

Briefing

Regulatory changes to enhance saliva testing of workers in managed isolation and quarantine facilities

Date due to MO: 14 September 2021 **Action required by:** As soon as possible

Security level: IN CONFIDENCE **Health Report number:** 20211983

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

Copy to: Rt Hon Jacinda Ardern, Prime Minister
Hon Andrew Little, Minister of Health
Hon Kris Faafoi, Minister of Justice

Contact for telephone discussion

Name	Position	Telephone
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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 Withdrawn | |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:

Regulatory changes to enhance saliva testing of workers in managed isolation and quarantine facilities

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Date: 14 September 2021

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

Purpose of report

1. This report seeks your agreement to amend the COVID-19 Public Health Response (Required Testing) Order 2020 (the Required Testing Order) to require more frequent saliva testing of workers in quarantine facilities (QFs) and managed isolation facilities (MIFs).

Summary

2. New testing strategies are required to respond to the elevated threat of the transmission of the Delta variant of COVID-19 in the community and in our QFs and MIFs. As well as being more transmissible, the Delta variant often has a shorter incubation period, and vaccinated people are more likely to have no or mild symptoms. Weekly or fortnightly surveillance testing has the potential to delay detection of the virus should a worker become infected but remain asymptomatic.
3. While vaccination of workers in MIFs provides an important layer of protection, it also means that, in the unlikely event that a worker is infected, they are less likely to have symptoms, self-isolate and get a test. More reliance now needs to be placed on routine surveillance testing of those exposed to people with COVID-19 to detect infection early and reduce the risk that they will in turn infect their colleagues, whānau and wider community.
4. On 7 September 2021, you requested advice about whether it should be mandatory under the Required Testing Order for workers in QFs to be saliva tested daily, and for workers in MIFs to be tested at least weekly or preferably every two or three days [HR20211996 refers].
5. This report proposes that you amend the Required Testing Order to require:
 - a. workers in QFs to undergo daily saliva testing, when they are onsite at work, on an ongoing basis
 - b. workers in MIFs, to undergo twice-weekly saliva testing, when they are onsite at work, for a period of two weeks following an acute case in their MIF departing for quarantine.

- c. when a dual-use facility is operating as a QF, workers undertake daily saliva testing, in accordance with paragraph a. above; and when it is operating as a MIF, workers undertake twice weekly saliva testing for 14 days following an acute case leaving the facility, in accordance paragraph b. above.
6. s 9(2)(h)
7. To give effect to the proposals in this report, I recommend that you:
- a. consult on the proposals with the Prime Minister, the Minister of Justice, the Minister of Health, and any other relevant Ministers.
 - b. agree that the Ministry of Health (the Ministry) issue drafting instructions to the Parliamentary Counsel Office (PCO) to draft the required amendments to the Required Testing Order.

Recommendations

We recommend you:

- a) **Note** that the Delta variant of COVID-19 is more transmissible and often has a shorter incubation period, and vaccinated individuals are less likely to have severe illness, which means that weekly or fortnightly surveillance testing has the potential to delay detection of the virus should a worker become infected but remain asymptomatic. **Noted**
- b) **Note** that while vaccination of workers in MIQFs provides an important layer of protection, it also means that, in the unlikely event that a worker is infected, they are less likely to have symptoms, self-isolate and get a test. More reliance now needs to be placed on routine surveillance testing of those exposed to people with COVID-19 to detect infection early and reduce the risk that they will in turn infect their colleagues, whanau and wider community. **Noted**
- c) **Note** that saliva testing is now a testing modality already available to workers in QFs and MIFs in Wellington, Hamilton, Rotorua, Christchurch, and three facilities currently managing COVID-19 cases from the community stemming from the Auckland outbreak - Jet Park Auckland, Novotel Ibis Ellerslie and Holiday Inn Auckland Airport. **Noted**
- d) **Note** that we expect saliva testing to become available to workers in all Auckland MIFs over the next three weeks, although this is dependent on how much pressure the MIFs are under in relation to the current community outbreak and logistics required to enable saliva testing to be set up at those sites. **Noted**
- e) **Note** that workers who have opted for the saliva testing modality are required under the COVID-19 Public Health Response (Required Testing) Order 2020 (the Required Testing Order) to undertake a minimum of two tests, at least two days apart, within a 7-day period. **Noted**

