



Proactive Release

The following documents have been proactively released by the Department of the Prime Minister and Cabinet (DPMC), on behalf of Minister of Health, Hon Dr Ayesha Verrall:

COVID-19 Briefings November 2022

The following documents have been included in this release:

Title of paper: 11112022 COVID-19 Consultation Practices and Requirements

Title of paper: 14112022 DPMC COVID-19 Transition - Strategy and Policy Coordination

Title of paper: 23112022 Government Appointments - COVID-19 Response and Associate Minister of Health

Title of paper: 25112022 Vote Prime Minister and Cabinet: COVID-19 Response and Recovery Fund Quarter 1 report

Title of paper: 30112022 Future of the Strategic COVID-19 Public Health Advisory Group

Title of paper: 30112022 Department of the Prime Minister and Cabinet: Annual Review Pre-Hearing Questionnaire 2021 / 22 - COVID-19 Response portfolio

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant section of the Act that would apply has been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- Section 9(2)(a), to protect the privacy of individuals; and
- Section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials.



Aide-Mémoire

COVID-19 Consultation Practices and Requirements


To:	Hon Dr Ayesha Verrall Minister for COVID-19 Response		
From:	Alice Hume, Head of Strategy & Policy	Date:	11/11/2022
Briefing Number:	DPMC-2022/23-554	Security Level:	IN-CONFIDENCE


Purpose

1. At the COVID-19 Response Agencies meeting on Monday 7 November, you requested information about current COVID-19 consultation practices, legislative consultation requirements and the impact of the proposed amendments to the COVID-19 Public Health Response Act 2020 on consultation practices and requirements. This aide memoire provides the requested information.

Overview of current and future consultation practices and requirements

2. The below table outlines consultation practices and requirements related to reviewing COVID-19 settings, making or amending COVID-19 Orders and reintroducing legislative powers proposed for removal from the COVID-19 Public Health Response Act 2020 (the Act) if needed. An indication of whether these practices and requirements will change following enactment of the proposed amendments to the Act is also provided.


Alice Hume
 Head of Strategy & Policy COVID-19
 11/11/2022


Hon Dr Ayesha Verrall
 Minister for COVID-19 Response
 25.11.22

Contact for telephone discussion

Name	Position	Telephone	1st Contact
Alice Hume	Head of Strategy & Policy COVID-19	s9(2)(a)	✓

circle = external

Table 1: Overview of COVID-19 consultation practices and requirements

Activity / Power being exercised	Consultation undertaken by MOH	Consultation undertaken by DPMC	Consultation undertaken by the Minister for COVID-19 Response	Are there any legislative consultation requirements?	Will these consultation / legislative requirements change under the amended COVID-19 Act?
<p>Reviewing COVID-19 settings e.g. whether and where different restrictions should apply/continue to apply</p>	<p>To prepare the Public Health Risk Assessment, Manatū Hauora consults with Crown Law, Te Whatu Ora, Te Aka Whai Ora and Whaikaha.</p> <p>Once the advice arising from a Public Health Risk Assessment has been approved by the Director-General, Manatū Hauora consults all interested agencies and groups as appropriate.</p>	<p>As part of preparing the settings review briefings or <u>cabinet papers</u>, DPMC:</p> <ul style="list-style-type: none"> • consults agencies on the papers • has fortnightly meetings with National Iwi Chairs Forum • has monthly meetings with the Strategic Public Health Advisory Group • meets with Whaikaha – Ministry for Disabled People as needed • consults Regional Leadership Groups, through the Ministry of Social Development. 	<p>The Minister for COVID-19 Response completes ministerial consultation on the advice prepared by DPMC.</p>	<p>No consultation requirements in the COVID-19 Act.</p> <p>Te Tiriti o Waitangi – principle of partnership requires both partners to act reasonably and to make informed decisions. Consultation is a means to achieve informed decision-making.</p> <p>In response to the Haumarū report, the former Minister for COVID-19 Response agreed to discuss the government’s work relevant to the Tribunal’s findings and recommendations at one of the regular meetings with the New Zealand Māori Council and other Māori groups led by the Minister for Māori Crown Relations (DPMC-2021/22- 1545).</p>	<p>No.</p> <p>There will continue to be no consultation requirements associated with reviews of COVID-19 settings in the amended COVID-19 Act.</p> <p>Officials will continue their current approach to consultation following the Act’s amendment.</p>

Activity / Power being exercised	Consultation undertaken by MOH	Consultation undertaken by DPMC	Consultation undertaken by the Minister for COVID-19 Response	Are there any legislative consultation requirements?	Will these consultation / legislative requirements change under the amended COVID-19 Act?
Making or amending COVID-19 orders	<p>Before making or amending a COVID- 19 Order, the Minister must have had regard to advice from the Director-General about the risks of the outbreak or spread of COVID-19 and the nature and extent of measures (whether voluntary or enforceable) that are appropriate to address these risks.</p> <p>The Director-General's advice is informed by a Public Health Risk Assessment. The consultation undertaken for PHRAs is outlined above. Crown Law is consulted on the Director-General's advice to provide advice on whether the order limits or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990.</p>	<p>Once drafted, depending on the order being made or amended, either DPMC or MOH will prepare a cover briefing seeking the Minister's signature on the order or amended order. MOH and Crown Law may be consulted on this briefing.</p>	<p>The Minister has a statutory requirement to consult the Prime Minister, Minister of Justice, and Minister of Health on the order. The Minister will also consult any other Ministers they consider necessary.</p>	<p>There are consultation requirements in the COVID-19 Act.</p> <p>Section 9 of the COVID-19 Act sets out the requirements before COVID-19 orders are made. In relation to consultation, this includes the Minister being required to consult the Prime Minister, Minister of Justice, and Minister of Health. The Minister may also consult any other Minister that the Minister thinks fit.</p> <p>Under section 9, the Minister is also required to have regard to advice from the Director-General of Health and be satisfied that the order does not, or is a justified, limit on the rights and freedoms in the Bill of Rights Act. MOH and Crown Law are therefore consulted on order-related advice.</p>	<p>No.</p> <p>The section 9 consultation requirements will not change in the amended Act.</p> <p>Officials will continue their current approach to consultation following the Act's amendment.</p>

Activity / Power being exercised	Consultation undertaken by MOH	Consultation undertaken by DPMC	Consultation undertaken by the Minister for COVID-19 Response	Are there any legislative consultation requirements?	Will these consultation / legislative requirements change under the amended COVID-19 Act?
	<p>Once the advice of a PHRA is confirmed by the Director General, the Ministry consults all agencies impacted by a potential Order change to ensure that advice provided to the Minister considers the operational implications of giving effect to a requirement through a COVID-19 Order.</p>			<p>Te Tiriti o Waitangi – principle of partnership requires both partners to act reasonably and to make informed decisions. Consultation is a means to achieve informed decision-making.</p> <p>In response to the Haumaru report, the former Minister for COVID-19 Response agreed to discuss the government's work relevant to the Tribunal's findings and recommendations at one of the regular meetings with the New Zealand Maori Council and other Maori groups led by the Minister for Maori Crown Relations (DPMC-2021/22-1545).</p>	

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s9(2)(f)(iv)



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