

Te Tira Ārai Urutā

Royal Commission of Inquiry into COVID-19 Lessons Learned

Official interview transcript: Rt. Hon. Christopher Hipkins (follow-up)

15 September 2025

Present:	Grant Illingworth KC	GI	<i>Chair of the Inquiry</i>
	Judy Kavanagh	JK	<i>Commissioner of the Inquiry</i>
	Anthony Hill	AH	<i>Commissioner of the Inquiry</i>
	Danielle Kelly	DK	<i>Counsel assisting the Inquiry</i>
	Inquiry Secretariat member	IS1	-
	Rt. Hon. Christopher Hipkins	CH	<i>Former Minister for COVID-19 Response & former Minister of Education</i>
	Linda Clark	LC	<i>Counsel for Rt. Hon. Christopher Hipkins</i>
	Accompanying person	AP	<i>Accompanying person for Rt. Hon. Christopher Hipkins</i>

CH	Right. We're in your hands.
GI	Yes. Well Chris, thank you so much for coming back for more. In Oliver Twist like fashion.
CH	That's all right.
GI	So we're really being helped by your written responses and the earlier answers to questions. It gives us insight that we just couldn't get any other way, so we deeply appreciate it. But, as you know, we've sent you a few more topics and really grateful that we can explore those with you tonight. So Danielle is Counsel Assist and she's done most of the prep for this so we will let her run riot with you.
CH	Sure.
GI	And then our Commissioners may have a few questions to add on.
CH	No problems. Sounds good.
	[redacted]
DK	We will send a transcript of this one as well. You've seen the draft transcript of your previous interview. I think we're still doing some work to improve the quality of those 'cos they're a sort of a combination of AI and human review.
CH	Sure.

DK	<p>But we'll send you a, hopefully, improved one also from that one and this one. I actually thought that it might be useful if I started us off with a bit of a blurb of where we're at, 'cos it's sort of picking up a conversation part way through, it's all been speaking the obvious to everybody in the room but I just thought it might be useful to set the starting point a little bit. And obviously we've heard from you on these topics in a general sense, as Grant was saying quite a lot, and we're now looking to ask in a bit more depth just about a few of those key decisions, which we are of course tasked to review, including assessing whether decisions were well-informed and reflected advice received and whether they struck reasonable balance between public health goals and social and economic disruption. And I do want to flag that the big message I think from our last interview that those aren't necessarily on different size of the scales has definitely well and truly been heard. We're still looking at how things were weighed and whether there was a reasonable balance as per our Terms of Reference. And also unforeseen consequences.</p> <p>The focus of most, I think first four topics that we sent you, is on the mandates.</p>
CH	Yeah.
DK	<p>And the reason for that is I guess it remains quite a contentious issue for many. In phase one we found similarly that it was one of the most controversial aspects and a major source of tension and social division. And recognised – well finding, of course, that it was reasonable. You'll know this – found it was reasonable to introduce targeted vaccine requirements but recognise that when some were applied maybe more broadly or remained too long that it caused harm to relationships and reduced trust in government and contributed to a lower uptake of other vaccines. And that sort of theme has been strong in the public submissions that we've received in phase two as well. We've recently had teams analysing the almost 32,000 public submissions I think that we received – obviously self-selected group – 32,000. But 85% of those have been critical of the response in vaccine mandates, were the most discussed topic. Some people objected to the pressure applied to be vaccinated and were highly critical of jobs being lost as a result of foregoing vaccination. I'm just reading all of that from summaries that have just been created today from most of the 32,000 submissions. Lots of people have commented that vaccine mandates divided society and caused personal and financial stress for those who for a variety of reasons did not want to be vaccinated, and there was also a comment that exemptions were said to be too difficult to obtain, in particular, for people who felt their existing health conditions precluded vaccination.</p>

	I think I sent through to Linda a couple of links.
LC	Today.
DK	Today, yeah, just of some of the videos. A few of those public submissions were turned into video submissions that were part of the first public hearing that we had.
LC	You haven't had time to see those today.
CH	I haven't seen those, no.
DK	They can give you a flavour. We wouldn't be asking for a specific comment on individual situations anyway obviously, it's just to get a sense of some of the voices that have also been presented to the Inquiry.
LC	They were just sent through too late. And we talked about that at the outset that if you wanted anything to be considered by Mr. Hipkins, he'd have to provide them well in advance of the same day. So it hasn't been looked at.
DK	Understood. I've summarised some of the things that they represented anyway, from the public submissions. So that's just a bit of background to show some of the reasons that mandates has been one of our focuses, they're the ones we want to dig into to really understand the limit of those, or the decision making in those. But, I would also like to say that from our previous discussions, we're also coming from an understanding of some positions, including some of the contexts of where these mandates were made. So we've asked to look at education work and mandating health workers and also the vaccine passes. So, again, just repeating back the things that you know, but I just thought it would be a useful starting point. We're very cognisant that these were made in October 2021, especially the two occupation mandates we just mentioned, and that that was two months into a lockdown. We had Delta. Vaccination was rapidly climbing but was still 85% single dose I've got written here, so it was still a new process. It had just become clear that Delta was not being eliminated and there was modelling and we've seen – I think we discussed last time some of the models that was obviously put to you that were showing case numbers and hospitalisations were not looking good at the time and real risk. And so you were moving from an elimination strategy to a minimisation suppression, strategy when vaccination rates got high enough. So we take these mandates to be considered and looked at against that context, and looking coming into effect when we might be in a different phase of COVID moving through the community in this minimisation and suppression strategy.

