

Memorandum

Update on Border Workforce Testing

Date due to MO: 30 June 2021 **Action required by:** N/A

Security level: IN CONFIDENCE **Health Report number:** 20211426

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

Contact for telephone discussion

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Action for Private Secretaries

N/A

Date dispatched to MO:

PROACTIVELY RELEASED

Update on Border Workforce Testing

Purpose

1. The purpose of this memorandum is to provide an update on Border Workforce Testing and in particular the Ministry's efforts to improve the compliance of border workers with the COVID-19 Public Health Response (Required Testing) Amendment Order 2021 (the amendment order).

Background

2. The Ministry of Health (the Ministry) had, until April 2021, been operating a complaints-based compliance regime in respect of border worker testing. The ability to monitor and enforce compliance was entirely dependent on external influences.
3. The amendment Order, amongst other things, made it mandatory for all relevant persons conducting a business or undertaking (PCBUs) to use the Border Workforce Testing Register (BWTR) to record the worker testing obligations of their staff.
4. On 12 April 2021 you agreed that the Ministry would actively monitor and facilitate PCBU and worker compliance with their Required Testing Order obligations, rather than relying on a reactive complaints-based process.
5. To support this, the Ministry established a team and programme of work with the following priorities:
 - a. continue to develop and maintain the BWTR
 - b. monitor the compliance of border workers and make efforts to improve the level of compliance

Progress to date

6. Work has been carried out under four workstreams and progress on each is described below. These workstreams are also summarised in the table in Appendix One. Each workstream is well on the way to delivering against the intended outcome.

People

7. Initial contact was made with PCBUs using the BWTR, beginning on 23 April, when the Register became mandatory. In the weeks since then, contacts at each PCBU have been established and educated about use of the BWTR. The message of the importance of compliance with testing requirements has also been clearly communicated.
8. Support for this work was established through appointment of a six-person team on short-term contracts, working within the testing-operations team.
9. A dedicated Monitoring and Outreach Team has now being implemented, which will be on an initial 12-month fixed term contract, with the expertise to:
 - a. maintain the BWTR, and contribute to the design and implementation of improvements to its functionality

- b. provide support to the Ministry of Business, Innovation and Employment (MBIE) - who are responsible for managing Managed Isolation and Quarantine Facilities (MIQFs) - and other PCBUs operating at the air and maritime borders, to ensure data integrity is maintained
 - c. monitor levels of border worker compliance with testing requirements at a PCBU level, and make contact with PCBUs to discuss instances and patterns of non-compliance
 - d. identify individual non-compliant workers, make contact with them to educate them about the requirement to be tested, where they can be tested and, if necessary, facilitate this to happen
 - e. provide robust data analysis to support decision making.
10. With the establishment of this team, the work programme will transition to a steady state, and will be better able to respond to the ongoing needs of the sector to support border worker testing. The team has been set up in a way that enables it to respond to on-going changes including vaccinations for border workers and the roll out of saliva testing.

Compliance

11. A monitoring and a compliance framework was established in early May and shared widely. This outlines what action is taken, when, and by who. The framework can be found in Appendix Two.
12. Since commencing monitoring and compliance activity for maritime and air border PCBUs in April, the Ministry has moved through several phases and has gathered intelligence from each.
13. To begin with, contact was predominantly made with PCBUs and most frequently those with significant numbers of notably overdue workers. The Ministry has found that 75% of all air/maritime border workers that are 11+ days overdue for testing work for one of six PCBUs. These PCBUs include one airline, four stevedore companies and one port company. The Monitoring and Outreach team has worked closely with these PCBUs to understand the nature of their work and their workforce and the on-site testing available to them.
14. The Monitoring and Outreach team has also progressively worked more directly with individual border workers. In May the team contacted an average of 23 workers per week but for June this has increased to an average of 93 workers per week. The team is providing direct reminders to be tested, by phone, email or text, and providing education around the need to be tested while on leave or at the end of employment. It also tries to help workers by clarifying on-site testing centre hours or looking for alternative testing sites, such as community testing centres or GP practices, near to the worker.
15. The experience of the team in contacting workers has shown that most workers intend to be tested, though some are late to be tested. As at 28 June, 3% of air/maritime border workers were 11+ days overdue for testing and of these 66% were less than three weeks overdue and 90% were less than six weeks overdue.

