



Minister of Health

COVID-19 and Invasive Group A Streptococcal Infection and Infectious and Notifiable Diseases Order
2024

14 October 2024

These documents have been proactively released by the Ministry of Health on behalf of the Minister of Health, Hon Dr Shane Reti.

Titles of Cabinet papers:

- COVID-19 and Invasive Group A Streptococcal Infection
- Infectious and Notifiable Diseases Order 2024

Titles of Cabinet minutes:

- Report of the Cabinet Legislation Committee: Period Ended 28 June 2024 (CAB-24-MIN-0245)
- COVID-19 and Invasive Group A Streptococcal Infection (LEG-24-MIN-0126)
- Report of the Cabinet Legislation Committee: Period Ended 2 August 2024 (CAB-24-MIN-0289)
- Infectious and Notifiable Diseases Order 2024 (LEG-24-MIN-0149)

Titles of briefing documents:

- Briefing - Changes to Health Act Schedule - COVID-19 and Invasive Group A Streptococcal Infection (H2024039760)
- Aide mémoire -Talking points on COVID-19 and Invasive Group A Streptococcal Infection (H2024045082)
- Briefing - COVID-19 and Invasive Group A Streptococcal Infection (H2024041809)
- Aide mémoire - COVID-19 and Invasive Group A Streptococcal Infection talking points for LEG (H2024047001)
- Briefing - COVID-19 and Invasive Group A Streptococcal Infection Cabinet Legislation Committee Paper (H2024045563)

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it.

Key to redaction codes:

- Out of scope.
- S 9(2)(a) to protect the privacy of natural persons.
- S 9(2)(g)(i) to maintain the effective conduct of public affairs through the free and frank expression of opinions by or between or to Ministers and officers and employees of any public service agency.

Briefing

Changes to Health Act Schedule – COVID-19 and Invasive Group A Streptococcal Infection

Date due to MO: 16 May 2024 **Action required by:** 23 May 2024

Security level: IN CONFIDENCE **Health Report number:** H2024039760

To: Hon Dr Shane Reti, Minister of Health

Consulted: Health New Zealand:

Contact for telephone discussion

Name	Position	Telephone
Dr Andrew Old	Deputy Director-General, Public Health Agency Te Pou Hauora Tūmatanui	s 9(2)(a)
Dr Nicholas Jones	Director of Public Health, Public Health Agency Te Pou Hauora Tūmatanui	s 9(2)(a)

Minister's office to complete:

- Approved Decline Noted
- Needs change Seen Overtaken by events
- See Minister's Notes Withdrawn

Comment:

Changes to Health Act Schedule – COVID-19 and Invasive Group A Streptococcal Infection

Date due to MO: 16 May 2024 **Action required by:** 23 May 2024

Security level: IN CONFIDENCE **Health Report number:** H2024039760

To: Hon Dr Shane Reti, Minister of Health

Consulted: Health New Zealand:

Purpose of report

1. We seek your approval to begin the process to remove COVID-19's quarantinable disease status and make Invasive Group A Streptococcal disease (iGAS) a notifiable infectious disease.

Summary

2. 'COVID-19' and 'Novel coronavirus capable of causing severe respiratory illness' are both notifiable infectious diseases and quarantinable diseases on Schedule 1 of the Health Act 1956. The Ministry of Health (the Ministry) considers it is no longer necessary for 'COVID-19' to be a quarantinable disease, and therefore seeks its removal from Part 3 of the Schedule.
3. However, given the 'long tail' of COVID-19, and the continuing need for hospitalisation data (linked to notifiable disease status) to conduct fully informed surveillance, we recommend retaining the disease as a notifiable disease at-this-stage.
4. Invasive GAS is not currently a notifiable infectious disease, although a broader entry – 'Streptococcal Infection Group A' (GAS) is on the 'other infectious diseases' list on Part 2 of the Schedule. This status means if there is a serious outbreak public health action may be taken however, the heightened surveillance which is facilitated by notification does not occur.
5. Taking account of the recommendations of the iGAS inter-agency working group established by the Ministry, we recommend making iGAS a notifiable infectious disease, largely to access better surveillance data to inform public health action.
6. To make a disease notifiable or quarantinable or to remove such status requires Cabinet policy and legislative approvals and an Order in Council. The Order would be subject to a 28-day Gazette notification period before it can commence and, after a transitional period to complete the supporting infrastructure, would mean an indicative commencement date of 1 October 2024.

Recommendations

We recommend you:

- a) **Agree** to officials beginning the process to remove COVID-19 from the list of quarantinable diseases on Part 3 of Schedule 1 of the Health Act 1956 **Yes / No**
- b) **Agree** to officials beginning the process to make Invasive Group A Streptococcal Infection a notifiable infectious disease on Section B, Part 1, of Schedule 1 of the Health Act 1956 **Yes / No**
- c) **Direct** officials to prepare a Cabinet paper to seek approval for these decisions. **Yes / No**



Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te
Hauora

Hon Dr Shane Reti
Minister of Health

Date: 14.05.24

Date:

Changes to Health Act Schedule – COVID-19 and Invasive Group A Streptococcal Infection

Background

Notifiable status

1. Powers for the surveillance and management of infectious diseases provided for in the Health Act 1956 (the Health Act) are only able to be used for diseases that are specified in one or more of the schedules to the Act. The Health Act requires health practitioners (on reasonable suspicion) and laboratories (immediately on positive test results) to notify a notifiable disease to the medical officer of health and the attending health practitioner (H2024038077 refers).
2. There are multiple factors which influence whether a disease becomes listed as notifiable including: outbreak potential and ease of transmission; severity of disease or condition; co-morbidities (including the powers in Part 3A of the Health Act to manage cases and contacts); availability of an effective vaccine; public risk perceptions; population impacts and potential to create inequities; and the approach taken by other countries.¹
3. Disease notification supports public health action at multiple levels. Public health risks associated with individual cases can be assessed and measures such as case isolation and/or treatment, and quarantine of contacts, can be taken by local public health services to prevent further transmission. Sources of transmission may be determined, to identify other exposed persons requiring quarantine, or food and water sources that need to be controlled. At the population level, notification supports outbreak detection, monitoring of trends, service planning and provision, and policy setting.
4. Hospitalisation data, including reasons for hospital admission, are collected routinely through the national minimum dataset. This system relies on clinical coding of hospitalisation records and, due to reporting delays, is not well suited to providing surveillance of conditions where early detection of trends in hospitalisation is important such as for COVID-19. The listing of a condition as notifiable on Schedule 1 of the Health Act provides for more timely reporting of hospitalisations due to the disease.
5. Notification is one tool to support disease surveillance in New Zealand. Other tools include wastewater testing, genomic surveillance, periodic surveys, and laboratory reporting.

