Department of Health

Chief Health Officer Advice to Minister for Health

Advice relating to the making of Pandemic Orders as required by section 165AL of the *Public Health and Wellbeing Act 2008*

Date of advice: 16 December 2021

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Introduction and Summary of Advice

1. In response to the request from the Victoria's Minister for Health (the Minister) on Thursday 16 December, set out below is my advice as Victoria's Acting Chief Health Officer, regarding whether the Victorian Minister for Health should amend Victorian Border Crossing Order under section 165AI of the Public Health and Wellbeing Act 2008 (Vic)(the Act) in relation to the coronavirus of 2019 (COVID-19).
2. Subsequent to the advice provided by the Chief Health Officer on Friday 10 December, as of 16 December, Victoria now has 1,618 new locally acquired cases in the previous 24 hours. There have been 10 confirmed cases of the Omicron variant in Victoria.
3. In providing this advice, I am aware of the legislative context in which the Premier's request is made. Section 165AI of the Act empowers the Minister, at any time on or after the making of a pandemic declaration, to make any order that the Minister believes is reasonably necessary to protect public health. The Act requires that the public health response be proportionate to the public health risk that the disease (in this case, COVID-19) poses. The measures that I recommend below responds to changes in the risk profile of international arrivals and incursion risk that COVID-19 poses by:
    i. Amending the obligations on international arrivals and their testing and quarantine requirements.
4. These measures recognise that, the Omicron variant of concern (VOC) is already circulating in Victoria and the risk posed by international arrivals is now no different to that of domestic arrivals.
5. In making these recommendations, I have carefully considered the limits that the proposed measures place on human rights, and the objective of reducing a serious risk to public health. Additionally, I have considered whether the recommended measures are the least restrictive reasonably available by which to achieve the public health objective, as required by the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (**Charter**).

How the Act Informs this Advice

6. The Act provides that, once the Premier has made a Pandemic Declaration, the Minister may make any order that the Minister believes is reasonably necessary to protect public health.

7. If the Minister is considering making pandemic orders, the Minister must consult with and consider the Chief Health Officer's advice. This is my advice for the purpose of that provision.

8. The Minister has sought advice about:

   (a) the serious risk to public health posed by the disease specified in the pandemic declaration to which the proposed pandemic order relates; and

   (b) the public health measures that I consider are necessary or appropriate to address this risk.

9. Section 3 of the Act defines the phrase "serious risk to public health" as:

   a material risk that substantial injury or prejudice to the health of human beings has occurred or may occur having regard to:

   (a) the number of persons likely to be affected; the location, immediacy, and seriousness of the threat to the health of persons;

   (b) the nature, scale and effects of the harm, illness or injury that may develop; and

   (c) the availability and effectiveness of any precaution, safeguard, treatment, or other measure to eliminate or reduce the risk to the health of human beings.

10. I have taken the Act's definition of "serious risk to public health" into account when giving this advice.

This advice is based on the information that is available

11. My advice is based on the information available to me, which I have reviewed and assessed to ensure that it is relevant and reliable.

12. The evidence on impact of the Omicron VOC on individuals and the population continues to emerge. While the variant has a large number of genetic mutations the impact of these mutations on key epidemiological characteristics remains uncertain. Information on intrinsic transmissibility of the variant, disease severity and the effectiveness of current vaccines and treatments against transmission and clinical severity continues to be researched. The Department of Health is developing regular situation assessments and reviewing evidence as it becomes available.

13. Early indications suggest that although the Omicron VOC predominantly causes mild illness in highly immune cohorts, the early data from South Africa have started to show a steep increase in hospitalisations in the context of surging case numbers. (National Institute for Communicable Diseases, 2021) Globally, whilst there are increasing cases currently there are fewer total hospitalisations, fewer intensive care beds occupied and lower requirement for ventilated beds, compared to the same phase of the Delta outbreak but ongoing monitoring of epidemiological trends is warranted. (World Health Organisation, 2021l)

14. The Omicron VOC has multiple mutations that are predicted to affect its susceptibility to neutralising antibodies (from vaccination or prior infection), innate immunity, and monoclonal antibody therapies. However, at this stage it remains uncertain to what degree vaccine effectiveness is affected, if at all. (World Health Organisation, 2021k)

15. There have been confirmed cases of the Omicron VOC in at least 77 countries across the globe, indicating widespread global transmission of this VOC is already underway. (Australian Department of Health, 2021)

Overview of the current epidemiological situation in Victoria

16. I am informed that, as of 16 December 2021, 1,618 new locally acquired cases and 4 new overseas acquired cases have been reported to the Department of Health in the previous 24 hours. As of 15 December, there are 10 active Omicron cases have been confirmed within the state; 7 international travellers, 2 household contacts (linked to international cases), 1 from New South Wales (NSW), with ongoing genomic sequencing. There are currently 12,252 locally acquired active cases in Victoria (an increase of 790 since yesterday) and 4 overseas acquired active cases.

