



## Proactive Release

The following documents have been proactively released by the Department of the Prime Minister and Cabinet (DPMC):

### **COVID-19 Briefings - September 2022**

The following documents have been included in this release:

**Title of briefing:** Future COVID-19 Legal Framework – legal basis for baseline measures

**Title of briefing:** Vote Prime Minister and Cabinet: Covid-19 Response and Recovery Fund Quarter 4 Report

**Title of aide-memoire:** Testing Innovation Weekly Update

**Title of briefing:** COVID-19 Group Publicity Expenses Budget for 2022-23

**Title of briefing:** COVID-19 Public Health Response (Masks) Order 2022 for signing

**Title of briefing:** Near-Final Draft Department of the Prime Minister and Cabinet 2021/22 Annual Report: For Comment

**Title of briefing:** Next Steps for Remaining COVID-19 Measures

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
- section 9(2)(f)(iv), to maintain the confidentiality of advice tendered by or to Ministers and officials
- section 9(2)(h), to maintain legal professional privilege.



## Briefing: Future COVID-19 Legal Framework – legal basis for baseline measures

Date:	12 August 2022	Report No:	DPMC-2021/22-587
		Security Level:	<del>IN CONFIDENCE</del>
		Priority level	High

	Action sought	Deadline
Minister for COVID-19 Response	Noting	16 August 2022

Name	Position	Telephone
Alice Hume	Head of Strategy & Policy, COVID-19 Group	+64 4 912 0591 +64 4 912 0591
Hanna Matthews	Principal Policy Advisor, COVID-19 Group	s9(2)(a)

### Minister's Office

Status:

☒ Signed

☐ Withdrawn

Comment for agency

Please note Minister's comment on Rec 5.

Attachments: Yes/No

# Briefing

## Future COVID-19 Legal Framework – legal basis for baseline measures

To: Hon Dr Ayesha Verrall, Minister for COVID-19 Response

Date 12/08/2022

Security Level

~~IN CONFIDENCE~~

### Purpose

1. This briefing note provides information on baseline measures requested by you and notes that the initial proposal of an omnibus bill to be enacted by December 2022 is not necessary to implement baseline measures.

### Recommendations

We recommend you:

1. **note** that an earlier briefing indicated a potential need for an urgent omnibus bill to be enacted by December 2022, but this is not necessary [DPMC-2021/22-2261]
2. **note** that the agencies that wanted to be included in an omnibus bill have alternative legislative vehicles available
3. **note** that, apart from self-isolation as discussed below, Manatū Hauora has advised there are no public health measures that need additional legislative authority to operate as baseline measures after the expiry of the Epidemic Notice or Prime Minister's authorisation, which would require inclusion in a December omnibus bill
4. **note** the NZ Customs Service has a separate legislative vehicle for progressing the legislative authority sought for the New Zealand Traveller Declaration System
5. s9(2)(h)
6. **note** we have provided advice on a bill to replace the COVID-19 Act and ensure legislation is in place from May 2023 to implement the reserve measures when they are needed [DPMC-2021/22-2531]
7. **agree** that this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982, at the same time as any resulting Cabinet paper is released

YES / NO



Alice Hume  
**Head of Strategy & Policy, COVID-19  
Group, DPMC**

12/08/2022



Hon Dr Ayesha Verrall  
**Minister for COVID-19 Response**

1...7...1...8.../2022

Proactively Released



## Background

---

1. As per the Post-Winter Strategy Cabinet paper [SWC-22-MIN-0118], the broad categories of baseline measures include: vaccination; contact tracing; investment in the health care system; anti-viral medications; targeted protection; infection prevention; improved communications and supporting technologies; surveillance and income support.<sup>1</sup>
2. The detailed table at **Annex 1** illustrates the non-exhaustive baseline measures package, what each measure could consist of, and how baseline measures are currently enabled domestically and at the border.
3. This briefing provides information on the legal basis for specific baseline measures as you requested:
  - a) Vaccination requirements for workers
  - b) Vaccination requirements for international arrivals
  - c) Surveillance testing of international arrivals
  - d) NZ Traveller Declaration
  - e) Contact tracing
  - f) Self-isolation
4. This briefing does not recommend when to use these measures nor does it include public health advice. It focuses on their legal basis. A public health risk assessment covering these issues will be conducted on Wednesday 17 August and the outcomes will be included in the August post-winter strategy Cabinet paper for Ministers to make decisions on these settings as part of the ongoing response.
5. An earlier briefing indicated a potential need for an urgent omnibus bill to be enacted by December 2022 [DPMC-2021/22-2261]. This briefing confirms that such a bill is not necessary.
6. You have also received a separate briefing outlining the policy analysis for reserve measures, and new legislation required to replace the COVID-19 Public Health Response Act 2020 (the COVID-19 Act).

## Baseline measure information

---

### *Vaccination requirements for workers*

7. As a baseline measure, vaccination will be promoted and encouraged via guidance to the population generally, including promotions targeted to specific groups. Other options to encourage vaccination include reducing or eliminating the cost of vaccination for users, offering incentives or rewards, and providing support for vaccination, such as pop-up clinics and mobile vaccinators.
8. For workers, any government-imposed requirements for vaccinations should be retained as a reserve measure for emergency circumstances. Like all measures, requirements related to vaccines would be reviewed if there were a significant change in risk, including the availability of a vaccine that is more effective at preventing transmission. On an on-going, baseline basis, businesses may be able to require their employees to be vaccinated under their conditions of employment, however it may be challenging for businesses to justify this.
9. Employers must first carry out a health and safety risk assessment,<sup>2</sup> focussing on the work required to be done, not the individual who does the work. Businesses should consider all

---

<sup>1</sup> COVID-19: Strategy for post winter [SWC-22-MIN-0118].

<sup>2</sup> Health and Safety at Work Act 2015.

other public health measures they can use to reduce the risk of COVID-19 in their workplace, other than vaccinations. They must also consult with employees.<sup>3</sup>

10. WorkSafe has also issued guidance<sup>4</sup> around factors that may be considered in conducting a HSWA risk assessment, including if the worker regularly interacts with people who are at greater risk of severe illness should they contract COVID-19, or if the worker regularly interacts with people who are less likely to be vaccinated against COVID-19. These factors are used to decide if the risks of contracting and transmitting COVID-19 at work are higher than in the community.
11. Therefore, in order to establish a sound legal basis for requiring vaccination as a condition of employment, the risk assessment will need to identify that the risk of contracting and transmitting COVID-19 at work is higher than it is in the community, and that vaccinations can aid in reducing this risk.
12. MBIE comment: MBIE is unable to provide information on the coverage of employer requirements that workers be vaccinated to perform specified work, including work that had previously been covered by a vaccination mandate on either public health or public interest grounds. Very high rates of vaccination are understood to have been achieved where mandates were previously in place, which is expected to have taken pressure off employers to implement a vaccination requirement independent of a mandate.
13. MBIE considers that based on updated public health advice, where a PCBU<sup>5</sup> undertakes a risk assessment, there is unlikely to be an ongoing justification for requiring vaccination in almost all circumstances (as opposed to strongly encouraging and supporting it). MBIE therefore recommends PCBUs who wish to maintain or implement a vaccination requirement should get independent legal advice, however, no data is available on the proportion of PCBUs choosing to do so.
14. MBIE advises that limited anecdotal information shows there have been very low levels of queries about employer/ PCBU vaccination requirements since the vaccination mandates began to be progressively removed, with the majority of queries and disputes relating to mandated vaccination requirements.

#### *Vaccination requirements for international arrivals*

15. Ministers recently agreed to strengthen communications to encourage travellers to remain 'up to date' with their vaccinations and to maintain current COVID-19 vaccination requirements at the border for non-New Zealand citizens, residents, or other exempt persons arriving via the air border, or via the maritime border when travelling on cruise or recreational vessels [DPMC-2021/22-2146]. This complemented a decision in May that extended COVID-19 vaccination requirements at the air border until September 2022 [DPMC-2021/22-2106].

16. [Legally privileged] s9(2)(h)



<sup>3</sup> Health and Safety at Work Act 2015, section 60.

<sup>4</sup> Available at <https://www.worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid/covid-19-controls-at-work/#risk-assess>

<sup>5</sup> Person Conducting Business or Undertaking.



### *Surveillance testing for arrivals to New Zealand*

17. As part of its surveillance strategy, Manatū Hauora has recommended that COVID-19 surveillance testing at the border for international arrivals operates as a voluntary measure as part of a baseline response to managing COVID-19 or to identify future variants of concern. Legal changes are not needed to support this testing. They advise the value of mandatory testing on arrival is substantially less than at earlier stages of the pandemic, given domestic testing and wastewater testing can also provide similar indications on types of variants present in the community. This is reflected in the table at Annex 1.

### *New Zealand Traveller Declaration*

18. The New Zealand Traveller Declaration (NZTD) system is currently tied to reserve measures, specifically vaccination requirements for non-New Zealand citizens or resident travellers and mandatory on-arrival testing at the air-border.
19. The New Zealand Customs Service (Customs) is currently working through options to keep the NZTD operational when these health requirements are removed, and will present these to the Border Executive Board (BEB) this month. Customs will update Ministers following BEB consideration.
20. In the medium term, Customs is looking to move the enabling provision for the NZTD system from the COVID-19 Act orders into a more enduring framework, through amendment to the Customs and Excise Act 2018. This bill is expected to be introduced in February 2023.

### *Contact tracing*

21. Contact tracing will remain available as a baseline measure when emergency circumstances dissipate because the Health Act 1956 already provides legislative authority to undertake contact tracing to gather information.
22. The Health Act<sup>6</sup> provides the power to do things such as: call cases and contacts, collect personal details, collect details of contacts, ask health questions and collect exposure event information.<sup>7</sup> Special powers are also available to enable a Medical Officer of Health to give directions to an individual<sup>8</sup> or contacts of individuals<sup>9</sup> posing a public health risk from an infectious disease, such as pertussis. The Health Act<sup>10</sup> identifies who can undertake contact tracing, which includes a medical officer of health, a health protection officer, or a person suitably qualified that is nominated to undertake the work by a Medical Officer of Health or by Health New Zealand. That section also notes that contact tracing can be undertaken otherwise than under Part 3A of the Health Act.<sup>11</sup> These sections provide the ability for a range of trained people to undertake this work, meaning contact tracing can be scaled up at baseline if needed.
23. Users of the NZ COVID Tracer App can also voluntarily enable Bluetooth tracing, which allows users to create an anonymous record of the people they have been near. Bluetooth alerts can also be activated if a person has been near someone who has tested positive and is also using Bluetooth tracing. This technology is already enabled and will be retained as a baseline measure. If public health risk escalates, communications and messaging can be strengthened to further encourage the public to turn on Bluetooth tracing. Earlier this year, mandatory record keeping was removed from the COVID-19 Protection Framework

---

<sup>6</sup> Health Act 1956, Part 3A, Subpart 5.