	<p>The vaccine passes were decided in principle at the same time, but came in a little bit later when we were very close to reaching the 90% target. And last time I think you and some others talked about the wide public support and the calls for mandates that existed at the time and so I think you said that you were receiving plenty of advice through the period that businesses wanted it. That people were fearful of COVID, there was support for mandates from across the political spectrum and so there was this context of undoubtedly a majority of people being supportive of having some strong measures to enable lockdowns to be lifted and life to return to normal. So there's obviously a lot more to it, but I just wanted to run through that as a starting point to say that's a jumping off point for asking these questions today, so to the extent they're asking about justifications. Do you have any comments or anything before we jump in?</p>
CH	<p>No I think all of the five topics that you've raised all are around the same kind of four to five month time period.</p>
DK	<p>Yeah.</p>
CH	<p>And it was in that time period where we were moving from – well, initially, if I go back to the start of the Auckland lockdown, it wasn't clear that we were moving from elimination to suppression. And even as early as October, we were still getting conflicting advice on whether or not we were going to be able to contain that outbreak in Auckland and move back to an elimination period for some time. We knew that even if we had achieved elimination again, it was not going to be a definite, it was going to give us more options in terms of how we staged the next part of the process, but we were well into October before it became clear that clearly wasn't going to happen. We would have to pivot away from the reconnecting New Zealand strategy that we had previously agreed. So we had previously agreed a strategy which all the papers will show the reconnecting New Zealand strategy. That was all very carefully mapped out through 2022 as to how we would slowly move to life as normal, the border reopened and so on. And it really was in October, November that we had to grapple with the fact that that strategy clearly wasn't going to unfold as we had previously planned it. but I think it's important to note that through that time there was still a lot of uncertainty. So Delta created uncertainty that that meant that some of the certainties that we'd previously been working on suddenly became less certain, including issues around vaccine efficacy with different strands of COVID-19 and so on, and what the effect of that might be. And then there were issues around how you would re-phase things, and then Omicron came along over the summer holidays which then just added another</p>

	<p>layer on to it. So I think it was probably – aside from the very beginning, that four months or so that we’re talking about was probably the period in which everything changed the fastest.</p>
DK	<p>And I think I can probably speak for the Commissioners, we’re very aware that as analysis had gone on, focusing in on what we said was the most difficult time for decision making, so that’s exactly why we’re going into it. We’re definitely aware that it is only a very short period in the scheme of the pandemic period overall. Okay, well if I dive into some of the questions. Before we go into the specific mandates, I’ve just walked through some of these consequences or remaining feeling about the vaccine mandates. And I just wanted to get a sense from you about the extent to which that was a foreseen or unforeseen outcome. I think there was some indication in the paperwork about the COVID protection framework that was widely applied and that it might lead to public protests that had been seen overseas, but I guess that seems quite different to me than saying that there’s still thousands of people five years later to whom this was a really big deal.</p>
CH	<p>I think one of the challenges with that though is that proving or disproving what would have happened had there not been those requirements is also very difficult because suggesting that it was all to do with the mandates rather than issues around vaccination and around the effect of COVID-19 I think would be unfair. Because there was going to be social disruption at that time, regardless of whether there had been mandates or not. And some of the mandates were actually designed to minimise that disruption. You had workplaces where employers were saying no-one will come back to work unless they know that the people in this workplace have been fully vaccinated. Parents would not have sent their kids back to school unless there was some reassurance that the kids around them and the teachers had been vaccinated. Major events organisers didn’t want to bring any events to New Zealand unless there was some reassurance that they weren’t going to be cancelled. So those were factors that played into the issues around vaccine passes for example. So we were trying to minimise the social disruption and the decisions that we took, and the absence of a mandate would not have guaranteed that that disruption wouldn’t have been there. It would’ve manifested itself in different ways. Families would still have been divided between the people who were happy to be vaccinated and the people who weren’t.</p>
DK	<p>I understand all that. And the absence of a counterfactual is glaringly missing from all of what we can glean at the moment, isn’t it. I guess though, saying all of that, I don’t want to overstate the numbers but a lot of people are still talking about the mandates themselves</p>

	<p>as being something that they continue to feel very strongly about, and there's that sense that phase one we picked up on as well that it's contributed to increased vaccine hesitancy for other vaccines, and we've heard some evidence to that effect as well. And I just want to probe a bit more whether that was something you expected or might have come as a surprise.</p>
CH	<p>There have also been people who are opposed to vaccination. In society that's not a new challenge.</p>
LC	<p>I think also you want to be cautious about causality.</p>
DK	<p>Yes.</p>
LC	<p>Or causation because although people might well perceive and express their distrust of public institutions, disengagement with the political body, whole range of things, and put that coat on the issue of mandate – vaccine mandates – there's a whole lot of things that have happened since that period of time, both in New Zealand and globally, that have essentially amplified grievances or feelings or just added information to them and people may well express it in a certain way but it isn't to say that the vaccine itself, or the mandate itself, is the cause of all of that ill-feeling. It might be as phase one said, a contributing factor, but it might actually only be a pebble in the shoe. But over time if you walk in that shoe ...</p>
CH	<p>There's no question that some of the people who were most opposed to vaccination and ended up out on the forecourt of Parliament were some of the most distrustful people in society of government and government institutions generally.</p>
DK	<p>If we turn to education mandates just for a bit. We had very little in the way of information that we've been able to get from the record about this or public health advice [inaudible 18:00] for those. So I just wanted to ask you for your take on it at the beginning. If we just start there to the extent that you can recall the education mandates specifically. The discussions and what factors were taken into account or advice you were receiving about public health.</p>
CH	<p>It was set out in the Cabinet paper in October I think of 2021, the rationale for that. We were concerned about the potential for schools to become super-spreader locations for COVID-19, including the fact that whilst there was variable evidence about the effect COVID-19 would have on kids, kids could transmit it to more vulnerable adults and therefore schools being a significant transmission point was an area of concern. And that was very clearly one</p>

