

IN CONFIDENCE

Royal Commission of Inquiry (COVID-19 Lessons) Order 2022

Charles the Third, by the Grace of God King of New Zealand and his Other Realms and Territories, Head of the Commonwealth, Defender of the Faith:

To—

Professor Antony Blakely, of Melbourne, specialist in epidemiology and public health, Research Professor, Population Interventions Unit and Scalable Health Intervention Evaluation (SHINE), Centre for Epidemiology and Biostatistics, Melbourne School of Population and Global Health, University of Melbourne,

Hon Hekia Parata (Ngati Porou, Ngai Tahu), of Ruatoria, former Member of Parliament, and current Chair/Moderator of Education Policy Reform Dialogues, OECD, Dublin, Education Policy Ministerial 2022, Paris, and Chair of Tā Harawira Gardiner Centre for the Child, Te Whare Wānanga o Awanuiārangi,

John Whitehead, CNZM, KStJ, of Wellington, economist, former Secretary to the Treasury, former Executive Director on the Board of the World Bank Group, and current Chancellor and Board Chair of the Order of St. John:

Greeting!

We, by this Our Commission, establish the Royal Commission of Inquiry into Lessons Learned from Aotearoa New Zealand's Response to COVID-19 That Should Be Applied in Preparation for a Future Pandemic.

This Order in Council, constituting Our Commission, is made—

- (a) under the authority of the Letters Patent of Her Majesty Queen Elizabeth the Second constituting the office of Governor-General of New Zealand, dated 28 October 1983;* and
- (b) under the authority of section 6 of the Inquiries Act 2013 and subject to the provisions of that Act; and
- (c) on the advice and with the consent of the Executive Council.

*SR 1983/225

1 Title

This order is the Royal Commission of Inquiry (COVID-19 Lessons) Order 2022.

2 Commencement

This order comes into force on the day after the date of its notification in the *Gazette*.

3 Interpretation

In this order, unless the context otherwise requires, **inquiry** means the Royal Commission of Inquiry into Lessons Learned from Aotearoa New Zealand's Response to COVID-19 That Should Be Applied in Preparation for a Future Pandemic.

4 Royal Commission of Inquiry established

The Royal Commission of Inquiry into Lessons Learned from Aotearoa New Zealand's Response to COVID-19 That Should Be Applied in Preparation for a Future Pandemic is established.

5 Matter of public importance that is the subject of inquiry

The matter of public importance that is the subject of the inquiry is the lessons learned from Aotearoa New Zealand's response to COVID-19 that should be applied in preparation for any future pandemic.

6 Members and chairperson of inquiry

- (1) The following persons are appointed to be the members of the inquiry:
 - (a) Professor Antony Blakely;
 - (b) Hon Hekia Parata;
 - (c) John Whitehead, CNZM, KStJ.
- (2) The person who is to be the chairperson of the inquiry is Professor Antony Blakely.

7 Date when inquiry may begin considering evidence

The inquiry may begin considering evidence on 1 February 2023.

8 Terms of reference

The terms of reference for the inquiry are set out in the Schedule.

9 Relevant department

For the purposes of section 4 of the Inquiries Act 2013, the Department of Internal Affairs is the **relevant department** for the inquiry and responsible for administrative matters relating to the inquiry.

Schedule

Terms of reference

cl 8

1 Background

- (1) The COVID-19 pandemic presented a significant threat to public health in New Zealand and the world. At first, there was uncertainty about COVID-19's characteristics or how it might evolve, and there were no vaccines or effective disease-specific treatments. New Zealand had not experienced anything similar in several generations. Existing pandemic planning was specific to combatting influenza and was therefore not appropriate for responding to COVID-19. There was no international consensus on how to respond either; other countries adopted different and rapidly changing strategies, and the pandemic placed systems for multilateral co-operation under stress. The nature of the threat from COVID-19 changed as more was learned, as the virus evolved, and as treatments and strategies were developed and implemented. The emergency phase of the pandemic continued over an extended period.
- (2) New Zealand's initial response was an elimination strategy. The strategy included limiting passenger flows across international borders to keep the virus out, extensive testing to detect community transmission, and a set of public health measures to stamp out outbreaks quickly when they appeared. That public-health-informed strategy was supported by economic and other measures to maintain basic services, ensure that businesses could retain staff and cover their costs when they could not operate, and support people to isolate where necessary. The strategy involved a set of alert levels, which triggered public health responses calibrated to the risk of virus transmission and informed people how to protect themselves.
- (3) By December 2021, a high proportion of New Zealanders had been vaccinated against COVID-19. New Zealand then moved to a national strategy of minimisation and protection to minimise the spread of the virus in the community, protect those who were most at risk, and protect the capacity of the health system to respond to non-COVID health needs. A new COVID-19 Protection Framework set out graduated public health responses to outbreaks and how people could keep themselves safe. Economic and other measures were also updated.
- (4) In September 2022, the COVID-19 Protection Framework was retired and the Government indicated that powers in COVID-19 legislation would be narrowed, signalling the end of the emergency phase of the pandemic.
- (5) The measures New Zealand put in place to respond to COVID-19 generally enjoyed high levels of public support, and were positively reviewed by independent experts. But there has also been criticism of New Zealand's preparedness to deal with COVID-19, of the organisation of its response, and of particular public health measures and their impact on people's lives.

