



BRIEFING

Managing the transition to a seven-day managed isolation operating model

Date:	10 February 2022	Priority:	Urgent
Security classification:		Tracking number:	2122-2661

Action sought		
	Action sought	Deadline
Hon Chris Hipkins Minister for COVID-19 Response	Note the contents of this briefing. Agree to the proposed amendments to the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 necessary to implement the new operating model for managed isolation and quarantine to support a shift to Phase Two of the Omicron response.	14 February 2022

Contact for telephone discussion (if required)			
Name	Position	Telephone	1st contact
Kara Isaac	General Manager, MIQ Policy	Privacy of natural persons	✓
Privacy of natural persons	Manager, Implementation and Regulation Policy		

The following departments/agencies have been consulted
Ministry of Health

Minister's office to complete:

Approved

Declined

Noted

Needs change

Seen

Overtaken by Events

See Minister's Notes

Withdrawn

Comments



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Managing the transition to a seven-day managed isolation operating model

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Purpose

- This briefing outlines the operational implications on moving to a seven-day managed isolation operating model as part of the shift to Phase Two of the Omicron response. It also seeks your agreement to changes to the COVID-19 Public Health Response (Isolation and Quarantine) 2020 Order (the Order) to implement this change and clarify other matters that have arisen with the Order.

Recommended action

The Ministry of Business, Innovation and Employment recommends that you:

Transitioning to a seven-day operating model

- Note** that the Ministry of Health has identified changes are required to the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 regarding the length of stay in managed isolation and quarantine to support a shift to Phase Two of the Omicron response [HR 20220175].

Noted

- Note** that the Ministry of Business, Innovation and Employment Managed Isolation and Quarantine (MBIE MIQ) will require at least three working days (excluding weekends) to implement the change to the length of stay proposed by the Director General of Health following a decision to move to Phase Two.

Noted

- Agree** that a seven-day length of stay applies to those already in a Managed Isolation Facility (MIF) when New Zealand moves to Phase Two of the Omicron response.

Agree/Disagree

- Agree** to a transitional provision that enables the Chief Executive to require a person who is in a MIF at the time New Zealand shifts to Phase Two of the Omicron plan to remain in an MIF beyond their seventh day of isolation if necessary to allow a coordinated and phased departure from managed isolation.

Agree/Disagree

- Agree** that the transitional period referred to in recommendation d must end no later than 72 hours after the introduction of the new operating model.

Agree/Disagree

- Note** that under clause 10(5) of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020, the Chief Executive may, in exceptional circumstances related to

preventing and limiting the risk of the outbreak or spread of COVID-19, allow a person to extend their period of isolation by up to seven days.

Noted

- g **Agree** to amend clause 10(5) of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 so that where a person requests to extend their stay, the Chief Executive can consider factors other than the prevention and limitation of the risk of an outbreak of COVID-19 when making a decision about extending their period of isolation.

Agree/ Disagree

Other proposed amendments to the Order

- h **Agree** that any decision to allow a person to isolate or quarantine at any other facility or place is made by the Chief Executive of MBIE (or their delegate) following the advice of a medical officer of health.

Agree/ Disagree

- i **Agree** that a person seeking to isolate or quarantine at a place other than a MIQF under Clause 12 of the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 must apply to the Chief Executive before they enter New Zealand.

Agree/ Disagree

- j **Agree** that all references to “site managers” in the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020 should be amended to refer to the Chief Executive of MBIE.

Agree/ Disagree

- k **Note** that the maximum time a person can be held at a MIQF under the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020, without the issuing of a section 70 notice, is 20 days.

Noted

- l **Agree** that the COVID-19 Public Health response (Isolation and Quarantine) Order 2020 is amended to provide that the maximum stay is 28 days

Agree/ Disagree

Releasing eligible travellers from MIQ on 28 February

- m **Note** that on 28 February, when Schedule 1 of the COVID-19 Public Health Response (Isolation and Quarantine and Other Matters) Amendment Order 2021 comes into force as part of step 1 of Reconnecting New Zealand, a person isolating in a managed isolation facility that is eligible for self-isolation must self-isolate instead of being isolated at a MIF.

Noted

- n **Agree** that MBIE MIQ can hold these travellers in MIQ for up to 72 hours to ensure that MIQ can identify and confirm that all travellers are eligible to be released.

