

## **PUBLIC HEALTH ACT 2016 (WA)**

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

#### **MINISTERIAL STAFF MEMBER (RESTRICTIONS ON ACCESS)**

#### **DIRECTIONS**

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 measures to address the unique risks posed by COVID-19 at a Ministerial site in order to otherwise limit the spread of COVID-19 in Western Australia, in the context of ensuring that Ministerial staff members continue to provide critical support services to enable Ministers to perform their executive functions during the current public health state of emergency.

#### **CITATION**

2. These directions may be referred to as the **Ministerial Staff Member (Restrictions on Access) Directions**.

#### **COMMENCEMENT**

3. These directions come into effect upon signing.

## **DIRECTIONS**

### **Access Restrictions Applying to Ministerial staff members**

4. Subject to paragraphs 5 and 6:
  - (a) on and from 12:01am on 1 January 2022, a person who is a **Ministerial staff member** must not enter, or remain at, a **Ministerial site** if the Ministerial staff member has not been **partially vaccinated** against COVID-19; and
  - (b) on and from 12:01am on 1 February 2022, a person who is a Ministerial staff member must not enter, or remain at, a Ministerial site if the Ministerial staff member has not been **fully vaccinated** against COVID-19.

unless the person is present at the Ministerial site solely in a capacity other than as a Ministerial staff member or is an **exempt person**.

### **General Vaccination Requirements**

5. Where only part of **premises** are being used as a Ministerial site, nothing in these directions prevents a Ministerial staff member who does not meet the requirements of paragraph 4 from entering that part of the premises which is not being used as a Ministerial site.
6. Nothing in these directions prevents a person who is not vaccinated against COVID-19 from entering any part of a Ministerial site for the purposes of:
  - (a) performing a law enforcement function that cannot reasonably be performed other than by entering the Ministerial site; or
  - (b) performing a statutory duty arising under a law of the Commonwealth that cannot reasonably be performed other than by entering the Ministerial site; 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; or

- (e) in any circumstances approved in writing by the Chief Health Officer or a person authorised in writing by the Chief Health Officer for the purpose and subject to any conditions expressed in that approval.
7. A Ministerial staff member 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
  - (b) required to do so by their employer.
8. The employer of a Ministerial staff member must:
- (a) take all reasonable and lawful steps to:
    - (i) collect and maintain a record of the vaccination status of each Ministerial staff member; and
    - (ii) only roster on, or otherwise permit to work at a Ministerial site a Ministerial staff member who is vaccinated or is an exempt person in accordance with these directions; and
  - (b) on request, provide any record of the kind referred to in paragraph 8(a)(i) that the employer of a Ministerial staff member, has collected and maintained to an emergency 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 8(a)(i) except:
    - (i) as provided for in this paragraph 8; 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 Ministerial site; 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 8(a)(i) from:
    - (i) misuse and loss; and
    - (ii) unauthorised access, modification or disclosure.

9. A person who is required to provide evidence of their vaccination status under paragraph 7 or a record of the kind referred to in paragraph 8(a)(i) under paragraph 8(b) must only provide that evidence or a record that is true and accurate.
10. The forms of evidence approved in the *Chief Health Officer Approved Form Of Evidence Of COVID-19 Vaccination Under Each Of The Restrictions On Access Directions Given Under The Public Health Act 2016(WA) In Respect Of COVID-19*, as amended or replaced from time to time, are approved for the purposes of paragraph 7 of this direction.

## INTERPRETATION

11. 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:

12. **Chief Health Officer** has the same meaning that it has in the Act.
13. **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.
14. **Emergency officer** has the same meaning that it has in the Act.
15. **Exempt person** means, to the extent that any such person is a Ministerial staff member:
  - (a) a person who has:
    - i. a **medical exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
    - ii. a **temporary exemption** of which the person provides proof on request by a person referred to in paragraph 7; or
  - (b) 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.
16. **Fully vaccinated** means that the person has been administered with two doses of a COVID-19 vaccine registered by the Therapeutic Goods Administration.

17. **Medical exemption** means a medical exemption recorded on the Australian Immunisation Register and displayed on the individual's Immunisation History Statement.
18. **Ministerial staff member** means:
- (a) a person of the kind set out in Column 1 of Schedule 1; or
  - (b) any other person or class of persons specified in writing to be a Ministerial staff member by the Chief Health Officer or a person authorised by him for that purpose, but does not include a person who enters a Ministerial site for any of the purposes in paragraph 6.
19. **Ministerial site** means the following premises:
- (a) Ministerial offices located at Dumas House, 2 Havelock Street, West Perth in the State of Western Australia;
  - (b) a **Ministerial vehicle**; or
  - (c) any other site that is specified to be a Ministerial site by the Chief Health Officer in writing or any person authorised by him for that purpose.
- Note: An electoral office is not a Ministerial site for the purpose of these Directions.*
20. **Ministerial vehicle** means a vehicle, driven by an executive transport officer to transport a Minister on official business.
21. **Partially vaccinated** means that the person has been administered with one dose of a COVID-19 vaccine registered by the Therapeutic Goods Administration.
22. **Premises** has the same meaning that it has in the Act.
23. **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.
24. **Vaccination status** means whether a Ministerial staff member has been 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

**17** December 2021 **13:51** hours

## SCHEDULE 1

### Ministerial Staff Members

Row	Column 1
1	<p>A person who is appointed or contracted to work for a Minister at a Ministerial site:</p> <ul style="list-style-type: none"><li>a) a ministerial officer; or</li><li>b) a ministerial staff member (permanent or contract); or</li><li>c) a person on secondment from another government agency; or</li><li>d) a person on placement from another government agency,</li></ul> <p>but does not include:</p> <ul style="list-style-type: none"><li>e) a cleaner;</li><li>f) a person who is employed or engaged by another government agency who visits a Ministerial site and is not on secondment or placement;</li><li>g) any other visitor to a Ministerial site; or</li></ul> <p><i>Example: a person who visits a Ministerial site to carry out maintenance services.</i></p> <ul style="list-style-type: none"><li>h) any other person that is specified not to be a Ministerial staff member in writing or any person authorised by the Chief Health Officer for that purpose.</li></ul>
2	<p>An executive transport officer engaged by the Department of Premier and Cabinet to provide transportation services for Ministers.</p>
3	<p>A person who is a student or on work experience or an internship and is on a placement at a Ministerial site.</p>
4	<p>A volunteer who works for a Minister at a Ministerial site.</p>