	<p>of the key themes that came through the public health advice was around the potential for schools to become vectors of transmission if you like, that then saw COVID-19 spread very rapidly amongst often quite vulnerable populations.</p>
DK	<p>There is some, subsequent record of schools known as not being a common source of community transmission and children as well, and you've answered that a little bit, but children themselves not being generally high risk or suffering illness. Do you recall any advice on that topic of how likely it was that schools would be a source of this super-spreader events?</p>
CH	<p>We received quite a range of advice, including from Health. There was also Dr Jin Russell who was in the media providing public advocacy about the desirability of kids being vaccinated from the perspective of reducing transmission within schools. Of course there's a lot more information now than there was at the time that we were making all of these decisions.</p>
DK	<p>I'm interested particularly in whether there was advice about the incremental benefit of having teachers vaccinated in the setting. There is some discussion of that in relation to moving to the CPF, to the COVID Protection Framework, where at one point – and it's in the documents, I've got document 18 written down here – but from a public health perspective, there's only marginal additional community protection for waiting for rates to increase by 1 to 2%. And so this idea of a marginal additional protection from a particular requirement. And was interested in whether that was considered in the context of mandates for schools in that we had high – by the time they were implemented – high vaccination rates generally, we were in the zone where it was over 90% of the nation. The children in the schools were unvaccinated, especially primary school level, with lower vaccination but having teachers, what marginal difference it makes to have those extra few teachers vaccinated to the public health or to the risk.</p>
CH	<p>That was always a factor. We were always looking at the advice as to what difference different requirements would make, to ascertain that they were justified in those circumstances. And also that included weighing up the alternatives as well. So face coverings, for example, was a PPE requirement that we considered for schooling, and in primary schools we had pretty clear advice from the teaching community and from child wellbeing experts that facemasks for primary school kids was – (a) – not practical, but also for their teachers was a massive hindrance to learning because so much of their</p>

	<p>communication at primary school level comes through facial expression. At the time I was settling my five year old into school and I just couldn't imagine doing that with the teacher wearing face covering. Five year olds need that kind of emotional cue from a teacher's face.</p>
DK	<p>So was there consideration of the – and either/or – for vaccination or a daily test or a weekly test? I know weekly tests were used for teachers while vaccination was being rolled out but to have that for remaining teachers that didn't want to be vaccinated for some reason?</p>
CH	<p>We wanted to take a consistent approach to whether there would be a vaccination requirement or a testing requirement and so all of the discussions around vaccination mandates were considered together with the same set of principles. So whether it's teaching, health workers, anybody else, we treated everybody in that regard the same in terms of not wanting a different set of circumstances for teachers than for others who were also subject to vaccine mandates.</p>
DK	<p>I guess in those contexts also, did you consider whether, again, noting the time that these came into effect as opposed to when they were made, we had a high level of vaccination generally, so you're talking about mostly the 10% or less of the population that aren't already vaccinated anyway. But whether for those that didn't want to, a test would be an alternative to a mandate, so either you have your vaccine pass or your vaccine certificate or a negative test to be able to work.</p>
CH	<p>We were very mindful, and we followed the public health advice on all of this, but we were also very mindful that we still needed schools to be able to continue to operate, and large scale outbreaks in schools would cause that to be drawn into question. So high vaccination rates helped to provide some certainty that schools would still be able to function. As Minister of Education at the time in the different role, I was regularly in contact with school principals who during that period, particularly early 2022 – one principal I think put it very succinctly. He said, "Every morning when I wake up I count the number of teachers that I have left and I count the number of kids that I have left and I hope that I can somehow make those two numbers work together." The disruption, even with high levels of vaccination, was huge within schools. Schools were having to roster kids home because they didn't have enough teachers. So the vaccine requirements were also one of the things that we were factoring into the fact that we needed schools to be able to continue to operate.</p>

DK	On the other side of that, by the time you're getting to the last few percentage of people, we see people choosing not to, remaining not, and so losing their jobs. So you're losing the teachers in any event. So was that also considered, taken into account?
CH	Of course.
DK	And again, I'm interested in if there was consideration of whether some kind of alternative like that, like a test as an alternative, whether there was public advice I should say about whether that test, so you have a negative test every day, or a vaccine pass, and whether that would increase the risk of school outbreaks obviously that you're trying to stop.
CH	So there was very strong public health advice resistance to the notion of tests as an alternative to vaccination requirements. And ...
DK	And sorry to interrupt that – that's in general?
CH	That's in general. As I said, we were considering these as a relatively consistent set of requirements rather than asking for separate advice on testing versus vaccination for every individual context.
DK	So if I just turn to the breadth of – the bullet point in the topics is breadth, and maybe that's sort of two topics. The wording of the education mandate is quite broad. Any person over 12 that may have contact with children in the course of carrying out their work or will be present at the same time as children and students already present and you include pay and voluntary workers. That's quite a broad definition. Do you recall how you arrived at that definition, the requirement is broad.
CH	Certainly I can recall some of the discussion around it. I can't recall of the discussion, but there was discussion around the non-teaching staff in schools who could still have quite prolonged exposure to large groups of kids, and very, very difficult. So if you're in an electrician in a school replacing lightbulbs, you could be in a classroom for several hours. There were people in schools who were still going to be in situations where they would have prolonged exposure to groups of kids. And so we made the decision not to differentiate by role type, but rather it was whether you were going to be working in a school or not.
DK	We've heard from some submitters that they really wanted to keep their jobs. Really didn't want to be vaccinated but were trying to find ways of continuing working, offering to work from home or not have contact with students but were ultimately terminated in any event. And the wording of their mandate doesn't seem to leave a lot of flexibility for employers to

	work with staff to find ways for them to work where they wouldn't have contact with children, for example, in order to be able to keep them. Do you have any comments about that?
CH	Those were ultimately matters that schools dealt with as employers. We weren't involved in those discussions.
DK	Yes, obviously. But I guess the wording of the ...
CH	One of the things that I was very mindful of as Minister of Education at the time was for kids whose parents didn't want them to be vaccinated, they still needed to have alternative learning options. And schools were still required to provide learning from home options for them in the event that they had not been vaccinated, and schools continued to do that.
DK	Yes. But teachers that might want to continue to work without being vaccinated and if we turn this round and say in retrospect or going forward, do you think there would be ways that these mandates could be used that allowed a bit more flexibility so that those remaining teachers that didn't want to be vaccinated could work with their schools to find ways to continue to work, to be redeployed in ways that weren't going to ...
CH	Well there was nothing in the vaccine orders that prevented schools from doing that.
DK	Except that it required any person that in the course of carrying out their work will be present at the education service at a time when children or students are also present, which doesn't – couldn't imagine an arrangement where someone was only in an office where there weren't children in the room and stayed separate but could continue to do administrative tasks or teach from home.
CH	There was certainly nothing that stopped teachers from teaching from home.
DK	All right, okay. If we turn then to the inclusion of 12- to 17-year-olds. And this was a particular issue where we've seen advice from – I always get my acronyms confused about those – I'm not sure if you've looked at the documents but it's document 7 I think which just recalled that advice from CBTAG. So this came after the vaccine mandate was introduced, but in November and then December they reiterate some advice that for under 18 year olds should be able to be fully vaccinated with just one dose. Do you recall considering that?
CH	No I noted that you had looked at that. I don't recall that having ever come to – certainly not coming to Cabinet. And I don't recall it ever being raised with Ministers.

