

9 June 2022

133 Molesworth
Street
PO Box 5013
Wellington 6140
New Zealand
T+64 4 496 2000

S Hill

By email: fyi-request-18750-203e7247@requests.fyi.org.nz
Ref: H202205440

Tēnā koe S Hill

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act), which was transferred from the Department of the Prime Minister and Cabinet (DPMC) to the Ministry of Health (the Ministry) on 14 April 2022 for information regarding vaccine mandates. On 17 May 2022 you were advised that the period of time to respond to your request had been extended until 8 June under section 15A of the Act.

Each part of your request is responded to below:

“Has the Director General of Health, or any employee/consultant of the Ministry of Health made recommendations to the Prime Minister, Cabinet Ministers or Government for ending vaccine mandates?”

The Ministry has made recommendations on the question of whether particular vaccine mandates should be removed.

If 'yes' to the question one, what was the recommendation?”

With effect from 4 April 2022, the Government decided to remove vaccine mandates applying to education workers, Police, and the Defence Force. The requirement to present vaccine passes in certain businesses and services also ended. These decisions were supported by advice from the Ministry, and from the independent Strategic COVID-19 Public Health Advisory Group.

Further information on the recommendations made by the Ministry is available in Documents 1 and 2 attached to this letter. The documents are itemised below in Appendix 1. Where information is withheld, this is noted in the document itself. Where information is withheld under section 9 of the Act, I have considered the countervailing public interest in release in making this decision and consider that it does not outweigh the need to withhold at this time. Some information that is out of scope of your request has also been withheld.

The Ministry has also provided advice in relation to the mandate applying to the health workforce. Details about those recommendations is withheld under section 9(2)(f)(iv) of the Act, to maintain the constitutional conventions that protect the confidentiality of advice tendered by Ministers and officials. Further information on mandatory vaccinations is available on the Ministry website: www.health.govt.nz/covid-19-novel-coronavirus/covid-19-response-planning/covid-19-mandatory-vaccinations

Under section 28(3) of the Act, you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Ministry website at: www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests.

Nāku noa, nā



Maree Roberts
Deputy Director-General
System Strategy & Policy

Appendix 1: List of documents

| # | Date | Title | Decision on release |
|---|---------------|---|--|
| 1 | 18 March 2022 | Memorandum - Review of affected workers under the COVID-19 Public Health Response (Vaccinations) Order | Released in full. |
| 2 | 1 April 2022 | Briefing - Cabinet report back on review of health and disability sector workers covered by the COVID-19 Public Health Response (Vaccinations) Order 2021, and the Department of Corrections review of the Order as it applies to prison workers. | Some information withheld under the following sections of the Act: <ul style="list-style-type: none">• Section 9(2)(a), to protect privacy of natural persons, and• Section 9(2)(h) to maintain legal professional privilege. |

Memorandum

Review of affected workers under the COVID-19 Public Health Response (Vaccinations) Order

To: Dr Ashley Bloomfield, Director-General of Health

From: Stephen Glover, Group Manager, COVID-19 Policy

Date: 18 March 2022

For your: Consideration

Purpose

1. This memo provides initial advice on the medium-term approach to the ongoing use of vaccine mandates and required testing for specific workforces in line with the broader public health approach post the peak of the Omicron outbreak.

Context

DPMC Cabinet Paper

2. We have recently provided input into the Department of Prime Minister and Cabinet (DPMC) Cabinet paper titled 'The COVID-19 response for post-peak Omicron' (to be considered by Cabinet on 21 March). DPMC considered our advice alongside public health advice from the Strategic COVID-19 Public Health Advisory Group, who were asked to review the worker groups covered by the COVID-19 Public Health Response (Vaccinations) Order 2021 (the Vaccinations Order).
3. The Cabinet paper proposes to remove the requirement for Education workers, and implicitly removes Group 10 workers (those workers who work in workplaces where a COVID-19 Vaccination Certificate is required to enter) to be vaccinated from the COVID-19 Public Health Response (Vaccination) Order 2021, once the Omicron peak has been reached. It also includes advice that health workers should remain covered until after winter.
4. We note that while we support these recommendations for the most part, we will be reviewing the settings for ECE workers as there may be a case to maintain an ongoing vaccine mandate for this workforce. This is due to children 4 years old and under not being vaccinated.
5. We also committed to providing further advice about ongoing use of vaccine mandates, by 27 June and then 26 September unless changes are proposed earlier. We are considering the ongoing use on the mandates sooner rather than later in the context of a rapidly shifting

landscape and in the context of new information on how progress under the mandates is tracking. This paper also considers the vaccination mandates in the context of the COVID-19 Public Health Response (Required Testing) Order 2021 and other relevant public health mitigations for these workforces.

