

# AFLW Crow Deni Varnhagen's vaccine challenge makes legal history

An AFLW player's challenge to Covid-19 vaccine mandates has made legal history by protecting her from court costs.

AFLW player Deni Varnhagen has made legal history, with the state government agreeing to a cap on court costs if she loses her challenge to the Covid-19 vaccine mandate.

In a South Australian legal first, the government has agreed to a "protective costs" order ahead of a four-day trial, next month, over the mandate for shots and boosters.

The Supreme Court is a "loser pays" jurisdiction, where parties unsuccessful in their lawsuits must cover either all, or an agreed or taxed portion, of the winning side's legal bill.

Under a protective costs order, however, the victor may only seek to recover a maximum \$50,000 of their bill – meaning, in this case, taxpayers will foot the rest of the costs.

Although they have been in operation interstate for many years, protective costs orders have been only recently introduced to SA litigation, and laws surrounding them are untested.

Originally, Varnhagen and her co-litigants' application for the order was to be heard on Wednesday.

On Tuesday, however, the group's legal team confirmed that hearing would not proceed because government lawyers had indicated, in writing, it would consent to the order.

The Advertiser understands neither Varnhagen – who has been benched by the Crows – nor any member of the group is working because of the mandate.



*Deni Varnhagen at work in 2017. Picture: Sarah Reed*



*Varnhagen at training in October 2021. Picture: Dean Martin*

Varnhagen, fellow nurse Courtney Milligan, teacher Craig Bowyer, childcare worker Kylie Dudson and police officers Adam Zacary Cook and Rosalyn Smith are challenging the mandate.

They claim authorities failed to exclude all “obvious, alternative, compelling, reasonably practicable” alternatives that do not affect “common law rights or freedoms to bodily integrity”.

They intend to call evidence from Professor Nikolai Petrovsky, who holds an academic position at Flinders University.

Previously, he has claimed he faces the sack from SA Health for insisting on only taking the vaccine he has developed.

The group wanted their claim heard before the state election and has also asked it be live-streamed via the internet as a matter of “public interest”.

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Should that application be granted it, too, would make history – however it remains to be seen if the courts have the infrastructure necessary for such an undertaking.

With Wednesday’s hearing having been cancelled, the case will return to court for two days from March 17, and then again for two days from March 24, for trial.