

PUBLIC HEALTH ACT 2016 (WA)

Sections 157(1)(e), 157(1)(k), 180 and 190(1)(p)

COMMUNITY CARE SERVICES WORKER (RESTRICTIONS ON ACCESS) DIRECTIONS (No 2)

The World Health Organization declared COVID-19 a pandemic on 11 March 2020.

On 23 March 2020, the Minister for Health declared a public health state of emergency with effect from 1.30 pm on 23 March 2020 in respect of COVID-19 pursuant to section 167 of the *Public Health Act 2016* (WA) (**Act**). On 22 September 2021, the Minister for Health declared a further public health state of emergency with effect from 4.25 pm on 22 September 2021 in respect of COVID-19 pursuant to section 167 of the Act. The public health state of emergency applies to the State of Western Australia.

I, Dr Andrew Robertson, the Chief Health Officer, authorised as an emergency officer under section 4 of the Act to exercise any of the emergency powers while the public health state of emergency declaration in respect of COVID-19 is in force, consider it reasonably necessary to give the following directions to all persons in Western Australia to prevent, control or abate the serious public health risk presented by COVID-19 pursuant to sections 157(1)(e), 157(1)(k), 180 and 190(1)(p) of the Act.

PREAMBLE

1. The purpose of these directions is to put in place some measures to address the unique risks posed by COVID-19 in residential and non-residential community care settings, for the purpose of preventing the spread of COVID-19 to recipients who access community care services, in order to limit the spread of COVID-19 among vulnerable populations in Western Australia and to ensure these critical community care services continue to be available during the current public health state of emergency.

CITATION

2. These directions may be referred to as the **Community Care Services Worker (Restrictions on Access) Directions (No 2)**.

COMMENCEMENT

3. These directions come into effect upon signing.

REVOCATION

4. The Community Care Services Worker (Restrictions on Access) Directions are revoked.

DIRECTIONS

Access Restrictions Applying to Community Care Services Worker

5. Subject to paragraphs 7 and 8:

- (a) on and from 12.01am on 1 December 2021, a person who is a **community care services worker** must not enter, or remain at a **community care services facility** or a **community care services accommodation**, if the person has not been **partially vaccinated** against COVID-19; and
- (b) on and from 12.01am on 1 January 2022, a person who is a community care services worker must not enter, or remain at a community care services facility or a community care services accommodation, if the person has not been **fully vaccinated** against COVID-19,

unless the person is present at the community care services facility or community care services accommodation solely in a capacity other than as a community care services worker.

6. Subject to paragraphs 7 and 8:

- (a) on and from 12.01am on 1 January 2022, a person who is a **community care critical services worker** must not enter, or remain at a community care services facility or a community care services accommodation, if the person has not been partially vaccinated against COVID-19; and
- (b) on and from 12.01am on 1 February 2022, a person who is a community care critical services worker must not enter, or remain at a community care services facility or a community care services accommodation, if the person has not been fully vaccinated against COVID-19,

unless the person is present at the community care services facility or community care services accommodation solely in a capacity other than as a community care critical services worker.

General Requirements

7. Where only part of **premises** are being used as a community care services facility, nothing in these directions prevents a community care services worker or a community care critical services worker who is not vaccinated against COVID-19 from entering or remaining upon that part of the premises which is not being used as a community care services facility.
8. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a community care services facility or a community care services accommodation for the purposes of:
 - (a) performing a law enforcement function that cannot reasonably be performed other than by entering the community care services facility or community care services accommodation; or
 - (b) performing a statutory duty arising under a written law of the Commonwealth that cannot reasonably be performed other than by entering the community care services facility or community care services accommodation; or
 - (c) performing any function or duty or exercising any right or power under a Fair Work entry permit issued by the Fair Work Commission under the *Fair Work Act 2009* (Cth) or a Work Health and Safety entry permit issued by the Fair Work Commission under the *Work Health and Safety Act 2011* (Cth) or a right of entry permit issued by the Registrar of the Department of the Registrar, Western Australian Industrial Relations Commission under the *Industrial Relations Act 1979* (WA); or
 - (d) responding to an emergency where the emergency response is required to be provided immediately, and a fully vaccinated or partially vaccinated person is not available to provide the response; and

to the extent that a community care services worker or community care critical services worker enters a community care services facility or community care services accommodation for any of the purposes in paragraph (a) to (d), then the community care services worker or community care critical services worker is an **exempt person** at any time they enter, and for so long as they remain at a community care services facility or community care services accommodation for that purpose.