Agree/ Disagree

- o **Agree** that MBIE officials issue drafting instructions to the Parliamentary Counsel Office to draft the required amendments to the COVID-19 Public Health response (Isolation and Quarantine) Order 2020 to give effect to the decisions made above.

Agree/ Disagree

p **Note** that, subject to your approval, the amendments outlined in this briefing and those proposed by the Ministry of Health [HR20220175] will be drafted into a single amendment to the COVID-19 Public Health Response (Isolation and Quarantine) Order 2020.

Agree / Disagree

q **Agree** that this briefing be proactively released with appropriate withholdings under the Official Information Act 1982.

Agree / Disagree



Kara Isaac
General Manager, MIQ Policy
MIQ, MBIE

10 / 2 / 2022



Hon Chris Hipkins
Minister for COVID-19 Response

11 / 02 / 2022

Operational requirements to implement new operating model

2. The Director General of Health has recommended a series of changes to managed isolation settings during Phase Two and Phase Three of the Omicron response plan [HR20220175], including a reduction in the time border arrivals spend in managed isolation from 10 days to seven days and changes to the testing regime for those in managed isolation facilities (MIF).
3. If you agree with the Director General's recommendations, in Phase Two, the managed isolation period will reduce from 10 days to 7 days, in line with the planned reductions in the isolation period for community cases. The Director General has also recommended changes to the testing regime, including the elimination of the Day 3 test for those in MIFs.

Transitioning MIFs into a new cycle

4. The change to the new seven-day operating model under Phase Two is likely to happen with minimal lead-in time. As such, while preparations are underway to transition to the new operating model, MBIE MIQ will not be able to finalise the logistics of the transition we have certainty on when the new operating model will commence. Once a decision is made to move to Phase Two, MBIE-MIQ will require at least three working days (excluding weekends) to:
 - restack MIFs to accommodate planned arrivals according to the new operating model
 - provide communications to affected border arrivals so that they can organise onwards travel plans and additional accommodation
 - manage accommodation for those affected border arrivals who are unable to organise onward travel plans and additional accommodation
 - surge staff numbers
 - arrange additional buses to transport people to airports
 - liaise with Air New Zealand regarding the possibility of additional flights, if necessary.
5. Therefore, if MBIE MIQ does not have three days' notice to give effect to the transition to the new seven day operating cycle MBIE MIQ will likely need to delay the commencement of the changes. There is significant legal and reputational risk associated with such a delay. People in a MIF who have already been in a MIF for seven days would not be allowed to leave, which would likely lead to a significant number of complaints. There is also likely be many exemption applications from those in MIF.

6. **Legal professional privilege**

Exiting people in MIQ who have already stayed seven days

Transitional provision to ensure orderly exit

7. MBIE MIQ intends to release as many people as possible on the first day of New Zealand moving to Phase Two, therefore the change to the length of stay must apply to people already in facilities at the time the change to the Order comes into force.
8. In a small number of cases, releasing these returnees in a way that is consistent with IPC protocols may not be possible. Therefore, an additional transitional provision may be required to exit all people who have already been in MIF for seven days.

9. We seek your agreement to amend the Order to provide for two new transitional provisions:
- a) that apply the changes to returnees in a MIF
 - b) that will enable MIBE to safely operationalise the new operating model in a coordinated, orderly and proportionate manner. This provision will allow the Chief Executive of MBIE to require people remain in MIQ after their period of isolation for as long as reasonably necessary. This provision would be limited to a period of 72 hours after the transition to the new operating model. A similar three-day transitional period was provided for when MIQ shifted from a 14-day operating model on 14 November 2021 [2122-1661].

Provision for those who may need to extend their stay in MIQ

10. MBIE's expectation is that all people exit a MIF on day seven when we move to the new operating model, if they meet the low-risk indicators as set out in the Order. There may be, however, groups that will be unable to leave a MIF on day seven due to their size and the difficulty of arranging accommodation and/or transport at relatively short notice. This may include some groups that have not yet arrived in New Zealand when the new operating model is implemented. An indicative list of the groups that may need to remain in MIQ for longer than seven days includes:
- Refugees
 - Those arriving in New Zealand for the Cricket World Cup
 - Antarctica groups
11. Clause 10(5) of the Order provides that the Chief Executive can, in exceptional circumstances related to preventing and limiting the risk of the outbreak or spread of COVID-19, extend a person's stay in a MIF for up to seven days. This provision was created for those people who are unable safely complete a period of self-isolation following the end of their period of managed isolation.
12. We seek your agreement to amend the Order to remove the requirement for the Chief Executive to consider whether extending a person's stay is related to preventing and limiting the risk of the outbreak or spread of COVID-19. This will enable groups or individuals to request an extension of their stay where they are unable to immediately leave a MIF when the change to a seven-day stay is implemented.

