

This document contains key messages and provides questions and answers.

This information relates to changes to the mask exemption process

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Key messages:

- Face masks have been one of the most crucial parts of our defence against the spread of COVID-19 because wearing a mask can minimise the direct spread of the COVID-19 virus through particles in the air, therefore protecting ourselves and those around us.
- A big thank you to non- government organisations such as Blind Citizens New Zealand, the Disabled Persons Assembly, Deaf Aotearoa who have previously picked up management of the mask exemption process as the practice of mask wearing became an important health measure. That work became much bigger and more complicated than originally anticipated.
- As an interim solution, there has been a card issued by the Ministry of Health, to help exempt people gain entry to businesses and services.
- That interim solution is now being formally replaced by a new Exemption Card issued by the Ministry of Health that will provide conclusive proof of a person's exempt status
- As such, the new Exemption Card has a legal status that neither the old exemption card nor the interim communications card have.
- For some disabled people because of their impairment, for people with some health conditions and for some people for mental health reasons, wearing a mask simply isn't possible
- These reasons are not always obvious or easy to explain and many people who are genuinely unable to wear a mask haven't been able to access the businesses and services they would normally would.
- While business owners have done well to follow COVID-19 rules and aimed to protect the health and safety of their staff and customers, this unfortunately has resulted in some mask-exempt people not being able to access businesses and services in some situations.
- Businesses have struggled to identify those with genuine reasons for not needing to wear a mask - a particular concern where someone is covered by legal protections aimed to protect their rights and avoid discrimination.
- Businesses may ask whether people are able to wear a face covering, but if they are presented with one of the new exemption cards they should accept that as conclusive proof of a person's exempt status. In no situation is it appropriate to ask people for personal health information, including to justify why someone is holding an exemption card.
- Over the past few months, a significant amount of work has been underway with various groups with the aim of coming up with a solution that works better for everyone involved.
- As a result, a new process has been developed through a process of significant consultation with all affected parties, including both business and the disability community.
- The new free and personalised exemption cards will be available from the end of May.

- People can apply for a free card through a simple process on the Ministry of Health website or via an 0800 number and a card will be issued to them digitally and via mail.
- The COVID-19 legislation will be amended to recognise this exemption card as conclusive proof of a genuine exemption and provide business owners with assurance that someone with an official exemption card has legitimate reasons for being exempt and should be allowed access.
- Business owners who refuse to allow someone who has a new Exemption Card to enter their premises on the grounds that they are not wearing a mask may be at risk of breaching their duties and obligations under the Human Rights Act 1993. A complaints process is already available via the Human Rights Commission if someone does believe their human rights have been breached.
- Businesses will always retain the right to exclude people from their premises on the basis of their behaviour or conduct
- Additionally, a two-part social awareness campaign is being implemented to raise awareness of the reasons why some people have and need to be exempt from wearing a mask.
- The new face mask exemption process will be hugely beneficial to people who have not been able to access the places they would normally shop and visit freely. The social awareness campaign will also challenge some of the stigma that currently lingers for people with an exemption who have been unable to confirm their exempt status.

Summary:

A new self-declaration based face mask exemption process is being implemented in late May (31 May 2022), which will mean that people who qualify for an exemption from the requirement to wear a face mask can be issued with a new Exemption Card.

The new card will be conclusive evidence of a person's exempt status.

It will mean that people who have genuine reasons for not being able to wear a face mask have more assurance and the business community can have confidence that a person with the new card is genuinely exempt.

More information:

Visit the Ministry of Health [website](#).

Why is this new process necessary?

This new process and personalised exemption card give assurance for both people who are genuinely exempt and helps businesses. In attempting to verify whether people are genuinely exempt, workers especially in retail settings such as supermarkets are experiencing escalating and unsafe behaviour from some customers. Exempt people also report experiencing distress and discrimination, and are being asked for sensitive personal information, often in public settings.

How is this different to the current process in place now?

The COVID-19 legislation already provides a legal exemption for circumstances in which some people are not required to wear a face mask, and exempts anyone who has a

physical or mental condition that makes wearing a face covering unsuitable. Currently there is no official 'exemption card' or proof of an exemption, there has however been a communications card available for people to apply for, which can assist people to alert people or businesses that they cannot wear a mask. The communications card being used currently is only an interim solution until the new process is in place.