<sup>7</sup> Health Act 1956, section 92ZZ and section 92ZZC describe the type of information that can be sought from an individual with an infectious disease.

<sup>8</sup> Health Act 1956, section 92I.

<sup>9</sup> Health Act 1956, section 92J.

<sup>10</sup> Health Act 1956, Section 92ZZA.

<sup>11</sup> Health Act 1956, section 92ZZA(2).

concurrently with the removal of the requirement for certain businesses to use vaccine passes.

24. In all circumstances of contact tracing, the collection, sharing, disclosure and retention of health information as part of that process would all need to comply with the Privacy Act 2020 and Health Information Privacy Code 2020. Mandatory record keeping requirements invoke strong privacy considerations, which would need to be closely followed by each business, venue or agency required by legislation to collect contact records. The Post-Winter Strategy Cabinet paper also established that large scale contact tracing efforts, including record keeping requirements for businesses, would be considered a reserve measure. As a reserve measure, larger scale, active management contact tracing could be reactivated, particularly if a new variant of concern is identified. This is the position set out in the Variant of Concern Strategy Framework.

25. Therefore, no further legislative amendment is required at present to support contact tracing as a baseline measure, outside of what is already enabled by the Health Act.

*Self-isolation requirements*

26. Broad-scale mandatory self-isolation of cases and household contacts is currently enabled under the COVID-19 Public Health Response (Self-isolation Requirements and Permitted Work) Order 2022 (the Self-Isolation Order) while in emergency circumstances. The Self-Isolation Order was made (and has been amended) while the epidemic notice is in force.

27. You have indicated a preference to retain self-isolation restrictions as a baseline measure for cases rather than as a reserve measure as indicated in the Post-Winter Strategy Cabinet paper.

28. [Legally privileged] <sup>s9(2)(h)</sup>



29

30

31

32



## December omnibus bill not needed

33. An earlier briefing indicated a potential need for an urgent omnibus bill to be enacted by December 2022. Apart from self-isolation as discussed above, Manatū Hauora has advised there are no public health measures that need additional legislative authority to operate as baseline measures after the expiry of the epidemic notice or Prime Minister's authorisation, which would require inclusion in a December omnibus bill (see Annex 1). Discussions with other agencies have identified only measures such as online meetings and online filing of documents to include in such a bill. These measures do not justify an urgent omnibus bill process. While slower, agencies have alternative ways to progress the necessary legislative amendments.
34. Currently some entities (such as mandated iwi organisations or Post-Settlement Governance Entities (PSGEs)) are operating under temporary powers<sup>12</sup> that allow use of electronic means for meeting and voting, where the entities' constitution or rules would not otherwise permit it.
35. These temporary powers are due to end in October 2022. The entities now seek to have those temporary powers continued as a baseline measure. The health rationale for allowing online meetings is that it allows individuals to manage their own risk and response to COVID-19 by staying home. In that way it lowers the risk of virus transmission particularly among kaumātua or other vulnerable groups. Te Arawhiti advises that for Māori entities like those listed above, there are several factors which may make this necessary. For example, many Māori entities such as PSGEs have very large membership bodies numbering in the thousands.
36. Te Arawhiti advises that the Crown's obligations under Te Tiriti o Waitangi need to be considered in decision-making regarding Māori entities such as PSGEs, particularly the obligations of active protection and equity. The continuation of baseline measures which permit entities to meet or vote electronically where they deem it necessary within the COVID-19 environment, helps to support communities to make public health decisions which are appropriate for them.
37. DPMC is aware of a Māori Purposes Bill, led by Te Puni Kōkiri, which may be an alternative vehicle to make the changes sought by the Māori entities above. This is currently scheduled for introduction to the House in August 2023, meaning the current relief these Māori entities are operating under will not be available for up to two years.
38. The Department of Corrections advise that they are currently utilising a temporary amendment to the Corrections Act 2004 to enable the use of audio links for disciplinary hearings for people in prison, when video links are unavailable. Corrections advise that they require the ability to hold disciplinary hearings via both audio and video link to respond to COVID-19 as a baseline measure. The impact of COVID-19 is likely to continue to put pressure on the video link systems in prisons even when we are no longer responding to COVID-19 on an emergency basis. They were seeking inclusion in a potential December omnibus bill to shift the provision from emergency legislation into more enduring legislation. However, Corrections can shift this provision via their own legislative amendment programme, occurring over the next two years.

<sup>12</sup> COVID-19 Response (Requirements For Entities – Modifications and Exemptions) Act 2020, section 10A.

## **Next steps**

---

39. A separate briefing seeking agreement to detailed policy proposals regarding the legislation to implement the reserve measures when required, including by replacing the current COVID-19 Act, has been provided to your office.
40. Further information on the legal basis for self-isolation of cases will be provided in the August post-winter strategy Cabinet paper and a draft of that paper will be provided to your office on 19 August.

## **Consultation**

---

41. Manatū Hauora, NZ Customs Service, Parliamentary Counsel Office, Department of Corrections, Department of Internal Affairs, Te Arawhiti, Te Puni Kōkiri, Ministry for Primary Industries, Ministry of Justice, Ministry of Transport, Ministry for Business, Innovation and Employment, WorkSafe, the Treasury, Ministry of Housing and Urban Development, Ministry of Foreign Affairs, Crown Law Office were consulted on this briefing.



**Annex 1 – Legislative basis of specific ‘baseline’ (non-exhaustive list)**

Category of measure	Type of measure <b>BASELINE</b>	Legislative basis <sup>13</sup>
<b>Vaccination</b>	<ul style="list-style-type: none"> <li>Regulatory approvals for specific vaccines, additional doses of vaccines in the absence of an application by the manufacturer, use of those vaccines for particular groups or authorising administration by particular groups</li> </ul>	<ul style="list-style-type: none"> <li>Managed by Medsafe under the Medicines Act 1981 and its Regulations</li> </ul>
	<ul style="list-style-type: none"> <li>Broad-based promotion or encouragement of vaccination</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required, however any promotion or advertising of vaccines would need to be compliant with the Therapeutic and Health Advertising Code.</li> </ul>
	<ul style="list-style-type: none"> <li>Promotion targeted at specific groups (eg: geographical areas, age groups etc)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required, however any promotion or advertising of vaccines would need to be compliant with the Therapeutic and Health Advertising Code.</li> </ul>
	<ul style="list-style-type: none"> <li>Reducing or eliminating the cost of vaccination for end-users</li> </ul>	<ul style="list-style-type: none"> <li>Pricing decision is made by Pharmac (which from 1 July will operate under the Pae Ora (Healthy Futures) Act)</li> </ul>
	<ul style="list-style-type: none"> <li>Providing targeted support to help people get vaccinated (eg: pop up clinics, mobile vaccinators)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required beyond regulatory approvals under the Medicines Act 1981 and its Regulations (listed above)</li> </ul>
	<ul style="list-style-type: none"> <li>Offering rewards or incentives to end-users to be vaccinated (eg: gift cards)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required, however any promotion or advertising of vaccines would need to be compliant with the Therapeutic and Health Advertising Code.</li> </ul>
<b>Contact tracing</b>	<ul style="list-style-type: none"> <li>Collecting information for contact tracing from individuals, including:                             <ul style="list-style-type: none"> <li>Calling cases and contacts</li> <li>Collection of personal information</li> <li>Collecting details of contacts</li> <li>Asking health questions</li> <li>Collecting exposure event information</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Subpart 5 of Part 3A of the Health Act 1956</li> </ul> <p>Note – s92ZZA(2) of the Act provides that nothing in Part 3A of the Act makes it unlawful to undertake contact tracing without relying on these provisions.</p>

<sup>13</sup> Excluding appropriations or legislation establishing broad statutory functions for agencies (eg: s14 of the Pae Ora (Healthy Futures) Act, which defines the functions of Health New Zealand from 1 July 2022).



Category of measure	Type of measure	Legislative basis <sup>13</sup>
Public health advice & directions	<ul style="list-style-type: none"> <li>Advising individuals what steps they should take to limit the risk they pose to others (eg: voluntary self-isolation)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>Medical Officers of Health issuing directions to individuals who pose a public health risk or their contacts to do things including:                             <ul style="list-style-type: none"> <li>Refrain from undertaking certain activities</li> <li>Isolate in a particular location</li> <li>Refrain from associating with specified persons or specified classes of persons</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Part 3A of the Health Act 1956</li> </ul>
	<ul style="list-style-type: none"> <li>Medical Officers of Health issuing directions to an individual to undergo a medical examination under certain circumstances</li> </ul>	<ul style="list-style-type: none"> <li>s92K of the Health Act 1956</li> </ul>
	<ul style="list-style-type: none"> <li>Medical Officers of Health issuing directions to close an educational institution</li> </ul>	<ul style="list-style-type: none"> <li>s92L of the Health Act 1956</li> </ul>
Financial investment in the healthcare system	<ul style="list-style-type: none"> <li>Additional funding to raise service levels in one or more aspects of the health and disability system (eg: primary care, hospitals, public health and preventative etc)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
Anti-viral therapeutics	<ul style="list-style-type: none"> <li>Regulatory approvals for specific anti-viral therapeutics</li> </ul>	<ul style="list-style-type: none"> <li>Managed by Medsafe under Medicines Act 1981 and its Regulations</li> </ul>
	<ul style="list-style-type: none"> <li>Procurement of supply of anti-viral therapeutics</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>Guidelines for distribution and use of anti-viral therapeutics</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
Guidance and communications to promote behaviours beneficial to public health and	<ul style="list-style-type: none"> <li>Broad-based public messaging around specific behaviours (eg: when and how to wear a mask; hand washing; staying at home while sick)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
Promotion of infection prevention and control procedures	<ul style="list-style-type: none"> <li>Public messaging targeted at specific groups (eg: geographical areas, age groups etc) or specific high-risk activities (eg: visiting nightclubs)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>

Category of measure	Type of measure	Legislative basis <sup>13</sup>
Targeted protection	<ul style="list-style-type: none"> <li>Guidance for IPC procedures in areas with concentrations of those most vulnerable to COVID-19, such as health facilities, aged residential care facilities, disability services and prisons.</li> </ul> <p>Note – this may include guidance that certain kinds of facilities restrict access or make access conditional on certain behaviours, such as wearing a face covering.</p>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>Provision of publicly-funded face masks or other PPE to high risk individuals or communities</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>Prioritisation of boosters for higher risk groups</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
Improved communications, data, information and technology (including supporting technologies) to help individuals, businesses and communities manage risk	<ul style="list-style-type: none"> <li>Up to date information about the latest variants of COVID-19</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>Industry specific guidance that is framed around particular activities</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>Providing information or tools to counter misinformation or disinformation in target groups</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>More widespread use of technology to replace in-person meetings with virtual meetings</li> </ul>	<ul style="list-style-type: none"> <li>Agencies to identify and amend own legislation as needed to provide legislative basis</li> </ul>
Surveillance and voluntary testing for COVID-19	<ul style="list-style-type: none"> <li>Making COVID-19 testing available, including through different testing modalities</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>
	<ul style="list-style-type: none"> <li>Making COVID-19 testing free (eg: distributing free testing kits to people arriving in New Zealand and/or continuing to offer testing at no cost to end-users in the community)</li> </ul>	<ul style="list-style-type: none"> <li>No legislative basis required</li> </ul>

