

# Chief Health Officer Advice – Public Health (COVID-19 Management) Declaration Extension 2022 and associated COVID-19 Management Directions

12 December 2022

I, Dr Kerry Coleman, Chief Health Officer of the Australian Capital Territory, provide the following advice to the Australian Capital Territory Executive on the status of the Public Health (COVID-19 Management) Declaration 2022 (the Management Declaration). This advice is provided in accordance with Part 6C of the *Public Health Act 1997*.

## Scope of a Public Health (COVID-19 Management) Declaration

The Public Health Act 1997 establishes a regulatory framework for protecting the public from risks to public health presented by COVID-19. The Executive may make a Public Health (COVID-19 Management) Declaration (COVID-19 Management Declaration) where there are reasonable grounds for believing that COVID-19 presents a serious risk to public health.

In forming a belief on reasonable grounds that COVID-19 presents a serious risk to public health, the Executive must –

- a) consider whether a material risk of substantial injury or prejudice to the health of people has happened or may happen because of COVID-19; and
- b) take into account the following:
  - i. the number of people likely to be affected;
  - ii. the location, immediacy and seriousness of the threat to the health of people;
  - iii. the nature, scale and effect of any harm, illness or injury that may happen;
  - iv. the availability and effectiveness of any precaution, safeguard, treatment or other measure to eliminate or reduce any risk to the health of people.

A COVID-19 Management Declaration may only be in force for a period of up to 90 days at a time and can be extended by the Executive on one or more occasions for a period not longer than 90 days on each occasion.

During a period when a COVID-19 Management Declaration is in force, I am required to provide advice to the Executive every 30 days in my capacity as Chief Health Officer about the status of the risk presented by COVID-19.

Under the *Public Health Act 1997*, the implementation of a COVID-19 Management Declaration enables the implementation of specific Ministerial (Division 6C.3), Chief Health Officer (Division 6C.4) and Executive (Division 6C.5) directions to protect the public from the public health risks presented by COVID-19.

## Status of the risk presented by COVID-19

### Current epidemiological situation in the ACT

The number of reported COVID-19 cases in the ACT community has continued to rise in recent weeks, consistent with a broader national trend. In the week ending 4 December 2022, the ACT recorded 2,311 new COVID-19 cases. This is an increase of 18 percent from the previous week (1,951) and a 246 percent increase in cases from the week ending 2 October 2022 (563 cases), when weekly COVID-19 transmission was at its lowest point in the pandemic. Most of the 2,311 reported cases (in the week ending 4 December 2022) were identified by rapid antigen test (RAT = 1,480; 64%), with the remaining cases identified by polymerase chain reaction test (PCR = 831; 36%). The number of reported cases each week remains low relative to peak Omicron transmission experienced in the week ending 3 July 2022, when there were 8,680 new cases reported.

As of 4pm, Thursday 1 December 2022, there were 33 inpatients<sup>1</sup> with active COVID-19 infection across ACT hospitals, none of which were admitted to the ICU. At 4pm on 11 December 2022, this figure had increased to 68 COVID-19 active inpatients, with one patient in ICU. Despite recent increases in the number of reported COVID-19 cases, the number of inpatients with COVID-19 to ACT hospitals currently remains manageable. This increase in cases is to be expected with the increasing case numbers. We will continue to carefully monitor the impact on our hospitals over the coming weeks.

Notwithstanding hospital inpatient and case numbers, there has been no notable increase in serious adverse outcomes resulting from COVID-19. Sadly, from 28 November 2022 to 4 December 2022, two COVID-19-related deaths occurred in the ACT. Both ACT residents, one in their 70s and the other in their 80s. This brings the total lives lost since the beginning of the pandemic to 132.

Further, the number of active outbreaks being managed in residential aged care facilities (RACFs) has remained relatively low with minor week to week variation. In the week ending 4 December 2022, there were four RACFs with active COVID-19 outbreaks (i.e., two or more residents testing positive within a 72-hour period), consistent with the week prior (week ending 27 November 2022). This compares with two active outbreaks in the week ending 20 November 2022, and three active outbreaks in the week ending 13 November 2022. There was a slight increase in RACFs with active outbreaks in the week ending 11 December 2022, with a total of 8 in outbreak. The number of outbreaks being managed in RACFs will also be monitored over the coming weeks, noting that ACT Health had been expecting the increase in outbreaks to align with increase in case numbers.