6. The DPMC Cabinet paper also signals a new strategic approach to manage the ongoing situation as we prepare to enter post peak settings, including:
- **Minimise the impact by ensuring high rates of up-to-date vaccination** - Continue promoting and delivering vaccines including further boosters if indicated to reduce the risk of infection and transmission and minimise the severity and impact of COVID-19 infections.
 - **Support the health system to cope with both residual baseline and potential surges in demand** – this includes reducing the pressure on the health system as much as possible by empowering the majority of the New Zealand population to self-manage COVID-19 and targeting resources carefully.
 - **Focus resources on those most at risk** – by targeting resources very carefully, we are also conserving resources for those most at risk of severe health outcomes, which also helps us fulfil our equity and Treaty of Waitangi responsibilities.

Current state/data for relevant worker groups

7. Due to the recommendations in the DPMC paper for Education and Group 10 workers to be removed from the Order, this paper will provide up-to-date information and analysis for the remaining key groups of workers in the health care, border and Corrections workforces.
8. We have obtained up to date data on the vaccination status of these key workforces to consider:

| Worker groups | Percentage (currently working) who have received 2 x primary doses | Percentage who have received 1 x boosters | Percentage not yet due booster dose | Percentage due booster and yet to receive |
|---|--|---|--|---|
| Health care workers (DHBs) ¹ | 100% | 93% | Of the 7% not boosted many not due yet (exact figures unknown) | exact figures unknown ² |

¹ We only have data for all healthcare workers in the 20 nationwide DHBs as we are not able to obtain up-to-date vaccination data from the other healthcare sectors at this time therefore the data for this workforce is representative only – DHBs workers potentially carry some of the greatest risk. DHB workers represent up to 40% of the overall health workforces.

² Not all workers are eligible for their booster as at 14 March 2022. Others not boosted are covered by Significant Service Delivery Disruption exemptions so are still at work. Out of over 92,000 total workforce, only 222 have either been stood down due to vaccination status or are on extended leave for other reasons.

| | | | | |
|-------------------------------|------|-----|-------|------|
| Frontline Corrections workers | 100% | 85% | 13.2% | 1.4% |
| All border workers | 100% | 93% | 7% | 0% |

9. Of those workers yet to receive their booster dose, all 7% of outstanding border workers are not yet due their booster, and 13.2% of Corrections workers are not yet due. Of those Corrections workers who are due and have not yet received their booster, most are either off work for other reasons or are yet to have their booster recorded. Less than 20 people have been removed from frontline duties due to being overdue their booster.
10. We can see from these numbers that vaccination rates among these worker groups are very high, and without further requirements for additional booster/vaccine doses, the mandates will shortly no longer serve a purpose as they stand.
11. This paper will outline any potential rationale for ongoing use of the mandates, the risks including the legal risk, and any alternative options to assist employers to maintain the up-to-vaccination status of their workforces.

Analysis

Change in risk profile

12. Vaccine mandates were enacted with a clear public health rationale to provide personal protection against COVID-19 to workers in high-risk settings (such as border and health care workers), and to help prevent transmission between workers and to vulnerable people to whom they have a duty of care (health care, education and prisons), or to those in public facing roles.
13. Omicron is now spreading widely in the community, and based on modelling, is likely to be near its peak. For most people it will cause milder illness than earlier variants, as it is more transmissible and the vaccinations are less effective at reducing transmission. Our intent to maintain broad population protection with high vaccination uptake remains, with the focus moving to providing personal protection to reduce health impacts and hospitalisations, rather than a strong focus on reducing transmission.
14. The vaccination requirements in the Order represent a limitation on the right to refuse medical treatment for affected workers. These requirements were shown to be reasonable, justified and proportionate in the circumstances under which they were enacted. Given the change in the risk profile now that we have a highly vaccinated population and widespread Omicron, careful consideration of the ongoing limitation on BORA rights and the proportionality of mandates is required.
15. Given the changes in the strategic context, we have assessed the ongoing use of vaccine mandates and the associated use of required testing for border workers. The intent is to provide an initial view on whether these are the most effective tools to help fulfil the strategic objectives, and when we should be looking to remove any mandates entirely.

