

DPMC REPORT: TRAVELLERS FROM HIGH-RISK JURISDICTIONS

To	The Rt Hon Jacinda Ardern, Prime Minister The Hon Chris Hipkins, Minister for COVID-19 Response	Report No	DPMC-2020/21-775
From	Cheryl Barnes Deputy Chief Executive, COVID-19 Group, DPMC	Date	8/04/2021

Executive Summary

1. On 7 April, the Ministry of Health provided interim advice on the most up-to-date information and likely reasons for the recent increase in positive COVID-19 cases arriving on flight EK448 (HR 20210807), which was returned to the Ministry. This report responds to a request for further advice on options to respond to country of origin travel risks in relation to COVID-19, in the context of a recent increase in positive COVID-19 cases arriving on flight EK448.
2. In line with a pre-cautionary approach, officials recommend temporarily suspending entry into New Zealand for passengers originating from India to take effect as soon as is legally practicable for an initial period until Wednesday 28 April 2021. This suspension of entry is:
 - a. Intended to apply to New Zealand citizens, residents and visa holders who have begun their journey in, or travelled through, India. Specifically, this should apply to travellers who have been in India at any point in the 14 days prior to their arrival; and
 - b. Not intended to apply to travellers who have already departed from India before the legal framework is applied.
3. To suspend travel from India (Ministry of Health preferred option), it is advised that this should be given effect to by a section 11 order under the COVID-19 Public Health Response Act 2020. We recommend a temporary suspension of travel until Wednesday 28 April 2021, to enable officials to further monitor the situation. A COVID Order can be drafted for signature by 4pm on 9 April 2021 and can come into effect as soon as possible after that (indicatively 72 hours). Officials will provide more detailed advice as required on legal, operational and commercial implications of a suspension, and separately whether a suspension should be maintained.
4. Note that despite introducing a temporary suspension of travel, it is still possible for passengers to arrive in New Zealand who have been in India in the 14 days prior. For instance, airlines will not be able to identify travellers who are travelling from India on multiple flights with separate tickets and so will be reliant on these travellers declaring their recent travel history.

5. It is not possible at this stage to assess the volume of New Zealanders likely to be affected by the temporary suspension of passengers originating from India, although there are currently 629 Zealanders registered on MFAT's Safe Travel system.
6. Officials are considering whether changes are needed to strengthen other elements of the system in response to the increasing number of COVID-19 cases internationally. The Ministry of Health will provide further advice on this.

Background

7. There are several risk mitigations in place at, and before, our border under the "Keep it out" pillar of the Elimination Strategy. These include:
 - a. A 14-day stay in Managed Isolation and Quarantine for all arrivals, with tests around day 0/1, day 3 and day 12 and room restrictions.
 - b. Evidence of a negative test result in the 72 hours prior to departure.
 - c. All MIF facilities operate in Level 4 environments, which means that every returnee is treated as if they may have COVID-19. Of over 120,000 returnees there have been less than ten cases of intra-MIF transmission.
8. These measures have been effective at keeping New Zealanders safe from COVID-19. However, we know from experience that there is no way to reduce infection risk from the border to zero, and the incidence of COVID-19 in arrivals is a critical factor which stresses our border systems.

Summary of information and likely reasons for the recent increase in positive COVID-19 cases arriving on flight EK448

9. India is the most frequent departure country for cases detected in arrivals on EK448 during the three-week period to 4 April, and that travellers from India who transit to EK448 were the main cause of an increase in cases detected at the border during March.
10. The most likely timing of the infections is after the pre-departure test, but before boarding in New Delhi and Mumbai. ESR reports that whole genome sequencing results for the 28 March flight are consistent with the infections being acquired before departure. Whole genomic sequencing is not consistent with transmission in-flight either from India to Dubai, in transit at Dubai, or on EK448 from Dubai to Auckland.
11. It appears likely that after pre-departure testing people are catching COVID-19 before boarding the plane to New Zealand. It is likely that they have complex journeys through a high-prevalence country, first to reach Mumbai or New Delhi airports before flying to Auckland with a transit in Dubai.
12. India has reported a sharp rise in incidence of COVID-19 since early March. Los Angeles and San Francisco are designated as higher risk routes under the COVID-19 Public Health Response (Air Border) Order, for the management of aircrew.
13. We note that control measures such as curfews and lockdown controls in Mumbai and Delhi have been put in place how their effectiveness is yet unknown (because they are very recent).

Public Health analysis

14. Given this risk profile, consideration needs to be given as to whether we should suspend arrivals while we identify additional options to help reduce likelihood of people becoming infected before they board flights. We have mechanisms at the border to control this risk, but they can be strengthened.
15. **Manage the risk in India** – we would be protecting our border workers (and reduce the risk of inflight transmission given such high numbers of potentially infected people on flights) by avoiding exposure in the first place (particularly given the high numbers of cases arriving from India currently). This could involve:
 - a. Suspending entry into New Zealand for passengers originating from India;
 - b. Requiring vaccinations prior to boarding.
16. However, the risk of people travelling from India is not considered higher than those from other countries^{s6(a)} and we have used other measures to manage this level or risk in those other countries. There are also challenges around BORA for New Zealanders seeking to return to the country.
17. **Manage the risk on an ongoing basis, once passengers arrive in NZ** using existing risk management measures – i.e. primarily via MIQ. We could:
 - a. Place arriving New Zealanders as a cohort into a specific MIQ and require all arrivals to remain in their rooms.
 - b. Enhance testing of this cohort upon arrival in NZ (e.g. more frequent while in MIQ)
18. **As an interim measure**, you could justify suspending flights while we assess the overall risk and the extent to which putting in place stronger pre-departure measures and stronger risk management measures would mitigate the risk for people arriving and going into MIQ.
19. For NZ citizens, restricting return to NZ must be a justified limitation under BORA, based on the public health risk. Although there is no direct risk to the New Zealand community as all travellers enter MIQ, the increasing numbers of cases in MIQ from India creates a heightened risk of infection for border workers, and of COVID entering the NZ community via a worker. This increased public health risk is assessed and justifies enhanced border controls for India.
20. **On balance, the Ministry of Health assesses that the public health risk may be most appropriately managed in the longer term through strengthened and enhanced border controls, but a suspension now would enable the overall situation to be assessed and the efficacy of any such mitigations to be determined.**