### Whole Genome Sequencing

Whole Genome Sequencing continues to be prioritised for cases from outbreaks in high-risk settings, recently returned overseas travellers, hospitalised cases, deaths, and a small proportion of other community cases. During the month of November 2022, BA.5 was the most frequently sequenced Omicron variant (31.2%), followed closely by BA.2 subvariants (28.9%), and BA.5 subvariants (19.3%). Compared to October 2022, the proportion of BA.5 samples sequenced has decreased (from 47.7%) and the proportion of BA.2 subvariant samples sequenced has increased (from 16.1%).

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<sup>1</sup> This figure represents all persons admitted to an ACT hospital for any reason and does not differentiate between a person admitted for COVID-29 related reasons, or for other reasons. It may include those with a residential address outside of the ACT.

The variety of new variants and subvariants is consistent with national and international observations. The significance of these subvariants remains uncertain.

## Vaccination

There continues to be limited movement to COVID-19 vaccination coverage in the ACT. Fourth dose vaccination coverage in persons aged 50-years and older has continued to increase slowly. As of 4 December 2022, 64.4 percent of ACT residents in this age group have received four or more COVID-19 vaccine doses; an increase from 64.0 percent in the week ending 27 November 2022. The Australian Technical Advisory Group on Immunisation (ATAGI) has been monitoring the evolving National epidemiological situation and has made no new recommendations regarding COVID-19 vaccine boosters at this time.

## Oral COVID-19 therapeutics

Using Pharmaceutical Benefits Scheme (PBS) data, the estimated rate of dispensed oral therapeutics for COVID-19 positive persons aged 70 years and over remains very high in the ACT. Estimated coverage in this age group was consistently higher than 100%<sup>2</sup> throughout November 2022. The PBS eligibility for people with COVID-19 in other age categories requires specific risk factors for severe disease to be able to prescribe antivirals. This makes it difficult to accurately estimate the denominator of potentially eligible individuals for other age ranges.

## National epidemiological situation<sup>3</sup>

Nationally, in recent weeks there has been an increase in the number of COVID-19 case notifications. On 29 November 2022, the average number of daily COVID-19 cases reported was 14,346; an increase of 20.0 percent compared to the previous week. The seven-day rolling average number of hospitalised COVID-19 cases (2,689) has also increased by 19.9 percent for the week ending 29 November 2022; compared to the previous week. Nationally from 1 January to 29 November 2022, the 7-day rolling average of hospitalised COVID-19 cases was 2,689, of which 85 were in intensive care units.

All states and territories experienced an increase in cases in the week ending 29 November 2022, compared to the previous week. The largest increase was experienced in the Northern Territory (113.9%) followed by Tasmania (46.4%).

## **Advice to the Executive on the proposed extension of the declaration**

### Public health benefit of extending a COVID-19 Management Declaration in the ACT

In considering the current uncertain epidemiological situation in the ACT, I am of the view that it is proportionate for the ACT Government to continue to provide a framework to enable the implementation of targeted public health requirements. I recommend that the COVID-19 Management Declaration be extended for a period of 90 days for the purpose of:

- appropriately monitoring COVID-19 community transmission, and

<sup>2</sup> This information is based on aggregate Pharmaceutical Benefit Scheme data showing scripts dispensed in the ACT with ACT case numbers approximating coverage in this age group. Data is provided by the Commonwealth.

<sup>3</sup> Coronavirus (COVID-19) case numbers and statistics produced by Australian Government Department of Health and Aged Care. Retrieved from: [Coronavirus \(COVID-19\) case numbers and statistics](https://www.health.gov.au/coronavirus/covid-19/case-numbers-and-statistics)

- readiness to act to reduce the burden on the public health system, should the ACT again experience a period of increased COVID-19 transmission.

There continues to be a level of uncertainty and complexity surrounding the evolution of the COVID-19 pandemic, which will continue. The ACT, like other jurisdictions, is actively transitioning to managing COVID-19 like other notifiable diseases. However, community transmission is likely to persist in a cyclical fashion over coming months and years, in response to emerging variants and waning immunity. Under the Management Declaration the *Public Health (Chief Health Officer) COVID-19 Management Direction 2022 (No. 2)* and *Public Health (Chief Health Officer Exemption) Guideline 2022 (No.3)* maintain critical measures that are contingent on the continuation of the Management Declaration.

## **Advice relevant to the Public Health (Chief Health Officer) COVID-19 Management Direction 2022 (No. 2)**

Continued RAT reporting requirements under the Chief Health Officer Direction has enabled ACT Health to collect surveillance information enabling the monitoring of COVID-19 transmission in the Territory. The RAT reporting process also allows diagnosed people to receive advice about symptom management and oral antiviral access following a positive test result, and the option to complete a short form survey. Individuals that are at high risk of severe disease can self-identify to ACT Health in the short form survey, which enables them to receive targeted support from COVID Care@Home and general advice about symptom management and oral antiviral access following a positive test result.