DK	Right, okay. I know you're not on the – it's not a document that was provided to you.
CH	Yeah. So I certainly don't recall that having ever made its way up to Ministerial level.
DK	Right, okay.
CH	So it's probably a better question for Ashley or whoever the recipient of that was.
DK	So it wasn't advice that you recall considering at all.
CH	If it was discussed, it would've been discussed only in passing because I can't recall having received any formal advice on it.
DK	And was there any consideration about the inclusion, the definition of anyone from 12 and above to adult?
CH	Sorry?
DK	Sorry, the definition of – the breadth of the mandate and specifically for education mandates, included all people over 12.
CH	Yeah.
DK	Can you talk me through where that came from? Why it was from 12 and up that the mandate itself applied?
CH	That would've been based on advice from our experts on who could be vaccinated. So that would've linked to who we were making the vaccines available to.
DK	Yes. It was available to over 12s.
CH	Yeah.
DK	I guess it just stands out as who that was trying to capture, over 12 year olds in the school, volunteering in the school were the students that were volunteering as lab techs or something.
CH	Well between the ages of 12 and 16 it's compulsory for you to be at school, so anyone in those age brackets who was at school was probably there because the law required them to be there.
DK	Yes, but not – you didn't require all the people at school to be vaccinated, all the students at school to be vaccinated.
CH	What's that?

DK	There wasn't a mandate for students to be vaccinated. But there was a mandate for any person over 12 that was – what's the definition – that was working, paid or volunteering.
CH	Yeah, that was just being consistent requirements.
DK	That language didn't appear in other mandates for health workers or anything. Do you have any comments about this [inaudible 35:10]?
CH	No, we would've just been following the public health advice at the time.
DK	I guess we haven't seen much written public health advice that specifically looks at why this definition or anything like that on the paper, so I guess can you help us in ...
CH	Well, public health advice was provided often verbally in the Cabinet conversation. So we followed that very closely. That's not to say that we always agreed with it, but we followed it very closely and it informed very closely the decisions that we took.
DK	We talked about some alternative measures a little bit in the potential for a test. But was there – given that this was an impact on people's rights to choose not to be vaccinated or choose not to have medical treatment, can you talk us through any consideration of alternative measures that could help minimise the impact on those that wanted to choose not to be vaccinated?
CH	Can you run that past me again?
DK	Measures that could minimise the impact on people that did not want to be vaccinated. I guess ways that they may not, may be protected from losing their livelihoods or may be given options, mechanisms, to keep people connected to the workforce, for example. Anything like that, there was a recognition, [inaudible 37:05] but a disproportionate impact on Māori and Pacific educators with flow-on loss of income for households and to be fair, that was in the context of also saying that Māori and Pasifika stood to benefit from protection as well, but a recognition because of the lower vaccination rates, workers both in the health and education might be more likely to lose their, lose jobs, as a result of mandates. So I guess was there mitigation considered for those impacts?
CH	We were also considering the overall impact of vaccination requirements for people in terms of the impact that it was going to have on them, but we were always considering that in totality. And as I said in my very introductory remarks, including the context of the pressure that they would've been under had there not been vaccine mandates as well.

DK	<p>Yes. What I'm getting at is that in terms of people choosing not to be vaccinated is just an exercise of their right to choose not to have medical treatment and we know that some people – a minority – but some people felt that very strongly in relation to this vaccine and faced quite severe impacts because of that. Losing their jobs and livelihoods and I'm just wondering to what extent, trying to minimise that impact for an exercise of right was considered.</p>
CH	<p>It wasn't normal times. And I think what we have to remember about COVID-19 is that people's rights were being interfered with by a virus and all of the measures that we took were designed to balance the impact that the virus was having on people's lives. And on their rights as individuals, with the rights of others. And that was always the overriding balancing act that we were doing all the way through.</p>
DK	<p>We move then to reviewing over time. Ultimately these were – the education mandate was removed in April so it wasn't in place for a huge length of time. But nevertheless, I'm just interested – again, in retrospect, whether you think that could have been removed any earlier, and how regularly it was considered and reviewed.</p>
CH	<p>I mean all of the mandates were reviewed regularly. That one was one of the shortest lived ones and we moved quickly to make decisions to remove that as soon as the advice from – in this case it was Professor Skegg's group who provided us with the advice that once we'd passed – from memory, once we'd passed the peak of Omicron that it would have served its purpose. And so hence I think – I can't actually remember, I know it was removed from the 4th of April but I think from memory that was the end of the first term. I'd have to come back and check the dates of the school holidays. But I think it was basically so that schools would just be able to resume as normal in term two. Which actually is not an insignificant point because one of the really strong pieces of feedback that we had from schools was just for administrative planning purposes, they kind of used the two week school holiday blocks whenever the government changed any requirements to prepare their school for the new requirements. Which would've almost certainly been one of the reasons why we coincided the removal with the end of term so that they would have time to adjust, prepare all their systems and so on for the new school term. That was pretty strong feedback we had from school leaders around the fact that changing requirements in the middle of the school term caused huge turmoil within the schools.</p>