Category of measure	Type of measure	Legislative basis <sup>13</sup>
	<ul style="list-style-type: none"><li>Establishing mechanisms for individuals to voluntarily self-report test results</li></ul>	<ul style="list-style-type: none"><li>No legislative basis required</li></ul>
	<ul style="list-style-type: none"><li>Collecting information required to be reported under the Health Act 1956</li></ul>	<ul style="list-style-type: none"><li>Health Act 1956 (as COVID-19 is both a notifiable infectious disease and a quarantinable disease, which triggers certain notification requirements)</li></ul>
	<ul style="list-style-type: none"><li>Whole genome sequencing of a sample of positive PCR tests from the community and at the border to identify new variants present in New Zealand</li></ul>	<ul style="list-style-type: none"><li>No legislative basis required</li></ul>
	<ul style="list-style-type: none"><li>Wastewater testing</li></ul>	<ul style="list-style-type: none"><li>No legislative basis required</li></ul>
Ongoing holistic support for individuals with COVID-19 and contacts in the community	<ul style="list-style-type: none"><li>Non-income support support for individuals and whanau who choose to isolate or quarantine in their own home as a COVID-19 case or contact</li></ul>	<ul style="list-style-type: none"><li>No legislative basis required</li></ul>
Evaluation and research	<ul style="list-style-type: none"><li>Ongoing research within New Zealand and contributing to global efforts in relation to COVID-19</li></ul>	<ul style="list-style-type: none"><li>No legislative basis required</li></ul>



~~IN CONFIDENCE~~



DEPARTMENT OF THE  
PRIME MINISTER AND CABINET  
TE TARI O TE PIRIMIA ME TE KOMITI MATUA

## Coversheet

### Briefing: Vote Prime Minister and Cabinet: Covid-19 Response and Recovery Fund Quarter 4 report

Date:	29/08/2022	Report No:	DPMC-2022/23-2576
		Security Level:	<del>IN CONFIDENCE</del>
		Priority level:	[Medium]

		Action sought	Deadline
Hon Dr Ayesha Verrall Minister for COVID-19 Response		agree to recommendations	

Name	Position	Telephone
Ruth Fairhall	Deputy Chief Executive, COVID-19 Response	s9(2)(a)
Julie Knauf	Chief of Staff, COVID-19 Group	

Departments/agencies consulted on Briefing

#### Minister's Office

Status:

☐ Signed

☐ Withdrawn

Comment for agency

Attachments: Yes

~~IN CONFIDENCE~~

# Briefing

## Vote Prime Minister and Cabinet: COVID-19 Response and Recovery Fund Quarter 4 report

To: Hon Dr Ayesha Verrall  
Minister for COVID-19 Response

Date	29/08/2022	Security Level	<del>IN CONFIDENCE</del>
------	------------	----------------	--------------------------

### Purpose

To provide a quarterly report on the progress of funding allocated to Vote Prime Minister and Cabinet (PMC) through the COVID-19 Response and Recovery Fund (CRRF) for your approval. This briefing also provides a letter for you to sign and dispatch to the Minister of Finance.


### Recommendations

We recommend you:

- note** that as part of the November 2021 COVID-19 Omnibus funding, Cabinet directed agencies to provide a report on the progress of funding allocated through the CRRF to the Treasury at least quarterly [CAB-21-MIN-0487refers].
- Review and approve** the CRRF report in relation to the Vote Prime Minister and Cabinet appropriation for your COVID-19 Response portfolio (**Attachment A**).
- Sign** the letter to the Minister of Finance at **Attachment B**.

YES / NO

YES / NO

  
Ruth Fairhall  
Deputy Chief Executive  
COVID-19 Group

  
Hon Dr Ayesha Verrall  
Minister for COVID-19 Response

25.9.22



## Background

1. Within Vote Prime Minister and Cabinet, the COVID-19 Response portfolio received funding through the COVID-19 Response and Recovery Fund (CRRF) for the establishment of a new business group within the Department of the Prime Minister and Cabinet (DPMC) to lead and coordinate the all-of-government COVID-19 response effort.
2. Funding has been provided to ensure a coordinated all-of-government response to COVID-19 until 30 June 2023.
3. Cabinet directed departments receiving CRRF funding to report to the Treasury at least quarterly on how much has been spent, progress against key milestones, and forecast future expenditure on these initiatives or programmes. In addition, Cabinet also directed officials from DPMC to ensure contracts entered into to fulfil this initiative be structured in a way that enables them to be terminated quickly and funding returned to the Crown [CAB-21-MIN-0487].
4. A report has been developed to address these Cabinet directives.
5. Additionally, the Minister of Finance requested an update on DPMC's publicity expenditure including information on the vaccine campaign, which was managed through the Unite Against COVID-19 channels and primarily funded through Vote Health.

## Quarter 4 2021/22 update

6. The Quarter 4 CRRF report for funding appropriated within Vote PMC is provided for your approval (**Attachment A**).
7. It sets out that:
  - a. over the period from July 2021 to June 2022, \$61.157 million has been spent from Vote PMC;
  - b. 62 per cent of New Zealanders said they had access to all the information about COVID-19 that they want and need;
  - c. coordination of the COVID-19 response continued;
  - d. advice was provided to Cabinet on an indicative transition plan to transition the Group's key functions to health agencies in 2022-23, with accountability for the Reconnecting New Zealand (RNZ) coordination functions transitioned to the Border Executive Board on 6 June; and
  - e. a Catalogue of Response Measures was completed, providing detail on each measure used since March 2019, including resources, implications, legislation, and time to implement.
8. The Ministry of Health led the vaccine campaign which was delivered through the Unite Against COVID-19 channels. The funding was reimbursed to DPMC through a Memorandum of Understanding (MOU) signed by both Chief Executives, with the delegated authority to approve this expenditure provided by the Minister of Health to DPMC's Chief Executive.
9. While both of these authorities were closely monitored against campaign expenditure, a delay in approving the variation in expenditure level under the MOU led to DPMC seeking an increase of \$15 million to its 2021/22 COVID-19 All of Government Response appropriation. This expenditure was reported from the Quarter 3 report.
10. Vote PMC has no appropriation or MOU for expenditure on the vaccine campaign from 2022/23. Forecast for 2022/23 Vote Health expenditure would form part of the Vote Health CRRF report.



11. For completeness, the total amount spent by DPMC on the vaccine campaign across both Vote Health and Vote PMC, including personnel, is set out in the following table:

2021/22 Vaccine campaign including personnel for Unite Against COVID-19 channel expenditure to 30 June 2022			
Vote	Total spent YTD	Total spent this quarter	Forecast spend next quarter
Prime Minister and Cabinet	\$8,207,082	\$0	\$0
Health	\$30,166,020	\$7,688,902	n/a
<b>TOTAL</b>	<b>\$38,373,102</b>	<b>\$7,688,902</b>	

### Quarter 1 2022/23 focus

12. DPMC entered into a Variation to extend the 2021/22 Clemenger BBDO Limited and OMD New Zealand Limited contracts for the Unite Against COVID-19 campaign. The Quarter 1 report for the 2022/23 year will reflect these contract arrangements.
13. DPMC continues to revise the projections for expenditure in 2022/23 in the largest areas of the budget including publicity, campaigns, modelling and personnel. All areas are expected to have reductions in planned expenditure in 2022/23 compared to the previous year, based on the working assumption that we continue to move away from the need for a highly centralised response.
14. Cabinet has approved in-principle the carry-forward into 2022/23 of the majority of unexpended appropriation, with the exact amounts to be determined at the October Baseline Update following finalisation of the audited accounts for DPMC.

### Next steps

15. If you agree with the attached report (**Attachment A**), we ask that you to sign and send the letter (**Attachment B**) and the report attached to the Minister of Finance.

Attachments:	Title	Security classification
<b>Attachment A:</b>	2021/22 CRRE funding: Vote Prime Minister and Cabinet Quarter 4 report	Withheld in full under section 9(2)(f)(iv) of the Act
<b>Attachment B:</b>	Letter to the Minister of Finance	

~~[IN-CONFIDENCE]~~

**Attachment B:**

**Letter to the Minister of Finance**

Proactively Released

~~[IN-CONFIDENCE]~~

# Hon Dr Ayesha Verrall

Minister for COVID-19 Response  
Minister of Research, Science and Innovation  
Minister for Seniors  
Associate Minister of Health



27 SEP 2022

Hon Grant Robertson  
Minister of Finance  
Parliament Buildings  
WELLINGTON

Tēnā koe Minister Robertson

## COVID-19 Response and Recovery Fund

As requested as part of the Budget 22 process attached, as Annex A, is a progress report on spending to date of funding allocated in this portfolio from the COVID-19 Response and Recovery Fund.

For completeness, the total amount spent by the Department of the Prime Minister and Cabinet on the vaccine campaign, including personnel, is set out below:

2021/22 Vaccine campaign including personnel for Unite Against COVID-19 channel expenditure to 30 June 2022			
Vote	Total spent YTD	Total spent this quarter	Forecast spend next quarter
Prime Minister and Cabinet	\$8,207,082	\$0	\$0
Health	\$30,166,020	\$7,688,902	n/a
<b>TOTAL</b>	<b>\$38,373,102</b>	<b>\$7,688,902</b>	

Please note that reporting on vaccine campaign expenditure for the 2022/23 year is the responsibility of the Ministry of Health.

Nāku noa, nā

Hon Dr Ayesha Verrall  
Minister for COVID-19 Response





# Aide-Mémoire

## Testing Innovation Weekly Update

To:	Hon Dr Ayesha Verrall Minister for COVID-19 Response		
From:	Simon Dunkerley, Policy Manager, COVID-19 Group	Date:	2/09/2022
Briefing Number:	DPMC-2022/23-150	Security Level:	[IN-CONFIDENCE]

### Purpose

1. This aide memoire provides a brief update on the testing innovation work programme.

### Regulatory workstream

#### Rapid review

2. You received the *Future of Point-of-Care Tests Regulation* briefing from Manatū Hauora on Tuesday, 30 August 2022. This paper sets out:
  - i. the current process and framework for regulating point-of-care-tests (POCT);
  - ii. the outcome of the independent rapid review on the POCT regulatory system; and
  - iii. options for the immediate-term regulation of POCTs.
3. Manatū Hauora will report back to you on the implementation of the chosen option by the end of September 2022

### Innovation and futures workstream

4. The Department of the Prime Minister and Cabinet (DPMC) is finalising a briefing to you on the outcomes of the PwC facilitated workshops and survey, and next steps of the innovations and futures workstream. This briefing will be provided to you in the week of 5 September 2022.