Why has the Ministry of Health taken on this responsibility?

Face masks remain a key tool for protecting people against COVID-19. Consequently, the Government identified the need for a better and longer-term solution to the issue of face mask exemptions. This is based on feedback it received from both the business sector and affected communities. Organisations in the disability community initially administered the exemption process and this was initially intended for their members only. The work has grown and continued longer than anticipated so a change to the process was requested. The Ministry of Health is the natural choice to administer the new face mask exemption process because face masks are a public health measure designed to prevent the spread of COVID-19.

Why is a face mask exemption card even necessary? Can't someone simply explain that they can't wear one to get into a shop?

Business owners want greater assurance that people not wearing face masks are legitimately entitled to not wear one. Businesses also want to protect other customers and their staff from catching COVID-19, and to comply with the Government's COVID-19 public health rules. Many businesses also reported that their workers were experiencing escalating and unsafe behaviour from some customers who refused to wear face masks when asked.

Correspondingly, people who were exempt from wearing face masks were also reporting distress and discrimination, and being asked for sensitive personal information, often in public settings.

It is for these reasons that it was decided that a better face mask exemption process was both necessary and desirable.

Why do we even have face masks in the first place?

Face masks are a proven public health intervention to reduce the likelihood of COVID-19 spreading between people in indoor locations, so will always be encouraged. A study by the British Medical Journal looking at the effectiveness of masks around the world and across the pandemic found that, on average, masks cut the rate of transmission by as much as 53%.

As we move through the COVID-19 Protection Framework, from Red settings to Orange and Green settings, it is likely the mandatory nature of these requirements will be reviewed, and settings may shift from mandatory to highly recommended. At present though, face masks are still required at both Red and Orange settings of the CPF. The Ministry's face mask exemption replaces an interim solution called the communications card.

When are face masks not required?

There are some situations where a face mask does not need to be worn. This information can be found on the [Unite Against COVID-19 website](#).

What stakeholders have been engaged in this work?

Extensive consultation has been undertaken with stakeholders in the development of the face mask exemption policy. We held workshops with five main groups, the disability, health, business, education and transport sectors, and invited submissions.

Why is it still weeks away until the process goes live?

Work has already been underway on the background work and IT platform which will issue exemptions. It takes time to build an IT solution for the new card as we need to ensure that it is easily accessible to affected communities. For some people within these communities, accessing additional processes like these can be an extra barrier in an already complicated life and we want to make this process as accessible as possible for the people it is intended to protect.

Why not have a medical practitioner, e.g. general practice doctor, sign off on exemption cards?

This would have been too much of a barrier and/or additional cost for many people and wouldn't be an equitable of ensuring those most vulnerable are able to access a card. Some people who are exempt don't have ready access to transport or childcare and if there was a cost that would have been a barrier for many people. It also would have placed significant pressure on GP's who are already managing the additional workloads associated with supporting people with COVID-19 in the community. A requirement to provide a medical certificate could have led to thousands of additional appointments needed at a time when general practice is already dealing with both COVID-19 related work and the usual pressures.

How many cards do you expect to be issued?

It's difficult to estimate but based on current numbers there are approximately 100,000 old cards in circulation and around 1000 applications are received a week. Noting that initially this will be significantly higher as we anticipate most people will want to transition to the new cards. People will have their card issued digitally as well as by mail if needed, can immediately use their digital card once issued.

Why was a high-trust model accepted as the best way forward?

The high trust model was chosen because the Government wanted to make sure that people who come from communities that are already vulnerable within society were not further marginalised by its response to the COVID-19 pandemic. The vast majority of New Zealanders have demonstrated over the course of the COVID-19 pandemic response that they are keen to do the right thing to protect themselves and their communities.

Why keep the old 'communication cards' if a new system will be in place? Won't that be confusing?

The new system is intended to be rights-enhancing. That means that people can choose whether they use the new cards but will not be required to do so. The old cards (both the old exemption cards and the interim communication cards) will continue to have no legal status. By contrast, the new Exemption card will be explicitly recognised in the law as providing conclusive evidence of a person's exempt status. That means that someone showing a new card should not be questioned any further; and a business being presented with a new card should not have to make any further enquiries of the person.

