

30 January 2023

Steve Cain
Managing Director and Chief Executive Officer
Coles Supermarkets

Via Email: steven.cain@coles.com.au

Dear Mr Cain,

I write to you as the secretary of the Independent Workers' Union of Australia ('IWUA'). IWUA is an association of employees as recognised under section 12 of the *Fair Work Act 2009* (Cth) ('**FW Act**') that provides services to members.

The Woolworths Group, Aldi Supermarket, IGA Supermarkets, and most recently BHP are all functioning safely, efficiently and professionally without the need for a COVID-19 Vaccine policy, even the majority of hospitals in the state of Tasmania are safely functioning without COVID-19 mandate policies.

Work Health and Safety Laws apply to all employees, in all workplaces. It is clearly written that all workplace Occupational Health and Safety policies are based on reasonable and practicable standards.

Work Safe Australia explains this very clearly:

HOW TO DETERMINE WHAT IS REASONABLY PRACTICABLE TO MEET A HEALTH AND SAFETY DUTY guide (attached) in section 2:

THE MEANING OF REASONABLY PRACTICABLE

2.1 How is 'reasonably practicable' defined? Section 18 of the WHS Act defines the standard that is to be met and describes the process for determining this.

Section. 18 of the WHS Act: In this Act, 'reasonably practicable', in relation to a duty to ensure health and safety, means that which is, or was at a particular time, reasonably able to be done to ensure health and safety, taking into account and weighing up all relevant matters including:

- (a) the likelihood of the hazard or the risk concerned occurring; and*
- (b) the degree of harm that might result from the hazard or the risk; and*
- (c) what the person concerned knows, or ought reasonably to know, about the hazard or risk, and about the ways of eliminating or minimising the risk; and*
- (d) the availability and suitability of ways to eliminate or minimise the risk; and*

(e) after assessing the extent of the risk and the available ways of eliminating or minimising the risk, the cost associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

I bring to your attention to the above information namely point (d) and Work Safe Australia's definition;

This requires consideration of not only what is available, but also what is suitable for the elimination or minimisation of risk. A risk control that may be effective in some circumstances or environments may not be effective or suitable in others, because of things such as the workplace layout, skills of relevant workers or the particular way in which the work is done. Equipment to eliminate or minimise a hazard or risk is regarded as being available if it is provided on the open market, or if it is possible to manufacture it. A work process or change to a work process to eliminate or minimise a hazard or risk is regarded as being available if it is feasible to implement. A way of eliminating or minimising a hazard or risk is regarded as suitable if it: • is effective in eliminating or minimising the likelihood or degree of harm from a hazard or risk • does not introduce new and higher risks in the circumstances, and • is practical to implement in the circumstances in which the hazard or risk exists.

Mandatory COVID-19 Vaccination for all staff is not the only or the most suitable way of eliminating or minimising risk. New information is coming to light daily in this area, and we suggest Coles should renew its policy in line with all changes.

Absent scientific or medical data that shows **specifically and conclusively** that unvaccinated Coles employees represent a health and safety risk in the workplace, Coles should immediately rescind its mandate policy and end the discrimination against former and future employees. Woolworths does not seem to have access to such scientific data, nor Aldi, nor even the Australian Government. If Coles knows something we don't, please share it with the Australian public.

How is it that Coles Group can see it as reasonable and practicable to maintain a discriminatory COVID-19 policy when more and more major retailers are dropping these policies like flies, what are you doing Coles that makes YOUR workplace so risky?

We request the following:

1. Coles COVID 19 Policy be reviewed and brought up to date with the current information.
2. Coles review all OH&S and WHS policies, as where one is lacking, many others may be too.

I request a response to this letter addressing the outlined concerns above within 28 days.

Should you wish to discuss this matter further I can be contacted on (03) 7046 3730 or via email at: sarah.tuohey@iwua.asn.au.

Yours sincerely,



Sarah Tuohey
Industrial Advocate
IWUA – Independent Workers' Union of Australia