17. Since 1 August 2021, of the 120,471 confirmed cases identified in Victoria only 130 cases (or 0.11% of total cases during this time period) have had exposure to overseas travel thus demonstrating that the risk of transmission is largely within the community.

Test results

18. As of 16 December 2021, 80,841 test results have been received in the previous 24 hours.

19. Since the start of November 2021, the proportion of tests returning a positive result in Victoria has been between 1.5-2%. This indicates the high level of transmission currently in Victoria, and also potentially indicates that there may be an ongoing substantial proportion of undiagnosed COVID-19 cases in the community.

Genomics & variants

20. On 26 November 2021, the WHO declared the recently identified B.1.1.529 variant as a VOC and named it Omicron. (World Health Organisation, 2021i) As of 16 December 2021, Omicron cases have been identified in Australia and in at least 77 other countries across the world, (Australian Department of Health, 2021) However it is anticipated that further countries will report cases of the Omicron VOC.

21. At the time of this advice, Victoria continues to experience community transmission of the dominant Delta VOC which is more transmissible than the Alpha or ancestral strains (Keeling, 2021). The presence of the Omicron variant has now been confirmed in multiple jurisdictions in Australia, including Victoria. Following whole genome sequencing, Victoria's first case of Omicron was confirmed in an international traveller in hotel quarantine on 8 December 2021 and as of 16 December, a total of 10 cases have been confirmed in Victoria.

Vaccinations

22. The COVID-19 vaccine rollout continues across Victoria. In the 24 hours prior to 16 December 2021, 10,816 vaccine doses were administered in Victoria. A total of 10,885,190 doses have been administered across the State's vaccination program since 22 February 2021. A total of 91% of Victorians aged 12 years and over have received a least two doses of COVID-19 vaccine. As at 16 December 2021, approximately 56% of the global population had received at least one dose of a COVID-19 vaccine (Our World in Data, 2021).

23. It is largely because of this excellent vaccination coverage that it has been possible to ease some restrictions on economic and social activities in the community and international arrivals into Victoria.

*Domestic s*ituation

24. As of 8pm 15 December 2021, there have been 1,742 new cases in NSW in the past 24 hours, of which 122 cases have been confirmed as Omicron. This is an increase of 360 in the past 24 hours. Current daily case numbers in NSW are now at the highest they have been in three months and is predicted to continue to increase.
25. As of 16 December 2021, Queensland has now recorded 22 new cases (18 locally acquired, 4 other sources) of which 3 have been confirmed as Omicron.
26. As of 15 December 2021, there have been 25 new cases in South Australia.

Necessary or appropriate public health measures

27. As the global distribution of the Omicron VOC expands, including domestically in Australian jurisdictions, and the local transmission of COVID-19 increases, international border measures become relatively less important in managing incursion risk and therefore need to be amended to reflect current epidemiology and public health risks from sources within the state, interstate and from overseas. The removal of quarantine restrictions on fully vaccinated international air arrivals reflects the relative reduction in incursion risk as community transmission within Australia from domestic sources continues to rise, including those associated with the Omicron VOC.

28. Testing requirements and restrictions on entry to sensitive settings are retained for these cohorts as ongoing risk mitigating measures which are intended to protect the Victorian community, and in particular vulnerable population groups.

Managing borders and requirements of international arrivals

International arrivals

29. Cases of Omicron have also been identified within Australia in NSW, Australian Capital Territory, Northern Territory, South Australia, Queensland and Victoria. Given identification of the Omicron VOC within Australia and ongoing high community transmission within Victoria, additional quarantine obligations on fully vaccinated international arrivals to Victoria represents diminishing utility as a protective measure.
30. In the context of these epidemiological changes, it is reasonable to adjust the quarantine requirements for international arrivals into Victoria by air to mirror those domestic arrivals from other Australian states and territories, as the risk of incursion from within Australia is no greater than international arrivals.
31. Retaining testing requirements for international passengers remains critical so that testing within 24 hours of arrival and again between days 5 and 7 is undertaken. This ensures that any detection of COVID-19 continues to be a core part of risk mitigation for international arrivals. Furthermore, persons arriving from overseas are required to have completed a Polymerase Chain Reaction (PCR) test prior to their scheduled flight departure whereas for interstate arrivals this is not required for entry into Victoria.
32. However, a recommendation to allow provisions for the Rapid Antigen (RA) test as an alternative testing option to the PCR test will be appropriate given the likelihood there will be increase in demand for testing in the state as the numbers of Victorians exposed to the Omicron VOC are expected to rapidly grow. RA tests have been found to have moderate sensitivity and high specificity for the detection of SARS-CoV-2 and are an appropriate screening tool for asymptomatic testing, which will be relevant for a large number of international arrivals (Wang et.al, 2021). RA testing has merit in minimising risk of incursions in sensitive settings when a condition of entry and therefore can be appropriate in this context as we mitigate incursion risk

into Victoria. Additionally, it can offset pressure on testing pathology system capacity and free up resources for symptomatic testing to ensure system readiness in Victoria.