Will the communication cards continue to be issued?

No, but they can still be used. It is recommended that people apply for a new card which is personalised with your name.

Isn't the new system open for abuse?

There may be a small minority of people that seek to exploit and misuse the new exemption system. But they are a minority. As we have seen over the past two years, most people will do the right thing and with enough people doing the right thing it will keep us safe from COVID-19. Face masks and other public health measures will never eliminate risk completely but they can reduce risk substantially, particularly if used together.

Will this process allow me to apply for an exemption on behalf of someone else, e.g. a child in my care?

Yes, it will. You will be able to make a request on behalf of other people either by calling the 0800 number or doing it online on the Ministry of Health's website.

Will face masks always be necessary?

We hope not. If we go to the Green setting of the traffic light system, you'll note that face masks are encouraged but not required in indoor settings. This will depend on case numbers and other factors.

Why was this option selected?

An extensive work programme was undertaken to assess what possible options there were that would best serve a range of groups. Several options were presented for face mask exemption arrangements to resolve the various issues highlighted by stakeholders with the current model.

The result balances the needs of the different groups involved.

If I get approached for not wearing a face mask and feel physically unsafe, what should I do?

No one should be made to feel unsafe if they're not wearing a face mask. Being unkind and bullying people is not acceptable behaviour. We encourage everyone to be kind and understanding about people's circumstances

If you ever feel physically unsafe, call the police.

Information for people who need an exemption card:**Who can apply for a face mask exemption card?**

Exemption cards are available for anyone with a physical or mental illness or condition or disability that makes wearing a face covering unsuitable. This includes people for whom the reason why they can't wear a face mask might not be obvious to strangers – such as victims of some violent crimes, or people with mental health conditions.

How does someone get a face mask exemption card?

The face mask exemption card process will be administered by the Ministry of Health, which will issue personalised cards to individuals. People can apply for a card via the Ministry of

Health website , there is also an 0800 number which people will be able to call free, and enables those who need interpreter or translation services to access these when calling.

Will it cost me anything to get a face mask exemption card?

No, the cards will be issued free of charge.

What is new about this face mask exemption card?

The new face mask exemption card will provide conclusive evidence that the bearer is exempt from wearing a face mask. As such, it has a legal status that other cards do not. A business that refuses to accept the new card will be at risk of breaching their duties and obligations under the Human Rights Act 1993.

The new cards will be individualised to the bearer and will not be able to be used by anyone else. They will have a different look and feel to both the old exemption card and the interim communication card.

Do I have to change my communications card for a new exemption card?

No, people can choose to use the existing communications cards if they wish. But it is recommended that people apply for a new card because this will give you greater assurance that your card, which will be personalised by name, should be accepted by businesses.

What legal protections come with these cards?

The new card provides conclusive evidence of the fact that the bearer is exempt from the requirement to wear a face mask. Businesses should therefore have the confidence to accept this at face value. If they don't, they may be in breach of their duties and obligations under the Human Rights Act 1993.

If I present an exemption card, am I guaranteed entry anywhere I go?

Businesses should treat the new Exemption Card as conclusive proof that the person is exempt from wearing a mask. Not doing so means they may be in breach of the Human Rights Act. Businesses retain the right to exclude people on the basis of their behaviours – so anyone (whether exempt or not) remains under an obligation to comply with the business's other terms of entry.

What if I don't wish to use an exemption card?

You don't have to use an exemption card. However, you may wish to apply for one to provide an extra level of assurance and protection.

What happens if someone refuses to recognise my exemption card?

The new face mask exemption card will provide conclusive evidence that the bearer is exempt from wearing a face mask. As such, it has a legal status that other cards do not. A business that refuses to accept the new card will be at risk of breaching their duties and obligations under the Human Rights Act 1993. If you believe your human rights have been breached, you can complain via the Human Rights Commission.

What happens if I cannot use the online form to get a card?

Someone else can make a request on your behalf by calling the 0800 number or doing it online on the Ministry of Health's website.

Do exemption cards have an expiry date?

No.

If I have an exemption for vaccination, do I have an exemption for face masks?