Additional COVID-19 vaccine doses:

16. International evidence is emerging that immunity gained from booster doses also wanes in a similar timeframe as immunity from primary doses wanes. Therefore, consideration is currently being given to the potential need to roll-out additional boosters, (or a fourth dose) across the population.
17. This work is progressing and is likely to propose fourth doses as other countries such as UK, US, Sweden, and Israel have done. Their use is likely to initially focus on protecting populations that are at higher risk, including the elderly, Māori and Pacific peoples, and will need to consider the context over the coming months as the Omicron outbreak peaks and tails off, with a large proportion of the population having been recently exposed to COVID-19 infection and therefore having gained some natural immunity.
18. We propose that any guidance and enforcement around vaccine mandates will need to reflect up to date guidance around when people should be vaccinated post-infection (currently 3 months).
19. Should fourth doses be considered essential for the health, Corrections, and border workforces, consideration needs to be given to whether the mandates continue to be the most appropriate and proportionate tool to achieve uptake, or whether other employer-based, or public health measures would be more proportionate.
20. Beyond fourth doses, the World Health Organisation (WHO) has urged pharmaceutical companies to prioritise progressing longer lasting and more effective COVID-19 vaccines. Therefore, the vaccine landscape beyond fourth doses is unknown, but the focus will remain on workers here maintaining their up-to-date vaccination status.
21. To maintain justification for the vaccination order, amendments would be required that state workers must maintain an up-to-date vaccination status, and that includes fourth doses (at the appropriate dose interval), and any doses beyond.
22. This could only be justified if there is a clear public health rationale for the need for fourth doses (or any further doses to maintain vaccination status), in the context in which the Order is amended. For example, the context would be likely to include:
 - a continuing widespread outbreak (or risk of an outbreak from a new variant of concern)
 - evidence of the importance of fourth doses for the affected workforces
 - evidence of further waning immunity, and
 - evidence of increasing hospitalisations in groups beyond the expected vulnerable groups (such as elderly, people with co-morbidities - for which targeted additional vaccination could be more appropriate).
23. We note that if we were to maintain the ongoing use of vaccine mandates, we would also review the ongoing coverage of affected workforces. This would include consideration of ECE workers.

Options for maintaining up-to-date vaccination status

24. **Option one – amend the current Vaccination Order requirements to maintain an ‘up to date’ vaccination status:** This option would set a legal requirement for consistent coverage in workforces where that is deemed appropriate.

25. Based on current analysis, we believe there is limited value in maintaining vaccine mandates as they stand, particularly once the booster requirement is fulfilled. At this point, the intent of increasing vaccine uptake to protect vulnerable populations and maintain personal safety will have been fulfilled, and any legal grounds for the mandates remaining in their current form will be difficult to defend.
26. For most workforces, the date by which boosters will be required (in all but exceptional circumstances) is close. These timeframes have been effective in increasing booster uptake in these populations, as set out in the table at para 7 above.
27. By updating the definition, this would ensure high levels of ongoing vaccine coverage among a workforce where most people have agreed to be vaccinated. However, this would need to be justifiable over less onerous provisions (see option 2 and 3). While there is a strong ongoing case for requiring high levels of vaccination for the particular workforces, there will need to be careful consideration around the ongoing use of these measures and whether this can be resolved by narrowing the scope of this mandate.
28. **Option two – support employment based contractual responses for workers at risk:** Once all workers (or as high a percentage as possible) in these workforces have received their booster doses, any new employees coming into these sectors could be captured by employment contractual requirements for vaccinations. This would shift the responsibility for setting vaccine requirements to the employer. Employers could set these requirements informed by health and safety assessments using updated guidance developed and provided by MBIE, WorkSafe and the Ministry of Health.
29. There is precedent for these approaches with certain health care workers currently being subject to other contractual vaccination requirements for vaccines such as TB, MMR and others. Outside of these workforces, Defence personnel are subject to a list of vaccination requirements before they can enlist in the forces.
30. The DPMC Cabinet paper notes that the Ministry of Business, Innovation and Employment and WorkSafe will update guidance for businesses, workers and unions to reflect the removal of government vaccination mandates and use of My Vaccine Pass. This will emphasise that businesses need to consider any ongoing restrictions under the Health and Safety at Work Act framework, normal employment law obligations and any other relevant legislation. Employers / PCBUs will need to update any risk assessments they have undertaken to reflect updated public health advice on residual risks that businesses need to manage. This will need to reflect a clear public health rationale that we will work with them on.
31. **Option three – targeted public health approach for these worker groups:** Prior to the pandemic, sections of the health workforce, for example, have always had certain vaccinations such as MMR and TB highly recommended for them to have prior to entering the workforce, or to work in certain settings.
32. This approach could be rolled out more widely to more workforces with clear communications and public health messaging, and alternative means of incentivising uptake. Lessons learned from the COVID-19 vaccination roll out of the approaches that have made a difference to uptake include:
 - Decrease in travel time to access vaccination (interaction with more deprived regions)
 - Increase in delivery site capacity