## Coversheet

### Briefing: COVID-19 GROUP PUBLICITY EXPENSES BUDGET FOR 2022-23

Date:	6/09/2022	Report No:	DPMC-2022/23-112
		Security Level:	<del>IN CONFIDENCE</del>
		Priority level:	HIGH

	Action sought	Deadline
Minister for COVID-19 Response	note the recommendations related to expenditure for COVID-19 publicity expenses in 2022-23.	by Friday, 9 September 2022

Name	Position	Telephone		1 <sup>st</sup> Contact
Ruth Fairhall	Deputy Chief Executive, COVID-19 Group	N/A	s9(2)(a)	
Fiona Weightman	Head of Communications and Public Engagement	N/A	s9(2)(a)	✓

Departments/agencies consulted on Briefing
DPMC has informed Treasury in the preparation of this Briefing.

#### Minister's Office

Status:

☐ Signed

☐ Withdrawn

Comment for agency

Attachments: No



# Briefing

## COVID-19 GROUP PUBLICITY EXPENSES BUDGET FOR 2022-23

To: Hon Dr Ayesha Verrall, Minister for COVID-19 Response

Date	6/09/2022	Security Level	<del>IN CONFIDENCE</del>
------	-----------	----------------	--------------------------

### Purpose

1. This paper is to inform you of the re-forecasting of the COVID-19 Group's publicity expenditure budget for 2022-23 in light of the winter wellness campaign and Post Winter Strategy release.


### Recommendations

We recommend you:

1. **note** that in November 2021, Cabinet agreed to a \$21m budget for campaign, communications and engagement expenditure for 2022/23, including staff costs [CAB-21-MIN-0487].
2. **note** that under Cabinet Office Circular CO (18) 2, Ministerial approval is required for public service Chief Executives to spend above \$150,000 on publicity expenses (such as advertising, websites, translations, printing, research and other expenses).
3. **note** that in May 2022 the former Minister for COVID-19 Response authorised the Chief Executive to incur Unite Against COVID-19 publicity expenses of up to \$12m for the 2022-23 financial year [DPMC-2021/22-2155].
4. **note** that we are frontloading the advertising spend in the first quarter of 2022-23, for the winter wellness campaign (July-August), Post Winter Strategy release and towards messaging on the mental health impacts as a result of COVID (September).
5. **note** that we anticipate total publicity expenditure (including advertising, creative, translations, web and social media maintenance, etc) for the July – December 2022 period of up to \$11m, depending on the level of communications required after Cabinet decisions on the Post Winter Strategy and we forecast a maximum total spend of \$18m by June 2023.



6. **note** that funding for the increased publicity expenditure is available from expected underspends in other areas within the COVID-19 All of Government Response appropriation.
7. **note** that the communications and engagement functions (and associated funding for existing commercial contracts) are expected to transition to Te Whatu Ora by the end of 2022.


pp
<b>Ruth Fairhall</b> <b>Deputy Chief Executive</b> <b>COVID-19 Group</b>
...06. / ...09..... / ...2022.....

<b>Hon Dr Ayesha Verrall</b> <b>Minister for COVID-19 Response</b>
..... / ..... / .....

## Background

1. In November 2021, Cabinet agreed to an appropriation for DPMC of \$37m, that included a \$21m budget for campaign, communications and engagement expenditure for 2022/23, including staff costs [CAB-21-MIN-0487]. This budget comprised:

Component	\$m
Paid media (TV, radio, billboards, newspapers and digital)	9.0
Development of creative materials	3.0
Bespoke communications and campaigns to specific groups	2.4
Translation of key messages	0.8
Printing	0.8
Maintenance of the Unite Against COVID-19 website and social media channels	0.7
Research into public sentiment	0.3
Staff costs	4.0
<b>TOTAL</b>	<b>21.0</b>

2. It is a requirement under Cabinet Office Circular CO (18) 2 that Ministerial authorisation is given for public service Chief Executives to spend above \$150,000 on publicity expenses, which include the above components.
3. In May 2022, the former Minister for COVID-19 Response authorised the Chief Executive of DPMC to incur publicity expenses of up to \$12m for the 2022-23 financial year [DPMC-2021/22-2155]. This allowed DPMC to enter into contracts for 2022-23, for advertising (\$9m) and related creative services (\$3m).
4. The combined publicity budget of \$17m outlined above (i.e. \$9m advertising, \$3m creative, \$5m other, but excluding \$4m staff costs) was less than half the level spent in 2021/22 (\$34.553m). This original budget was based on an assumption of a steady reduction in COVID-19 cases and was estimated in February 2022 as part of the 2022/23 business planning process, well before the winter wave of Omicron in New Zealand.
5. The Omicron resurgence increased the requirement for communications in July and August on public health behaviours – focusing on ‘front-loading’ information for winter wellness, such as mask wearing, staying home when sick, and getting vaccination boosters, over the winter peak.
6. We are now preparing for a significant September spend as part of the release of the Government’s Post Winter Strategy settings and towards messaging on the mental health impacts as a result of COVID. Combined, this means we are ‘front-loading’ a forecast spend of \$7.4m on advertising and creative expenses for the July-October period (see table below).



## Post CPF – moving to a new approach

7. On Monday, 5 September, you took a paper to Cabinet [CAB-22-SUB-0365], moving to a new policy setting (the Post Winter Strategy) to replace the current COVID-19 Protection Framework (CPF) approach. The paper proposed changes to the ongoing management of COVID-19 in New Zealand and it will be important to ensure all New Zealanders are well informed about these changes.
8. The paper also proposed communications about both the launch of the strategy, requirements (mask wearing, self-isolation, contact information at the border) and recommended behaviours (testing for household contacts, mask guidance).
9. The changes necessitate new and additional communications, to avoid confusion, and particularly for priority audiences and through Culturally and Linguistically Diverse media to reach as many people as possible. The requirements will be reviewed regularly and there may be further changes before the end of the year. We are also planning a small increase in publicity ahead of the summer holiday season and towards messaging on the mental health impacts as a result of COVID.
10. As a result of the front-loading requirements for July to October, we have revised our annual publicity budget, from the original estimate of \$17m, to \$18m. This allows an additional \$3m on advertising, with 'other' spending (which includes website and social media maintenance, printing, translations, and research), revised down from \$5m to \$3m.
11. We keep tight controls on the advertising spend, through weekly reviews and requiring Deputy Chief Executive approval for each week's media placements before those commitments are made. This adaptive approach can be seen in the weekly spend on the winter wellness campaign, which has steadily reduced from \$424K in the first week of August, to less than \$100K in early September – a reflection that strong, early messaging needs less follow-up as time progresses. A similar approach is planned for the Post Winter Strategy campaign, with spending reducing over the month.

## Funding the Winter Wellness and Post Winter Strategy campaigns

12. DPMC has identified forecast underspends in its COVID-19 Group budget that can be used for additional publicity expenditure. These underspends primarily come from reduced salary expenditure for the second half of 2022/23 (as a result of transferring functions to Te Whatu Ora and Manatū Hauora by the end of 2022)<sup>1</sup>; and reduced modelling costs.
13. This re-allocation from the existing budget enables the 'front-loading' approach that has been adopted for the first four months of 2022-23. The table below details the revised publicity spend for 2022-23, noting that the budget retains \$6m for advertising and related creative expenses for January to June 2023, as originally planned.
14. We expect the actual publicity expenditure could be lower than forecast, as the figures below include some contingency to allow for possible future policy settings and subsequent changes.

<sup>1</sup> In a June 2022 Cabinet paper, it was noted that public sector Chief Executives had been cautioned that functions transferring from the COVID-19 Group may not transfer with the funding and costs may need to be absorbed by receiving agencies, and that a very high threshold will need to be met to demonstrate functions cannot otherwise be absorbed [SWC-22-SUB-0118].



## COVID-19 Group publicity expenditure forecast for 2022-23

Month	Advertising & creative	Other*	TOTAL	Notes
Jul-22	\$1,400,000	\$200,000	\$1,600,000	Winter Wellness
Aug-22	\$2,000,000	\$150,000	\$2,150,000	Winter Wellness
Sep-22	\$2,800,000	\$425,000	\$3,225,000	Post Winter Strategy and Mental Health
Oct-22	\$1,200,000	\$455,000	\$1,655,000	Post Winter Strategy and Mental Health
Nov-22	\$750,000	\$180,000	\$930,000	
Dec-22	\$850,000	\$295,000	\$1,145,000	Pre-summer holiday July-Dec total - \$10.695m
Jan-23	\$800,000	\$265,000	\$1,065,000	
Feb-23	\$800,000	\$200,000	\$1,000,000	
Mar-23	\$800,000	\$140,000	\$940,000	
Apr-23	\$1,000,000	\$175,000	\$1,175,000	Pre-winter campaign
May-23	\$1,200,000	\$260,000	\$1,460,000	Pre-winter campaign
Jun-23	\$1,400,000	\$255,000	\$1,655,000	Winter Wellness Jan-June total - \$7.295m
<b>TOTAL</b>	<b>\$15,000,000</b>	<b>\$3,000,000</b>	<b>\$18,000,000</b>	

\* Includes website/social media maintenance, printing, translations, bespoke campaigns, research.  
Additional 'front-loaded' spend in these months.

## Next steps

15. DPMC's Communications and Public Engagement team are currently preparing the advertising plan for the Government's announcement of the Post Winter Strategy next week. This includes media placement and further revision of the campaign budget. We are also working with health agencies to develop the messaging on the mental health impacts as a result of COVID.
16. Recognising the interest that the Minister of Finance has in the COVID-19 Group's approach to procurement and the effectiveness of communications and publicity expenditure, DPMC, working with the Treasury, will continue to provide quarterly updates on both the effectiveness of spend and planned future expenditure.
17. While the communications and engagement functions are due to be transferred to Te Whatu Ora by the end of this year, if this transition is delayed and total publicity expenditure approaches the current \$12m authorisation for the CE to incur publicity expenses before transition occurs, we will seek further approval to incur additional expenses at that time, as per Cabinet Office Circular CO 18 (2). We do not expect publicity expenditure to reach \$12m until February 2023.