16. Recently, the Monitoring and Outreach team has also been asking individual workers to provide reasons why they were not tested on time. This feedback is being collated for a subsequent report to go to the Border Testing Governance Group (see below).
17. Since the beginning of June an escalation pathway has been in operation to address persistent non-compliance. If, having been contacted by the Monitoring and Outreach team on two or more occasions, and have been given a week to get tested, border workers remain non-compliant, they are issued a Directive Letter. This is sent from an Enforcement Officer of the Ministry and directs the border worker to be tested and explains that, if they do not comply within a week, they may be issued with an infringement notice.
18. To date, 32 Directive Letters have been issued. Of these, 17 workers have since become compliant with their testing requirements. Eight others have been referred for consideration of being issued with an infringement notice. 26 of the 32 letters issued were to the workers of one PCBU. This company has been referred to WorkSafe NZ for follow up.
19. MBIE continues to monitor the compliance of border workers in MIQFs and to work to improve levels of compliance. MBIE reports that, over the past three weeks, it has contacted an average of 116 PCBUs and 121 individual workers each week.
20. The Ministry of Health and MBIE are now working more closely together, with MoH assisting MBIE on specific pieces of monitoring and compliance work when requested. It is expected that this collaboration will increase from here on.
21. Over the past six weeks the rate of compliance has been between 80-85% and hence non-compliance has been 15-20%. At any given time about one quarter of those workers indicated as being overdue are less than 4 days overdue, which may be a result of the reporting timeline (see below regarding the time taken for tests to be recorded).
22. Some overdue workers have since left the border workforce or have simply not undertaken any border work for some time. They will continue to be followed up to meet the requirements of the testing order, but these workers are not continuing to attend border-facing work. To represent this, border workforce testing reporting now gives a compliance rate for those that have attended work in the past 28 days. At present, 84% of border workers who have worked in the past 28 days are compliant and 92% are compliant or less than four days overdue.
23. The Ministry's Policy team has engaged a Behavioural Insights specialist to look in detail at border worker behaviours in relation to testing and methods for improving compliance. A paper on this is being prepared in collaboration with the Monitoring and Outreach Team.

Data quality

24. The Ministry has also worked hard to improve the quality of information provided by PCBUs to ensure BWTR data is accurate. This has included:
 - a. Identifying workers whose PCBUs had not indicated which testing cycle they were on and filling in these gaps

- b. Working with several large PCBUs who had incorrectly indicated workers had undertaken border work when they had in fact not. Erroneous attendance dates have been corrected
 - c. Ensuring worker contact information was being provided. Of note was one large PCBU who had not provided the phone numbers of its workers, which is required under the RTO and is essential for contacting workers overdue for testing. This PCBU has now entered workers' telephone numbers.
25. Additionally, an exercise was carried out using Éclair, the health information system that provides testing information to the BWTR, to identify duplicate NHI numbers of workers whose test results were not showing in the BWTR. Where duplicate NHI numbers were found, these were merged with the worker's primary NHI number.
26. Work on BWTR data quality is now in a 'maintenance' phase. The Monitoring and Outreach Team are regularly in contact with PCBUs, ensuring new workers are onboarded, attendance data is kept up to date, and where issues related to NHI numbers occur, these are resolved.
27. Outstanding issues that continue to affect reporting from the BWTR include:
- a. Waikato DHB systems outage - The Waikato DHB's Laboratory Information System (LIS) is back online but is not yet able to feed into Éclair. As a result, Waikato based workers are showing as non-compliant even if they have been tested, resulting in over-stated non-compliance. Manual workarounds continue to be necessary, with the Waikato DBH lab sending test confirmations to Waikato-based PCBUs.
 - b. Time-lag of test confirmations – At present the BWTR is informed that a worker was tested, when the sample is either received or reported on by a laboratory (depending on the process used). This typically means there is a one to three-day time-lag between testing, and confirmation in the BWTR. See below regarding a technical upgrade to resolve this.
 - c. Duplicate NHI numbers - We are aware that the BWTR is not able to retrieve test results from Éclair from some merged NHI numbers. A technical upgrade is being explored to resolve this.