- Marketing – e.g. vaxathon or other local events
 - Targets- e.g. 90% regional targets motivated people in neighbourhoods (we lack current target for boosters).
33. These methods can be adapted to different workplaces, workforces and across regions. Workplace-based delivery of vaccinations, so that employees can easily book and receive their vaccinations during work time, has also been shown to be highly effective, for both COVID-19 and annual influenza vaccines.
34. Other 'test to work' options can also be utilised alongside the public health approach such as RAT testing to ensure employees are not currently infected, as well as new COVID-19 immunity testing devices available to test current immunity levels.

Required Testing Order

35. We have also considered the ongoing use of the Required Testing Order, however we note that this needs to be aligned to decisions around the ongoing use of the Vaccine Order for Border Workers, as well as the ability to fulfil the most recent advice on testing and surveillance.
36. Based on internal consideration, it is considered that there is no longer a public health justification for the RTO now that border workers are currently at no greater risk in their work setting than in the community, for both the risk of Omicron and any new variant. Now that MIQ requirements have been removed, it is considered more likely that a traveller will bring any new variant into the community than a border worker.
37. Essentially, both orders depend on the same public health rationale that they are there to protect against new variants at the border. With the phased re-opening of the border, the number of people crossing the border and entering the community without entering isolation diminishes the ongoing value of identifying cases through regular worker testing diminishes. At this scale, surveillance testing at the border (including surveillance testing of international arrivals) is likely to be more effective at early detection, particularly where this includes testing of symptomatic cases and confirmatory PCR testing to enable Whole Genome Sequencing.
38. Based on the proposed review of the Vaccine Order and recent advice on strengthening testing and surveillance settings, we will look to review the ongoing use of the Required Testing Order to ensure that it is the appropriate mechanism for testing and surveillance at the Border and enables ongoing surveillance and testing over the next three months, although it is likely that we will need to reduce the workforce coverage based on assessment of public health risk.

Next steps

39. Pending your agreement, we will provide more comprehensive advice on changes to the Vaccinations Order to reflect the change to require an up-to-date vaccination status and the removal of border workers from this group. This will also include advice on based on a review of workforces covered by the Vaccine Order (including ECE workers).
40. We will seek further legal analysis to inform this advice, including engaging with Crown Law on the Bill of Rights Act implications.

41. We will also provide further advice on the Required Testing Order informed by decisions in this paper and advice on testing and surveillance settings.
42. Additionally, COVID-19 Policy will lead work with WorkSafe, the Ministry of Business, Innovation and Employment to develop enhanced guidance for workforces who have been previously covered by the Vaccination Order on potential ongoing requirements and options to maintain up-to-date vaccination status for higher risk workforces.