## Coversheet

### Briefing: COVID-19 Public Health Response (Masks) Order 2022 for signing

Date:	8/09/2022	Report No:	DPMC-2022/23-175
		Security Level:	<del>IN-CONFIDENCE</del>
		Priority level:	[Priority]

	Action sought	Deadline
Hon Dr Ayesha Verrall Minister for COVID-19 Response	agree to recs	12/09/2022

Name	Position	Telephone	1 <sup>st</sup> Contact
Kay Baxter	Manager, Strategy and Policy, COVID-19 Group, DPMC	s9(2)(a)	✓
Kate Hamilton	Senior Policy Advisor, COVID-19 Group, DPMC	s9(2)(a)	

#### Departments/agencies consulted on Briefing

Manatū Hauora, Crown Law Office

#### Minister's Office

Status:

☒ Signed

☐ Withdrawn

Comment for agency

Attachments: Yes/No



# Briefing

## COVID-19 Public Health Response (Masks) Order 2022 for signing

To: Hon Dr Ayesha Verrall  
Minister for COVID-19 Response

Date 8/09/2022

Security Level

~~IN-CONFIDENCE~~

### Purpose

1. This briefing supports your proposal to shift away from the COVID-19 Protection Framework (the CPF) to a new approach, as endorsed by Cabinet [CAB-22-MIN-0365]. To implement mask requirements under the new approach, we recommend that you agree to revoke the COVID-19 Public Health Response (Protection Framework) Order 2021 (the CPF Order), and sign the proposed new mask order – COVID-19 Public Health Response (Masks) Order 2022 (the Mask Order).
2. Orders to give effect to your decisions are due to you on Monday 12 September 2022.
3. This briefing summarises the effect of the amendments and confirms that the necessary procedural requirements for the making of COVID-19 Orders have been complied with.

### Executive Summary

4. On 5 September 2022, you consulted Cabinet on the proposal to revoke the COVID-19 Public Health Response (Protection Framework) Order 2021 (the CPF Order) and move to the new approach of baseline and reserve measures. Cabinet agreed to retain some mandatory public health measures at this time, subject to confirmation on 12 September. These measures are mandatory mask use for visitors in healthcare settings, seven-day isolation periods for cases, and contact tracing requirements for air border arrivals. Other public health measures will be given effect to through guidance, as baseline measures.
5. The Department of the Prime Minister and Cabinet is responsible for administering the CPF Order. To give effect to Cabinet agreements regarding the CPF Order and mask settings we recommend that you:
  - a) agree to revoke the CPF Order;
  - b) sign the COVID-19 Public Health Response (Masks) Order 2022 to give effect to ongoing mask requirements (given current mask requirements are currently in the CPF Order).
6. If you agree, we will issue drafting instructions to PCO and will provide you with relevant orders to sign on 12 September 2022, prior to them commencing at 11.59pm that day. Manatū Hauora is providing you with a separate briefing (HR20221395 refers) to give effect to Cabinet's other agreements.

Briefing: Required changes to mask settings to support the shift to the new approach

DPMC-2022/23-175



## Recommendations

We recommend you:

1. **note** that Cabinet agreed in principle, to make changes to a suite of COVID-19 mandates and restrictions, pending final agreements on 12 September 2022 [CAB-22-MIN-0365]
2. **note** that the requirements for the making of COVID-19 Orders have been complied with, in particular the consideration of:
  - 2.1 purpose of the COVID-19 Public Health Response Act 2020
  - 2.2 purpose of the amendment
  - 2.3 public health advice
  - 2.4 New Zealand Bill of Rights Act 1990
  - 2.5 Ministerial consultation
  - 2.6 The 48-hour notification period
3. **note** that decisions to retain, amend or make a new order, under section 11 of the COVID-19 Public Health Response Act 2020, are subject to the availability of the appropriate legislative prerequisites through either the renewal of the Epidemic Notice or a Prime Minister's Authorisation
4. **note** that the COVID-19 Public Health Response Act 2020 requires orders to be made by the Minister for COVID-19 Response (once all the statutory prerequisites have been considered) even when Cabinet considers proposals in detail or agrees policy changes
5. **agree** to revoke the COVID-19 Public Health Response (Protection Framework) Order 2021  


YES / NO
6. **confirm** your position, following consultation with Cabinet, to retain mask requirements for visitors to healthcare settings only excluding in counselling and mental health and addiction services  

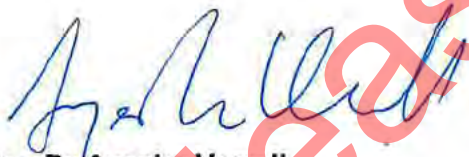
YES / NO
7. **sign**, on 12 September 2022, the COVID-19 Public Health Response (Masks) Order 2022 (the Mask Order), for on-going mask requirements in healthcare settings with the revocation of the CPF  

YES / NO
8. **note** that mask guidance will be provided by Manatū Hauora for the public and for healthcare workers by the time these changes take effect

9. **agree** to proactively release this report, subject to any appropriate withholding of information that would be justified under the Official Information Act 1982.

YES / NO

  
**Kay Baxter**  
Policy Manager  
COVID-19 Group, DPMC  
.....8../...9../...2022.....

  
**Hon Dr Ayesha Verrall**  
Minister for COVID-19 **Response**  
8/9/22



## Background

### Cabinet agreed to revoke the CPF and move to a new approach for managing COVID-19

7. On 5 September, Cabinet considered a paper on the future of our COVID-19 Response. Cabinet agreed that, as New Zealand's COVID-19 outbreak wanes, with reducing case numbers, hospitalisations, and deaths, it was the right time to revoke the CPF Order to shift to a new approach for managing COVID-19 using baseline and reserve measures [CAB-22-MIN-0365].
8. Cabinet will confirm on 12 September which mandated public health measures and restrictions will remain at this time. These are expected to include:
  - a) Masks in healthcare settings for visitors only (workers and patients are exempt);
  - b) Case isolation for 7 days;
  - c) Requirements for arrivals to New Zealand by air to provide contact tracing information in the New Zealand Traveller Health Declaration; and
  - d) the regulation of point-of-care tests.
9. Even when Cabinet considers proposals in detail or agrees policy changes, the Act requires orders to be made by the Minister for COVID-19 Response once they have considered the relevant statutory prerequisites. This means that Cabinet cannot directly authorise order changes and your agreement to the changes recommended in this report is therefore required.

### COVID-19 order changes are needed by to underpin the new approach

10. Of the eight orders made under section 11 of the Act and currently still in force, the Department of the Prime Minister and Cabinet only administers the CPF Order. All other orders are administered by Manatū Hauora (see the companion Health Report 20221395 detailing changes to these orders to support the new approach).

## Summary of the Amendments

### Revoking the CPF Order to move to the new approach

11. The CPF Order contains mask settings and indoor gathering limits that underpin the Green, Orange, and Red colour settings.
12. On 13 April 2022, New Zealand moved from the Red to the Orange setting in the CPF, and we have remained at Orange since. With the evolution of the COVID-19 outbreak over recent months, the CPF has increasingly posed challenges to providing an effective response. During the recent BA.5 outbreak, public health advice was that a move to the Red setting would not result in enough of an impact on cases or hospitalisations to justify the higher restrictions and reducing gathering limits to the level where they might be effective would not be proportionate. This resulted in public health advice that the CPF was now of limited utility and should be replaced by the new approach and renewed mask mandates.
13. As agreed by Cabinet, we recommend that you revoke the CPF Order, so that New Zealand can instead shift to the new approach.



### **A new mask order is needed to retain mask requirements**

14. Because current mask requirements are implemented through the CPF Order, we need a new order to underpin on-going mask requirements. We recommend that you agree to make a new order – the COVID-19 Public Health Response (Masks) Order 2022 (the Mask Order).
15. Based on your consultation with Cabinet, we ask that you confirm mask requirements. You proposed that mask requirements in healthcare settings for visitors only are retained, but not staff, healthcare workers, or patients. You further proposed three options for masks on public transport to Cabinet:
  - i. Option 1: retain mask requirements on public transport (as recommended by the Director-General of Health) until public health advice recommends their removal;
  - ii. Option 2: retain mask requirements on public transport for four to six weeks only;
  - iii. Option 3: no mask requirements on public transport.
16. We ask that you confirm your decision to remove the requirement to wear masks on public transport (Option 3).

### **The Mask Order will specify mask requirements in healthcare settings**

17. The Mask Order is intended to require a person to wear a mask when on the premises of a health service. This means that mask requirements will continue to apply to visitors in the following areas: primary care, urgent care, hospitals, pharmacies while in public areas, aged residential care (ARC) and disability-related residential care, and other treatment and social rehabilitation services.
18. This is not a definitive list – to ensure a broad range of healthcare settings are captured, we recommend that the requirement applies to all health services under section 5(1) of the Health Practitioners Competence Assurance Act 2003, treatment or social rehabilitation provided under the Accident Compensation Act 2001, and disability support services within the meaning of section 6(1) of the New Zealand Public Health and Disability Act 2000.
19. Exclusions should apply, such that a person does not need to wear mask in certain scenarios including:
  - a) if the person is under the age of 12 years; or has a physical or mental illness or condition or disability that makes wearing a face covering unsuitable; or
  - b) in counselling, mental health and addiction services;
  - c) when outdoors;
  - d) when eating or drinking or taking medicine;
  - e) when communicating with a person who is deaf or hard of hearing and visibility of the mouth is essential for communication;
  - f) when asked to remove the face covering to ascertain the person's identity; or
  - g) if wearing a face covering is not safe in all of the circumstances or in an emergency;
  - h) when exercising or playing sport;
  - i) when at a voting place to vote in an election;
  - j) when they are performing as an entertainer or presenting to an audience
  - k) when removal of, or not wearing, the mask is otherwise required or authorised by law; or



l) if the person has an exemption pass issued.

20. To avoid doubt, the following examples outline what is intended by the Mask Order:

- a) Cafes and other food outlets within a healthcare setting (e.g. a hospital cafeteria or a cafe in an ARC) will be included in the mask requirements. Visitors will be required to wear their masks until they are seated to eat or drink. Workers will be subject to any mask requirements imposed by the health service.
- b) Non-healthcare workers that are visiting the premises (as opposed to employees in these roles), for example to deliver packages or undertake maintenance, will be required to wear masks – that is, they will be treated as visitors.
- c) Residents in ARCs who are not unwell or “patients” in any respect but live in a retirement village are intended to be exempt from wearing masks under the Mask Order – that is, there will therefore be no difference in the treatment of a resident in their home and a patient receiving healthcare.
- d) Visitors entering a patient’s private room (e.g. in an ARC) will be required to continue to wear their mask (except when eating and drinking, etc).

21. Under the CPF Order, failure to comply with mask requirements constitutes a medium risk infringement offence under the Act. We recommend that under the Mask Order, this is retained. A medium risk infringement offence has a prescribed fee of \$1000 (with a maximum fee of \$4000) for an individual.

22. The Director-General of Health will continue to have powers to issue face mask exemption passes to people that apply.