Quarantinable status

6. In general, if a disease is listed as 'quarantinable' and is on board a craft entering New Zealand, the craft is 'liable to quarantine' under Part 4 of the Health Act, and the medical officer of health and health protection officers can withhold pratique (health clearance). Powers may also be available to designated officers to manage illness aboard vessels that have already been granted pratique and since been found to have quarantinable disease aboard. These powers are intended to prevent craft coming into port, unloading of cargo and disembarking of travellers until the public health risk is under control. The

¹ Manatū Hauora. *Review of Notifiable Diseases and Conditions 2007*.

aim is to limit the international spread of infectious diseases and pests, as well as prevent and control public health risks within countries.

7. In addition, the Prime Minister can, if the circumstances warrant it (rare), enable use of an epidemic notice under the Epidemic Preparedness Act 2006 (s 5(1)). This activates the Act's modification order and other powers regarding an outbreak of a stated quarantinable disease.
8. Given the restrictive nature of quarantine, isolation, inspection and medical examination powers under Part 4, the disruption to transport and trade, and the burden on border agencies, there is a small number of listed quarantinable diseases on Schedule 1 of the Health Act (eg, Avian influenza (capable of being transmitted between human beings). Severe acute respiratory syndrome (SARS) for example is notifiable, but not quarantinable.

COVID-19

9. 'Novel coronavirus capable of causing severe respiratory illness' and 'COVID-19' were made notifiable and, shortly after, quarantinable diseases in early 2020. Relevant considerations at the time included the growing number of global cases and deaths; warnings and declarations from the World Health Organization (WHO) under the International Health Regulations 2005 (IHR); lack of information on the source and mode of transmission; and the inevitability of cases arriving in New Zealand. The Novel coronavirus entry was to future proof the Schedule in the event of future coronaviruses.
10. On 28 February 2020, New Zealand had its first confirmed case of COVID-19, and the virus's quarantinable disease status legally commenced on 11 March 2020. From 14 March 2020, the law required anyone coming into the country, except from the Pacific, to self-isolate for 14 days.
11. COVID-19 remains a major public health risk and significant contributor to morbidity and mortality.

Options for Scheduling COVID-19

12. Assessing future scheduling options for COVID-19 has considered the implications for surveillance in consultation with Health New Zealand - Te Whatu Ora, the Institute of Environmental Science and Research (ESR), and others.
13. Over 4 years have elapsed since COVID-19 was made notifiable and quarantinable. On 11 August 2023, officials briefed the (then) Minister of Health (Hon Dr Ayesha Verrall) that, for the time being, the COVID-19 entries should remain (HR2023029981 refers). We suggested the matter should be revisited in 2024. This briefing is the follow-up briefing.
14. The options for changing COVID-19's status include:
 - (i) retaining COVID-19's notifiable and quarantinable disease status
 - (ii) removing COVID-19's quarantinable status and retaining its notifiable status (*preferred option*)
 - (iii) removing COVID-19's notifiable and quarantinable disease status and placing COVID-19 on the 'other infectious disease' part of the Schedule.
 - (iv) removing any reference to COVID-19 from the Schedule.

15. In the Ministry's view, there is limited purpose in retaining the disease's quarantinable disease status (option (i)). This is mainly because managed isolation and quarantine facilities have been disestablished and, since 28 July 2022, ships have an exemption² from the pratique requirements (s 107(1)) in respect of detection of COVID-19 on board. More generally, all first porting ships/vessels must still complete a maritime declaration of health 24 hours before arrival and note any change of health status within 12-24 hours of arrival. Specific notification requirements also apply to cruise ships.³
16. Currently, New Zealand is not using the quarantine provisions for aircraft travellers with COVID-19. They are not contact traced and there is no practical effect in continuing the disease's quarantinable disease status.
17. Due to retiring the *COVID-19 Public Health Response Protection Framework* on 12 September 2022, the Ministry no longer separately reports COVID-19 cases who have recently travelled overseas. As recommended by WHO under the IHR, most countries have removed all COVID-19 entry requirements.
18. The Ministry does not support removing the disease's notifiable disease status at this time. COVID-19 still has pandemic status and, in the last year, has caused more than 1,000 deaths, and more than 12,000 hospitalisations in New Zealand.
19. In addition, continued surveillance data, particularly hospitalisation data linked to notifiable disease status, is necessary to get an accurate picture of the disease's impacts and evolution. Further, long COVID is an evolving clinical diagnosis. Most countries have retained the disease's notifiable status.
20. Option (ii) – retaining COVID-19 as a notifiable disease on Part 1 of the Schedule, while removing COVID-19's quarantinable disease status from Part 3 of the Schedule – is our preferred option. In the event of a new coronavirus emerging, the distinct and future proof 'Novel coronavirus capable of causing severe respiratory illness' will be retained on both Parts 1 and 3 ('novel' refers to a disease not found in humans in the past. COVID 19 is no longer novel).
21. The COVID-19 Public Health Response Act 2020 retains provision for orders applying to people and craft arriving in New Zealand (s 11(4)). Such orders are not reliant on the quarantinable status of COVID-19 in terms of the Health Act. There are currently no such orders in place. The COVID-19 Public Health Response Act is due to self-repeal later in 2024 unless extended.