33. The period of 72-hours quarantine for all international arrivals into Victoria was previously necessary to allow time to gather an early understanding of the nature of the Omicron VOC and to prepare the Victorian systems to respond to the rapid rise in case numbers that is now expected.
34. Restrictions on entry to sensitive settings that involve vulnerable populations continue to be important in protecting Victorians who are at increased risk of harm from COVID-19 outbreaks and reduce the incursion of emerging threats such as novel VOC that may potentially be more transmissible, virulent or treatment resistive.
35. For medically-exempt individuals arriving to Australia, they should continue to be treated as fully vaccinated for the purposes of determining their post-entry quarantine requirements. These individuals represent a small cohort that have a valid contraindication or acute illness that precludes them from receiving COVID-19 vaccines due to an unacceptable and heightened risk of harm to the individual. This group should be not be disadvantaged for circumstances outside of their volitional control through the imposition of quarantine requirements.
36. Similarly, international arrivals under the age of 12 years should continue to be permitted to quarantine in accordance with the vaccination status of accompanying travel members or as a fully vaccinated individual if unaccompanied minors to prevent separation of travel groups or solitary and unsupervised quarantine of minors. Such an approach would result in unintended harms to the health and wellbeing of young travellers. Further, vaccination is not widely accessible to this age cohort in all countries which raises additional concerns of inequity.
37. However, for medically-exempt and international arrivals under the age of 12 years counterbalancing risk mitigation measures of testing requirements and restrictions on entry to high-risk settings should remain to monitor for cases and prevent unintended transmission to vulnerable groups.
38. This change will mean that a proportionate approach is applied for persons arriving in Victoria from overseas so that comparable testing and quarantine requirements are applied to people in Victoria who have been potentially exposed to a positive case in a workplace or education environment.
39. No change to the quarantine, testing or additional public health requirements are proposed for international arrivals who are unvaccinated. This cohort do not have a valid medical exemption and have volitionally not received their COVID-19 vaccines despite being eligible. They do not have the protective effects of COVID-19 vaccination and thus represent the highest risk cohort of international arrivals.

Additional considerations for international aircrew service workers

40. The policy for fully vaccinated aircrew services workers should match the requirements for international passengers as they represent a comparable public health risk.
41. Similarly, all public health requirements for unvaccinated aircrew services workers should remain as they represent the highest risk cohort of international arrivals.

Conclusion

42. The discussion set out above shows the public health measure that I consider necessary or appropriate to the current situation in Victoria.

Professor Benjamin Cowie

Acting Victorian Chief Health Officer

Dated this 16th day of December 2021

Bibliography

Australian Department of Health, 2021. *Chief Medical Officer - Omicron update and changes to international travel arrangements.* [Online]
Available at: https://www.health.gov.au/news/chief-medical-officer-omicron-update-and-changes-to-international-travel-arrangements
[Accessed 16 December 2021].

Department of Health NSW, 2021. *COVID-19 Weekly Surveillance in NSW: Epidemiological Week 47 ending 27 November 2021.* [Online]
Available at: https://www.health.nsw.gov.au/Infectious/covid-19/Documents/covid-19-surveillance-report-20211127.pdf
[Accessed December 2021].

Keeling, M., 2021. *GOV.UK Coronavirus (COVID-19).* [Online]
Available at: https://www.gov.uk/government/publications/university-of-warwick-estimating-the-transmission-advantage-for-delta-variant-b16172-3-june-2021
[Accessed 3 December 2021].

National Institute for Communicable Diseases, 2021. *Daily hospital surveillance (DATACOV) report.* [Online]
Available at: https://www.nicd.ac.za/diseases-a-z-index/disease-index-covid-19/surveillance-reports/daily-hospital-surveillance-datcov-report/
[Accessed 16 December 2021].

Our World in Data, 2021. *Statistics and Research: Coronavirus (COVID-19) Vaccinations.* [Online]
Available at: https://ourworldindata.org/covid-vaccinations
[Accessed 3 December 2021].

Wang, Y.-H.et al., 201. Evaluation of the diagnostic accuracy of COVID-19 antigen tests: A systematic review and meta-analysis.. *Journal of Chinese Medical Association,* 11(84), pp. 1028-1037.

World Health Organisation, 2021i. *Classification of Omicron (B.1.1.529): SARS-CoV-2 Variant of Concern.* [Online]
Available at: https://www.who.int/news/item/26-11-2021-classification-of-omicron-(b.1.1.529)-sars-cov-2-variant-of-concern
[Accessed 5 December 2021].

World Health Organisation, 2021k. *What evidence do we have that omicron is evading immunity and what are the implications?.* [Online]
Available at: https://cdn.who.int/media/docs/default-source/blue-print/phil-krause_conclusions_c19_whoconsulation_15dec2021.pptx?sfvrsn=68fdd971_7
[Accessed 16 December 2021].

World Health Organisation, 2021l. *Omicron spreads but severe cases remain low in South Africa.* [Online]
Available at: https://www.afro.who.int/news/omicron-spreads-severe-cases-remain-low-south-africa
[Accessed 16 December 2021].