- (6) New Zealand's response to the pandemic has already been the subject of expert scrutiny. The World Health Organization, the *Lancet* Commission on lessons for the future from the COVID-19 pandemic, and the International Science Council have conducted reviews. Within New Zealand, 75 individual reviews have been undertaken across government since 2020, generating 1,639 recommendations covering a broad range of issues and subjects. Independent reviews have been conducted by reviewers such as the COVID-19 Independent Continuous Review, Improvement and Advice Group, the Auditor-General, and the Ombudsman. New Zealand courts and the Waitangi Tribunal have determined several challenges to the lawfulness, Te Tiriti consistency, and appropriateness of actions taken in response to the pandemic. The Government has also proactively released COVID-19 papers and decisions. As a consequence, there is now a substantial amount of publicly available information on New Zealand's pandemic response.
- (7) There will be future pandemics. They will not be exactly the same as COVID-19 and New Zealand's preparation for future pandemics needs to be flexible enough to respond effectively to a broad range of potential events. It is necessary and timely to inform our preparedness for such events by considering New Zealand's response to COVID-19, synthesising the lessons captured in existing investigations, reports, and reviews, both domestic and international, and drawing on institutional knowledge about those matters while it is still fresh in our minds. The Government has therefore decided to establish a Royal Commission of Inquiry to provide recommendations on actions that will strengthen New Zealand's pandemic preparedness.

2 Matter of public importance

The matter of public importance that the inquiry is directed to examine is the lessons learned from Aotearoa New Zealand's response to COVID-19 that should be applied in preparation for any future pandemic.

3 Purpose of inquiry

The purpose of the inquiry is to strengthen Aotearoa New Zealand's preparedness for, and response to, any future pandemic by identifying those lessons learned from New Zealand's response to COVID-19 that should be applied in preparation for any future pandemic.

4 Scope of inquiry

- (1) The scope of the inquiry is the lessons learned from New Zealand's response to COVID-19 that should be applied in preparation for any future pandemic in the following areas:
 - the legislative, regulatory, and operational settings required to support New Zealand's public health response to a pandemic, relating to—

-
- isolation and quarantine arrangements for international arrivals and limiting the movement of people through the international system:
 - community isolation and quarantine arrangements, contact tracing and case management systems, and limiting the internal movement of people through local boundary controls:
 - the regulatory approval of, and the making available and mandating of, vaccines and other pharmaceutical and testing measures:
 - modelling and surveillance systems:
 - non-pharmaceutical public health measures, including vaccine passes, gathering limits, and personal protective equipment and its procurement and distribution:
 - tools, systems, and frameworks developed in response to COVID-19:
 - the settings needed to ensure that New Zealand's health system continues to deliver necessary services during a pandemic:
 - communication with, engagement of, and enabling people and communities to mobilise and act in support of both personal and community public health outcomes over an extended period:
 - the legislative, regulatory, and operational settings needed to ensure the continued supply of goods and services required to enable people to isolate or otherwise take protective measures for an extended period during a pandemic, relating to the provision of—
 - lifeline utilities and other necessary services:
 - education and childcare:
 - other government services:
 - the legislative, regulatory, and operational settings required to support New Zealand's immediate economic response to a future pandemic, relating to—
 - fiscal and monetary policy responses, including co-ordination and preparedness to implement large-scale changes quickly and monitor their impacts:
 - temporary financial support to individuals, businesses, and sectors, including how such support might be quickly implemented, appropriately and accurately distributed, monitored, and ended:
 - short-term measures, such as exemptions, to sustain specific industries during a pandemic:
 - the decision-making structures and arrangements that might be used or put in place during an evolving pandemic of extended length:

- consideration of the interests of Māori in the context of a pandemic, consistent with the Te Tiriti o Waitangi relationship;
 - consideration of the impact on, and differential support for, essential workers and populations and communities that may be disproportionately impacted by a pandemic.
- (2) The inquiry may assess whether New Zealand's initial elimination strategy and later minimisation and protection strategy in response to the COVID-19 pandemic, and supporting economic and other measures, were effective in limiting the spread of infection and limiting the impact of the virus on vulnerable groups and the health system, having regard to New Zealand's circumstances, what was known at the time, and the strategies adopted by comparable jurisdictions.
- (3) The inquiry should consider the strategies, settings, and measures identified above as they existed or operated between February 2020 and October 2022, and not outside those dates.