Legal and operational framework: suspending entry for travellers from India

21. This section of the report considers the option for suspending entry for visa holders, New Zealand citizens and permanent residents whose travel originates from or passes through India, regardless of the length of time they have been in India.
22. Section 70 of the Health Act 1956 could be used to restrict travel from India to New Zealand. However, it is advised that most appropriate mechanism is by a section 11 order under the COVID-19 Public Health Response Act 2020 (COVID Order).
23. Immigration instructions for border entry requirements could also be amended to ensure that people with temporary entry class and transit visas whose travel originates from India will not

be granted entry permission, unless they have spent a minimum of 14 days in another country prior to arriving in New Zealand. In practice this means that if such people do arrive in New Zealand, from India, they can be refused entry and turned around.

24. Note that despite introducing a temporary suspension of travel, it is still possible for passengers to arrive in New Zealand who have been in India in the 14 days prior. For instance, airlines will not be able to identify travellers who are travelling from India on multiple flights with separate tickets and so will be reliant on these travellers declaring their recent travel history.

Considerations

25. Our initial assessment suggests the implementation of a temporary suspension of travel from India will have the following potential **legal and operational impacts**:

- a. Officials will prepare a COVID Order to give effect to the suspension as soon as possible (we will provide an update on timeframes once the drafting requirements are known). ✓
- b. Any COVID Order giving effect to a travel suspension will require a NZ Bill of Rights Act 1990 assessment for proportionality, particularly due to the impact that any suspension will have for returning New Zealanders. ✓
- c. New Zealand has an open skies agreement with UAE, and the Emirates Air Service licence reflects this, so that services can be operated without limits on capacity. This means that Emirates flights cannot be stopped from arriving in New Zealand. The majority of passengers on Emirates flights are not originating from India, as Dubai is the major hub for New Zealanders and others coming to New Zealand and is also a major freight hub. It is possible that removing passengers originating from India from Emirates flights may make some services uncommercial and cause cancellation of flights. ✓
- d. Suspending entry with immediate effect creates issues for those already in transit. We recommend that the suspension is introduced in such a way that such travellers may continue their journey and are able to enter New Zealand, through their existing MIQ booking, when they arrive. ✓
- e. Suspending travel for passengers from India may have the possible knock on effect of Emirates flights being cancelled, which will mean travellers have to change MIQ vouchers. We will work to ensure there is flexibility in the MIQ system to manage this. ✓

26. There are a number of other important considerations relating to a decision to suspend entry to travellers from India:

- a. **Consular issues:** There are currently 629 New Zealanders registered on MFAT's Safe Travel system as being in India (though the number of NZ citizens in India will be higher, as only a small proportion of travellers typically register) who may be affected by a suspension and may require increased consular assistance. s9(2)(g)(i) ✓

s9(2)(g)(i)

- b. s9(2)(g)(i)

s9(2)(g)(i)

c.

27. There are a number of additional risks to be considered in respect of this option:

- a. Should we consider additional measures for other countries, so as not be singling out particular countries? s6(a)

s6(a)

- b. Despite a COVID Order, and any immigration instructions, there is a risk that persons travelling on a broken ticket may either be stranded at Dubai or manage to travel through to NZ. It is anticipated that this will occur for a limited number of passengers.

28. Officials will develop a framework for assessing COVID-19 country risk to inform our future approach to border settings.

Next Steps

29. Following Ministers' decisions officials will work to ensure:

- a. A COVID Order can be drafted for signature by 4pm on 9 April 2021 and can come into effect as soon as possible after that (indicatively 72 hours); ✓
- b. A communications plan is ready to go (DPMC to lead); ✓
- c. Stakeholder engagement is underway to ensure airlines and Border agencies (including Immigration NZ) are informed of the proposed suspension ahead of it coming into effect and to ensure the smooth operationalisation; and
- d. The impacts on MIQ are identified and are being managed.

Consultation

30. This report has been prepared by the DPMC COVID-19 Group. Initial advice from a number of agencies was sought, including Ministry of Health, Ministry of Foreign Affairs and Trade, Ministry of Business, Innovation and Employment, and Ministry of Transport. Formal consultation was not possible in the time available.

Recommendations

31. It is recommended that:

- a. we temporarily suspend entry into New Zealand for New Zealand citizen and residents, temporary entry visa and transit visa holders travelling from India (unless they have spent 14 days or more outside of India) to take effect as soon as possible for an initial period until Wednesday 28 April 2021 OR earlier if our assessment of risk allows;
- b. a suspension should not apply to travellers who have already departed from India, with some reasonable grace period applied around the legal introduction of the suspension;
- c. officials will provide more detailed advice as required on legal, operational and commercial implications of a suspension, and separately, whether a suspension should be maintained;
- d. officials develop a framework for assessing COVID-19 country risk to inform our future approach to border settings.


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Deputy Chief Executive

COVID-19 Group

NOTED
<p>Rt Hon Jacinda Ardern Prime Minister</p>
Date: / / 2021

NOTED

Hon Chris Hipkins Minister for COVID-19 response
Date: 08 / 04 / 2021