9. A community care services worker or community care critical services worker must provide evidence in the form approved by the **Chief Health Officer** of their **vaccination status** for inspection, recording and retention of a copy, if:
 - (a) **directed** to do so by an **emergency officer** or a **nominated officer**; or
 - (b) required to do so by their employer or by the person apparently in charge of a community care services facility or by the **service provider of community care services**.
10. The employer or person apparently in charge of a community care services facility or community care services accommodation or service provider of community care services must:
 - (a) take all reasonable and lawful steps to:
 - i. collect and maintain a record of the vaccination status of each community care services worker or community care critical services worker of the community care services facility or community care services accommodation; and
 - ii. only roster on, or otherwise permit to work in a community care services facility or community care services accommodation, a community care services worker or community care critical services worker who is vaccinated or is an exempt person in accordance with these directions;
 - (b) on request, provide any record of the kind referred to in paragraph 10(a)i that the employer or person apparently in charge of a community care services facility or service provider of a community care services has collected and maintained to an emergency officer or nominated officer as soon as practicable after the request is made; and
 - (c) not use or disclose any record of the kind referred to in paragraph 10(a)i except:
 - i. as provided for in this paragraph 10; or
 - ii. as permitted or required by law, including any law of the Commonwealth; or
 - iii. for the purpose of ascertaining compliance with any employer direction restricting entry to a community care services facility or community care services accommodation; or

- iv. to the extent that the person expressly provided the person's vaccination status for a purpose other than for the purposes of these directions; and
- (d) take reasonable steps to protect any record it holds of the kind referred to in paragraph 10(a)i from:
 - i. misuse and loss; and
 - ii. unauthorised access, modification or disclosure.

11. A person who is required to provide evidence of their vaccination status under paragraph 9 or a record of the kind referred to in paragraph 10(a)i, under paragraph 10(b) must only provide evidence or a record that is true and accurate.

INTERPRETATION

12. Unless specified otherwise, any reference in these directions to any other **direction** made by the Chief Health Officer is deemed to be a reference to that direction as amended or replaced from time to time.

DEFINITIONS

For the purposes of these directions:

13. **Ad hoc basis** means attendance at any community care services facility no more than once per week.
- Note: A person who attends multiple community care services facilities in a week, but does not visit the same community care services facility twice, does not attend on an ad hoc basis.*
14. **Ad hoc volunteer** means a person who provides goods or services at a community care services facility in a voluntary or unpaid capacity and does so on an **ad hoc basis** only.
15. **Approved provider** means a service provider.
16. **Chief Health Officer** has the same meaning that it has in the Act.
17. **Community care services** means:
- (a) services relating to drug and alcohol treatment and support;
 - (b) services relating to **disability support**;
 - (c) services relating to child protection;
 - (d) services for Aboriginal and Torres Strait islander people;
 - (e) services relating to prevention of or recovery from institutional abuse, family or domestic violence or abuse;

- (f) services relating to public housing support;
- (g) services relating to homelessness including but not limited to services provided to people who are homeless or at risk of being homeless;
- (h) services relating to mental health;
- (i) services relating to in-home and community aged care including recipients receiving any of the following care types:
 - i. Home Care Package;
 - ii. Short-term Restorative Care;
 - iii. Transition Care Program;
 - iv. Multi-Purposes Services Program;
 - v. Commonwealth Home Support Programme; or
 - vi. National Aboriginal Torres Strait Islander Flexible Aged Care Program;
- (j) to the extent not captured by subparagraphs (a) to (i) any social services provided by or contracted by the Western Australian government relating to support for members of the community who have a particular need because of illness or a chronic health condition or infirmity;
- (k) any other service specified to be a community care service by the Chief Health Officer in writing or any person authorised by him for that purpose, other than a service that is specified by the Chief Health Officer or a person authorised for that purpose not to be a community care service,

and for the purpose of paragraph 17, **services** means all services as set out in paragraph 17(a) to (j) provided direct to a **recipient** and includes legal services, financial counselling services, relationship counselling services, food and emergency relief and welfare services.