The ability to require the reporting of positive RAT results, where such tests are self-administered, is subject to the current COVID-19 Management Declaration remaining in place. The Public Health Act does not otherwise allow for mandated reporting of test results by community members outside of a COVID-19 Management or Public Health Emergency declaration.<sup>4</sup>

Maintaining RAT reporting requirements under the COVID-19 Management Declaration is a critical and proportionate measure to ensure that ACT Health can effectively monitor the evolving COVID-19 situation in the ACT. This in turn, enables me to provide informed advice to ACT Government about the public health risk presented by COVID-19. Maintaining this requirement will be particularly beneficial as we head into the summer months as this period is associated with high movement of ACT resident movement across interjurisdictional and international borders, as well as increased social gatherings which may lead to an increase in community transmission of COVID-19. Surveillance is essential for the timely provision of advice to ACT Government about public health measures needed to mitigate resulting public health risk, if appropriate.

## **Advice relevant to the Public Health (Ministerial) COVID-19 Management Direction and Exemption 2022 (No. 2)**

The Ministerial Direction requires that facemasks be worn by persons aged 12 years and older when visiting or working in a high-risk setting or providing disability services to support people living with disability. While isolation and quarantine requirements ended on 14<sup>th</sup> October 2022, facemask

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<sup>4</sup> COVID-19 is a notifiable condition under the *Public Health Act 1997*. However, as written, the Act only compels medical officer, pathology clinics and identified responsible persons to report positive test results outside of an active COVID-19 Management Declaration or Public Health Emergency.

requirements were retained to ensure that targeted baseline measures remained in place, should the removal of isolation and quarantine result in poorer health outcomes, or increased outbreaks in high-risk environments. While there has been an increase in the number of new COVID cases being reported, I am pleased to say that this does not appear to be resulting in poorer health outcomes or significant additional strain on our public health system. Further, the uptake of oral antiviral therapeutics for people aged 70 years and older remains extremely high in the ACT.

Against this background, I no longer consider that it is proportionate to require, through a Public Health Management Direction, that staff and visitors attending high-risk settings be required to wear facemasks. This includes at hospitals, residential aged care facilities, residential accommodation facilities, and in-home settings where older persons and people living with disability require frequent, close personal care.

In recommending the removal of the mandate, I encourage all providers to consider their own policies in relation to mask wearing, based on an assessment of risk and obligations under work health and safety legislation. The removal of the mandate provides flexibility to these services to determine if and when it may be appropriate for mask requirements to be implemented, alongside any additional risk mitigation measures in place within the various settings.

## Recommendation

It is my recommendation that the COVID-19 Management Declaration and CHO Direction should be extended for a period of 90 days to 28 March 2023, subject to 30 day review.

The COVID-19 Management Declaration remains a proportionate response to the public health risk presented by COVID-19. Extending the declaration period means that:

- ACT Health can effectively monitor the transmission of COVID-19 in the Territory, and
- ACT Government can respond quickly and proportionately to reduce the burden of COVID-19 on the public health system, should the situation deteriorate throughout the Summer period.

Maintaining the Public Health (Chief Health Officer) Direction 2022 (No 2) is critical to preserving the monitoring and surveillance capabilities of ACT Health for both PCR and RAT identified cases. In addition, it provides an avenue for providing information and support to reported COVID-19 cases. As required under section 118Y of the Public Health Act, I will undertake formal consultation with the Human Rights Commissioner regarding the extension of the Public Health (Chief Health Officer) Direction 2022, should Government agree to extend the declaration period.

I also recommend that the Public Health (Ministerial) Direction 2022 (No. 2) be revoked, removing the requirement for face masks to be worn by staff and visitors in high risk and disability settings. Instead, I believe it is appropriate to recommend that affected providers consider implementing their own face mask requirements through individual work health and safety policy settings, if appropriate. This option offers greater flexibility for providers and enables self-determination of their own policy settings based on their specific circumstances.

At this stage of the pandemic, my focus is on supporting continuation of a staged transition towards managing COVID-19 in a way that is similar other endemic diseases, like influenza. In the absence of extensive directions, ACT Health will continue to provide clear advice about COVID Smart behaviours and guidance materials for businesses to promote COVID Smart practises in their workplace.

Dr Kerry Coleman  
ACT Chief Health Officer

12 December 2022

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