#### **Guidance for the general public**

23. Manatū Hauora is developing guidance to supersede current mask guidance for non-healthcare settings. This guidance will make clear other scenarios that a person should voluntarily wear a mask, including personal factors such as being a household contact, and specific settings such as public transport.

24. Manatū Hauora and the Ministry of Education will consider mask guidance in education settings in October 2022, ahead of the next school term, to decide whether to retain or reduce current mask guidance in education settings.

25. Workplaces will still have options to recommend or require staff or customers to wear masks. A person conducting a business or undertaking (PCBU) has legal options to require masks – they can undertake a work health and safety risk assessment under the Health and Safety at Work Act 2015, put requirements into employment contracts under the Employment Relations Act 2000, or make it a condition of entry for customers. For PCBUs that want to continue to mandate masks for staff, these processes would take some time to put into place, and PCBUs would likely need to rely on internal guidance in the first few weeks.

#### **Guidance for healthcare workers**

26. Healthcare workers have never been legally required to wear masks (with the exception of pharmacists when they are in the public areas of pharmacies). The Manatū Hauora provides IPC guidance on recommended PPE in different healthcare settings. IPC guidance informs access to publicly funded PPE. There is nothing in this change that affects current IPC Guidance, or expectations regarding its use.



## Requirements for a COVID-19 Order

27. This proposed Mask Order creates a COVID-19 Order, which you can do pursuant to sections 11 of the COVID-19 Public Health Response Act 2020 (the Act).
28. Section 11 of the Act requires that the order can only be made if the requirement to wear masks contribute or be likely to contribute to either or both of the following:
- a) preventing, containing, reducing, controlling, managing, eliminating, or limiting the risk of the outbreak or spread of COVID-19
  - b) avoiding, mitigating, or remedying the actual or potential adverse public health effects of the outbreak of COVID-19 (whether direct or indirect).
29. The proposed Mask Order will meet the purpose in (a) by limiting the spread of COVID-19 in settings, such as hospitals and ARCs, where people vulnerable to COVID-19 will be.
30. In addition, the Act imposes certain requirements for the form, publication and making of COVID-19 Orders. You must be sure that these requirements have been complied with before making a COVID-19 Order.
31. Section 9 of the Act requires you to undertake the following actions to make a COVID-19 order under section 11:
- c) have had regard to advice from the Director-General of Health 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 those risks; and
  - d) have had regard to any decision by the Government on the level of public health measures appropriate to respond to those risks and avoid, mitigate, or remedy the effects of the outbreak or spread of COVID-19 (which decision may have taken into account any social, economic, or other factors); and
  - e) be satisfied that the order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990; and
  - f) have consulted the Prime Minister, the Minister of Justice, and the Minister of Health, and any other Minister that you deem relevant; and
  - g) be satisfied that the order is appropriate to achieve the purpose of this Act.
32. Section 9 requirements are addressed below.
33. Decisions to retain, amend or make orders under section 11 of the Act rely on an appropriate legislative authority being in place. You have also received advice on the renewal of the Epidemic Preparedness (COVID-19) Notice 2020 (the Epidemic Notice) which expires on 16 September 2022 (HR20221306 refers), which we recommend you consider in parallel to this briefing.
34. If the Epidemic Notice is not renewed, mandatory public health measures would need to be retained under a different basis or removed in full. There may be a sufficient public health rationale to authorise specific measures/orders directly under section 8(c) of the Act. However, there remains a high threshold that needs to be met. Manatū Hauora will provide you with further advice in that circumstance.

### Purpose of the amendment

35. The Act also provides that you may make a COVID-19 order for one or more of the purposes set out in section 11 of the Act (which are appended to this briefing). The Mask Order is for



that purpose in section 11(a) because it requires persons to comply with specified measures likely to contribute to limiting the risk of the spread of COVID-19.

### Public Health Advice

36. The Act requires that before making a COVID-19 order, you must have had regard to advice from the Director-General of Health 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 those risks. The proposals in this paper are based on a public health risk assessment (PHRA) Manatū Hauora conducted on 17 August 2022.
37. The Director-General of Health recommended that mask requirements are retained on public transport, as well as in healthcare settings. However, the Director-General of Health also noted that recommending, rather than requiring, masks would have value in responding to mask fatigue. Retaining mask requirements now could increase mask fatigue and mean that if the COVID-19 risk increases and we need to increase mask use, people will be less likely to wear a mask when we most need them to.
38. Based on this information, Cabinet preferred that masks on public transport be recommended and not required.

### New Zealand Bill of Rights Act 1990

39. The Act also requires that you are satisfied that an order under section 11 of the Act does not limit, or is a justified limit, on the rights and freedoms in the New Zealand Bill of Rights Act 1990 (NZBORA).

40. s9(2)(h)

### Ministerial Consultation

41. The Act requires that before making a COVID-19 order, you must consult with the Prime Minister, the Minister of Justice and the Minister of Health. You may also consult with any other Minister you think fit. Cabinet's consideration of these proposed changes substantively fulfils your requirement to consult the Prime Minister, the Minister of Justice, the Minister of Health, and any other Ministers you consider fit, for making orders under the COVID-19 Public Health Response Act 2020.

### 48-hour Notification Period

42. The Act requires that a COVID-19 Order must be published and gazetted at least 48 hours before it comes into force. However, this notice period is not required to be observed where you are satisfied that the Order should come into force urgently to prevent or contain the outbreak or spread of COVID-19 or where the effect of the Order is only to remove or reduce requirements imposed by a COVID-19 Order.
43. Because the effect of revoking the CPF Order and implementing the new Mask Order is only to reduce mask requirements, this period does not need to be complied with.

### Next steps

44. If you agree to the above and pending the resolution of the legislative authority matters, the Department of the Prime Minister and Cabinet will issue drafting instructions to PCO to give effect to the decisions in this briefing. Once these orders have been drafted, you will be invited



to sign the orders to bring these changes into effect from 11.59pm on 12 September 2022.

Proactively Released

Attachments:	Title	Security classification
Attachment A:	Orders that can be made under the COVID-19 Public Health Response Act	<del>Unclassified</del>

## Attachment A: Orders that can be made under the COVID-19 Public Health Response Act

Section 11 of the COVID-19 Public Health Response Act states that the following Orders can be made under the Act.

- (1) The Minister or the Director-General may, in accordance with section 9 or 10 (as the case may be), make an order under this section for 1 or more of the following purposes:
- (a) to require persons to refrain from taking any specified actions or to take any specified actions, or comply with any specified measures, so as to contribute or be likely to contribute to either or both of the following:
    - (i) preventing, containing, reducing, controlling, managing, eliminating, or limiting the risk of the outbreak or spread of COVID-19;
    - (ii) avoiding, mitigating, or remedying the actual or potential adverse public health effects of the outbreak of COVID-19 (whether direct or indirect);
  - (b) by way of example under paragraph (a), requiring persons to do any of the following:
    - (i) stay in any specified area, place, or premises or refrain from going to any specified area, place, or premises (including in specified circumstances or unless in compliance with specified measures):
      - (ia) permit entry to any specified areas, places, or premises only in specified circumstances or in compliance with specified measures;
      - (ii) refrain from associating with specified persons;
      - (iii) stay physically distant from any persons in any specified way;
      - (iv) refrain from travelling to or from any specified area or place, or refrain from travelling to or from any specified area or place in specified circumstances or unless in compliance with specified measures (for example, refrain from leaving an area unless the person has a COVID-19 vaccination certificate);
      - (v) refrain from carrying out specified activities (for example, business activities involving close personal contact) or carry out specified activities only in any specified way or in compliance with specified measures;
      - (vi) be isolated or quarantined in any specified place or in any specified way;
      - (vii) refrain from participating in gatherings of any specified kind, in any specified place, or in specified circumstances;
      - (viii) report for and undergo a medical examination or testing of any kind, and at any place or time, specified and in any specified way or specified circumstances;
      - (ix) provide, in specified circumstances or in any specified way, any information necessary for the purpose of contact tracing;



(x) satisfy any specified criteria before entering New Zealand from a place outside New Zealand, which may include being registered to enter an MIQF on arrival in New Zealand;

(c) in relation to an MIQF, other place of isolation or quarantine, or a place of self-isolation or quarantine, to require specified actions to be taken, or require compliance with any specified measures, for the purpose of managing the movement of people to, from, and within the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine, including (without limitation) any of the following:

(i) giving directions that relate to the movement of people to, from, and within the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine:

(ii) imposing restrictions and conditions that relate to the movement of people to, from, and within the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine:

(iii) permitting people to leave their rooms in the MIQF, other place of isolation or quarantine, or place of self-isolation or quarantine in accordance with any requirements or conditions specified in the order:

(d) in relation to any places, premises, craft, vehicles, or other things, to require specified actions to be taken, require compliance with any specified measures, or impose specified prohibitions, so as to contribute or be likely to contribute to either or both of the following:

(i) preventing, containing, reducing, controlling, managing, eliminating, or limiting the risk of the outbreak or spread of COVID-19:

(ii) avoiding, mitigating, or remedying the actual or potential adverse public health effects of the outbreak of COVID-19 (whether direct or indirect):

(e) by way of example under paragraph (d), doing any of the following:

(i) requiring any places, premises, craft, vehicles, or other things to be closed or only open if specified measures are complied with:

(ii) prohibiting any craft, vehicles, or other things from entering any port or place, or permitting the entry of any craft, vehicles, or other things into any port or place only if specified measures are complied with:

(iii) prohibiting gatherings of any specified kind in any specified places or premises, or in any specified circumstances:

(iv) requiring any places, premises, craft, vehicles, or other things to be isolated, quarantined, or disinfected in any specified way or specified circumstances:

(v) requiring the testing of any places, premises, craft, vehicles, or other things in any specified way or specified circumstances:

(f) in relation to laboratories that undertake COVID-19 testing, by—

(i) setting quality control measures and minimum standards:

(ii) requiring COVID-19 test results to be reported to the Director-General's public health national testing repository:



(iii) managing the supply of testing consumables (such as reagents and swabs) used by the laboratories:

(iv) providing differently for different classes of testing laboratories (for example, different provisions for laboratories depending on whether they are funded publicly or privately):

(g) requiring the owner or any person in charge of a specified laboratory that undertakes COVID-19 testing to—

(i) deliver or use, in accordance with directions given under the order, specified quantities of COVID-19 testing consumables that the Minister considers necessary for the purposes of the public health response to COVID-19:

(ii) undertake COVID-19 testing solely for the purposes of the public health response to COVID-19 while subject to the order, whether or not the laboratory is contracted by the Crown for that purpose:

(h) requiring persons to permit individuals to enter a place or receive a service whether or not those individuals are vaccinated, have a COVID-19 vaccination certificate, or are otherwise able to produce evidence of their vaccination status:

(i) specifying the evidence that may be required to be produced, and the person to whom the evidence may be required to be produced to, to demonstrate compliance with a specified measure (for example, specifying that a COVID-19 vaccination certificate is required to be produced to enter certain premises) and providing for any prohibitions or duties that apply in respect of the use or production of that evidence:

(j) specifying, for the purposes of a COVID-19 vaccination, the required doses for each COVID-19 vaccine or combination of COVID-19 vaccines:

(k) in relation to COVID-19 vaccination certificates,—

(i) specifying who is eligible to be issued with a COVID-19 vaccination certificate:

(ii) specifying how an application for a COVID-19 vaccination certificate must be made, and the information required to accompany that application:

(iii) providing for the issue, renewal, and extension of COVID-19 vaccination certificates by the Director-General or by the use of automated electronic systems (which certificates are to be treated as if they were issued, renewed, or extended by the Director-General):

(iv) providing for the form and content of COVID-19 vaccination certificates to be determined by the Director-General:

(v) specifying the period for which COVID-19 vaccination certificates are valid, or the conditions under which COVID-19 vaccination certificates may expire.