Invasive Group A Streptococcal Disease (iGAS)

GAS and IGAS

22. Group A Streptococcal disease (GAS) is a common cause of sore throats and skin infections in children. GAS is easily transmissible, typically via respiratory droplets or

² [Exemption of Ships Liable to Quarantine From Application of Section 107\(1\) of the Health Act 1956 in Relation to COVID-19 - 2022-go3129 - New Zealand Gazette](#)

³ [Cruise ship operators - New Zealand Customs Service](#)

contact with secretions of an infected person. It can cause scarlet fever, and sometimes leads to rheumatic fever and long-lasting heart damage.

23. The government has invested \$10 million to facilitate the development of a vaccine to prevent GAS-related diseases, and the Health Research Council of New Zealand has supported research on risk factors for GAS.
24. In rare cases, the bacteria invades other organ systems causing a more severe infection known as iGAS. While less infectious than non-invasive GAS, iGAS can be life threatening, including conditions and features such as necrotising fasciitis, cellulitis, bacteraemia, pneumonia, streptococcus toxic shock syndrome, and puerperal sepsis. Even after recovery, iGAS can leave cases with long-term impairment and disability.
25. People susceptible to iGAS include those with conditions such as diabetes, cardiovascular disease, kidney, and liver disease (comparatively prevalent in Māori and Pacific populations), and conditions or treatments affecting immunity. Invasive GAS is also more likely following some common infections such as influenza and chickenpox. In addition, older people, the very young, and pregnant women are at greater risk. Further, there is enhanced risk for some close contacts who may benefit from chemoprophylaxis and/or advice to be aware of symptoms of GAS infection and to seek treatment promptly. Good personal hygiene and handwashing are recommended as prevention techniques to reduce the spread of GAS.

Data on iGAS

26. During late 2022, several high-income countries saw iGAS cases increase beyond pre-pandemic levels (eg, the United States, Australia, and the United Kingdom). In these countries iGAS is already a notifiable disease (apart from Northern Ireland).
27. Invasive GAS is not currently notifiable in New Zealand. ESR undertakes surveillance of iGAS based on voluntary laboratory reporting. The provisional rate for invasive GAS infections in 2023 is 11.3 per 100,000 people (591 cases) - a sharp increase from the previous reporting period. Between 2018 and 2022, there was an overall decrease in the incidence of iGAS infection in Aotearoa, with rates decreasing from 9.4 per 100,000 people in 2018 (461 cases) to 4.8 per 100,000 in 2022 (244 cases). Prior to 2018, iGAS infection rates ranged between 7.0 and 9.2 per 100,000.
28. The observed increase in iGAS, post removal of COVID-19 pandemic response measures, aligns with increases seen internationally.

iGAS Working Group

29. In 2023, the Ministry established an iGAS Working Group comprising representatives from the Ministry, Health New Zealand, Te Aka Whai Ora – the Māori Health Authority, ESR, and the New Zealand Microbiology Network clinicians. Its purpose was to review and provide recommendations on whether iGAS should become notifiable in New Zealand.
30. As part of the review, ESR undertook an audit of laboratory reporting of iGAS. The audit found that approximately 80% of iGAS cases were currently being reported. Review actions also had regard to the international situation, and the process and criteria followed in Australia to make iGAS notifiable.

31. The iGAS Working Group has recommended to the Ministry that iGAS be made a notifiable infectious disease to support improved surveillance and management of GAS skin infections, that could in turn help target access to environmental housing support (as poor housing standards and overcrowding are conditions in which GAS thrives). Notifiable status could also enable chemoprophylaxis of some high-risk close contacts and support future policy advice regarding a GAS vaccine.

32. **Options for Scheduling iGAS**

33. The options for iGAS scheduling include:

- (i) retain the current listing of the broader category of GAS on the 'other infectious diseases' part of Schedule 1 (no change)
- (ii) retain the current listing of the broader category of GAS on the 'other infectious diseases' part of Schedule 1 and make iGAS notifiable (*preferred option*).

34. We consider the current voluntary participation of laboratories in choosing to send clinically relevant isolates to the Invasive Pathogens Laboratory at ESR for confirmation leaves New Zealand vulnerable to an incomplete epidemiological picture due to under-reporting (refer para 31).

35. Mandatory notification would better enable: the identification and collection of bacterial isolates for management, investigation, and reporting; and improved epidemiological surveillance of the disease. It would also provide better data on which to make funding decisions for expanded environmental/housing support (eg, the Healthy Homes Initiative).

36. The Ministry's recommendation is to make iGAS notifiable (option (ii)).

Equity

COVID-19

37. COVID-19 continues to disproportionately impact particular population groups including Māori and Pacific Peoples, and those living in circumstances of deprivation. Older people, the immune-compromised, pregnant women, and people with disabilities have greater risk of severe outcomes such as hospitalisation and death and can experience greater barriers to health care.

38. Continuing COVID-19's notifiable disease status assists in prioritisation of services, early detection, immunisation, treatment and containment, helping to prevent acute manifestations of the disease, hospitalisation and death in these populations. However, removing COVID-19's quarantinable disease status would not detrimentally affect these populations, because in reality no craft are being detained where COVID-19 infected travellers are on board.

iGAS

39. ESR's 2023 report to the Ministry indicated, in age standardised data from 2022, the rates of iGAS were 4-fold and 10-fold greater in Māori and Pacific Peoples respectively than in European/Other. Infants and the elderly are particularly at risk. These findings are consistent with earlier studies which reported both higher case rates and mortality

Making the disease notifiable would enable better surveillance data and support policy advice if/when a vaccine becomes available to improve equity.

