



Briefing

COVID-19 RESPONSE: OPTIONS FOR ENSURING CHILDREN'S ACCESS TO EXTRACURRICULAR ACTIVITIES

To: Hon Chris Hipkins
Minister for COVID-19 Response

Date	21/02/2022	Priority	High
Deadline	23/02/2022	Briefing Number	DPMC-2021/22-1478

Purpose

This briefing sets out options for ensuring children's access to extracurricular activities regardless of their vaccination status.

Recommendations

1. **Note** that as part of the COVID-19 Protection Framework, vaccine passes currently apply to people aged 12 years and three months and older;
2. **Note** that school settings and education premises must not deny entry to a child or student seeking access to education, including curriculum-based activities;
3. **Note** in response to issues being raised by the Education sector, you asked officials to look at options for enabling students (particularly those aged 12-18 years) to participate in out of school activities, to ensure that students can participate in school life regardless of their vaccination status;
4. **Note** officials have considered a range of options to enable access to extracurricular activities for unvaccinated students, with each option raising different equity, public health, operational and proportionality considerations;

5. **Indicate** your preferred option/s for further work:

5.1. Option A: Prohibit vaccination passes for any extracurricular activity that occurs on school grounds during or outside school hours; YES / NO

5.2. Option B: Prohibit vaccination passes for any inter-school or intra-school extracurricular activity [**recommended**]; YES / NO


5.3. Option C: Prohibit vaccination passes for all extracurricular (school and club based) activities for under-18s; or YES / NO

5.4. Option D: Prohibit vaccination passes for anyone under the age of 18 [**recommended**]; YES / NO

6. **Note** officials will undertake further work on the preferred option/s indicated in recommendation 5, and provide final advice for decisions on these this week;

7. **Agree** that this briefing is proactively released, with any appropriate redactions where information would have been withheld under the Official Information Act 1982. YES / NO


Kay Baxter
Manager, Strategy & Policy
21/2/2022


Hon Chris Hipkins
Minister for COVID-19 Response
22/2/2022

Contact for telephone discussion if required:

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Minister's office comments:

- Noted
- Seen
- Approved
- Needs change
- Withdrawn
- Not seen by Minister
- Overtaken by events
- Referred to

Proactively Released

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Background

1. On 16 August 2021, Cabinet agreed that children and young people aged 12 to 15 years were eligible for vaccination against COVID-19 [CAB-21-MIN-0322 refers]. Since then, the COVID-19 Protection Framework (CPF) was established, requiring vaccine passes for entry into some public places and activities.
2. On 18 October, Cabinet agreed that vaccine passes would apply to people aged 12 years and three months and older [CAB-21-MIN-0421]. On 11 November [DPMC-2021/22-701 refers], you agreed the application and scope of prohibitions for the use of vaccine requirements in order to protect people's access to life preserving services, including schools and other specific education services.
3. On the basis of that advice, a person in control of a designated education and care premises must not deny entry to a child or student seeking access to education. This application was subsequently widened to enable an Education Outside the Classroom (EOTC) provider to deliver curriculum related activities, where the education entity has sole use of the premise, to students irrespective of vaccination status.
4. On 17 February, the Ministry of Education issued updated guidance to schools which clarified the definition of a 'curriculum-related event or activity'. This clarified that inter-school sport, music lessons and school plays or performances that occur during class time are curriculum-related and are not subject to vaccine pass requirements. The same activities occurring outside of school hours, such as weekend sport or after school music and art, are not curriculum related and therefore not exempted from the gatherings and events requirements under the COVID-19 Protection Framework. At Red, over 12s need a vaccine pass to participate in groups larger than 25 people.
5. In response to issues being raised by the Education sector about unvaccinated students not being able to access extracurricular activities, you asked officials to look at options for enabling students (particularly those aged 12-17 years) to participate in out of school activities (e.g. inter-school sports, drama and cultural activities, music lessons, and kapa haka), ensuring that children are able to participate in school life regardless of their vaccination status.
6. Over 90 percent of 12-17 year olds have had two doses of the COVID-19 vaccine, with 84 percent of Māori and 90 percent of Pacific 12-17 year olds receiving two doses.

Options

7. Officials have considered a range of options to enable access to extracurricular activities for unvaccinated students, with each option carrying a range of equity, public health, operational and proportionality considerations. The options range from least to most change to the current settings. Some initial advice on these matters is provided below. However, further work on the details of all four options would be required before a change could be implemented.