- f) **Note** that daily saliva testing was introduced on a voluntary basis for workers in the high-risk QFs in Auckland from 7 September 2021. **Noted**
- g) **Agree** to amend the Required Testing Order to make it mandatory for workers in QFs to undergo daily saliva testing, when they are onsite at work, on an ongoing basis. **Yes/No**
- h) **Agree** to amend the Required Testing Order to require workers in MIFs to undergo twice-weekly saliva testing, when they are onsite at work, for a period of two weeks following an acute case departing their MIF. **Yes/No**
- i) **Agree** to amend the Required Testing Order so that, when a dual-use facility is operating as a QF, workers undertake daily saliva testing, in accordance with recommendation g) above, and when it is operating as a MIF, workers undertake twice weekly saliva testing for 14 days after an acute case leaves the facility, in accordance recommendation h) above. **Yes/No**
- j) **Agree** to consult on the proposals in this paper with the Prime Minister, the Minister of Justice, the Minister of Health and any other Ministers you think fit, in accordance with section 11 of the COVID-19 Public Health Response Act 2020. **Yes/No**
- k) **Agree**, subject to the outcome of your consultation with Ministers, that the Ministry of Health issues drafting instructions to the Parliamentary Counsel Office to draft the proposed amendment to the Required Testing Order 2020, to give effect to the proposals in this paper. **Yes/No**



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

Date:

14/9/21



Hon Chris Hipkins
Minister for COVID-19 Response

Date:

16/9/21

Regulatory changes to enhance saliva testing of workers in managed isolation and quarantine facilities

Background

8. In May 2021, the Government decided to roll out saliva testing for COVID-19 to border workers [HR20211367 refers].
9. In July 2021, the Ministry updated its position on saliva testing based on new evidence and information [HR20211563 refers] and determined that there are surveillance situations where testing for COVID-19 may be carried out using a series of saliva samples instead of nasopharyngeal swabs. Such situations could include:
 - a. where frequent testing of border workers can potentially identify cases earlier, before chains of transmission are generated; and
 - b. potentially, for low-risk community patients, where saliva may be a better tolerated alternative to nasopharyngeal swabs and may encourage more people to get tested, thus reducing the risks of missed cases. Work is ongoing to determine if saliva testing in community settings is an effective approach.
10. The phased roll-out of saliva testing for border workers began on 11 August 2021, when an amendment to the Required Testing Order came into force [HR20211764 refers]. Since then, the Ministry has worked closely with the Ministry of Business, Innovation and Employment (MBIE) to support the phased roll-out of saliva testing in MIQFs.

Current testing regime for workers in MIQFs

11. Currently, workers in MIQFs are required under the Required Testing Order to opt to be tested for COVID-19 using one of the following modalities:
 - a. saliva testing with a minimum of two tests at least two days apart within a 7-day period from your first saliva sample being provided (though workers can opt for more frequent testing)
 - b. a combined oropharyngeal/bilateral anterior nasal swab and a medical examination every 7 or 14 days (depending on a worker's role or location)
 - c. a nasopharyngeal swab and a medical examination every 7 or 14 days (depending on a worker's role or location).

Roll out of saliva testing since the amendment to the Required Testing Order

12. Saliva testing as a testing modality for COVID-19 has been available in Jet Park Auckland since 13 August 2021, and Novotel Ibis Ellerslie and Holiday Inn Auckland Airport since 7 September 2021.
13. We expect saliva testing to become operational in all Auckland MIFs over the next three weeks, though this is dependent on how much pressure the Auckland MIFs are under in relation to the current community outbreak and arrangement of on-site logistics to make saliva testing available.
14. Saliva testing as a testing modality has been available to workers in MIFs in Wellington since 13 August, Hamilton since 30 August 2021, Rotorua since 20 August 2021, and six Christchurch facilities from 7 September 2021.