Next steps

40. To amend the Health Act schedules to make a disease notifiable or quarantinable or remove such status requires Cabinet policy and legislative approvals and an Order in Council. If you agree, we will begin drafting a Cabinet Social Outcomes Committee paper in accordance with your instructions.
41. Health New Zealand and ESR have advised the Ministry that a phasing in period will be necessary to establish the supporting surveillance infrastructure. This will include determining the case definition, notification objectives, implementation of the case report form, and developing supporting guidance.
42. We are consulting with Health New Zealand and ESR on implications and will provide the necessary information as part of the draft Cabinet committee paper.
43. An indicative timeline is as follows:

Action	Due dates (2024)
Ministerial instructions	23 May
Departmental consultation completed/SOU Paper lodged	13 June
Cabinet Social Outcomes Committee	week of 25 June
Cabinet approval	1 July
Parliamentary Counsel drafting Order in Council /LEG paper	lodged 18 July
Cabinet Legislation Committee	week of 23 July
Cabinet approval	29 July
Governor-General in Executive Council approves Order	31 July
28-day Gazette notice period	28 August
Transitional period ends / commencement of the Order	1 October

ENDS.

Aide-Mémoire

Talking points on COVID-19 and Invasive Group A Streptococcal Infection

Date due to MO: 25 June 2024	Action required by: N/A
Security level: IN CONFIDENCE	Health Report number: H2024045082
To: Hon Dr Shane Reti , Minister of Health	
Copy to: Hon Judith Collins, KC, Attorney-General	

Contact for telephone discussion

Name	Position	Telephone
Dr Andrew Old	Deputy Director-General, Public Health Agency	s 9(2)(a)
Dr Nick Jones	Director of Public Health, Public Health Agency	s 9(2)(a)

Aide-Mémoire

Talking points on COVID-19 and Invasive Group A Streptococcal Infection

Date due: 25 June 2024

To: Hon Dr Shane Reti, Minister of Health

Security level: IN CONFIDENCE **Health Report number:** H2024045082

Details of meeting: 27/06/24

Level 8, room 5 of the Beehive at 9.30 am

Cabinet Committee: Cabinet Legislation Committee

Purpose of meeting/proposal: To seek Cabinet committee approval to proceed with an Order in Council to make changes to Schedule 1 of the Health Act 1956, relating to COVID-19 and invasive group A streptococcal infection

Comment: Please refer to these talking points and background information enclosed. These explain the contents of the Cabinet policy paper lodged on 20 June. The paper has been referred to the Cabinet Legislation Committee, in lieu of Cabinet Social Outcomes Committee which has a heavy policy agenda this Thursday.

Dr Andrew Old
Deputy Director-General
Public Health Agency

Talking points on COVID-19 and Invasive Group A Streptococcal Infection

s 9(2)(g)(i)

PROACTIVELY RELEASED

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Background on disease notification

- Once a disease is a notifiable infectious disease, it is notifiable by health practitioners and laboratories to the medical officers of health and attending medical practitioners.
- Then it is collated on ESR's national infectious disease database, EpiSurv.
- This supports early identification of diseases, trends, longer-term monitoring and management, and timely reporting of hospitalisations, morbidity and mortality.
- There is some privacy intrusion in making an infectious disease notifiable.
- However, this can be justified in the interests of public health. The national database maintained by ESR, on which notified disease data is collated, is a secure, password protected database.
- The Health (Infectious and Notifiable Disease) Regulations 2016 carefully prescribe what information must be given with notification, and the Health Act contains clear confidentiality obligations on those handling the information.
- The Ministry is in the early stages of scoping a review of notifiable diseases on Schedule 1 of the Health Act.

Officials attending

- The officials who will be waiting to attend the Cabinet Legislation Committee meeting if called are Andrew Forsyth (Manager, Strategy Team, Public Health

Agency) and Dr Richard Jaine (Deputy Director of Public Health, Public Health Agency).

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Briefing

COVID-19 and Invasive Group A Streptococcal Infection – draft Cabinet paper

Date due to MO:	12 June 2024	Action required by:	20 June 2024
Security level:	IN CONFIDENCE	Health Report number:	H2024041809
To:	Hon Dr Shane Reti, Minister of Health		
Consulted:	Health New Zealand: <input checked="" type="checkbox"/>		

Contact for telephone discussion

Name	Position	Telephone
Dr Andrew Old	Deputy Director-General, Public Health Agency Te Pou Hauora Tūmatanui	§ 9(2)(a)
Dr Nicholas Jones	Director of Public Health, Public Health Agency Te Pou Hauora Tūmatanui	§ 9(2)(a)

Minister's office to complete:

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| <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 and Invasive Group A Streptococcal Infection – draft Cabinet paper

Security level: IN CONFIDENCE **Date:** 13 June 2024

To: Hon Dr Shane Reti, Minister of Health

Purpose of report

1. Enclosed is a Cabinet Social Outcomes Committee paper prepared by the Ministry of Health – Manatū Hauora (the Ministry) on your behalf, for approval for lodgement after Ministerial consultation.

Background

2. On 19 May 2024, you approved the Ministry commencing the process to remove COVID-19 from the list of quarantinable infectious diseases on Part 3 of Schedule 1 of the Health Act 1956 (the Act) and to make invasive group A streptococcal infection (iGAS) a notifiable infectious disease (H2024039760 refers). You directed officials to prepare a Cabinet paper seeking approval for these decisions, which also require an Order in Council to change the Schedule to the Act.
3. The Ministry has now completed departmental consultation. All the departments consulted supported the proposals. The Ministry of Justice required a more fulsome explanation of human rights implications – now in the paper.
4. The necessary Order in Council to make both changes to Schedule 1 would be subject to the 28-day Gazette notification period, and a transitional period to complete the supporting infrastructure, with a commencement date proposed of 1 October 2024.

Next steps

5. The indicative timetable suggested in H2024039760 has changed slightly to accommodate full departmental consultation:

Actions	Deadline
Paper lodged on CabNet	20 June
Cabinet Social Outcomes Committee	26 June
Cabinet Approval	1 July
Cab LEG paper to Minister of Health	4 July
Lodgement with Order in Council	18 July
Considered by Cabinet Legislation Committee	25 July
Cabinet approval	29 July
Governor-General in Executive Council to approve Order	31 July
28-day Gazette notice period	28 August
Transitional period ends/ commencement of the Order	1 October

Recommendations

We recommend you:

- a) **Agree** to lodge the attached draft Cabinet committee paper, COVID-19 and **Yes/No** Invasive Group A Streptococcal Infection, after Ministerial consultation.



Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora
Date: 10 June 2024

Hon Dr Shane Reti
Minister of Health
Date:

ENDS.

Minister's Notes

PROACTIVELY RELEASED

Aide-Mémoire

COVID-19 and Invasive Group A Streptococcal Infection – talking points for Cabinet Legislation Committee

Date due to MO: 23 July 2024 **Action required by:** 1 August 2024

Security level: IN CONFIDENCE **Health Report number:** H2024047001

To: Hon Dr Shane Reti, Minister of Health

Contact for telephone discussion

Name	Position	Telephone
Dr Andrew Old	Deputy Director-General, Public Health Agency Te Pou Hauora Tūmatanui	§ 9(2)(a)
Dr Nicholas Jones	Director of Public Health, Public Health Agency Te Pou Hauora Tūmatanui	§ 9(2)(a)

Aide-Mémoire

COVID-19 and Invasive Group A Streptococcal Infection – talking points for Cabinet Legislation Committee

Date due: 23 July 2024

To: Hon Dr Shane Reti, Minister of Health

Security level: IN CONFIDENCE **Health Report number:** H2024047001

Details of meeting: 1 August 2024, 9.30am, Meeting room 8.5, Cabinet Committee Room

Cabinet Committee: Cabinet *Legislation* Committee (LEG)

Purpose of meeting: You are seeking authorisation from the Cabinet *Legislation* Committee for the Order in Council to be submitted to the Executive Council.

Comment:

- The Order in Council will make two changes to the infectious disease schedule, Schedule 1 in the Health Act 1956; to remove COVID-19 from the list of quarantinable infectious diseases and to make invasive group A streptococcal infection (iGAS) a notifiable infectious disease.
- This aide-mémoire provides talking points to support you taking the draft paper on COVID-19 and Invasive Group A Streptococcal Infection to the Cabinet *Legislation* Committee.
- This aide-mémoire discloses all relevant information.



Dr Andrew Old

Deputy Director-General

Public Health Agency | Te Pou Hauora Tūmatanui

Talking points on COVID-19 and Invasive Group A Streptococcal Infection

s 9(2)(g)(i)



Briefing

COVID-19 and Invasive Group A Streptococcal Infection – Cabinet Legislation Committee Paper

Date due to MO: 18 July 2024 **Action required by:** 25 July 2024

Security level: IN CONFIDENCE **Health Report number:** H2024045563

To: Hon Dr Shane Reti, Minister of Health

Contact for telephone discussion

Name	Position	Telephone
Dr Andrew Old	Deputy Director-General, Public Health Agency Te Pou Hauora Tūmatanui	§ 9(2)(a)
Dr Nicholas Jones	Director of Public Health, Public Health Agency Te Pou Hauora Tūmatanui	§ 9(2)(a)

Minister's office to complete:

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| <input type="checkbox"/> See Minister's Notes | <input type="checkbox"/> Withdrawn | |

Comment:

COVID-19 and Invasive Group A Streptococcal Infection – Cabinet Legislation Committee Paper

Security level: IN CONFIDENCE **Date:** 18 July 2024

To: Hon Dr Shane Reti, Minister of Health

Purpose of report

1. Enclosed is a draft Cabinet Legislation Committee paper prepared by the Ministry of Health – Manatū Hauora (the Ministry) on your behalf. This is for approval for lodgement by 25 July 2024 and consideration at the 25 July Cabinet Legislation Committee meeting.
2. Also enclosed, in an Appendix are some talking points for the meeting on 1 August.

Background

3. On 1 July 2024, Cabinet authorised you to instruct Parliamentary Counsel to draft an Order in Council to remove COVID-19 from the list of quarantinable infectious diseases on Part 3 of Schedule 1 of the Health Act 1956 (the Act) and to make invasive group A streptococcal infection (iGAS) a notifiable infectious disease (CAB-24-Min-0245; LEG-24-Min-0126 refer).
4. Health Legal has provided drafting instructions to Parliamentary Counsel Office. Parliamentary Counsel is currently drafting the Order in Council and will lodge it for consideration by Cabinet.
5. The necessary Order to make both changes to Schedule 1 will be subject to the 28-day Gazette notification period, and a transitional period to complete the supporting infrastructure, with a commencement date proposed of 1 October 2024.

Next steps

6. The timetable is as follows:

Actions	Deadline
Lodgement	25 July
Considered by Cabinet Legislation Committee	1 Aug
Cabinet approval	5 Aug
Governor-General in Executive Council to approve Order	7 Aug
28-day Gazette notice period	4 Sept
Transitional period ends/ commencement of the Order	1 October

Recommendations

We recommend you:

- a) **Agree** to lodgement of the attached Cabinet Legislation Committee, with the **Yes/No** Order in Council once prepared.

Dr Diana Sarfati

Director-General of Health

Te Tumu Whakarae mō te Hauora

Date:

Hon Dr Shane Reti

Minister of Health

Date:

PROACTIVELY RELEASED

Appendix: Talking points - COVID-19 and iGAS infection

s 9(2)(g)(i)



ENDS.