No. Vaccine exemptions and mask exemptions are separate issues. You will need to apply based on your ability to meet the mask exemption criteria.

Can I get a physical copy of the exemption card sent to me?

Yes, a digital copy will be issued, and a physical card can be requested in your application. This will be sent to a nominated address.

Can I be asked for ID to verify that my exemption card belongs to me?

Businesses may make it a condition of entry that your exemption card is supported by some other form of identification before granting entry. However, in most circumstances it is expected that this would not be requested when you show your exemption card.

Information for the business, service and events sector:**What does this new process mean for my business/service?**

The new Exemption Card will be legally recognised under the COVID Protection Order as conclusive evidence of the bearer's exempt status. That provides assurance to businesses that someone who presents a personalised exemption card has a genuine exemption, and you should not need to question that any further. The intent of the card is that it will help you to avoid having difficult conversations with customers because the card will be conclusive.

Can I check a customer's exemption card to make sure it is valid?

Yes, you can ask to see someone's exemption card but once this is presented to you, you should allow the person entry into your premises – unless you have another valid and non-discriminatory reason to deny them entry (for example, if they are being threatening or their behaviour is otherwise inappropriate).

You should not ask for personal health information in any circumstances; but in particular if someone presents with one of the new Exemption Cards that is conclusive legal proof of their exempt status and any further questioning may amount to discrimination under the Human Rights Act 1993.

If a customer presents an exemption card, am I required to permit them entry to my business?

If a person presents a new Exemption Card then they have conclusive legal proof that they are exempt from wearing a face mask. You should accept that as legitimate, but if you still do not wish to allow them entry to your store then be aware that could amount to a breach of your duties and obligations not to discriminate against people with disabilities under the Human Rights Act, which could give a person who feels discriminated against cause to make a complaint to the Human Rights Commissioner.

You will always have the right to exclude people from your business for poor or inappropriate behaviour.

Can some businesses enforce a face mask requirement?

Enforcement of face mask requirements by businesses is not required under COVID legislation. If needed, face mask requirements can be enforced through an enforcement agency. In some circumstances, owners of high-vulnerability premises may have strong reasons for making mask wearing a condition of entry, for example where admitting unmasked persons would create a significant public health risk. Examples of these are aged residential care facilities where there are vulnerable people. This will not generally apply to retailers and other businesses.

Your obligations under the Human Rights Act require you not to discriminate against people on the basis of their disability; and refusing to accept that someone with a new Exemption Card is genuinely exempt may constitute a breach of that Act.

What about people who refuse to wear a mask for ideological reasons? Won't they be able to dishonestly represent themselves to get an exemption card?

The process for applying for the new exemption card is designed so that it would be hard for someone to get a card dishonestly. The purpose of introducing this new process is to give assurance to business owners that someone with an official exemption card has gained one legitimately and has valid reasons for being exempt.

Should I challenge people I see not wearing a mask who should be?

No, we should all be mindful of other people's privacy and of the fact that people may have genuine reasons for not being able to wear a mask, which may not be obvious or immediately visible. We should all be respectful of others and think carefully about challenging others in public, especially given how distressing this can be for people. Businesses are neither required to enforce face mask requirements, nor empowered to inspect face mask exemption cards under the law.

Can the government impose any penalties on people who do not wear a face mask where required?

Yes – if those people are not legitimately exempt under the COVID-19 Public Health Response (Protection Framework) Order. Remember that people who are exempt are not obliged to prove this, but the new cards will help them to do so if they that is what they choose.

We prefer to take an educative approach. The face mask exemption approach is designed to be based on trust. This reflects our intent that communities who are already marginalised should not have to contend with additional barriers through the Government's response to the COVID-19 pandemic because of their disabilities.

What do I do if one of my employees has a face mask exemption, but there are mask requirements for my business?

Holding a valid mask exemption means a person who is unable to wear a mask can still work within settings that require masks. However, businesses are legally required to mitigate, as far as is reasonably practicable, the risks of spreading COVID-19 that arise to the extent that workers are unable to wear a face covering or a medical-grade face covering in these

circumstances. Businesses and workers are required to work together in good faith to find an appropriate solution, this may mean changes to shifts, duties, and operations generally within reason.

ENDS