Technology upgrades

28. As requirements and processes change over time, the IT team supporting the BWTR design and implement technology upgrades to introduce additional functionality.
29. On 10 June 2021, the functionality was added:
- a. to override an individual's consent to share vaccination status with their PCBU if they are covered under schedule 2 of the vaccination order
 - b. for the Monitoring and Outreach Team to be assigned individual workers within the BWTR any record internal notes on follow up/escalation actions taken with individuals or PCBUs
 - c. to mandate the upload of all information required to be kept by the PCBU under the RTO.
30. On 16 June 2021, the functionality to 'opt in' for saliva testing was added to support the roll out of the saliva prototype.

31. The next IT release for the BWTR will occur in the first week of July, and include:
- a. facilitating interim results, which will allow for test dates to flow into the BWTR the same day as the swab was taken rather than when the swab is received/reported on by a laboratory.
 - b. the creation of two additional fields, region and workforce type, which can be set at an employer or individual level and will allow for a better flow of information to the CIR
 - c. functionality to apply a vaccination exemption to an individual's profile on the BWTR.

Governance

32. There are three levels of oversight of the border worker testing programme and each one feeds into the others through regular reporting relating to progress update on the programme and escalation of risks and issues as appropriate. There is also regular reporting on the border workforce's compliance with testing requirements to support these groups.

Border Executive Board (BEB)

33. The Border Executive Board is a group of six Chief Executives (from NZ Customs, MBIE, MPI, Ministry of Transport, Ministry of Health and MFAT) whose overall objective is the effective oversight of the end-to-end border system. This includes directing and driving performance of a safe, smarter and more coherent border. The BEB holds a system assurance role for border workforce testing and vaccination compliance.

Border Testing Governance Group (BTGG)

34. This group of General Managers meets weekly and provides governance of the implementation of the Required Testing Order phases, the compliance framework, security and privacy assurance of the BWTR, and escalating issues that are unable to be resolved at lower levels.

Testing Compliance Operational Group (TCOG)

35. This group meets weekly to discuss the operational activities conducted at and between various government departments to enact the COVID-19 Testing Compliance Framework. This includes the BWTR, information sharing between government departments, and monitoring and enforcing functions.

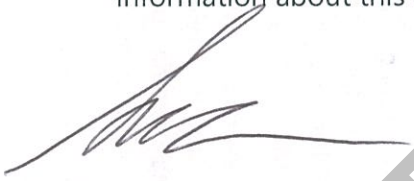
Reporting

36. The Ministry has been producing a 'Border Worker Testing Compliance Dashboard' since 11 April, describing the level of use of the BWTR and the rate of compliance.
37. A dashboard is now produced each week on a Wednesday, for distribution to the Border Executive Board for its meeting on a Thursday and to the Minister's Office on a Friday. This includes key data and information relating to testing compliance from the BWTR. To support this, the Ministry has worked closely with MBIE to ensure that reporting from both agencies is aligned and consistent with each other.

38. The dashboard is subject to ongoing review and BEB and Ministerial feedback to ensure reporting remains relevant and useful.

Next steps

39. Following initial work to monitor compliance with Schedule 2 of the Vaccination Order, work is underway to integrate vaccination status data into the current Monitoring and Compliance Framework which will be in place and operational by 8 July 2021. The Border Workforce Compliance team will be following up PCBU's with unvaccinated workers and referring noncompliance to WorkSafe NZ.
40. We will leverage the planned Monitoring and Outreach Team's capability and capacity such that PCBUs and the border workforce have a single point of contact for both testing and vaccination compliance.
41. The Monitoring and Outreach Team will also be able to apply its existing testing compliance experience to the prototype roll out of saliva testing as an additional testing modality.
42. The Monitoring and Outreach Team is currently collaborating with Policy to gather and share learning on why border workers are not able to or do not comply with their testing requirements. This learning will be used to inform future iterations of the Required Testing Order.
43. As the work transitions into a steady state, with well-established governance and reporting in place and a fixed term team to continue ongoing work on the BWTR, updates will be provided through the weekly report. Officials can provide further information about this topic at your request.