Recommendations

It is recommended that you:

- a) **Note** that this advice is intended to support potential discussion at Cabinet on 21 March on the ongoing use of the COVID-19 Public Health Response (Vaccinations) Order 2021 (the Vaccination Order) **Noted**
- b) **Note** that Vaccination Order has been effective in supporting high levels of booster uptake in the affected workforces to date, but the high uptake cannot be attributed solely to the mandates. **Noted**
- c) **Note** that once affected workforces have met their booster requirements (very soon), the ongoing use the Vaccination Order in its current state, it will be challenging to argue that there is a justifiable public health rationale. **Noted**
- d) **Agree** to develop advice to the Minister for COVID-19 response to present the following options:
 - 1) Update the Vaccination Order to reflect a requirement to maintain an up-to-date vaccination status for the workforces currently covered by the Vaccination Order (noting that Education and Group 10 workforces may no longer be included), and this will include fourth, and any further doses. **Yes/No**
 - 2) Once the affected workforces meet their booster requirements, remove the Vaccination Order, noting that this will be before the end of Winter 2022, and provide appropriate guidance for employers to maintain contractual requirements for vaccination and public health measures to support ongoing high levels of vaccination. **Yes/No**
 - 3) Once the affected workforces meet their booster requirements, remove the Vaccination Order, and work to support the affected workforces to implement a public health based, non-mandatory approach to vaccinations including supporting ease of access to vaccines and workplace testing **Yes/No**
 - 4) A combination of options 2 and 3 based on the most appropriate approach for each workforce currently under the Vaccination Order. **Yes/No**
- e) **Note** we would review workforce coverage under the Vaccination Order if it is to remain in force to ensure that coverage is limited and commensurate with the public health intent, including: **Yes/No**

- the Border workforce
 - the Health workforce (including disability and aged care workers)
 - and ECE workforce.
- f) **Note** that the System, Strategy & Policy group will lead work to review the ongoing use of the Required Testing Order to ensure it remains fit for purpose, pending decisions on the ongoing role of the Vaccination Order and advice on the role of testing and surveillance at the border. **Noted**
- g) **Note** that System, Strategy & Policy and COVID-19 Health System Preparedness directorate will work with the Ministry of Business, Innovation and Employment, WorkSafe on guidance to support high ongoing levels of vaccine uptake for groups no longer covered by the vaccine mandate. **Noted**
- h) **Note** that in the development of this more comprehensive advice we will consult with Crown Law. **Noted**

Signature _____

Date: 18 March 2022

Dr Ashley Bloomfield

Te Tumu Whakarae mō te Hauora
Director-General of Health

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

Briefing

Cabinet report back on review of health and disability sector workers covered by the COVID-19 Public Health Response (Vaccinations) Order 2021, and the Department of Corrections review of the Order as it applies to prison workers.

| | | | |
|------------------------|---|------------------------------|--------------|
| Date due to MO: | 1 April 2022 | Action required by: | 1 April 2022 |
| Security level: | IN CONFIDENCE | Health Report number: | 20220593 |
| To: | Hon Chris Hipkins, Minister for COVID-19 Response | | |
| Copy to: | Hon Andrew Little, Minister of Health | | |

Contact for telephone discussion

| Name | Position | Telephone |
|-----------------------------|---|-----------|
| Dr Ashley Bloomfield | Te Tumu Whakarae mō te Hauora Director-General of Health | s 9(2)(a) |
| Maree Roberts | Deputy Director-General, System Strategy and Policy | |

Minister's office to complete:

- | | | |
|---|------------------------------------|--|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Decline | <input type="checkbox"/> Noted |
| <input type="checkbox"/> Needs change | <input type="checkbox"/> Seen | <input type="checkbox"/> Overtaken by events |
| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

Cabinet report back on review of health and disability sector workers covered by the COVID-19 Public Health Response (Vaccinations) Order 2021, and the Department of Corrections review of the Order as it applies to prison workers.

Security level: IN CONFIDENCE **Date:** 1 April 2022

To: Hon Chris Hipkins, Minister for COVID-19 Response

Copy to: Hon Andrew Little, Minister of Health

Purpose of report

1. This briefing provides you with the draft report back requested by Cabinet on a review of the health and disability sector workers covered by the COVID-19 Public Health Response (Vaccinations) Order 2021 (the Order), and also includes the report back requested of the Department of Corrections on their review of the Order as it applies to prison workers. [CAB-22-MIN-0086].