DK	<p>Obviously these mandates have also been challenged in the courts and upheld. But in a Court of Appeal decision it did note that by late January you were up to about only 3% of teachers remained unvaccinated and that – I don't know if you've followed these but I assume to some extent you have – but they made comment, not a judgment, that given the high vaccination rates, the expectation – sorry, we would have expected some consideration of whether alternative measures might have been sufficient to accommodate this small group of teachers and other affected education workers. In other words, consideration of whether the incremental benefit of maintaining the vaccination or the continue to justify their fundamental right to refuse to undergo medical treatment, and that we'd seen no discussion about that. It was outside the period they were looking at. But I guess, again, in retrospect, do you think that could have happened earlier?</p>
CH	<p>I think overall I was pretty comfortable with the education requirements. And the judicial review also described them as plainly rational so none of that made me reconsider that.</p>
DK	<p>With lockdowns, there was very well publicised weekly reviews and always in front of the media and people knew and indications given in advance of when it would be reconsidered and it might move. There wasn't that same transparency of review. I'm saying this as a person experiencing it at the time, of mandates. Would you consider something like that as a ... ?</p>
CH	<p>We were certainly asked about it regularly. I mean we were still doing at least a couple of times a week, if not daily, press conferences where we were asked about these things. So there were certainly still plenty of public discussion on a daily basis of them.</p>
DK	<p>Yeah, but flagging that your next review is in – an idea, I guess. With lockdowns, it was a sense that it would be kept to the minimum duration that was required. Do you forecasting that a bit more with mandates could be a useful thing? Or would there be anything to count against doing something like that?</p>
CH	<p>Well the problem is you just don't know what you don't know. And at the time, who knows how long we were going to be dealing with that. Who knows what changes in – we were going through quite a rapid period of the virus evolving itself at that point and so the scientific evidence was changing quite a lot at the time. So I'm not sure that that would have been hugely helpful in that context.</p>

DK	Right. Although that same circumstance existed in terms of lockdowns. Obviously we didn't know what we didn't know, we didn't know how long it was going to go, but there was still a ...
CH	Well I mean aside from the transition at the end, the objective of the lockdowns – other than the very first one – was elimination. And so we were reviewing that very clearly based on the daily testing results as to whether or not we had achieved elimination or not. So there was a very clear objective measure that you could take as to whether or not you were meeting the criteria.
DK	And you don't think the same could apply to a – there wasn't the same sort of objective measure for when a mandate lost its ...
CH	I think that would have been very difficult. Take areas like schools. I mean once the vaccine mandate was removed, schools actually faced some of the greatest disruption. Term two I think was the worst disruption in terms of school attendances. I'd double check that but I'm pretty sure term two was the worst term for school attendance in 2022.
DK	Right. So you're saying that was a result of lifting mandates?
CH	Well, not necessarily but using that as an illustration to show that you don't know what you don't know when you're making these decisions some of the time.
DK	Yeah, okay. Do you – does anyone else know more about education mandates [inaudible 0:46:50]?
GI	So Mr. Hipkins, just as a prelude to my questions. It may seem churlish for us to nitpick over decisions made in good faith under huge pressure and uncertainty, I'm not oblivious to that obviously. Having said that, we've been asked to inquire, and that's what we have to do. So please just, on the understanding that we are not judging you or your colleagues with the benefit of hindsight. We're not here to do that. We're here to learn lessons for next time round. So just on that basis, what are the benefits of a teacher being vaccinated when there are, say, 20 or so students in the classroom, some of whom may not have been vaccinated?
CH	Well the public health advice we had at the time was that it would make a difference. And we followed that advice.
GI	But that doesn't engage with the issue of the logic behind that advice. Obviously decision makers don't simply accept advice at face value. You are required to think about it and to analyse the logic behind it, and that's what I'm putting to you now. What is the logic when

	you've got a teacher standing at the front of the class with, say, 20 students and the teacher's vaccinated by mandate, but the children aren't and is there any real point in that situation because I'm struggling to see what the point is.
CH	It's far preferable to the kids all staying at home.
GI	Yeah, but how does it stop transmission as between the kids in class if only the teacher's required to be vaccinated?
CH	Well there'd be no transmission if the kids aren't in class 'cos they have no teacher.
GI	So what you're saying is that the objective is not to protect the kids, it's to protect the teachers?
CH	Well it's to protect the teachers and to make sure the education system continued to function.
GI	But that runs into another problem, doesn't it? Because we've heard evidence from teachers who were not prepared to be vaccinated who were then forced out of the profession in circumstances where they were actually desperately needed in schools and they resented what they perceived to be bad treatment, including in particular the lack of availability of reasonable exemptions.
CH	Well there was an exemption system put in place, so if they had a medical reason for needing an exemption they could have applied for one. As I indicated before, if all of the vaccinated teachers hadn't gone to work because they didn't want to work with unvaccinated teachers then there would've been far more disruption to the school than if the unvaccinated ones had come along.
GI	Sure, but teachers aren't in a position generally where they're working closely with other teachers in a classroom. So the logic of that escapes me a little. The teachers are primarily in the classroom with students and the objections of other teachers probably don't carry as much weight as, say, if you're in a situation where you've got ten people all working in the same room together.
CH	I would say if you're going to form that judgement you perhaps should go and spend some time in a school.
GI	Well I have obviously spent a lot of time in schools over the last 50 years or more, and I have a lot of experience with schools with two and a half children of my own. The question I'm

	asking you though is an important one, which is what is the logic behind forcing those teachers to choose between carrying on with their jobs or moving out of the profession temporarily, with the risk that they all simply decide not to come back again.
CH	To do the maximum we could to keep kids and teachers safe.
GI	So essentially what you're saying is that that was based on the advice you received at the time. Public health advice. And looking back on it now, what I'm suggesting to you is that that public health advice might not have been as strong as it might have, it may have looked it at the time.
CH	Sounds like you've already formed a judgement.
GI	No, I'm putting that as a question to you.
CH	Well, I think the judicial review that already looked at that, didn't agree with the assessment you just made.
GI	Okay. Do you agree that some teachers left the profession because of the vaccination requirement and basically once they were out chose not to come back again?
CH	I don't have any data on that.
GI	If it did happen, would you agree that that would be a significant loss to the education system?
CH	Well teachers come and go from the teaching profession all the time, and I don't have any data on that so I couldn't give you an educated or informed opinion on it.
GI	If that did happen, do you agree that the benefits of the forced vaccination and with mandates for educators may not have been worth the harm that was caused?
CH	I wouldn't form that judgement.
LC	And it doesn't take into account any of the counterfactual which Mr. Hipkins explained earlier, which is the information that they were receiving at the time they were making the decision, is that some parents were not prepared to send their children to school where teachers weren't vaccinated.
GI	How does that make any sense when the vaccination requirement didn't apply to everyone in the classroom?

