sterilising immunity. They may provide protection in preventing the severity of infection (though real world data on this is limited). However, vaccinated individuals are just as likely to spread the SARS-CoV-2 delta variant as unvaccinated individuals. Therefore, it is absolutely incorrect for you to purport that the COVID-19 vaccinations are required to manage the risk of transmission. It remains true, as it was yesterday, that staying home when symptomatic is the gold standard for managing the risk of transmission. This will not change with the vaccine.
4. The options currently available for the vaccines have raised many concerns in relation to their safety and efficacy profiles, particularly noting the technologies used, notably m-RNA and vector based technologies. I also note the unethical, if not criminal histories, of the vaccine companies involved. In contrast, Novavax, a vaccine currently under consideration by the TGA (<https://www.tga.gov.au/covid-19-vaccines-undergoing-evaluation>) uses synthetic targeted protein technology which is not associated with many adverse events as well as the fact that the company does not have a criminal past. I should be allowed time to consider my options, specifically the options that do not expose me to any risks.

In May 2020, virologists Sorenson, Susrud and Dalgleish published a paper, setting out the longer-term risks of non-targeted vaccine technologies which increase the likelihood of Antibody Dependent Enhancement occurring and/or fail to mitigate its effects. Briefly, a neutralising or binding antibody contains epitopes, which are groups of amino acids produced to match and neutralise the epitopes on the virus. Epitopes are recognised by the immune system. If the peptide amino acids on the spike protein of the virus are closely matched to that of humans, the epitopes on the antibodies produced may not neutralise the peptides on the spike protein fully if it does not recognise the entire protein as a foreign invader. The resultant partial binding can create havoc later, through the mechanism of ADE, when the virus returns in a mutated form and partial binding occurs leading to the body producing non-binding antibodies and facilitating entry of the virus into human cells, increasing infectivity.

I have enclosed the published peer reviewed study here: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7468800/>

1. It is important for you to note that whilst the Victorian Government is forcing your hand to regulate this Public Health Order mandating the vaccines, they are not directly providing you an indemnity should the vaccine result in any injury and/or death to one of your employees. This means you are completely exposed to direct liability from your employees should they become harmed through this process, including mental harm. Furthermore, Workers’ Compensation through WorkSafe Victoria will not cover any liability for injury or death unless the employer has recommended or organised the vaccination onsite or at another location; or subsidized the vaccination. As this is not happening in most situations, WorkSafe Victoria has also left you in the lurch.

Given the above, I would like to be placed on leave at half pay and/or leave without pay pending consideration of my options, whether that is obtaining a medical exemption, considering the more targeted Novavax vaccine pending final release and approvals and/or if you would continue to consider a working from home option for me in the interim pending the finalisation of the pandemic and potential lapsing of the temporary Public Health Orders. These options are accommodated for by the Public Health Orders.

I also suggest that the Rapid Saliva Testing instead of vaccinations (which do not even stop Covid transmission anyway), are a better way of keeping Covid out of workplaces, schools, hospitals.  Both the vaccinated and unvaccinated could be tested, so there is no need for discriminatory and unlawful policies to be considered when this safe, fast, inexpensive and reliable method is available. Some food for thought.

Under all circumstances, my request for leave and/or continuing to work from home is fair and reasonable and does not disadvantage the employer in any way.

Please advise.

Kind Regards

[Name of Employee]