Context

2. On 21 March 2022, noting public health advice from the Strategic COVID-19 Public Health Advisory Group (SPHAG) recommended retaining workers at higher risk of exposure and transmission of COVID-19 under the Order, Cabinet agreed to retain the following workforces and review the Order again by 27 June 2022 and 26 September 2022:
 - a. Health and disability sector workers (which includes aged care workers),
 - b. Prison staff, and
 - c. Border and MIQ workers.
3. Cabinet directed the Ministry of Health (the Ministry) to report back by early April on a review of the health and disability sector workers covered by the Order, with a view to narrowing the workers to which it applies, if appropriate. Cabinet also directed the Department of Corrections to report back by early April on a review of the Order as it applies to prison workers.

Draft Cabinet paper

4. The Ministry has prepared the attached draft paper for your review and feedback prior to lodging with the Cabinet Office. You may also wish to consult with Ministerial colleagues on the contents of the draft submission.
5. The paper notes that the Ministry has reviewed the health and disability workers covered by the Order with particular reference to different workplace settings, the risk of exposure to and transmission of COVID-19 in those settings compared to in the broader community, and the face to face nature of the work in those settings.

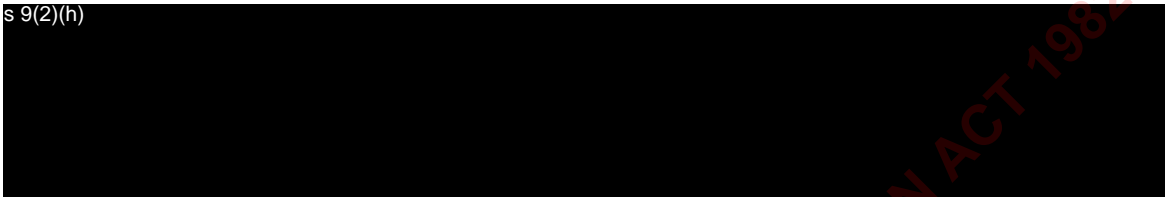
6. Following the review, the Ministry considers there is still a high risk for workers who work directly with people who may have COVID-19 or people who are at high risk of severe outcomes from COVID-19 and for those who work directly in aged care or with vulnerable and/or disabled people.

Analysis undertaken

7. When undertaking the review we considered the option of leaving all currently affected workers under the Order through winter 2022. This option considered the fact that all currently affected workers can at times be onsite in high risk settings and interacting with vulnerable people. We assessed whether it would be possible to clearly separate out categories of workers with a different risk profile from other affected workers under the Order.
8. Given the change in the risk environment with Omicron circulating widely, and the key assessment factor to consider the risk at work compared to out in the broader community, we concluded there were some groups for whom there is no longer a clear public health rationale to meet the threshold of being reasonable and justified that they remain in the Order. These groups include those workers for whom being onsite at health or disability premises is incidental to their core work as set out in the Cabinet paper.
9. Additionally, we considered the group "health practitioners" captured under clause 7.1 of Schedule 2, Part 7 of the Order, and whether this group could be refined as it currently captures all practitioners under the Health Practitioners Competence Assurance Act 2003. Assessing whether we could clearly separate out categories of workers in this group with a different risk profile from other affected workers under the Order, became problematic when we took the following factors into account:
 - a. many clinicians who provide services in apparent lower risk settings, such as private community clinics (compared to for example a hospital), perform mixed roles, also spending time in hospitals, aged care facilities or in private homes
 - b. secondly many vulnerable or immunocompromised people are currently avoiding public spaces and being out in the community due to the Omicron outbreak, but they cannot avoid attending health or disability services which are essential to their wellbeing. All health practitioners provide services to a range of vulnerable people and we need to ensure these patients/clients are not being put at higher risk by attending appointments or receiving these services. It is not possible to determine if vulnerable people are more likely in one setting over another.
10. The third (and preferred) option we considered was whether the groups of workers currently captured by clauses 7.2 and 7.3 of Schedule 2, Part 7 of the Order could be refined, as they currently cover some workers for whom the risks of contracting and transmitting COVID-19 are no longer higher at work than in the broader community.
11. We concluded they should be refined and the proposed amendments are set out in the paper. The proposed amendments will likely result in the removal of some workers from the Order such as Police, social workers, external maintenance contractors, some 'back office' functions and others who are currently captured, but for whom being onsite at health or disability premises is incidental to their core work.
12. Clause 7.4 "care and support workers" has also been identified as causing potential confusion for employers. While amendments to this category is not recommended at this time, the Ministry will review any guidance provided to employers on how to interpret the

“care and support worker” category, to see if further guidance can be provided that will clarify the application of the Order to this group.