LC	Well that's just the information that they were receiving from sources. So it's exactly the same. Your proposition was about logic at the beginning.
GI	And it is now.
LC	And the problem that we all have is that we're imposing or we're looking at this with the benefit of hindsight with more information than people had at the time.
GI	Exactly right. And so that's why I'm raising it now. Not as a matter of hindsight but as a matter of what should happen in the future. And surely the logic that I've tried to articulate is important when you're looking at attenuating people's rights to employment and so on.
CH	As I've said, I think the education mandate was justified and it got schools operating again and I think that kids were better off for being back at school.
GI	Just one other point. In the course of answering Ms. Kelly's questions, you said that the virus caused a loss of rights. Can you just unpack that and explain what you mean by that?
CH	Well, all of the things that we did were in response to a virus. The easiest way to not have to impose any of those restrictions would be for not to have been a virus.
GI	It doesn't explain the logic of what you said about the virus causing a loss of rights. I'm just struggling to understand that.
CH	Well, people's rights to freely move about were infringed by a virus. Had there not been vaccination then their right to stay healthy and not be infected by a virus and therefore be free to move about would also have been infringed.
GI	So how did the virus stop people moving about?
CH	Well they didn't want to get sick.
GI	But that was their choice so it's not an infringement of their rights, is it.
CH	Well, you can argue that.
GI	Well it's not a matter of argument. The loss of rights under the Bill of Rights Act comes about from the fact that government is making decisions which affect and attenuate people's rights.
CH	In response to a virus that could kill.
GI	Sure. And I'm not arguing about the balancing ...

CH	Being dead's a pretty significant infringement on someone's rights.
GI	What's that sorry?
CH	Being dead's a pretty big infringement on someone's rights.
GI	Sure. But it's not a factor that's caused by government action.
CH	No. Government inaction could have caused it though.
GI	Government inaction could have caused it, that's true. And I'm not – again, I say, judging you or your colleagues in a bit of hindsight in a churlish way. I'm just trying to understand your proposition that the virus caused a loss of rights. I have difficulty with that. Anyway, let's move on. Overall, do you remain at the position that vaccine mandates for education workers were justified and that's a tool in the toolbox that can and should be used again?
CH	Yes, on balance.
GI	In relation to, for example, the right to work – although it may not be a fundamental right under the Bill of Rights Act – how do you, in your former capacity as Minister for the COVID response, how do you take into account something like a person's right to work and balancing it against other issues that you were trying to advance as a matter of government policy?
CH	Well if you look at the overall scope of vaccine mandates, it was still a very, very small percentage of the workforce.
GI	Right. And so that takes us to an issue which is perhaps best expressed as the overall response, the overall COVID response, for the nation as a whole, as distinct from the more granular issue of the effect on the rights of particular people in specific situations.
CH	So what's the question?
GI	So the question is, do you accept that there is a difference between the overall response for the nation as a whole and the position of individuals who may suffer particular impacts as a result of government decisions?
CH	The balance between collective rights and individual rights was certainly a regular topic of conversation.
GI	Right. And so forgetting about the collective rights for the moment – and obviously we can't forget about it, but I'm just putting that to one side at the moment – to what extent do you

	think you were able to get information about specific situations where individuals were affected by mandates in a way that might have been disproportionate?
CH	I'm not sure what you're asking.
GI	What was the method by which data would be considered concerning the situation of individuals who may be disproportionately affected by the government's COVID response?
CH	Well there was an exemptions process put in place which I understand you want to talk about now as well, where those who were unable to be vaccinated and were disproportionately affected by that could have – there was a remedy available to them for that.
GI	The evidence that we've heard suggests that those exemptions were extremely difficult to get and a very narrow approach had been taken to people who, with the benefit of hindsight, may have really needed to have exemptions. Is that something that you've looked into or thought about?
CH	I looked at it a little bit at the time and we were obviously monitoring the vaccine exemptions regime at the time and I was certainly comfortable with the operation of it at that time.
GI	So I know that Ms. Kelly's going to go on to some other issues but just while I'm on this track, I'll just ask you about a person that we heard from who was a very articulate member of the autistic community, and she explained to us how some people within her organisation of the autistic community were highly dependent on their individual caregivers who over a long period of time they'd come to trust and rely upon for all manner of intimate things. Now if their caregiver did not want to be vaxed and couldn't get an exemption, they would need to withdraw from that situation. And we heard that this had a – paraphrasing – a very debilitating and demoralising effect on people with extremely high needs. Now I'm not going to ask you to comment on individual situations. Obviously we can't. But if that concern were justified, you wouldn't want that kind of situation to be repeated in the future, would you.
CH	So we were very mindful with the support workers that they were working with – in many cases, some of the people who would have had the most adverse outcomes to contracting COVID-19 and in many cases were unable to be vaccinated themselves for medical reasons. And so ensuring that those who were coming into contact with them were providing the

