

Briefing

COVID-19 Public Health Response (Required Testing) Order 2020 Saliva testing frequency

Date due to MO: 22 November 2021 **Action required by:** 23 November 2021

Security level: IN CONFIDENCE **Health Report number:** 20212510

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

Contact for telephone discussion

Name	Position	Telephone
Dr Ashley Bloomfield	Director-General of Health	s 9(2)(a)
Steve Waldegrave	Group Manager, COVID-19 Response Policy	s 9(2)(a)

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 Withdrawn | |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:

COVID-19 Public Health Response (Required Testing) Order 2020 Saliva testing frequency

Security level: IN CONFIDENCE **Date:** 18 November 2021

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

Purpose of report

1. This report seeks your agreement to reduce the frequency of saliva testing required under the COVID-19 Public Health Response (Required Testing) Order 2020 (the Order) and a review of the Order pending the move to the new COVID-19 Protection Framework (CPF).

Background

2. On 11 November 2021, the Ministry of Health advised you that using saliva as a sample tested by Nucleic Acid Amplification Testing (NAAT) is an equivalent alternative to a nasopharyngeal swab by NAAT for diagnosing COVID-19 [HR20212447 refers].

Frequency of saliva testing

3. Under the Order, affected persons choosing to use saliva testing are required to produce two samples every seven days to be considered compliant with their testing obligations. I recommend amending the Order to remove this requirement, as two samples are no longer required for diagnostic purposes. This would also reduce the testing obligation to the submission of a single sample each testing period, aligning the saliva testing requirement with other testing types.
4. This change would not impact on the testing requirements for workers at managed isolation and quarantine facilities. Managed isolation facility workers will continue to be tested twice every seven days and managed quarantine facility workers will continue to be tested every day that they work.
5. The biggest impact would be on affected persons who fall into the groups who are only required to be tested once every 14 days using nasopharyngeal swabs under the Order. Currently, if they choose to use saliva testing they are required to submit four samples every 14 days because of the requirement to submit two samples every seven days. Their testing obligation would fall to a single sample every 14 days. Affected workers in groups on a seven-day testing cycle would likewise only be required to submit one saliva sample every seven days instead of the current two samples.

Review of the Order

6. The Government has announced its intention to move to the new CPF and Cabinet has agreed to replace the Elimination Strategy with the “minimisation and protection” approach. The settings of the Order, particularly the groups of affected workers and the frequency of the testing regime, were appropriate under the Elimination Strategy but may no longer be appropriate as we move to a minimise and protect approach.
7. Now that Parliament has passed the COVID-19 Public Health Response Amendment Act 2021) the Amendment Act, the new section 12(1)(d) of the COVID-19 Public Health Response Act 2020 (the Act) will provide that an order may enable the Director-General of Health to specify, determine, designate, define, or approve any matters, impose conditions, or give directions, required for the operation of a provision of a COVID-19 order. This includes matters that affect or determine the application, operation, or scope of a provision of an order.
8. In light of the planned transition from Alert Levels to the new CPF and the passage of the Amendment Act, the Order will be reviewed. The review will examine:
 - a) The groups of workers who should continue to be regularly tested,
 - b) The frequency at which they are required to submit samples, and
 - c) The provisions of the Order that the Director-General should be authorised to issue a notice for under section 12(1)(d) of the Act.
9. Further advice, along with any recommendations for amendments to the Order, will be provided to you in December.

New Zealand Bill of Rights Act 1990 (NZBORA) and equity implications

10. Under section 9(1)(ba) of the Act, you must be satisfied that the Order does not limit or is a justified limit on the rights and freedoms in the NZBORA. This proposal reduces the requirements imposed by the Order and has no NZBORA or equity implications.

Recommendations

I recommend you:

- a) **Note** that you have been advised that a saliva sample tested by Nucleic Acid Amplification Testing (NAAT) is an equivalent alternative to a nasopharyngeal swab tested by NAAT for diagnosing COVID-19. **Noted**
- b) **Agree** to the removal of the requirement to submit two saliva samples every seven days under the COVID-19 Public Health Response (Required Testing) Order 2020 (the Order). **Yes/No**
- c) **Agree** to consult with the Prime Minister, Minister of Justice, Minister of Health and any other Ministers you think fit, if you agree to the proposal in Recommendation b) above. **Yes/No**
- d) **Note** that, if you agree to the proposal in Recommendation b) above, the Ministry of Health will issue drafting instructions to the Parliamentary Counsel Office to draft the proposed amendment to the Order. **Noted**

- e) **Note** that the Order will reviewed in light of the planned transition to the COVID-19 Protection Framework and the passage of the COVID-19 Public Health Response Amendment Act 2021 and further advice will be provided to you in December. **Yes/No**



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



Hon Chris Hipkins
Minister for COVID-19 Response
Date: [23/11/2021](#)

ENDS.

PROACTIVELY RELEASED