Looking ahead

13. In general COVID-19 vaccination remains highly recommended for all workers, regardless of their workplace setting, and those workers who will no longer be covered by the Order could still be covered by employer based vaccination requirements.
14. The Ministry of Business, Innovation and Employment and WorkSafe New Zealand have updated their guidance, in consultation with the Ministry of Health, for employers no longer covered by vaccination orders.
15.  s 9(2)(h)
16. For prison workers affected by the Order, Corrections officials are completing a risk assessment for COVID-19 in prisons and will provide advice to Ministers in late May 2022 on the ongoing need for prison workers to be included under the Order. The paper includes an update on progress towards the assessment.

Risks

17. The risk that COVID-19 poses in terms of serious health impacts, hospitalisations, deaths, and overall pressure on the health system, (including the impact on staff and service delivery) remains. With the Omicron variant still widespread in the community transmission will continue for some time to come.
18. Recent public health advice from the Strategic COVID-19 Public Health Advisory Group (SPHAG) recommended retaining workers at higher risk of exposure and transmission of COVID-19 including from new variants under the Order.
19. The public health risk was considered for all health and disability sector workers in terms of the risk to themselves and those to whom they have a duty of care, of contracting or transmitting COVID-19 in the workplace, compared to the risk in the broader community.
20. To mitigate the risk that COVID-19 still poses in many settings it is recommended to retain workers in high risk settings such as those who work directly with people who may have COVID-19, or people who are at high risk of severe outcomes from COVID-19, and those who work directly in aged care or with vulnerable and/or disabled people.
21. The workers who may be removed from the Order will be those for whom the risk is no greater in the workplace (or at work) than in the broader community, and for whom being in health and disability setting is incidental to their core work.

s 9(2)(h)



Equity

25. We know COVID-19 has disproportionately affected Māori and Pacific peoples. Keeping the Order in place for the health and disability workers in the highest risk settings will help to protect Māori and Pacific people who are in roles affected by the Order, and Māori and Pacific peoples accessing health and disability services.
26. We acknowledge there may be employment implications for unvaccinated Māori and Pacific peoples hoping to enter the health and disability sector, impacting on their employment options, and therefore the income of their households. The proposal to refine the groups captured by clauses 7.2 and 7.3 may reduce these implications.
27. Keeping the Order in place for the relevant health and disability workers for now will also have a positive effect on the disability community, and other vulnerable people, to help protect them as they interact with health and disability services.

Next steps

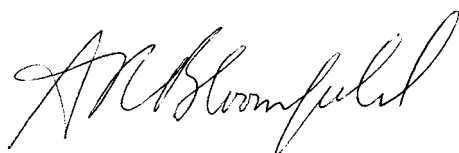
28. We invite you to forward the paper to any other Ministers you consider necessary for consultation, to be completed by 6 April 2022.
29. Once you have provided your feedback on this draft paper, a final version will be prepared for your signature and lodging with the Cabinet Office by 10am Thursday 7 April 2022.

30.

Recommendations

I recommend you:

- a) **Note** the draft report back on a review of the health and disability sector workers covered by the COVID-19 Public Health Response (Vaccinations) Order 2021 (the Order), and also the report back requested of the Department of Corrections on their review of the Order as it applies to prison workers. **Noted**
- b) **Agree** to consult on the paper with any other Ministers you consider necessary, with a deadline of 9am Wednesday 6 April 2022 for comments. **Yes/No**
- c) **Note** the deadline to lodge the final paper is 10am Thursday 7 April 2022. **Noted**



Dr Ashley Bloomfield
Te Tumu Whakarae mō te Hauora
Director-General of Health

Date:



Hon Chris Hipkins
Minister for COVID-19 Response

Date: 4/4/2022

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982