(2) An order made by the Minister may specify which breaches of an order made by the Minister or the Director-General are infringement offences for the purposes of section 26(3), and may specify that a breach of an order is a particular class of infringement offence (with the corresponding penalties) for the purposes of regulations made under section 33(1)(b).

(3) For the purposes of this section and section 12, things includes animals, goods, businesses, records, equipment, and supplies.



- (4) All goods prohibited from import under a COVID-19 order are deemed to be included among goods prohibited from import under section 96 of the Customs and Excise Act 2018, and the provisions of that Act apply to those goods accordingly.

Proactively Released



## Coversheet

### Briefing: Near-Final Draft Department of the Prime Minister and Cabinet 2021/22 Annual Report: For Comment

Date:	8/09/2022	Report No:	DPMC-2022/23-179
		Security Level:	<del>IN CONFIDENCE</del>
		Priority level:	Standard

	Action sought	Deadline
Hon Dr Ayesha Verrall Minister for COVID-19 Response	Provide feedback	16/09/2022

Name	Position	Telephone	Mobile	1 <sup>st</sup> Contact
Catherine Delore	Acting Executive Director, Strategy, Governance and Engagement Group	+64 4 830 5064	s9(2)(a)	✓
Julie Wade	Principal Advisor	+64 4 4748268	N/A	

#### Minister's Office

Status:

☒ Signed

☐ Withdrawn

Comment for agency

Attachments: Yes



# Briefing

## Near-Final Draft Department of the Prime Minister and Cabinet 2021/22 Annual Report: For Comment

To: Hon Dr Ayesha Verrall  
Minister for COVID-19 Response

Date 8/09/2022

Security Level

~~IN CONFIDENCE~~

### Purpose

1. This briefing provides you with a near-final draft of the 2021/22 Department of the Prime Minister and Cabinet's (DPMC) Annual Report for any feedback you may have.

### Recommendations

We recommend you:

1. **provide** any feedback you may have on the near-final draft DPMC Annual Report for the year ended 30 June 2022.

YES / ☒ NO



Catherine Delore  
Acting Executive Director, Strategy,  
Governance and Engagement Group

08/09/2022



Hon Dr Ayesha Verrall  
Minister for COVID-19 Response

11.9.22

## Background

2. DPMC must prepare an annual report in accordance with section 43 of the Public Finance Act 1989.
3. The Annual Report must be finalised by 30 September 2022 and tabled in the House by 21 October 2022.

## Draft Annual Report

4. Extracts from the draft DPMC Annual Report relevant to your portfolio are attached for your review (**Attachment A**). The report summarises the activities and performance of DPMC for the 2021/22 financial year. For efficiency in responding to any feedback you may have, we have provided you with an unformatted version of the report.
5. As DPMC's final audit is underway, reporting against the achievement of the Vote Prime Minister and Cabinet appropriations is near-final but not yet finalised.

## Next Step

6. Following the incorporation of any feedback you may have, feedback from Responsible Ministers, final feedback from Audit NZ, and any editorial changes, we will seek our Chief Executive's sign off on the DPMC Annual Report by the end of September 2022.
7. The report will be tabled in the House in October 2022. Once tabled, the report will be published on our website.

Attachments:	Title	Security classification
<b>Attachment A:</b>	Near-final DPMC 2021/22 Annual Report – Extracts relevant to your portfolio	<del>IN CONFIDENCE</del>



**Attachment A: Near-final DPMC 2021/22 Annual Report –  
Extracts relevant to your portfolio**

Proactively Released

# Advancing an ambitious, resilient and well-governed Aotearoa New Zealand



## Outcome 1: The Government is enabled to deliver its priorities

### What we intended to achieve

1. Our Ministers and Cabinet are supported by timely, well-informed information and advice
2. Aotearoa New Zealand's public service is proactive and responsive, helping shape and deliver the Government's priorities.

### What we achieved in 2021/22

#### **We provided advice and support to the Government on the response to COVID-19**

We continued to provide a vital advisory role to support Government decision-making on the response to COVID-19 during 2021/22. This required high levels of collaboration across agencies at a fast pace and with high levels of complexity. Key achievements include:

- leading and coordinating work across sectors to develop the strategy to Reconnect New Zealanders with the World following the closure of the international border in 2020. This involved supporting Ministers to announce the plan in August 2021, and providing advice on adaptations to the plan to reflect context changes and outbreaks;
- supporting Ministers around the decision to adopt the COVID-19 Protection Framework based on public health and other advice, coordinating across sectors to facilitate this shift and providing ongoing advice to ensure the settings remain fit for purpose; and
- coordinating a cross-agency briefing to update Ministers on changes and progress made in addressing the findings and recommendations in the Waitangi Tribunal's *Haumarū: The COVID-19 Priority Report*.

• More information on our achievements relating to the coordination of the all-of-government response to COVID-19.





## Outcome 3: People living in Aotearoa New Zealand are, and feel, resilient, safe and secure

### What we intended to achieve

1. The National Security and Emergency Management Systems are cohesive, collaborative and trusted, enhancing cross-agency leadership
2. Effective reduction, readiness, response and recovery to national security risks, emergencies and adverse events
3. Communities are more resilient, allowing them to be better placed to respond to and recover from emergencies and adverse events.

### What we achieved in 2021/22

#### **We supported the Government to enable Aotearoa New Zealand to respond to and recover from the impact of COVID-19**

We led and coordinated across the COVID-19 response system to provide Ministers with advice and support to take appropriate and proportionate decisions on response measures. Key achievements in 2021/22 included:

- playing an important assurance role, looking across response system settings to risks and areas for improvement;
- coordinating system-wide reporting of progress against independent review, including tracking and reporting over 1,600 recommendations for system improvements to the COVID-19 Chief Executives Board and Minister for COVID-19 Response;
- reporting to the COVID-19 Chief Executives Board and supporting the Strategic COVID-19 Public Health Advisory Group and COVID-19 Independent Continuous Review, Improvement and Advice Group;
- delivering the Unite Against COVID-19 and vaccine campaigns, which were recognised as effective in raising awareness and providing people with access to the information they need to make informed decisions to protect themselves, their whānau and communities;
- sharing data and insights across the system, as well as facilitating system-wide lessons-learned workshops, to inform and improve the response to COVID-19 and future responses.

#### **Pop out stats:**

- The audience of Covid19.govt.nz grew by nearly 300% in 2021/22 with 125 million page views
- Our five social media channels have seen sustained growth and now have nearly 500,000 followers
- Advised the Government on 28 changes to Alert Level and COVID-19 Protection Framework settings
- Over 45 COVID-19 Response Weekly Reports; more than 45 Insights of Note; 30 COVID-19 Across Government Situation Reports; 2 live interactive dashboards

## CASE STUDY

### Ensuring COVID-19 information is accessible to all

Throughout the COVID-19 response it has been important to ensure information is accessible to culturally and linguistically diverse and disabled communities. We have worked closely with diverse communities to inform our communications, engagement and campaigns, and have also provided organisations with engagement resources to help their communities plan for COVID-19.

During 2021/22 we worked closely with the Ministry of Health, Ministry for Ethnic Communities, Ministry for Pacific Peoples, Office for Disability Issues, community leaders and stakeholders to identify what information needed to be translated into other formats or languages. This work was recognised with two awards – the New Zealand Sign Language in Government Agencies Award from Deaf Aotearoa and the Make it Easy Award from People First.

We led the development of the support and information for disabled people webpage, working across government agencies to create an information hub where all support and services available to disabled people can be found in one place. This page has been refreshed in response to feedback from a wide range of stakeholders and will continue to be updated as necessary.



# Reporting against our appropriations

## COVID-19 All of Government Response



This appropriation is intended to achieve effective leadership, coordination and delivery of the Government's response to COVID-19.

### What we achieved

Performance measure	Target 2021/22	Result 2020/21	Result 2021/22	Achieved
The responsible Minister is satisfied with the policy advice service (see Note 1)	4	4	4.14	✓
Average score for assessed policy papers (see Note 2)	4	3.3	3.5	×
Quality of policy advice papers - 70% score 3 or higher, 30% score 4 or higher and no more than 10% score 2 or less (see Note 2)	Achieved	Not achieved	Achieved	✓
The responsible Minister is satisfied with the coordination of the COVID-19 response system (see Note 1)	4	4	4	✓
The COVID-19 Chief Executives Board is satisfied with the leadership within the system (see Note 1)	4	4	5	✓
The National Response Leadership Team is satisfied that the National Resurgence Response Plan is used effectively in a resurgence, and/or remains up-to-date, robust and routinely tested (see Note 1)	4	4	4	✓
Exercises undertaken to ensure readiness to respond to the COVID-19 elimination strategy pillars	4	New measure	5	✓
The Unite Against COVID-19 campaign is recognised as effective in raising awareness, demonstrated by:				
• Percentage of New Zealanders who see relevance in the Unite Against COVID-19 campaign	85%	Revised measure	58%	×
• Percentage of New Zealanders who agree they are being told and/or have access to all the information they need about COVID-19	70%	Revised measure	62%	×

Note 1 – The Minister's/Board's/Leadership Team's Satisfaction Survey measures satisfaction with the quality of advice and/or services on a scale from 1 to 5, where 1 means never met expectations and 5 means always met expectations.

Note 2 – A sample of the Department's policy advice is assessed by a panel using the Policy Quality Framework. There are two targets for reporting on overall policy advice: an average score and a distribution score. Policy advice will be scored on a scale of 1 to 5, where 1 means unacceptable and 5 means outstanding. All first opinion policy functions contribute to one score across the Department of the Prime Minister and Cabinet. Separate reviews were undertaken for DPMC and NEMA in 2021/22, however prior year results include both an average across both agencies.



