



Briefing

REQUIRING WORKERS LEAVING AUCKLAND BY AIR TO BE VACCINATED

To: Hon Chris Hipkins
Minister for COVID-19 Response

Date	4/11/2021	Priority	[MEDIUM]
Deadline	11/11/2021	Briefing Number	DPMC-2021/22-707

Purpose

This paper seeks decisions on creating a requirement for people with permission to travel out of Auckland for work to be vaccinated. The requirement focuses on air travel only from Auckland as a short-term interim measure until Ministers consider the Auckland boundary and new COVID-19 Protection Framework in late November.

Recommendations

1. **Note**, on 18 October, Cabinet agreed in principle, subject to further work on operational implications and consultation with affected industries, that people crossing the Auckland Alert Level boundary for work purposes be required to be vaccinated [CAB-21-MIN-0422 refers];
2. **Note** as an interim measure Ministers could introduce, on 22 November 2021, a requirement for workers leaving Auckland by air only to be vaccinated, before more comprehensive consideration of travel across the Auckland boundary later in November;
3. **Note** that this interim measure would not materially change the public health risks of boundary travel or air travel given that
 - 3.1. unvaccinated workers would be able to travel by road to a regional airport or their destination, and
 - 3.2. people travelling by air who are not workers would not need vaccination;
4. Section 9(2)(h)

Section 9(2)(h)

5. Section 9(2)(b)(ii)

6. **Note** that the vaccination status of workers leaving from aerodromes or airfields other than Auckland Airport would not be able to be checked but numbers are likely very small;

7. **EITHER**

7.1. **Agree** to defer consideration of the vaccination requirements for workers leaving Auckland by air to the same time as workers and others leaving Auckland by road or sea at Cabinet in November (officials' preferred option);

YES/NO

OR

7.2. **Agree** to amend COVID-19 Public Health Response (Alert Level Requirements) Order to require:

YES/NO

7.2.1. an individual air traveller to carry evidence of their vaccination status when crossing the Auckland Alert Level boundary by air for permitted work purposes and disclose their vaccination status to their employer;

7.2.2. businesses and services to support workers to get vaccinated and not to require unvaccinated workers to cross the Auckland Alert Level boundary by air for work purposes;

7.2.3. commencement of this requirement from 22 November, one week after My Vaccine Pass being available to give some notice to affected businesses and allow some training for Aviation Security Officers;

and if you agree to 7.2 only


7.3. **Agree** to exemptions for air crew until 31 December 2021;

YES/NO

8. **Note** that to allow Aviation Security Officers to carry out the vaccination evidence checks, the Director General of Health would need to decide to amend the section 18 of the COVID-19 Public Health Response Act 2020 authorisation for Aviation Security workers to carry out enforcement officer functions and powers;


YES/NO

9. **Agree** that this briefing is proactively released, with any appropriate redaction where information would have been withheld under the Official Information Act 1982, in January 2022.



Ruth Fairhall
**Head of Strategy & Policy
 COVID-19 Group**

4.../.../2021



Hon Chris Hipkins
Minister for COVID-19 Response

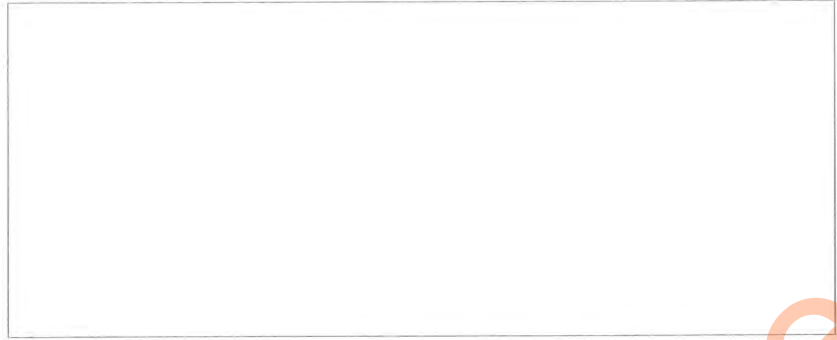
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Contact for telephone discussion if required:

Name	Position	Telephone		1st contact
Ruth Fairhall	Head of Strategy & Policy, COVID-19 Group	Section 9(2)(a)	Section 9(2)(a)	✓
Kay Baxter	Special Advisor, COVID-19 Group	N/A	N/A	

Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to



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REQUIRING WORKERS LEAVING AUCKLAND BY AIR TO BE VACCINATED

Background

1. On Monday 18 October, Cabinet agreed in principle, subject to further work on operational implications and consultation with affected industries, that people crossing the Auckland Alert Level boundary for permitted work purposes be required to be vaccinated [CAB-21-MIN-0422 refers]. On Monday 1 November, Cabinet was updated on work on vaccination requirements for people crossing Alert Level boundaries more generally.
2. Requiring those crossing the Auckland Alert Level boundary for permitted work purposes to be vaccinated aligns with the intent of the COVID-19 Protection Framework, a key premise of which is that vaccinated people are enabled to carry out more activities.
3. Officials have previously advised that the vaccination requirement could be coupled with testing requirements that already apply to people travelling across an Alert Level boundary for work¹. These testing requirements are well-known to impacted parties and provide an additional layer of protection to assist in mitigating the risk associated with travel across a boundary.

Numbers and type of workers travelling out of Auckland by air are not known

4. Section 9(2)(b)(ii)



5. Other passengers will be travelling for permitted personal reasons, for example providing urgent care for a child, or providing care or support to a person in a critical or terminal condition. Some passengers travelling for work will also be exempt from the COVID-19 Public Health Response Alert Level orders (e.g. health workers, MPs). These other passengers would not have a vaccination requirement.

Operational and implementation considerations

6. The requirement for workers to demonstrate that they have been vaccinated can be included as an amendment to the COVID-19 Public Health Response (Alert Level Requirements) Order. The amendments would require an individual air traveller to carry evidence of their vaccination status when leaving the Auckland Alert Level area by air for work purposes and disclose their vaccination status to their employer. Disclosure of vaccination status to employers is necessary to support Persons Conducting a Business or Undertaking (PCBUs under the Health and Safety at Work Act) with workforce planning.

¹ Clause 19A of the COVID-19 Public Health Response (Alert Level Requirements) Order (No 12) 2021 outlines COVID-19 testing obligations of certain people travelling into and out of Alert Level 3 areas for work activities

7. For PCBUs, obligations would be similar to those currently in place for testing requirements. Specifically, businesses and services would have a duty to support workers to get vaccinated and not to require unvaccinated workers to cross the Auckland boundary by air for work purposes.
8. For Aviation Security Officers to be able to check evidence of a COVID-19 vaccination, there would need to be an amendment to the authorisation from the Director-General of Health for Aviation Security Officers, made under section 18 of the COVID-19 Public Health Response Act 2020.
9. This proposal is only a small extension to the privacy risks and obligations on PCBUs with respect to record keeping of workers' testing information. However, there is some complexity created by having an interim system in place which may create additional privacy risks.

Aviation Security officers can add vaccine checks to the checks at Auckland Airport

10. Transport officials advise that Aviation Security Officers could practically add vaccination checks for workers to what they already check at Auckland Airport – i.e. reason for travel and testing evidence. Officers do not verify someone's identification when checking these two items, and as part of this interim measure, we do not propose to add identification verification to their checks as well as vaccination status.
11. Asking Aviation Security Officers to check all passengers entering Auckland Airport is feasible given the low numbers of people travelling through Auckland Airport at this time. This will not be a feasible method if there is any increase in air travel out of Auckland in the future. We will provide further advice on this issue in the November Cabinet papers on the COVID-19 Protection Framework.
12. Workers who are travelling for a permitted purpose can illustrate that they have met the vaccination requirement in several ways. These include letter from their doctor or the Ministry of Health, a screen-shot of the 'My COVID record' or the My Vaccine Pass, which will be available from 15 November.
13. Multiple evidence options may impact Aviation Security Officers' ability to accurately verify whether or not a person meets the vaccination requirements. The COVID vaccine certificates (CVCs), once fully operational, will reduce this problem.
14. Some transit passengers flying through Auckland would not be covered by this requirement as they may not get off the plane or leave the airport. If passengers leave the airport before their transit flight out of Auckland, they would be checked by Aviation Security Officers.