The MIQ Technical Advisory Group recommends mandatory daily saliva testing in high-risk facilities

15. On 30 August 2021, the MIQ Technical Advisory Group (MIQ TAG) explored different risk mitigation measures for the Auckland QFs that are currently managing COVID-19 cases from the community stemming from the Auckland outbreak (Jet Park Auckland and two new QFs - Novotel Ibis Ellerslie and Holiday Inn Auckland Airport).
16. On 31 August 2021, after receiving feedback from ESR, the MIQ TAG recommended that daily saliva testing be mandated under the Required Testing Order for workers at these high-risk QFs, and be made available on a voluntary basis in the interim (in addition to the required twice-weekly testing).
17. The three QFs were identified as high-risk because:
 - a. there is a high number of COVID-19 cases at peak infectiousness being managed at the facilities, which increases the viral load on site and impacts the ability of ventilation systems (and other measures in place e.g. HEPA filters) to safely disperse aerosolised virus. This may result in increased risk of staff exposure to virus in hallways after doors have been opened.
 - b. the two new facilities have staff who may have less experience of working in facilities caring for COVID-19 cases, as the facilities were previously MIFs that housed returnees who had not tested positive for COVID-19. In addition, Jet Park Auckland has been operating at capacity, which means that new staff have likely been brought on to assist with caring for these cases.
18. The MIQ TAG's recommendation was supported by the Saliva Testing Clinical Governance Group on 1 September 2021. They also recommended that workers be able to immediately switch to saliva testing without a final nasopharyngeal swab to finish their current testing cycle.

Proposed new testing regime for workers in MIQFs

19. On 7 September 2021, you requested advice about whether it should be mandatory under the Required Testing Order for workers in QFs to be saliva

tested daily, and for workers in MIFs to be tested at least weekly or preferably every two or three days [HR20211996 refers].

20. This report proposes that you amend the Required Testing Order to require:
- workers in QFs to undergo daily saliva testing, when they are onsite at work, on an ongoing basis
 - workers in MIFs, to undergo twice-weekly saliva testing, when they are onsite at work, for a period of two weeks following an acute case in their MIF departing for quarantine.

21. s 9(2)(h)



Public Health rationale for the proposed changes

22. New testing strategies are required to respond to the elevated threat of the transmission of the Delta variant of COVID-19 in the community and in our QFs and MIFs. As well as being more transmissible, the Delta variant often has a shorter incubation period, and vaccinated people are more likely to have no or mild symptoms. Weekly or fortnightly surveillance testing has the potential to delay detection of the virus should a worker become infected but remain asymptomatic.
23. While vaccination of workers in MIFs provides an important layer of protection, it also means that, in the unlikely event that a worker is infected, they are less likely to have symptoms, self-isolate and get a test. More reliance now needs to be placed on routine surveillance testing of those exposed to people with COVID-19 to detect infection early and reduce the risk that they will in turn infect their colleagues, whanau and wider community.

Mandatory daily saliva testing for workers in QFs

24. Under the current regime in the Required Testing Order, a worker who has opted for the oropharyngeal or nasopharyngeal testing modality will only be tested every 7 days and in some cases every 14 days (depending on a worker's role or location).
25. Daily saliva testing for workers in QFs will enable workers infected with the virus to be detected earlier before they have a chance to infect others. In particular it will support the identification of cases in asymptomatic workers who would otherwise have no reason to self-isolate and get a test.
26. It is especially important in relation to the two new QFs in Auckland (Novotel Ibis Ellerslie and Holiday Inn Auckland Airport) that have switched from MIFs to QFs and have been required to hire new staff, some with limited experience caring for COVID-19 cases.

27. I consider that this measure is a proportionate response to the elevated threat of transmission of COVID-19 within the facilities and subsequently into the community.