Minister's Notes

PROACTIVELY RELEASED



Cabinet

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Report of the Cabinet Legislation Committee: Period Ended 28 June 2024

On 1 July 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 28 June 2024:

Out of scope



LEG-24-MIN-0126

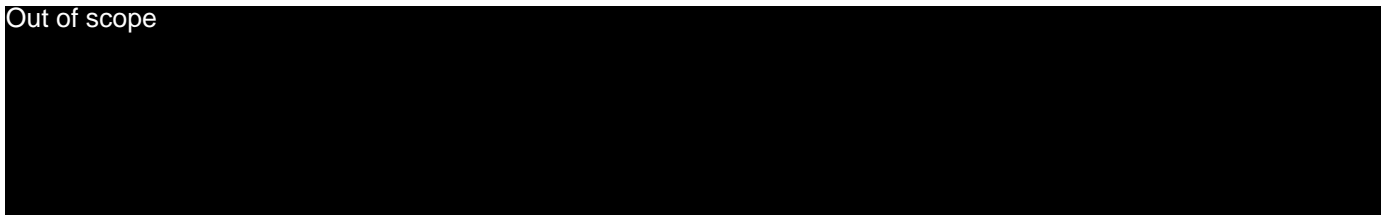
COVID-19 and Invasive Group A Streptococcal Infection
Portfolio: Health

CONFIRMED

Out of scope



Out of scope



Rachel Hayward
Secretary of the Cabinet

PROACTIVELY RELEASED



Cabinet Legislation Committee

Minute of Decision

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COVID-19 and Invasive Group A Streptococcal Infection

Portfolio **Health**

On 27 June 2024, the Cabinet Legislation Committee:

- 1 **noted** that an Order in Council is required to make an infectious disease notifiable or quarantinable or remove such status under the Health Act 1956 (the Act);
- 2 **noted** that in practice, quarantine restrictions under the Act are no longer being used for craft and travellers arriving into New Zealand with COVID-19;
- 3 **agreed** that “COVID-19” should be omitted from Part 3 of Schedule 1 of the Act, so that it is no longer a quarantinable infectious disease;
- 4 **noted** that the incidence of invasive group A streptococcal infection is increasing globally, and within New Zealand, and its symptoms can be acute and life threatening;
- 5 **agreed** that “Invasive group A streptococcal infection” should be inserted on Section B, of Part 1 of Schedule 1 of the Act, making it a notifiable infectious disease;
- 6 **authorised** the Minister of Health to instruct Parliamentary Counsel to draft an Order in Council to give effect to the decisions in paragraphs 3 and 5 above.

Tom Kelly
Committee Secretary

Present:

Hon David Seymour
Hon Chris Bishop (Chair)
Hon Judith Collins KC
Hon Todd McClay
Hon Tama Potaka
Hon Simon Watts
Hon Brooke van Velden
Hon Casey Costello
Hon Andrew Bayly
Hon Andrew Hoggard
Hon Scott Simpson, MP
Jamie Arbuckle, MP

Officials present from:

Office of the Leader of the House
Officials Committee for LEG

In Confidence

Office of the Minister of Health

Cabinet Social Outcomes Committee

COVID-19 and Invasive Group A Streptococcal Infection

Proposal

- 1 I seek your approval to instruct Parliamentary Counsel to draft an Order in Council to amend Schedule 1 of the Health Act 1956 (the Act) to:
 - 1.1 remove COVID-19's quarantinable infectious disease status, and
 - 1.2 make invasive group A streptococcal (iGAS) disease a notifiable infectious disease.

Relation to government priorities

- 2 This is a routine operational adjustment for preparation of an Order in Council to amend Schedule 1 of the Act.

Background

- 3 The provisions of the Health Act only apply to specified diseases listed in Schedules to the Act. Notifiable disease status means that health practitioners (on reasonable suspicion) and laboratories (on positive test results) must notify the relevant Medical Officer of Health of a case of infectious disease. The Institute of Environmental Science and Research (ESR) then collates the information on its national database (EpiSurv). This supports early identification of diseases and trends, longer-term monitoring and management, and timely reporting of hospitalisations, morbidity and mortality. There are multiple factors which influence making a disease notifiable, including its severity (Ministry of Health, *Review of Notifiable Diseases and Conditions* (2007)).
- 4 Quarantinable disease status gives public health officers extensive powers under the Act when a craft enters New Zealand with a quarantinable disease on board. They can withhold *pratique* (ie, health clearance), requiring cargo and travellers to remain on board until the public health risk is under control. A small number of very serious diseases are quarantinable (eg, highly pathogenic avian influenza -“bird flu”).
- 5 “Novel coronavirus capable of causing severe respiratory illness” and “COVID-19” were both made notifiable and quarantinable diseases in early 2020. Due to retiring the *COVID-19 Public Health Response Protection Framework* on 12 September 2022, the health sector no longer separately reports COVID-19 cases that have recently travelled overseas.
- 6 Invasive GAS infections are caused by the bacteria group A streptococcus. These can be acute and life threatening (eg, sepsis), and iGAS is likely to be diagnosed and treated in hospital settings. ESR undertakes surveillance of iGAS based on voluntary

laboratory reporting (approximately 80% of cases). However, the heightened surveillance which is facilitated by notification does not occur.

COVID-19

- 7 The health sector has moved from emergency response management of COVID-19 towards day-to-day management and improving New Zealand's readiness for future pandemics. Many comparable countries to New Zealand removed all COVID-19 entry requirements in 2022. I consider it is no longer necessary for COVID-19 to be a quarantinable disease, as there is no practical effect in it being so.
- 8 However, I wish to retain COVID-19's notifiable status to continue fully informed surveillance, recognising that it continues to be significant contributor to morbidity and mortality. "Novel coronavirus capable of causing severe respiratory illness" would also remain on the notifiable and quarantinable parts of the Schedule in order to be future proofed against new coronaviruses that may emerge.

iGAS

- 9 The provisional rate for iGAS infections in New Zealand in 2023 is 11.3 per 100,000 people (591 cases) - a sharp increase from the previous reporting period, as also observed in Australia, the United Kingdom and other countries. I support mandatory notification as it will enable better identification, management and surveillance of the disease. It will also provide better data on which to make funding decisions for expanded environmental support (eg, the Healthy Homes Initiative), as group A streptococcus thrives in substandard housing conditions.

Implementation

- 10 The current Gazette notified exemption for ships liable to quarantine from *pratique* in relation to COVID-19, issued by the (then) Director-General of Health in 2022, would be rescinded in due course by the Director-General.
- 11 There needs to be a phasing in period before the Order in Council commences, to establish the infrastructure supporting iGAS's notification. This includes preparing guidance on objectives for notification (laboratory and/or practitioner reporting) and interventions, adjustments to EpiSurv, and case and surveillance definitions.