Other proposed amendments to the Order

Place of isolation or quarantine

13. Currently, the Order provides that a Medical Officer of Health may determine that a person may isolate or quarantine somewhere other than a MIF. We seek your agreement to amend clause 12 of the Order so that it is the Chief Executive, on the advice of a medical officer of health, making this decision. This would align with the decision-making power the Chief Executive has to allow a person to leave their place of isolation or quarantine with special authorisation under Clause 14 of the Order and reduce the decision-making burden on medical officers of health.
14. I also recommend that Clause 12 is amended to clarify that an application to isolate or quarantine somewhere other than a MIF must be made before a person has entered New Zealand.

Remove reference to site managers

15. There are a number of references to "site managers" throughout the Order. To provide greater operational consistency about the powers in the MIQ system, I recommend that the

powers currently provided to site managers are given to the Chief Executive of MBIE so they can be brought within the scope of the existing MBIE delegations framework.

Period of isolation or quarantine

16. Current public health advice is that a person who tests positive for COVID-19 should remain in quarantine for 14 days from the return of a positive test, or recorded symptoms and those who are bubble close contacts to remain in isolation from their last date of exposure. If a bubble can split (that is the person who has COVID-19 separates from those who are not) then the close contact's 10 days start at the point of separation. If, however, the bubble cannot split, for example where there are dependent children, then the 10 days only begins once the person with COVID-19 has been deemed "recovered" and is no longer infectious.
17. The period of isolation or quarantine is determined by the most recent public health advice, which necessarily changes as the understanding of the virus evolves. Consequently, the recommended length of time in isolation or quarantine may change again in the future, in which case we will provide advice on adjusting the legislative settings accordingly.
18. The Order currently provides that the maximum period a person can remain in a facility is 20 days. Beyond the 20 days, a section 70 notice must be issued to require them to remain in the facility. As the number of returnees testing positive continues to remain high, MIQ have had an increase in the number of people who are required by a medical officer of health to stay beyond 20 days.
19. Seeking a section 70 notice from a medical officer of health is burdensome and, as community case numbers increase, likely to become more challenging. As a result, we are seeking your agreement to amend the Order to provide that the maximum stay is 28 days, this aligns with the section 70 Order for people who test positive in the community and the relevant powers in the Health Act.

Releasing eligible travellers from MIQ on 28 February

20. On 28 February, when step 1 of Reconnecting New Zealand comes into force, there will be people in managed isolation who would be eligible to self-isolate. We currently estimate that this could be 624 travellers (based on the current 10 day stay) or 381 travellers (based on a seven day stay). Numbers may end up being substantially lower as travellers adapt their travel plans in light of the self-isolation announcement.
21. When step 1 of Reconnecting New Zealand comes into force, new clauses will be inserted into the Order that require those people in a MIF who qualify to self-isolate, to leave the managed isolation and complete their period in self-isolation. We seek your agreement for to include an additional transitional provision so that we can hold these travellers in managed isolation for up to 72 hours beyond 28 February. This will ensure that MBIE MIQ can identify and confirm that all travellers are eligible to be released (e.g. vaccination status), and that travellers who are not able to travel to their place of self-isolation on 28 February can remain in managed isolation until they can travel.
22. Travellers that are released prior to ten or seven days will be charged fees based on existing pro rata provisions in the COVID-16 Public Health Response (Managed Isolation and Quarantine Charges) Regulations 2020 which provide that "the chief executive may determine that a lesser charge is payable in respect of a person who stays in an MIQF for less than 7 days. The lesser charge must be calculated on a pro rata basis (rounded up to a number of whole days)". This is a different approach to when we moved from 14 to seven days, where we charged everyone for seven days, because the number of people being released was too high to manually invoice each individually [2122-1661 refers].

Next Steps

23. If you agree to changes to managed isolation that the Director General of Health has proposed and the proposed changes to the Order outlined above, MBIE MIQ will work with the Ministry of Health to issue drafting instructions to the Parliamentary Counsel Office to make the necessary amendments to the Order.