Mandatory twice-weekly saliva testing of workers in MIFs after identification of acute cases

28. Similarly, requiring workers in MIFs to undergo twice-weekly saliva testing, when they are onsite at work, for a period of two weeks after an acute case in their MIF departs for quarantine is a proportionate response to the more limited risk of transmission associated with low/er volumes of cases in those facilities.
29. I note that a small number of MIF workers have already opted for the saliva testing modality under the Required Testing Order and are therefore already on a twice-weekly testing regimen, so this proposal will not place any additional obligations on that group of workers.
30. Workers who are required to 'switch' to saliva testing twice-weekly from their chosen modality of oropharyngeal or nasopharyngeal testing every 7 or 14 days will only be subject to increased testing for a period of two weeks when there is increased risk, after which they will be able to revert to their preferred testing modality. Two weeks (14 days) is the standard period of isolation that is necessary to ensure that a person is not incubating the virus and is the same period of time that returnees to New Zealand are subject to.
31. Some MIFs do not have any acute cases for long periods of time. In these situations it would not be proportionate from a public health perspective to require workers to have twice weekly testing if they have had no potential exposure to COVID-19 and I am not proposing this.
32. In practice, for operational rather than public health reasons it may be easier logistically for some MIFs to have all workers on twice-weekly saliva testing at all times. I do not recommend that this is made mandatory under the Required Testing Order.

Dual use facilities

33. For clarity, I propose that when a dual-use facility is not operating as a QF it be classified as MIF for the purposes of worker testing, i.e. if it has a case(s), it follows the daily on-site saliva testing requirements of a QF. Once the case(s) leave, it moves to twice-weekly testing till 14 days after the case has left the facility. After 14 consecutive days without a case in the facility, the dual-use facility can then revert to routine MIF testing regimes (REF). I do not think that imposing daily saliva testing in a facility that has had no active cases for a lengthy period is a proportionate response to the risk.
34. This essentially establishes a three-tier testing approach for dual-use facilities based on the risk profile when there is a case in the facility (daily on-site saliva testing), in the immediate two weeks following accommodation of cases (twice weekly saliva testing – which is aligned with the proposed testing requirements for MIFs in this paper), and after at least two weeks since a case was last accommodated in the facility (routine MIF testing requirements).

35. From an operational policy perspective, this three-tiered testing approach introduces complexity and will require active monitoring from the facility/RIQCC to determine the correct testing requirements, and ensure this is accurately reflected in the Border Workers Testing Register (BWTR) to ensure compliance can be monitored effectively. In practice, this may mean it is operationally simpler to retain twice weekly saliva testing at dual-use facilities when there are no cases present, irrespective of the length of time since the last case left the facility.
36. In the event of an outbreak, when a dual-use facility transforms into a QF, the daily saliva testing requirements would apply.

We propose some additional measures applicable to each Option

37. I propose that the following additional requirements are reflected in the drafting of the amendment to the Required Testing Order in support of the proposals:
- a. workers in QFs who are required to undertake daily saliva testing, or workers in MIFs who are required to 'switch' to twice-weekly saliva testing, may also continue to use any other testing modality as well if they wish to seek additional assurances.
 - b. workers in MIFs who are required to switch to a saliva testing modality for two weeks may do so without a final oropharyngeal or nasopharyngeal swab to finish their current testing cycle.
 - c. daily saliva testing will not be required for intermittent or one-off workers who are regularly on-site less than 2 days per week. These workers may remain on their existing testing schedule or choose to provide a saliva sample (this because it is more important to test these workers a few days after their last possible exposure event, rather than only at the time of the exposure, which of course will produce a negative result).
 - d. provision will be made for a medical exemption (with supporting evidence) where a worker is unable to complete saliva testing or has themselves been a recent case (they may continue to test positive but not be infectious).

Advice from MBIE on operational impacts and risk

38. MBIE notes that the proposals will lead to a change to the saliva testing modality for the majority of workers in Auckland QF facilities and MIFs across the country. This will result in two key risks for the MIQ workforce, firstly the impact this could have on workforce retention and secondly the ability to accurately report on compliance. MBIE notes that there has been limited uptake of saliva testing so far, for a range of reasons including the workforce perception of the saliva testing modality when compared to their current testing regime.
39. Daily saliva testing in QFs is manageable but will have significant resource impacts – it will bring significant scale of change to workers and will have an impact on workers daily requirements when they are already operating in a high change environment. Workers are well established on their current testing

regimes reflected in the consistently high compliance across the MIQ workforce which will likely be at least initially negatively impacted by the change.