- 18. **Community care services accommodation** means the accommodation of the recipient of community care services at a time at which community care services are being provided.
- 19. **Community care services facility** means each of the following facilities:
 - (a) a staffed residential service;
 - (b) a **mobile community care services vehicle**;
 - (c) community care services accommodation;
 - (d) a **disability support accommodation facility**;

- (e) a District Office or **hub** or a **critical support facility** of the Department of Communities;
- (f) a service provider office or site;
- (g) any other facility that is specified to be a community care services facility by the Chief Health Officer in writing or any person authorised by him for that purpose,

but does not include:

- (h) a health care facility defined by the Health Worker (Restrictions on Access) Directions (No 3), a residential aged care facility defined by the Residential Aged Care Facility Worker Access Directions (No 4), a primary health care facility defined by the Primary Health Care Worker (Restrictions on Access) Directions, or a quarantine centre defined by the Access to Quarantine Centre Directions (No 2);
- (i) a **private psychiatric hostel**;
- (j) any other facility that is specified not to be a community care services facility by the Chief Health Officer in writing or any person authorised by him for that purpose.

- 20. **Community care services worker** means a person of the kind set out in Column 1 of the table in Schedule 1 other than an exempt person (even if that exempt person falls within Column 1 of the table in Schedule 1).
- 21. **Community care critical services worker** means a person of the kind set out in Column 1 of the table in Schedule 2 other than an exempt person (even if that exempt person falls within Column 1 of the table in Schedule 2).
- 22. **Critical support facility** means the following Department of Communities premises:
 - (a) Fremantle Head Office located at 5 Newman Court, Fremantle in the State of Western Australia;
 - (b) Ground floor and first floor of 151 Royal Street, East Perth in the State of Western Australia;
 - (c) 169 Hay Street, Perth in the State of Western Australia;
 - (d) Third floor of 140 William Street, Perth in the State of Western Australia;
 - (e) 6-8 Bennett Street, East Perth in the State of Western Australia;
 - (f) 111 Wellington Street, East Perth in the State of Western Australia;
 - (g) 203 Nicholson Road, Shenton Park in the State of Western Australia; and

- (h) any other facility that is specified to be a critical support facility by the Chief Health Officer in writing or any person authorised by him for that purpose.
23. **Direction** includes any direction under the Act, whether the direction is given orally or in writing, and **directed** includes directed by way of a direction under the Act, whether the direction is given orally or in writing.
24. **Disability support** means treatment or care provided specifically for people with a disability, whether by carers or others and includes all supports funded through the National Disability Insurance Scheme.
25. **Disability support accommodation facility** means a staffed residential service at which disability support is provided.
26. **Emergency officer** has the same meaning that it has in the Act.
27. **Exempt person** means, to the extent that any such person is a community care services worker or a community care critical services worker:
- (a) a person who has:
 - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 9; or
 - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 9;
 - or
 - (b) a person who is, by operation of paragraph 8 of these directions, an exempt person; or
 - (c) a person of the kind set out in Column 2 of the table in Schedule 1; or
 - (d) a person of the kind set out in Column 2 of the table in Schedule 2; or
 - (e) any other person or class of persons who the Chief Health Officer, or a person authorised by the Chief Health Officer for the purposes of this paragraph, declares in writing to be an exempt person upon receipt of a request for exemption in the form specified by the Chief Health Officer and subject to any terms and conditions specified.
28. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
29. **Hub** means a satellite location providing recipient community care services on behalf of a District Office of the Department of Communities.

30. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
31. **Mobile community care services vehicle** means a vehicle from which community care services are provided to a recipient.
32. **Nominated officer** means an employee of the Department of Communities authorised by the Chief Health Officer orally or in writing to perform a function for the purposes of these directions.
33. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
34. **Premises** has the same meaning that it has in the Act.
35. **Private psychiatric hostel** has the same meaning as in the *Private Hospitals and Health Services Act 1927* (WA).
36. **Recipient** means a person who receives community care services.
37. **Service provider** means an individual, public body, company, or association or body of persons, corporate or unincorporated, that provides community care services to a recipient in the community and includes:
- (a) an **approved provider** for whom a flexible care subsidy is payable in respect of services delivered outside of a residential care setting or a home care subsidy is payable under the *Aged Care Act 1997* (Cth); or
 - (b) a service provider of a Commonwealth-funded aged care service as defined in the *Aged Care Quality and Safety Commission Act 2018* (Cth), delivering services outside of a residential aged care setting.
38. **Temporary exemption** means an exemption approved by the Chief Health Officer or a person authorised by the Chief Health Officer for that purpose whether in relation to an individual or a class of persons and subject to any terms and conditions specified in that approval.
39. **Vaccination status** means whether a community care services worker or community care critical services worker has been partially or fully vaccinated or whether they are an exempt person.