There will be gaps in the compliance checking, but these are likely very small in number

15. There are non-commercial aviation routes people can take to leave Auckland – for example from Ardmore. However, there is no work-force available to check people leaving on these flights. Aviation Security staff are not present at these locations.
16. The Civil Aviation Authority can provide communications and updates on the requirements to operators though to help manage potential compliance risks at airfields other than Auckland Airport.

Unvaccinated workers would still be able to leave Auckland by the road boundary

17. Workers who are not vaccinated could choose to drive to their destination or drive to a regional airport and fly from there. Driving will take more time and may be more expensive. The requirement aligns with the premise that vaccinated people are enabled to carry out more activities more easily, thereby encouraging vaccination.

Exemptions will need to be provided for

18. Exemptions will need to be provided for people who are unable to get vaccinated for medical reasons in New Zealand. This is likely a very small number with fewer than 200 people nationally estimated to be ineligible for vaccination for medical reasons.
19. Air crew will need an interim exemption to allow all airlines time to vaccinate their workers. Air Chathams and Jetstar advise a vaccination requirement for crew should not be problematic. Air New Zealand crew will be required by company policy to have their first dose by 14 November and second dose by 26 December. An interim exemption for air crew could therefore expire on 31 December.

Interim, short notice measure may cause short-term disruption to business operations

20. The number and type of workers travelling by air, and therefore the businesses impacted by the vaccination requirement is not known. If there are unvaccinated workers in key industries when the new requirement comes into effect, supply chain issues or other issues may emerge. Given the workers are only those who have permissions to travel, some impacts are expected. Unvaccinated workers affected will not have time to be fully vaccinated before this requirement comes into effect.
21. MBIE officials advise that the key utilities sector expect a month to six weeks as the workable timeframe for mandatory vaccinations to be in place without operational impacts. Many of the larger companies have been surveying staff to assist them in making this assessment. This requirement could affect energy supply, telecommunications, etc. The construction sector may not be able to meet this timeframe so the proposal may have an impact on nationally important infrastructure – particularly in terms of the movement of specialist engineers.
22. The scale of the business impacts is mitigated by the relatively low numbers of air travellers and the ability for people to drive to their destination or a regional airport. This provides an alternative for businesses as an interim, while they reorganise their work scheduling so that only vaccinated workers leave Auckland by air.
23. Businesses will need to understand and comply with this interim measure for potentially less than three weeks until the CVC system is operationalised, when a new system will be introduced. The communications for both systems will overlap and care will need to be taken to reduce confusion.
24. MBIE officials are concerned that the proposal may risk losing further goodwill with the Auckland business community, particularly while agencies have been consulting on the detail of the COVID-19 Protection Framework and there has been no mention of introducing elements of it early.

22 November a possible date for coming into force


25. Transport officials advise that Aviation Security Officers could prepare to carry out these checks with one to two weeks' notice. The My Vaccine Pass will be available from 15 November. It would be practical to allow an additional week after the My Vaccine Pass is available to provide guidance and training for officers and some notice for businesses to rearrange work schedules.
26. However, MBIE officials advise that for businesses in general, this is quite a short lead time, at a point where Auckland businesses are struggling, and trying to plan ahead for the move to the COVID-19 Protection Framework.

Public health assessment

27. Public health officials recommend that companies with workers that travel in and out of Auckland by whatever means (air or land or sea) are encouraged to ensure that their staff are vaccinated. They note that this interim measure does not materially change the public health risk given that workers can still travel by land.
28. Health officials were also concerned that the resources that would go into establishing and maintaining this are not insignificant and could be better deployed elsewhere in the response.

Human rights

29. Section 9(2)(h)



30. Section 9(2)(h)



31. Section 9(2)(h)



Conclusion

32. On balance, officials recommend deferring consideration of the vaccination requirements for workers leaving Auckland by air to the same time as consideration of workers and others leaving Auckland by road or sea. Papers covering these issues will be presented to Cabinet later in November. However, should you wish to proceed, the requirement could be operationalised as set out above.

Consultation

33. The following agencies were consulted on this paper: the Ministry of Transport, the Civil Aviation Authority, the Ministry of Business, Innovation and Employment, the Ministry of Health, Office of the Privacy Commissioner and the Ministry for Primary Industries.

Communications and next steps

34. If you wish to proceed with the proposal, officials will action the legal mechanisms to bring the requirement into force, and work with the aviation sector to implement. Communications to the business sector will focus on making the interim requirements clear.

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