	maximum level of protection possible was very important. We did not differentiate between type of disability.
GI	No, no.
CH	And I think that would've been practically and logistically impossible. There was one area where on review the mandate requirement was found to be wanting, and that was for those who were working in the in-home setting. And we accepted that at the time. We accepted the result of that review at that time.
GI	Tell us a little bit more about that would you?
CH	So that was for those who were caring for people within their own home. So family carers working with those with disability. And the judicial review basically overturned that. We absolutely accepted that at the time.
GI	Just thinking about the general position of people who come along now and say look, we just absolutely needed an exemption, we tried hard to get one, we couldn't get it, the system was too rigid and too difficult to navigate. Would you oppose a recommendation from this Commission that the issue of obtaining exemptions in future should be considered carefully and be more flexible than it was at the time?
CH	I certainly think a good look at that with more time would potentially be quite useful. One of the things that we were mindful of there was you still need to have a degree of coordination around that. One of the things that we were concerned about was we did receive advice from – I'm just trying to remember which of the professional bodies representing doctors – we received advice from one of their professional bodies expressing concern that doctors – individual GPs – should not be the ones to make those individual decisions, that it interfered with the patient/doctor relationship, that there was a lot of pressure on GPs that some would have ended up feeling they needed to provide exemptions even when they shouldn't have. So I placed some weight on that advice. I still think there would need to be a centrally coordinated process. But how that could be made smoother I think that is something that with more time, that could be a useful discussion to have.
GI	Thank you.
LC	To distinguish here of course, in terms of your scope, whose decision you're talking about. 'Cos the Ministers aren't making decisions on which individuals get the exemptions, right?
CH	No.

LC	So the thing that you might be most concerned about is actually the implementation of a decision, but the decision is to have the regime, how that's applied in individual cases. Be careful about whether that's in your scope.
CH	So at a Ministerial level, I was confident that there was an exemptions provision. How that was implemented, I'm not a doctor so I wasn't going to second guess the decisions that the people who were making those decisions were making.
GI	Really, all I'm asking you is if that exemption system was too rigid and not sufficiently humane to take into account really serious humanitarian considerations, would you support having a more flexible system in the future?
CH	That's a very hard hypothetical question to answer because I'm not a medical professional and therefore am not in a position to judge whether it was too rigid or not.
GI	And I'm not asking you to judge that. It's a hypothetical based on an assumption. If the evidence that we've heard established that the system was too rigid and too difficult to navigate, would you be prepared to recommend a change to that system.
LC	But the system might not have been – the system that was determined by the decision that you've got scope to look at may not have been intended to be inflexible when the decision was made. The assumption is, or the evidence that you may have heard from some individuals, is that their experience of that might have been that it had inflexibility. But that may not have been the intention of the decision. That may be a question of how it was ...
GI	It's a systemic issue.
LC	... it was implemented in the field at the time by a range of individuals.
GI	Sure. Right, thank you.
DK	And Grant's also covered a little bit of health and disability. Just to turn to that. So, again, I just want to talk through the breadth of the mandate and I can take you to documents if you like but the initial discussions and briefing papers. [Inaudible 1:07:49] talked about high risk health workers and there was a few papers before you landed on the difficult definition of who would be incorporated and, again, quite a broad definition adopted in New Zealand of not just specific locations but quite broad definitions of care workers and just wondered if you could talk through a bit of the thinking and considerations in adopting that broad definition.

CH	I'm not sure what you're asking.
DK	So there was obviously a choice to be made about who would be captured by a health and disability worker mandate and some discussion. The phrase used, even in the paper, the title of the paper is High Risk Health Workers. The ultimate definition that was adopted includes any health worker you could imagine I think. So I'm just interested in your recollection of how the definition of who would be incorporated and the choice to adopt quite a broad definition of health workers came about.
CH	Again, it was based on public health advice and I actually thought the first Royal Commission report canvassed this pretty well in terms of their finding that it was a justified decision.
DK	So nothing to add to public health advice about what was being taken into account. Prior to the mandate being introduced there was guidance about organisations themselves doing a workplace assessment and requiring vaccination for those that were in contact with them and otherwise being able to redeploy them. Any recollection of particular mandates that rode across – everyone needed to be adopted as opposed to lone workplaces determining who was at high risk of contact with patients?
CH	I'm not sure what the question is.
DK	So prior to vaccination there was a regiment where the employers under usual health and safety law could assess and determine for those people that were in contact with patients regularly could be required to be vaccinated, and there was guidance given about that. That was the context on top of which the vaccine mandate was then imposed which required all health workers rather than having employer flexibility.
CH	Well I certainly recall getting very clear feedback from people working in the health system at the time that they wanted a clear set of requirements that were consistent, rather than being left to the individual discretion of people where you could have people doing the same work in different hospitals, for example, treated differently.
DK	I think that was also a theme discussed in the vaccine assessment tool last time, and it was giving certainty – calls from the industry to have that certainty, is that fair to say?
CH	Well the vaccination assessment tool was different because that was about providing some guidance to employers who were trying to navigate this, largely so that they would stay within the bounds of what was justifiable because there was some employers where the case for a vaccine requirement would have been more difficult to make, who wanted to

	<p>make them, and so that was a toolkit for employers. We couldn't provide every individual business in the country with legal advice as to what they could do. So we were trying to provide tools available to them so that they could make better decisions for themselves. So that is different to the health settings where we were dealing – the frontline of the virus response was the health system.</p>
DK	<p>Yes. Yes, I think that's fair to say. Everybody can understand the public health justification for having health workers vaccinated. There's been some comment that with health workers – again though, there's quite a high use of PPE and rigorous testing for some roles already and that that could have been enough for, again, the small proportion of people that maybe had very deep held views about vaccination or didn't want to be vaccinated. Do you have any comment on that?</p>
CH	<p>I recall that being canvassed in the advice that we got, both written and in the verbal advice that we got, and I recall Ministers asking about that. The issue with PPE is people still take it on and off. So wear PPE when you're conducting a surgery and then you're in the scrubs room with a whole lot of people afterwards and you're taking it all off. So again, I think difficult – we wanted hospitals to be able to function as normally as possible, without a whole lot of additional new requirements on top of the ones that they were already dealing with.</p>
DK	<p>Right, and so vaccination was a simpler requirement for them to implement as opposed to, say, daily testing or something.</p>
CH	<p>Daily testing was something that we received really strong advice from our health officials against that being a viable proxy for vaccination. Or a desirable proxy to vaccination I should say. So we applied that. That was advice provided in the round insofar as vaccine mandates were concerned.</p>
DK	<p>We have certainly seen advice about that. From my recollection of reading of it, it seemed to be advice about if just using testing instead of vaccination, but not specifically consider a situation where we have very high vaccination from almost all the people and then just use testing for the few people that are left, and whether that would make a big difference or a small difference to the overall risk of a workplace or of a particular role.</p>
CH	<p>As I said, that was advice that we considered across the issue of vaccination rather than for every individual vaccine mandate.</p>