Cost-of-living Implications

- 12 There are no cost-of-living implications arising from the recommendations.

Financial Implications

- 13 There are no financial implications arising from the proposal to remove COVID-19's quarantinable disease status, as this reflects the current situation that public health officers are not using the quarantine provisions for travellers with COVID-19. The costs specific to making iGAS notifiable will be absorbed within existing baselines. Neither proposal changes funding of individuals' treatment once in New Zealand.

Legislative Implications

- 14 The Order in Council to make both changes to Schedule 1 of the Act would be subject to the 28-day Gazette notification period, and a period to complete the supporting infrastructure, with a proposed commencement date of 1 October 2024.

Impact Analysis

Regulatory Impact Statement

- 15 The Ministry for Regulation has determined that the proposals to remove COVID-19's quarantinable infectious disease status and to make iGAS a notifiable disease are exempt from the requirement to provide a Regulatory Impact Statement on the grounds that they have no or only minor impacts on businesses, individuals, and not-for-profit entities.

Climate Implications of Policy Assessment

- 16 The Climate Implications of Policy Assessment (CIPA) team has been consulted and confirms that the CIPA requirements do not apply to this proposal, as the threshold for significance is not met.

Population Implications

COVID 19

- 17 COVID-19 disproportionately impacts Māori and Pacific peoples, and those living in circumstances of deprivation. Older people, the immune-compromised, pregnant women, and people with disabilities have greater risks of severe outcomes and can experience greater barriers to health care. Continuing COVID-19's notifiable status assists in the health sector's continued prioritisation of services for these high need populations.

iGAS

- 18 In age standardised data from 2022, ESR's 2023 report to the Ministry, *Invasive group A streptococcal infection in New Zealand 2017-2022*, indicated the rates of iGAS were 4-fold and 10-fold greater in Māori and Pacific Peoples (respectively) than in European/Other peoples. Older people, the very young, and pregnant/postpartum women have a heightened level of risk. Making the disease notifiable would enable better surveillance data and policy advice on eligibility if a vaccine becomes available.

Human Rights

- 19 There are positive human rights implications arising from removing COVID-19's quarantinable disease status as this removes powers regarding craft and travellers arriving in New Zealand with COVID-19. If iGAS becomes a notifiable disease, health practitioners and laboratories will be required to notify cases to contain and manage the disease. Medical Officers of Health will have powers already in the Act to manage cases and contacts, subject to built-in safeguards (eg, the proportionality

principle in Part 3A). However, these powers will rarely (if ever) need to be used because iGAS is invariably diagnosed and managed in hospital.

Use of External Resources

20 No external contractors were engaged to provide significant input to this paper.

Consultation

21 The following departments have been consulted on this paper: The Department of the Prime Minister and Cabinet; the Ministries of/for Business, Innovation and Employment; Justice; Foreign Affairs and Trade; Housing and Urban Development; Primary Industries; Transport; Pacific Peoples; Regulation; Te Puni Kokiri, the New Zealand Customs Service; and the Treasury New Zealand.

Proactive Release

22 Once Cabinet decisions have been made, the Ministry of Health will proactively release this paper on its website with any redactions that may apply under the Official Information Act 1982.

Recommendations

The Minister of Health recommends that the Committee:

- 1 **note** that an Order in Council is required to make an infectious disease notifiable or quarantinable or remove such status under the Health Act 1956;
- 2 **note** that in practice, quarantine restrictions under the Health Act 1956 are no longer being used for craft and travellers arriving into New Zealand with COVID-19;
- 3 **agree** that “COVID-19” should be omitted from Part 3 of Schedule 1 of the Health Act 1956, so that it is no longer a quarantinable infectious disease;
- 4 **note** that the incidence of invasive group A streptococcal infection is increasing globally, and within New Zealand, and its symptoms can be acute and life threatening;
- 5 **agree** that “Invasive group A streptococcal infection” should be inserted on Section B, of Part 1 of Schedule 1 of the Health Act 1956, making it a notifiable infectious disease;
- 6 **authorise** the Minister of Health to instruct Parliamentary Counsel to draft an Order in Council to give effect to the decisions in paras 3 and 5 above,

Authorised for lodgement.

Hon Dr Shane Reti

Minister of Health



Cabinet

Minute of Decision

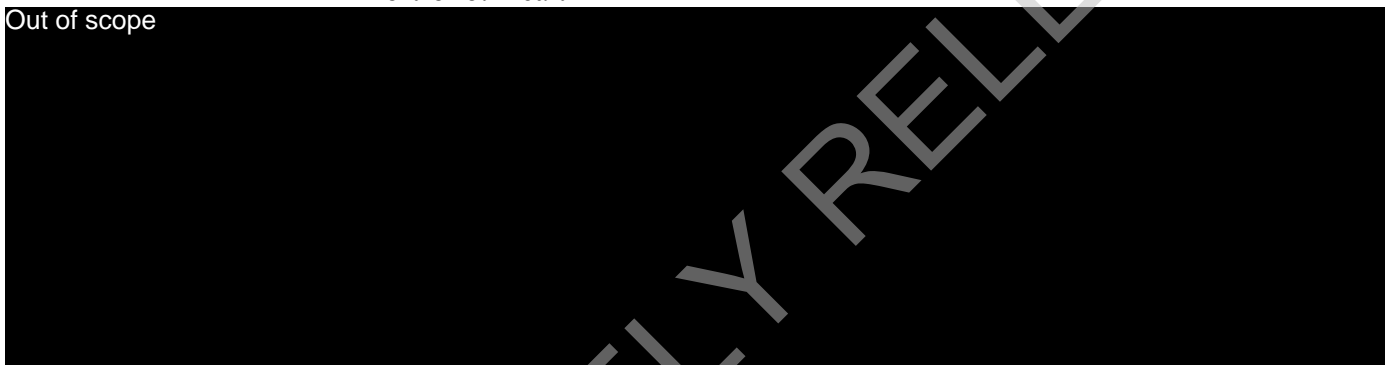
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Report of the Cabinet Legislation Committee: Period Ended 2 August 2024