40. In order to implement these changes successfully, the BWTR needs to be updated to be able to automatically manage workers' change in testing modalities and testing cycles. The current compliance monitoring system is not set up to reconcile such cases automatically and it is not feasible to manage this manually given the size of the workforce.
41. The BWTR will need to be able to respond to the change in testing compliance so monitoring and reporting can remain accurate. Both proposals present an increased risk for a drop in compliance which would be reflected in reporting. BWTR is regularly being updated with attendance and testing data but is not updated in real time, so the resulting lag in updates may lead to compliance reporting not accurately reporting current state, e.g. workers may appear non-compliant when they are but the system has not updated.
42. Implementing these new measures will require planning and engagement with employers and the MIQ workforce to inform them of the change and what it means for their compliance with the Order. This will take a minimum of one week once the Order is signed and MBIE are clear about what they are communicating to their workforce. It will then need to be disseminated to Regional Command Centres, then to facility managers and to the workforce. Alongside this, operational guidance such as Standard Operating Procedures need to be updated to reflect the change.
43. To switch workers from their current testing regime to the saliva testing regime requires manual updating of the BWTR for each worker individually which is expected to take five days given MBIE has on average over 300 workers on-site at quarantine facilities each week.
44. Once MBIE have completed the manual BWTR updates, Asia Pacific Healthcare Group (the vendor) will need 24-48 hours to update their records and enable workers access to the online saliva testing App. Workers will then have to enter their details into the App or arrange for paper based samples to be issued before they can commence testing. During this time, testing compliance is likely to reduce during the change period.

Legal requirements for amending the Required Testing Order

45. An amendment to the Required Testing Order is needed to implement the proposed approach to enhanced testing. To make or amend an Order under section 11 of the COVID-19 Public Health Response Act 2020 (the COVID-19 Act) you:
 - a. must have regard to advice from the Director-General of Health about
 - i. the risks of the outbreak or spread of COVID-19; and
 - ii. the nature and extent of measures that are appropriate to address those risks;

- b. may have regard to any decision by the Government on how to respond to those risks and avoid, mitigate, or remedy the effects of the outbreak or spread of COVID-19 (including taking into account any social, economic or other factors);
- c. must be satisfied that the proposed amendment to the Order does not limit or is a justified limit on the rights and freedoms in the New Zealand Bill of Rights Act 1990;
- d. must consult with the Prime Minister, the Minister of Justice, the Minister of Health and any other Ministers you think necessary; and
- e. must be satisfied that the Order is appropriate to achieve the purpose of the COVID-19 Act.

Director-General of Health's advice

46. My public health advice is set out in paragraphs 22 to 36 above.

New Zealand Bill of Rights Act 1990

47. s 9(2)(h)

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52. s 9(2)(h)

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Consultation with Ministers

57. Section 9 of the COVID-19 Act requires you to consult on the proposal to amend the Required Testing Order with the Prime Minister, the Minister of Justice, the Minister of Health and any other relevant Ministers. We recommend that you undertake Ministerial consultation and report back to us with any feedback as soon as possible.

The proposal is appropriate to achieve the purposes of the COVID-19 Act

58. The primary purpose of the Act is to prevent and limit the risk of, and adverse effects from the outbreak or spread of COVID-19. I am confident that the proposal will enhance New Zealand's ability to respond to and manage the spread of COVID-19.

Equity

59. In Aotearoa New Zealand, people have differences in health that are not only avoidable but unfair and unjust. Equity recognises different people with different levels of advantage require different approaches and resources to get equitable health outcomes.
60. The impacts of COVID-19 are felt differentially across New Zealand communities. Māori and Pacific communities and those living with disabilities, in lower socio-economic groups and crowded or institutional settings bear a greater portion of both health and economic impacts and risks. Testing in MIQFs has been a key part of the response to identify COVID-19 cases and prevent the transmission of COVID-19 into the community, particularly to those communities with many essential workers and higher-risk settings.

Next steps

61. Subject to the outcome of your consultation with Ministers and your agreement to proceed with the amendment, we will instruct PCO to draft the amendment to the Required Testing Order.
62. We expect the amendment to be in force in the week commencing 20 September, with implementation to follow in the week commencing 4 October 2020.

ENDS