#### How satisfaction was measured

Ministerial satisfaction with policy advice is measured using the Policy Project's Ministerial Policy Satisfaction Survey. The survey contains a common set of questions that agencies use to assess their Minister's satisfaction with the services provided.

The result for satisfaction in relation to other advice is an average of overall satisfaction and the ratings for the following dimensions: advice meets needs, is timely and of a high quality.

#### Why we did not achieve one of our policy quality targets

We set two measures of policy quality, one an average score and one on the distribution of scores. This year, we did not achieve the average score measure and achieved the distribution measure.

Overall, the results of the Policy Quality Review show that the quality of our policy advice is getting better. This year, 88% of our papers scored 3 or higher, meeting the overall Policy Quality Framework standard, and 38% scored 4 or above (up from 23% in 2020/21). This shows that our work to improve our policy advice is making progress, although we still have room to improve. We will continue to focus on implementing the recommendations of the review to help us further improve our advice and work towards achieving our ambitious target.

#### How the effectiveness of the Unite Against COVID-19 campaign was measured and why we did not achieve our targets

Unite Against COVID-19 campaign effectiveness was measured through surveys conducted every two months throughout 2021/22. The median of each of these surveys is reported.

Survey results for the reported measures ranged throughout the year, reflecting the changing dynamics in the COVID-19 response at different times. The targets were ambitious given the high level of disinformation and misinformation, as well as COVID-19 fatigue.

#### How much it cost

2020/21		2021/22		2021/22
Actual		Actual	Budget	Supp. Estimates
\$000		\$000	\$000	\$000
22,996	Revenue Crown	65,907	35,607	65,907
23	Revenue Other	8,377	-	15,000
23,019	TOTAL REVENUE	74,284	35,607	80,907
16,143	Expenses	61,166	35,607	80,907
6,876	Net Surplus/(Deficit)	13,118	-	-

Departmental expenditure exceeded original Budget due to higher expenditure for Unite Against COVID-19 publicity and new expenditure for COVID-19 Epidemiological Modelling, Disinformation Monitoring and Risk Assessment. Budget for these activities was included in baseline updates during the year. Departmental expenditure was lower than the Supplementary Estimates mainly due to expenditure for Unite Against COVID-19 publicity and Epidemiological Modelling, Disinformation Monitoring and Risk Assessment being lower than had been anticipated.





## Coversheet

### Briefing: Next Steps for Remaining COVID-19 Measures

Date:	16/09/2022	Report No:	DPMC-2022/23-231
		Security Level:	<del>IN-CONFIDENCE</del>
		Priority level:	[Low]

	Action sought	Deadline
Hon Dr Ayesha Verrall Minister for COVID-19 Response	agree to recs	
Rt Hon Jacinda Ardern Prime Minister	For information only	
Hon Andrew Little Minister of Health		

Name	Position	Telephone	1 <sup>st</sup> Contact
Alice Hume	Head of Strategy & Policy COVID-19	+64 4 912 0591	s9(2)(a) ✓
Anna Ferguson	Policy Advisor	s9(2)(a)	n/a

Departments/agencies consulted on Briefing
Manatū Hauora – (Ministry of Health) and the Crown Law Office

#### Minister's Office

Status:

☐ Signed

☐ Withdrawn

Comment for agency

Attachments: Yes/No

# Briefing

## Next Steps for Remaining COVID-19 Measures

To: Hon Dr Ayesha Verrall  
Minister for COVID-19 Response

Date	16/09/2022	Security Level	<del>IN-CONFIDENCE</del>
------	------------	----------------	--------------------------

### Purpose

1. This briefing outlines the next steps for the review of the Epidemic Notice and the remaining mandatory COVID-19 measures: case isolation, mask requirements in certain healthcare settings, provision of contact details for air arrivals for contact tracing, and point-of-care test regulation.

### Recommendations

We recommend you:

1. **note** the contents of this briefing
2. **agree** to proactively release this report, subject to any appropriate withholding of information that would be justified under the Official Information Act 1982. YES / NO



Alice Hume  
Head of Strategy & Policy  
COVID-19

...16 / 9 / 2022.....

Hon Dr Ayesha Verrall  
Minister for COVID-19 Response

...../...../.....



## Background

---

2. On Monday 12 September 2022 Cabinet agreed to remove all mandatory COVID-19 measures except for:
  - 7-days of case isolation,
  - requirements to wear face masks in certain healthcare settings,
  - provision of contact details and travel history for air travellers to New Zealand, for the purposes of contact tracing, and
  - regulation of point-of-care tests [CAB-22-SUB-0380 refer].
3. Most of these changes came into effect on 11.59pm Monday 12 September 2022 with the Vaccination Order to be revoked 26 September 2022.
4. In parallel to the Cabinet process, advice was provided to you, the Prime Minister and the Minister of Health regarding renewing the Epidemic Preparedness (COVID-19) Notice 2022 (Epidemic Notice) for a further five weeks. The Epidemic Notice is now due to expire 20 October 2022.
5. You requested information on the next steps following these decisions.

## Timeframes for next steps

---

6. Three upcoming pieces of advice will inform the Minister for COVID-10 Response's decisions regarding the remaining measures and the most appropriate tool to enable them.
  - a) Briefing from the Department of the Prime Minister and Cabinet (DPMC) reviewing the remaining mandatory COVID-19 measures. This advice will include advice from upcoming Public Health Risk Assessment (PHRA) and All-of-Government analysis, assessing the proportionality, effectiveness and impact of maintaining or removing the remaining measures. This advice will include legal advice and New Zealand Bill of Rights Act 1990 (NZBORA) analysis from Crown Law. Decisions will be sought on the future of these measures.
  - b) Briefing from Manatū Hauora regarding whether the legal basis to renew the Epidemic Notice is still met and if an authorisation under the Act (using section 8(c)) could be used to enable any the remaining COVID-19 measures to be retained. DPMC will feed into this advice by leading the All-of-Government consideration, and Crown Law will provide legal advice and NZBORA analysis.
  - c) Briefing from Manatū Hauora and/or DPMC to give effect to decisions made i.e. retain, amend or revoke the relevant COVID-19 orders. If the decision is to remove the remaining measures, a revocation order will need to be signed and given effect no later than 20 October 2022.
7. This work will be supported by engagement prior to the PHRA, led by Manatū Hauora, with disability groups through Whaikaha, Pacific peoples, and Māori Monitoring Group and Te Rōpu Whakakaupapa Uruta. DPMC will also engage with National Iwi Chairs Forum (NICF) technicians, Māori leaders not affiliated with the NICF (to be confirmed), the Strategic COVID-19 Public Health Advisory Group, and Regional Leadership Groups to support the review of the remaining COVID-19 measures. Modelling will also be updated to inform the advice.
8. The COVID-19 Chief Executives Board will also discuss renewing the Epidemic Notice and if section 8(c) of the Act is appropriate to be utilised if the Epidemic Notice were to expire.



Table 1: Timeframes for upcoming advice

Action	Completed by
1. Manatū Hauora pre-PHRA engagement	30 September 2022
2. Manatū Hauora PHRA during week of 3 – 7 October	10 October 2022
3. DPMC engagement regarding review of remaining measures	11 October 2022
4. COVID-19 Chief Executive Board to consider advice regarding Epidemic Notice and authorisation under the Act	11 October 2022
5. Briefing from DPMC review of remaining COVID-19 measures	13 October 2022
6. Briefing from Manatū Hauora on the Epidemic Notice and authorisation under the Act	13 October 2022
7. Decisions required	17 October 2022
8. Oral update at Cabinet	17 October 2022
9. Manatū Hauora and/or DPMC instruction to Parliamentary Counsel Office to amend/revoke orders	17 October 2022
10. Briefing provided from Manatū Hauora to give effect to decisions	19 October 2022
11. Orders signed and given effect	20 October 2022

### Concurrent advice about COVID-19 measures and their legal basis

9. The October PHRA to inform policy decisions will be provided alongside the DPMC advice for the ongoing legal basis of COVID-19 measures and Orders.

### Following the stepping down in measures, the COVID-19 outlook is uncertain

10. The PHRA and the advice on the legal basis will be informed by the evolution of the COVID-19 pandemic over the coming weeks.
11. There is uncertainty regarding the impact of the stepping down of measures on COVID-19 cases, hospitalisation and deaths. Modelling by COVID Modelling Aotearoa suggests a range of possible increases in cases, hospitalisation and deaths considering the latest change in measures.
12. As experienced following the March and April 2022 Omicron outbreak, the 'resting' level of cases and hospitalisations is uncertain following a significant outbreak. This 'resting' level will become clearer over the coming weeks. It will depend largely in the short term on compliance with the remaining COVID-19 measures and guidance.

### Depending on COVID-19 risk, there are three 'legal basis' scenarios

13. Depending on the evolution of COVID-19 risk and the recommendation of the PHRA scheduled in early October, one of the following legal bases for consideration of ongoing public health measures will be present:
- a) *Epidemic Notice is renewed* –if the Prime Minister is satisfied that the effects of an outbreak are likely to continue to disrupt essential government and business activity significantly, then the Epidemic Notice can be renewed. The Minister for COVID-19 Response can continue to make/amend COVID-19 orders setting public health measures provided the requirements of ss 9 and 11 of the COVID-19 Public Health Response Act 2020 (the Act) are met.



- b) *Authorisation under the Act* – If the Prime Minister is satisfied as to the risk of an outbreak or spread of COVID-19 then she may authorise the use of COVID-19 Orders to enact certain measures.
- c) *No Epidemic Notice or Authorisation under the Act* – If there is no Epidemic Notice or Authorisation under the Act, then there is no ability to make/amend COVID-19 orders to implement public health measures.

#### *Epidemic Notice*

- 14. On the recommendation from the Director-General of Health, the Prime Minister renewed the Epidemic Notice for five weeks through to 20 October on the basis:
  - a) that in the absence of public health measures, significant disruption to health services and other essential services was likely
  - b) of taking a precautionary approach, that while the prevalence of COVID-19 in the community has fallen from peaks earlier this year, there remains a level of unpredictability about the progress of the pandemic.
- 15. A further renewal of the Epidemic Notice could be justified in the event of a severe deterioration in the COVID-19 risk. If the COVID-19 risk remains broadly stable or reduces, then renewal is unlikely to be justified.

#### *Authorisation under the COVID-19 Public Health Response Act*

- 16. If renewing the Epidemic Notice is not appropriate, an authorisation under section 8(c) of the Act could be more appropriate.

- 17. [Legally privileged] <sup>s9(2)(h)</sup>

#### *No Epidemic Notice or Authorisation under the Act*

- 20. If there is no Epidemic Notice or Authorisation in place, then it is likely appropriate to revoke existing COVID-19 orders. No new orders could be made.

#### **Next steps**

- 21. Further advice regarding the Epidemic Notice and the review of remaining COVID-19 measures will be provided to your office by 13 October 2022.