PENALTIES

It is an offence for a person to fail, without reasonable excuse, to comply with any of these directions, punishable by a fine of up to \$20,000 for individuals and \$100,000 for bodies corporate.



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Dr Andrew Robertson

Emergency Officer

25 November 2021 16⁰⁷ hours

SCHEDULE 1

Community Care Services Workers

Row	Column 1	Column 2
1	A person who provides community care services to a recipient at a community care services facility or community care services accommodation (irrespective of whether those services are provided for consideration or on a voluntary basis and irrespective of whether that person is employed or engaged, including in an unpaid or voluntary basis, by the employer, owner, operator, service provider or person apparently in charge of the community care services facility or community care services accommodation or a third party who provides goods and services at the community care services facility or community care services accommodation for or on behalf of the employer, owner, operator, service provider or person apparently in charge of a community care services facility or a community care services accommodation or some other person, including the recipient).	<p>An ad hoc volunteer.</p> <p>A person who is a recipient.</p> <p>A person who is a family member or friend of a recipient.</p> <p>An advocate for a recipient.</p> <p>A guardian for a recipient.</p> <p>An interpreter for a recipient.</p> <p>A person who is a foster carer for a recipient.</p> <p>A person who is a carer of a recipient in circumstances where the recipient resides with the carer, including residing with members of the carer's family.</p> <p><i>Note: the carer and or a member of the carer's family who reside with a recipient, would be an exempt person for the purposes of these directions.</i></p> <p>In relation to a community care services accommodation premises, members of the household who reside at the premises and visitors to the premises who do not otherwise fall within Row 1 of Column 1.</p> <p>A tradesperson who provides services at the community care services facility on an ad hoc basis only including but not limited</p>
2	A person who is a student and undertakes a placement, registration or internship at a community care services facility or at a community care services accommodation as a formal part of their education.	

3	<p>A person who provides goods or services at a community care services facility and is employed or otherwise engaged, including in a voluntary or unpaid capacity, other than an ad hoc volunteer by the owner, operator or by the service provider of a community care services facility, including:</p> <ul style="list-style-type: none"> a. an administrative staff member including but not limited to a person working in administration, management or reception services; b. an ancillary staff member including but not limited to a cleaner, a laundry staff member, a gardener, a person performing food preparation services, a security officer and a person providing maintenance services; c. a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors; d. a person providing lifestyle and social care, including but not limited to a transport driver who transports recipients of the community care services facility or community care services accommodation; e. a person who provides commercial activities at premises that constitute a community care 	<p>to a drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber, plasterer but not including a tradesperson who is required to come within 1.5 metres of a recipient at the community care services facility or at the community care services accommodation.</p> <p>A delivery driver who provides goods at the community care services facility on an ad hoc basis but not including a delivery driver who is required to come within 1.5 metres of a recipient at the community care services facility.</p>
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	<p>services facility whether pursuant to any lease, licence or otherwise;</p> <p>f. a Board Member of a service provider or a community care services facility who attends a community care services facility.</p>	
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SCHEDULE 2

Community Care Critical Services Workers

Row	Column 1	Column 2
1	<p>A person employed by the Department of Communities at a critical support facility or a person engaged to provide goods or services at a critical support facility, including in a voluntary or unpaid capacity, other than an ad hoc volunteer, including:</p> <ul style="list-style-type: none"> a. a person who provides a welfare function or a welfare recovery function in connection to the Department of Communities being a Hazard Management Agency under the <i>Emergency Management Act 2005</i> (WA); b. a person who provides a contact tracing function for public health emergency management purposes under the Act; c. an administrative staff member including but not limited to a person working in administration, management or reception services; d. a person engaged by a labour hire firm that provides staff to supplement the permanent workforce and contractors; e. an ancillary staff member including but not limited to a cleaner, a laundry staff member, a 	<p>An ad hoc volunteer.</p> <p>A tradesperson who provides services at the critical support facility on an ad hoc basis only, including but not limited to a drainer, gasfitter, plumber, mechanic, electrician, builder, air conditioning or refrigeration worker, metal fabricator, plumber or plasterer.</p> <p>A delivery driver who provides goods at the critical support facility on an ad hoc basis.</p>

	gardener, a person performing food preparation services, a security officer and a person providing maintenance services.	
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