8. We seek a view from you as to which option(s) you would like us to explore in further detail:

Option	Scope	Comment
<p>Option A: Prohibit vaccination passes for any extracurricular activity that occurs on school grounds during or outside school hours</p>	<p>A limited extension of the current activity permissions. This would capture all activities that happen at school, e.g. some school sport, debating, music lessons, school plays or performances, kapa haka.</p>	<p>This would extend the current guidance around 'curriculum-related activities' to allow the same activities to occur outside of school hours.</p> <p>It would limit access to only the extracurricular activities for which the school has the facilities on-site, potentially excluding activities such as swimming, athletics tournaments, field hockey.</p>
<p>Option B: Prohibit vaccination passes for any inter-school or intra-school activity</p>	<p>This would capture school-related extracurricular activities (either organised directly by the school, where the school facilitates participation, or where a school team/group/individual is participating or representing the school) whether on school grounds or not.</p>	<p>This would enable all children to participate in all school-related activities and enable most children to participate in some form of sport.</p> <p>It would still exclude some children's sport, e.g. club swimming at a public pool, community club sport, gymnastics classes, and other privately run extracurricular activities such as music lessons, dance classes, kapa haka.</p>
<p>Option C: Prohibit vaccination passes for all extracurricular (school and club based) activities for under-18s</p>	<p>This would capture all forms of extracurricular activities, including privately-organised activities.</p>	<p>It will be very difficult to define extracurricular activities in a way that doesn't capture the majority of social gatherings involving children – e.g. differentiating between rock-climbing as an extracurricular activity or as an activity for a child's birthday party.</p>
<p>Option D: Prohibit vaccination passes for anyone under the age of 18</p>	<p>This would remove any vaccine pass requirements for under 18s. This would allow unvaccinated under 18s to participate in any activity their vaccinated peers can, including high-risk activities such as parties or concerts.</p>	<p>This would represent a significant change in approach at this time. Officials have not yet been able to thoroughly investigate the costs, benefits and implications of this option.</p>

Initial public health advice

9. The Office of the Director of Public Health advises that an approach that over time moving towards Option D is the most proportionate and equitable approach. Given the high levels of vaccination coverage in 12-17 year olds and New Zealand's evolving strategic approach to the Omicron outbreak, removing vaccine pass requirements for under 18 year olds is an equitable and proportionate response. Public Health also notes that children in this age group may not have full autonomy regarding their vaccine status, which means they may have inequitable access to activities that is not of their choosing. For operational reasons, a stepwise approach towards Option D (e.g. initial implementation of Option A or B) may be possible.

DPMC officials recommend further exploring both Options B and D

10. Given the views of both Public Health and Sport NZ on this issue, officials consider that Option D needs to be considered in greater detail. However, prohibiting the use of vaccination passes for anyone under the age of 18 (effectively lifting the age that they would be required for in all settings under the Protection Framework) would be a significant change in approach at this time. While there may be benefits of this approach, officials have not been able to adequately investigate the costs and benefits of a change of this scale and therefore cannot recommend this option without further exploration. The COVID-19 Protection Framework review may be an appropriate place to explore this option alongside other feedback DPMC has received on the impact of vaccine passes on children. This review will be undertaken in March.
11. Option B offers a straightforward solution that would enable all children to access a wider range of activities facilitated by the school, albeit one which still places some limits on children's participation. Officials recommend this option be further explored alongside option D.

Sport NZ comment

12. Sport NZ considers option D is the option that would ensure all children have access to the sport and recreation activities of their choice. Option B limits their activities to those offered by their school, limiting access to non-traditional sports. They also expect a negative response from community groups and clubs who will be unable to understand why different rules apply to them than to school sports. Sport NZ does not consider option A goes far enough and consider option C will be difficult to define. They advise further exploring option B and option D.

Potential proportionality issues for EOTC

13. Depending on which decisions are taken to enable access to extracurricular activities for unvaccinated students, there may arise proportionality issues for those unvaccinated children who remain prevented from accessing curriculum-related (EOTC) activities offsite. This is because the recent amendment to EOTC services means that requiring vaccine passes from students is now a choice for the provider – not a requirement. While EOTC providers can continue to require vaccine passes for over 12's undertaking education-related activities (should they choose to) there may be children missing out on activities specifically related to their education, but unvaccinated children playing sport, taking music lessons and partaking in other extracurricular activities.
14. As part of this further work, DPMC officials will engage with the Ministry of Education to ensure access is aligned as intended.

NZBORA implications

15. s9(2)(h)
- [Redacted content]

Next Steps

16. Subject to direction from you in this briefing on your preferred option/s, officials will undertake further work and provide final advice for decisions on these this week.
17. Following further decisions and subsequent consultations with your Ministerial colleagues, officials will finalise outstanding instructions with the Parliamentary Counsel office to amend the COVID-19 Public Health Response (Protection Framework) Order 2021 to bring any changes into force. Given work already underway on amendments to the Air Border Order and in preparation for Phase 3 of the Omicron response, any amendment would not be able to be drafted until next week.
18. If necessary, officials suggest that public announcements could be made following Ministerial decisions to signal the changes to follow.

Financial Implications

19. There are no direct financial implications related to the proposals in this paper. Any costs related to involvement in new or additional extracurricular activities as a result of decisions taken on this work would be incurred by the individual.

Consultation

20. The following agencies were consulted on this briefing: Crown Law Office, Ministry of Health, Sport New Zealand, Parliamentary Counsel Office, Ministry of Education. All agencies were broadly supportive of enabling greater access to extracurricular activities for all school age individuals, regardless of vaccination status.