

27 May 2021

M Bell

By email: fyi-request-15307-ab19acd6@requests.fyi.org.nz
Ref: H202105169

Dear M Bell

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) on 30 April 2021 for information about the Infectious and Notifiable Diseases Order (No2) 2020. I shall respond to each part of your request below:

- 1. I would like to know the information you used to make the amendment. Specifically, what information, statistics and scientific data made you decide to include COVID-19 under "infectious diseases notifiable to a medical officer of health" and "quarantinable infectious diseases" (Part 1 and Part 3).*

Cabinet agreed to add 'Novel coronavirus capable of causing severe respiratory illness' and 'COVID-19' to Part 3 of Schedule 1 of the Health Act by Order in Council in order for the quarantinable disease provisions in the Health Act 1956, and the Epidemic Preparedness Act 2006 to apply.

The addition of these new schedule entries removed drafting ambiguity and followed the approach taken for Middle East Respiratory Syndrome (MERS). The Order made it clear that COVID-19, SARS and MERS are included, in addition to any other unnamed novel coronaviruses capable of causing severe respiratory illness (whether currently existing, or yet to emerge).

Novel coronavirus capable of causing severe respiratory illness had earlier been placed on Part 1, Section B of Schedule 1 as a notifiable infectious disease. This was approved by Cabinet on 28 January 2020. The effect of this was to ensure that suspected cases must be notified to the medical officer of health in the relevant public health unit. The virus was made a notifiable infectious disease in order to enable medical officers of health and public health officials to identify, contact trace, manage and contain the spread of the disease. At the time, Ministry officials advised that the further step of making the disease quarantinable was not warranted from a public health perspective but that the situation was fluid and would continue to be monitored.

In January 2020, the addition of: 'Novel coronavirus capable of causing severe respiratory illness' was the only way to characterise the virus and has been retained given that future coronaviruses capable of causing severe symptoms may eventuate. Novel coronaviruses appear to be emerging every five to ten years.

2. *By what standard is a disease qualified under each Part in Schedule 1*

A disease is not qualified or categorised by reference to specific standards. Epidemiologists, scientists, the World Health Organization (WHO) and public health experts around the world assess the significance of the public health risk posed. This assessment includes the ease and rapidity of transmission, the seriousness of the symptoms and the level of disruption that widespread infection could cause to New Zealand's society, economy and health system.

Officials provide advice to the Minister of Health, and with the Minister's agreement, to Cabinet, as to when amendments to the Health Act schedules are appropriate. There are only a small number of quarantinable diseases in New Zealand. This reflects their seriousness and the significant nature of public health and emergency powers that apply on a disease being designated quarantinable.

Diseases in Part 1 of Schedule 1 are those that are notifiable infectious diseases. Diseases listed in Part 2 of the Schedule 1 are 'other infectious diseases' and pose a less serious public health risk (e.g. scabies). Once a disease has 'infectious disease' status in the Health Act, medical officers of health and the Director-General have powers in respect of their management, such as in the case of an outbreak. Diseases listed in Part 3 of Schedule 1 are quarantinable diseases. They are all infectious and notifiable as well.

3. *What standards were used to classify COVID-19 under Parts 1 and 3 and how did it meet those standards*

The factors that influenced the decision to make the virus a notifiable infectious disease included:

- WHO's official figures, as well as surveillance data from a wide range of other sources including messages from the Ministry of Foreign Affairs and Trade's Beijing Mission and Pro-Med.
- Beijing Mission reported, as at 27 January 2020, the number of confirmed cases of novel coronavirus in China had increased to 2784, with a further 5794 suspected cases. Deaths stood at 81.
- The source and mode of transmission of novel coronavirus had not been identified at the time.
- There was no vaccine for novel coronavirus.
- WHO was in the process of deciding whether to declare a public health emergency of international concern, to be reviewed in the first week of February 2020.
- WHO advised all jurisdictions to prepare for containment, including active surveillance, early detection, isolation and case management, contact tracing and preventing the onward spread of the disease, and to share full data.

New Zealand followed that advice. New Zealand's Intersectoral Pandemic Working Group met on 24 January 2020 and established a Technical Advisory Group, chaired by the Director of Public Health, Dr Caroline McElnay. The group included disease experts from the Institute of Environmental Science and Research, Canterbury and Auckland District Health Boards (the districts assessed at most risk) and academics. The inclusion of the virus on Schedule 1 Part 3 was consistent with other diseases listed on Part 3, including MERS, Avian Influenza and non-seasonal influenza (capable of being transmitted between human beings).

The factors that influenced the decision to make the virus a quarantinable disease included:

- The increasing numbers of affected countries and the first cases in New Zealand.

- WHO's determination under the IHR 2005 of a public health emergency of international concern.
- The rapid transmission rates in some countries, with daily increases in rates of people with the disease and who died from it.
- That Australia was already operating on the basis there was a global pandemic.
- On 28 February 2020, WHO assessed the disease as having pandemic potential and assessed the risk as 'very high at a global level'. This is the highest level of alert in terms of disease spread and impact. WHO warned countries to 'wake up, get ready', emphasising that countries had a duty to be prepared. These comments were made in the context of raising the disease to the highest alert level.
- COVID-19 was identified as a rapidly transmissible disease.

The virus was made a quarantinable disease in order to protect New Zealanders from infection and to appropriately respond to an evolving situation. The effect was to activate the quarantine, isolation and management powers in Parts 3, 3A and 4 of the Health Act 1956. It also enabled the Prime Minister to issue an epidemic notice under the Epidemic Preparedness Act 2006, allowing modification orders to amend specified legislative requirements.

4. What standards were used to classify Influenza under Part 2 and how does it meet those standards

Influenza is listed on Schedule 1 Part 2 as an 'other infectious disease'. In other words, it is neither notifiable nor quarantinable. However, as it is an infectious disease for Health Act purposes, medical officers of health can exercise statutory powers relating to infectious diseases to manage and contain its spread.

5. What advice you received from the Executive Council and what information, statistics and scientific data that advice was based on.

The Ministry did not receive advice from the Executive Council as that is not its constitutional role. In the context of your request, its role is to consider an Order in Council recommended by Cabinet, for inclusion of a disease on a Part of Schedule 1 of the Health Act. Advice was provided by the Ministry to the Minister of Health on making the virus a notifiable infectious disease and a quarantinable disease. This was explained in two Cabinet submissions made by the Minister of Health to Cabinet and this led to Cabinet's decision to submit the Orders to the Executive Council. There is more information about the role of the Council at: <https://dpmc.govt.nz/our-business-units/cabinet-office/executive-council>.

I trust this fulfils your request. Under section 28(3) of the Act you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Ministry website at: <https://www.health.govt.nz/about-ministry/information-releases>

Yours sincerely



Sue Gordon
Deputy Director-General
COVID-19 Health System Response