5 Matters upon which recommendations are sought

The inquiry should make recommendations on the public health strategies and supporting economic and other measures that New Zealand should apply in preparation for any future pandemic, in relation to the principal matters within the inquiry's scope, by applying relevant lessons learned from New Zealand's response to COVID-19 and the response from comparable jurisdictions.

6 Limits to inquiry's scope

The following matters are outside the scope of the inquiry:

- particular clinical decisions made by clinicians or by public health authorities during the COVID-19 pandemic;
- how and when the strategies and other measures devised in response to COVID-19 were implemented or applied in particular situations or in individual cases;
- the specific epidemiology of the COVID-19 virus and its variants;
- vaccine efficacy;
- the recent reforms to New Zealand's health system, including the organisational arrangements for public health services;
- the judgments and decisions of courts and tribunals and independent agencies such as the Ombudsman, the Privacy Commissioner, or the Independent Police Conduct Authority relating to the COVID-19 pandemic;
- the operation of the private sector, except where the private sector delivers services integral to a pandemic response;

- particular decisions taken by the Reserve Bank’s independent monetary policy committee during the COVID-19 pandemic:
- any adaptation of court procedures by the judiciary during the COVID-19 pandemic:
- any adaptation of parliamentary processes during the COVID-19 pandemic:
- the conduct of the general election during the COVID-19 pandemic.

7 Inquiry procedure

- (1) In accordance with section 14 of the Inquiries Act 2013, the inquiry must comply with the principles of natural justice and avoid unnecessary delay or costs.
- (2) The inquiry must operate in a way that—
 - does not take a legalistic and adversarial approach:
 - uses information that is publicly available:
 - uses the most efficient and least formal procedures to gather any additional necessary information:
 - ensures that any request for necessary information is specified with due particularity.
- (3) The inquiry should review investigations, reports, and reviews (both domestic and international) and any other publicly available material relevant to these terms of reference.
- (4) The inquiry must not duplicate or repeat work already undertaken in any other investigation, report, or review.
- (5) The inquiry is not bound by the conclusions or recommendations of any other investigation, report, or review.
- (6) The inquiry should consider international investigations, reports, and reviews and other material, without travelling internationally or inviting persons to travel to New Zealand.

8 Access to inquiry information

The inquiry must restrict access to inquiry information where it considers such steps are required in order to—

- protect the international relations of the Government of New Zealand:
- protect the confidentiality of information provided to New Zealand on a basis of confidence by any other country or international organisation:
- avoid prejudice to the maintenance of the law, including the prevention, investigation, and detection of offences:
- ensure that current or future criminal, civil, disciplinary, or other proceedings are not prejudiced:

-
- protect commercially sensitive information, including commercial information subject to an obligation of confidence:
 - protect information for any other reason that the inquiry considers appropriate.

9 Administration

The inquiry must—

- support the relevant department (the Department of Internal Affairs) to meet its administrative and reporting requirements relevant to the inquiry by providing the department with regular information and reports on the administration and finances of the inquiry:
- provide a quarterly report to the Minister of Internal Affairs on progress on delivery of the findings and recommendations required under these terms of reference that—
 - sets out the critical activities the inquiry needs to complete:
 - reports on—
 - the expected cost of completing the activities:
 - the expected timing for completing the activities:
 - the progress towards completing the activities (including costs to date):
 - explains what steps the inquiry is taking, or proposing to take, to mitigate any risk that it may not complete its activities in accordance with these terms of reference.

10 Timing

- (1) The inquiry may begin considering evidence on 1 February 2023.
- (2) The inquiry must deliver its report by 26 June 2024.

In witness whereof We have caused this Our Commission to be issued and the Seal of New Zealand to be hereunto affixed at this day of 2022.

Witness our Trusty and Well-beloved The Right Honourable Dame Cindy Kiro, Chancellor and Principal Dame Grand Companion of Our New Zealand Order of Merit, Principal Companion of The Queen’s Service Order, Governor-General and Commander-in-Chief in and over Our Realm of New Zealand.

**Royal Commission of Inquiry (COVID-19 Lessons)
Order 2022**

Governor-General.

By Her Excellency's Command,

Prime Minister.

Approved in Council,

for Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*:

This order is administered by the Department of Internal Affairs.