Sue Gordon

Deputy Chief Executive

COVID-19 Health System Response

Date: 30/6/21

Appendix One – Update on BWTR work programme

Workstream	Intended outcome	Update	Next steps
People	We have a dedicated team with the expertise to maintain the BWTR, support PCBUs, monitor levels of compliance, address non-compliance and provide robust data analysis to support decision-making	<ul style="list-style-type: none"> Fixed term team established for 12 months with responsibility for the ongoing operation and maintenance of the BWTR, and for compliance monitoring and outreach Secondment of Border Worker Compliance Team Manager underway 	<ul style="list-style-type: none"> Appointment to remaining team roles between July and September.
Compliance	We have a robust compliance and enforcement process that is focused on minimising public health risk	<ul style="list-style-type: none"> Risk based analysis completed to inform compliance follow up Process refined and embedded for escalating non-compliance Roles and responsibilities of agencies have been confirmed Directive letters sent to non-compliant workers Growing collaboration with MBIE to improve compliance amongst MIQF border workers 	<ul style="list-style-type: none"> Continue to monitor compliance through newly established team Integrate saliva testing and vaccination status into the compliance process Reviewing infringement process with potential for Infringements to be issued in July. Further alignment of compliance process with MBIE
Data quality	We want to be confident that our data is accurate and up to date	<ul style="list-style-type: none"> Education work has been conducted with PCBUs to ensure they understand what information they need provide Monitoring of information input is ongoing to ensure this is accurate Éclair access in place to support and improve NHI matching 	<ul style="list-style-type: none"> Intelligence gathering through the Monitoring and Outreach team to continue to identify and resolve issues as they arise. Ensure user the PCBU experience is as positive as possible, to facilitate compliance Explore solution to issue of test results from merged NHIs not pulling through to the BWTR
Technology upgrades	We want the BWTR to continue to evolve to meet the needs of the monitoring and compliance function	<ul style="list-style-type: none"> Several technology upgrades have been introduced, relating to vaccination status, the saliva testing prototype and mandating PCBUs providing information required by the RTO. 	<ul style="list-style-type: none"> The next IT release for the BWTR will occur in the first week of July. This will facilitate interim results showing in the BWTR, speeding up the process of registering when a test has been completed.

			<ul style="list-style-type: none">• It will also add workforce type and region labels at PCBU and individual worker levels.• Further technology upgrades will be implemented as and when they are required, such as further changes to meet saliva testing and vaccination compliance requirements.
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Appendix Two – Monitoring and compliance framework for the COVID 19 Public Health Response Required Testing Order 2020

Monitoring and compliance framework for the COVID 19 Public Health Response Required Testing Order 2020 (the RTO)

Objectives: Increased levels of compliance with workers subject to the RTO, and increased levels of confidence/assurance that workers are being tested according to the RTO.

Principles:

1. A risk-based approach to detecting and responding to non-compliance
2. Apply the AOG COVID-19 graduated response approach
3. Timely and proportionate response to non-compliance
4. Response focused in the first instance at the PCBU level
5. Magnify the impact of our actions by telling the story