On 5 August 2024, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 2 August 2024:

LEG-24-MIN-00149 **Infectious and Notifiable Diseases Order 2024** CONFIRMED
Portfolio: Health

Out of scope



Rachel Hayward
Secretary of the Cabinet



Cabinet Legislation Committee

Minute of Decision

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Infectious and Notifiable Diseases Order 2024

Portfolio **Health**

On 1 August 2024, the Cabinet Legislation Committee:

- 1 **noted** that, in June 2024, the Cabinet Legislation Committee (LEG) agreed that COVID-19 should no longer be a quarantinable disease, though should remain a notifiable infectious disease [LEG-24-MIN-0126];
- 2 **noted** that LEG also confirmed ‘Invasive group A streptococcal infection’ should be a notifiable infectious disease;
- 3 **noted** that the Infectious and Notifiable Diseases Order 2024 (the Order) will give effect to the decisions in paragraphs 1 and 2 above;
- 4 **authorised** the submission to the Executive Council of the Infectious and Notifiable Diseases Order 2024 [PCO 26569/4.0];
- 5 **noted** that the Order will come into force on 1 October 2024, after the 28-day Gazette notice period and a phasing-in period.

Tom Kelly
Committee Secretary

Present:

Rt Hon Winston Peters
Hon Chris Bishop (Chair)
Hon Dr Shane Reti
Hon Tama Potaka
Hon Nicole McKee
Hon Andrew Bayly
Scott Simpson, MP
Jamie Arbuckle, MP
Todd Stephenson, MP

Officials present from:

Officials Committee for LEG
Prime Minister’s Office

In Confidence

Office of the Minister of Health
Chair, Cabinet Legislation Committee

Infectious and Notifiable Diseases Order 2024

Proposal

- 1 This paper seeks authorisation for submission to the Executive Council of the Infectious and Notifiable Diseases Order 2024 (the Order).

Policy

- 2 COVID-19 is currently both a notifiable and quarantinable infectious disease on Schedule 1 of the Health Act 1956 (the Act). The health sector has moved from emergency response management of COVID-19 towards improving New Zealand's resilience to future pandemics and ongoing day-to-day management of COVID-19, along with other notifiable infectious diseases.
- 3 Therefore, Cabinet has agreed [CAB-24-MIN-0245] to remove COVID-19 from Part 3 of the Schedule. This means it will no longer be a quarantinable disease but will retain its notifiable infectious disease status in order to conduct fully informed surveillance. The Schedule will also retain the broader 'Novel Coronavirus' entry to be future proofed for any newly emerging coronaviruses.
- 4 Invasive group A streptococcal infection can be acute and often life threatening. This disease is not currently a notifiable infectious disease, although a broader entry – 'streptococcal infection group A' - is on the 'other infectious diseases' list on Part 2 of the Schedule. This 'other infectious diseases' status means if there is a serious outbreak public health action may be taken. However, the heightened surveillance which is facilitated by notification does not occur. Cabinet agreed [CAB-24-MIN-0245] to make the disease notifiable to ensure a fuller range and quality of disease data is available, including hospitalisation, mortality and morbidity data.
- 5 The attached Infectious and Notifiable Diseases Order 2024 will give effect to these decisions.

Timing and 28-day rule

- 6 The Order in Council to make both changes to Schedule 1 of the Act would be subject to the 28-day Gazette notification period, and a period to complete the supporting infrastructure, with a proposed commencement date of 1 October 2024.

Compliance

- 7 The Order complies with each of the following:
 - 7.1 the principles of the Treaty of Waitangi;

IN CONFIDENCE

- 7.2 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
- 7.3 the principles and guidelines set out in the Privacy Act 2020. The Health Act 1956 overrides part of the Privacy Act 2020 to enable compulsory information sharing, but this override is justified in the interests of public health;
- 7.4 relevant international standards and obligations;
- 7.5 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.

Regulations Review Committee

- 8 There are no grounds for the Regulations Review Committee to draw the Order to the attention of the House.

Certification by Parliamentary Counsel

- 9 The draft Order was certified by the Parliamentary Counsel Office (PCO) as being in order for submission to Cabinet.

Impact Analysis

- 10 A Regulatory Impact Assessment is not required because the changes have no or only minor impacts on businesses, individuals, and not-for-profit entities.

Publicity

- 11 Once Cabinet decisions have been made, notice of the Order will be disseminated to public health officers, border agencies, laboratories and other stakeholders using established communication channels.

Proactive release

- 12 Once Cabinet decisions have been made, the Ministry of Health will proactively release this paper on its website with any redactions that may apply under the Official Information Act 1982.

Consultation

- 13 The following departments have been consulted on this paper: The Department of the Prime Minister and Cabinet; the Ministries of/for Business, Innovation and Employment; Justice; Foreign Affairs and Trade; Housing and Urban Development; Primary Industries; Transport; Pacific Peoples; Regulation; Te Puni Kokiri, the New Zealand Customs Service; and the Treasury.

Recommendations

I recommend that the Cabinet Legislation Committee:

IN CONFIDENCE

- 1 **note** that on 1 July 2024 Cabinet agreed ‘COVID-19’ should no longer be a quarantinable disease, though should remain a notifiable infectious disease (CAB-24-MIN-0245; LEG-24-MIN-0126 refer);
- 2 **note** that Cabinet also confirmed ‘Invasive group A streptococcal infection’ should be a notifiable infectious disease;
- 3 **note** that the Infectious and Notifiable Diseases 2024 will give effect to the decisions referred to in recommendations 1 and 2 above;
- 4 **authorise** submission to the Executive Council of the Infectious and Notifiable Diseases Order 2024;
- 5 **note** that the Order will come into force on 1 October 2024, after the 28-day Gazette notice period and a phasing-in period.

Authorised for lodgement

Hon Dr Shane Reti

Minister of Health