<p>Sources of information about potential non-compliance with the RTO</p>	<p>The Ministry of Health's Border Worker Testing Register (the BWTR)</p> <p>NB: This source of information will become progressively more comprehensive from 27 April onwards, when use of the BWTR by PCBUs with workers subject to the RTO becomes mandatory.</p> <p>Automated text messages are sent to affected workers three days before they are due to be tested, and one day afterward if they have not presented themselves for a test. The worker's PCBU is also notified before testing is due.</p>		<p>Notifications/complaints/concerns from others (e.g. unions, other PCBUs, members of the public) to:</p> <ul style="list-style-type: none"> • The All of Government COVID centre COVID-19 Breach New Zealand Police - online forms • WorkSafe's call centre • Ministry of Health's integrity line 	<p>Information gained by the Ministry of Health when a COVID infection arises in or is linked to a worker subject to the RTO</p>
<p>Monitoring</p>	<p>For border PCBUs and workers:</p> <ul style="list-style-type: none"> • MoH Monitoring and Outreach Team (MaOT) prepares regular reports of workers that appear to be overdue for a test, and their PCBUs. • MaOT makes contact with PCBUs by phone to determine whether the data on the BWTR about its non-compliant workers is accurate. <ul style="list-style-type: none"> ◦ If it is not, get them to update/amend the data so it is accurate within three days ◦ If it is, encourage them to tell those workers they need to be tested in accordance with the RTO ◦ Inform PCBU that the BWTR data will continue to be monitored, and further follow up from an enforcement officer may result. • MaOT applies the risk assessment model, based on the conversation. • High risk PCBUs are referred to WorkSafe for follow-up • Data for lower risk PCBUs on BWTR is checked again after three days. <ul style="list-style-type: none"> ◦ If compliant, no further action. ◦ If still not compliant, PCBU contacted again. <ul style="list-style-type: none"> ▪ If PCBU has not done all that is reasonable, refer to WorkSafe. ▪ If PCBU has done all that is reasonable, refer to MoH compliance/enforcement unit for follow up with individual worker. 	<p>For MIQF workers employed, contracted or subcontracted by MBIE:</p> <ul style="list-style-type: none"> • MBIE MIQF workforce monitoring team prepares weekly reports of workers that appear to be overdue for a test • Where the staff are directly employed by MBIE, the workforce monitoring team makes contact with workers by phone to determine whether the data on the BWTR is accurate, and if so, encourage them to get tested • Where the staff are employed by PCBUs within the MIQ system, the monitoring team will make contact with the employer responsible for the staff member in question • Follow up process with worker by employer to ensure testing occurs. If compliant, no further action. If not compliant, refer to BWTR Monitoring Hub for follow-up. <ul style="list-style-type: none"> ◦ BWTR Monitoring Hub refers to the BWTR monitoring functions within MBIE, WorkSafe and MoH. • MaOT applies the risk assessment model, based on the information received from MBIE MIQF monitoring team. • High risk PCBUs are referred to WorkSafe by MoH for follow-up • If PCBU has done all that is reasonable, refer to MoH compliance/enforcement unit. 	<p>All information passed to the central AOG compliance hub for reallocation, depending on its nature:</p> <ul style="list-style-type: none"> • (post 27 April) PCBU with workers subject to the RTO not on BWTR – WorkSafe for follow-up (with MoH for tech support as needed) • PCBU not allowing workers to be tested during work hours – WorkSafe for follow-up • Worker/s not getting tested regularly according to the RTO – MoH compliance/enforcement unit for follow up 	<p>BWTR data for infected worker is checked, to see if they have complied with the RTO.</p> <p>If yes, no further action.</p> <p>If no, BWTR monitoring hub make initial enquiries with PCBU about accuracy of data and actions to comply.</p> <p>Referred to either WorkSafe (for PCBU) and/or MoH compliance/enforcement unit for follow up</p>
<p>Compliance/enforcement</p>	<p>WorkSafe (for PCBUs) and MoH compliance/enforcement unit (for workers) receive information about sustained non-compliance from the monitoring/referral pathways outlined above and take action in accordance with AOG COVID compliance approach.</p> <p>As the 'educate' aspect of the AOG compliance approach has already occurred during the monitoring phase, enforcement agencies may choose to move straight to a higher-level compliance response:</p> <ul style="list-style-type: none"> • 'warn' (verbal or written directive to comply) or • 'enforce' (infringement notice or prosecution) <p>If there is an extremely high risk of community transmission as a result of a worker's failure to test, a joint response from the relevant agencies, with MoH managing the public health risk by dealing directly with the worker will be taken.</p> <p>Both agencies will take a risk-based and proportionate approach. When resourcing decisions need to be made, follow up will be prioritised when the matter involves:</p> <ul style="list-style-type: none"> • workers subject to 7 day testing frequency • a sustained period or pattern of non-compliance, or • where action could affect large numbers of workers (i.e. large PCBUs). 			