DK	We've got in there in the bullet points, I think the inclusion of family carers and you've just mentioned that before. I note that there is a decision on that and it was reached, largely had been agreed before it came to court. But as such, there's no discussion in there about the rationale of when it came in initially. So just wanted to ask you about the initial decision to include it, which was then obviously ...
CH	I can't remember all of the discussion. I do recall it being discussed at the time, and I think it was driven by a desire to be consistent and also, again, by the very clear advice that we had that people who were being cared for in this part of the health system were the ones who were most at risk of an adverse outcome from contracting COVID-19.
DK	And so that advice was coming from the disability community representatives or ... ?
CH	In terms of the scale of the risk.
DK	Yeah, yes.
CH	It was abundantly clear from the international evidence that people with disabilities were amongst the most likely to end up with the most adverse outcomes.
DK	Yes. The flexibility of the mandate, and I think Grant's already covered that sufficiently, so I don't think we need to go back there. But again, just very briefly, consideration of labour market consequences and measures to minimise impact, so this is again just asking about to what extent there was consideration of just trying to keep people connected to the industry, to the healthcare industry, who were workers there. So obviously there were a small proportion that were not going to get vaccinated and were going to take unemployment instead. So was there any consideration of trying to keep those connections going?
CH	Well ultimately those were judgements for their employers to make rather than something that the government could require.
DK	A lockdown context again, there was quite a lot of thought into supports and things that could be provided to help employers keep connection to their employees or employees to keep connected to their employers when that was at risk because of restrictions imposed by government. So could there have been equivalent, or do you think there could be an equivalent in the future?
CH	We had about a 90 second conversation about wage subsidies and concluded that providing wage subsidies for unvaccinated people would create entirely the wrong set of incentives

	within the system. That would mean that people who wanted to be vaccinated would choose not to be.
DK	If they were still paid a wage.
CH	That's right.
DK	Without being vaccinated. Do you think there could be consideration of other potential things to get that right? So you don't want to incentivise people to not be vaccinated, but could there be more exploration of that in the future?
CH	We took the view at the time that those were things that were best managed by individual employers. There was certainly no requirement for employers to terminate the employment of people who hadn't been vaccinated. And some didn't. So those were decisions that were best taken by individual employers.
DK	Yes. Although I guess I'm still trying to parallel with the lockdowns again. Same situation. Some employers, there was no requirement for people to terminate but the situation meant that it was ...
CH	No, there was a requirement not to terminate. So if employers were taking the wage subsidy then they couldn't terminate people's employment.
DK	Yes. But the lockdown itself didn't provide a requirement that people terminate, but they created economic conditions that meant that employers found it very difficult to hold on to their employees – some in a similar situation, people that needed, organisations that needed to still have the worker and fill the role were often in a position where they couldn't hold on to someone who was not getting vaccinated and couldn't perform the role while there was a mandate. So do you think there's any lessons we can draw from the approach taken to lockdowns that could be applied to mandates in the future?
CH	I still think it would be very difficult for a Cabinet to make those judgements. I think those judgements are still made best at an employer level.
DK	Right. But in the lockdown situation it was made by Cabinet because supports were provided.
CH	I think that was quite different in the sense that entire businesses were being told that they couldn't operate. In this case we're talking about a small number of people within an entity.

DK	Okay. Understood. Do you think there could be though, in order to stop people leaving the workforce, leaving their location and protecting people that otherwise are entitled to work in their workforce but for the moment because of an overarching requirement it's not their fault – the virus as you say. I'm now being forced out of the profession.
CH	I think those, again, are decisions best made at an employer level.
DK	Right. But the decision to impose the mandate at the government level to require the employer to require the worker to be vaccinated. So you don't think there's any role for government in deciding when ...
CH	How an employer manages an employee who chooses not to be vaccinated really is something that is best decided by the employer because every employer will be in a different situation for how they could manage that.
DK	Yes, okay. We've also heard from workers, employers, about the difficulty of imposing a mandate at that human level, so the principles. You might recall from some of our engagements being very quite distraught this time on for having to have those hard conversations with people that they otherwise worked with and having to let people go ultimately trying to do what they could and then weren't able to keep their employment and people that were still feeling quite impacted by that. So I guess it's not easy for all employers to just manage that situation when the mandate's been imposed at a government level.
CH	It was a very difficult time for employers across the board. Even in lockdowns, even with the wage subsidy available, there was still employers who had to make some very difficult decisions during that time.
DK	We certainly heard that as well, but in that context government did consider what they could do to support people being able to keep that relationship going and I just wonder whether you think there's ...
CH	As I said, there was a very brief conversation about whether there should be some support for unvaccinated people and a very clear decision that that would create the wrong messages and incentives in the system.
LC	You've asked this question a number of times so obviously you're fishing or looking for something that we're not providing you, so if you've heard something in your submissions

	from somebody as to what it is that they think that the then government should have done, perhaps it might be better to just put that as a proposition. We'll interpret that as ...
DK	I'm not fishing, I'm just struggling to understand the distinction. I'm just trying to draw ...
LC	Essentially, what you're asking, it seems, is that there's something that you think that the government might have done that they didn't – or that Cabinet Ministers might have decided that they didn't decide, and I'm just wondering if you want to put that proposition. What is it that you think that ...
DK	I said do you think in the future there could be ...
LC	Well we've answered all that. Mr. Hipkins has answered that a number of times then.
DK	Okay. We'll move to review – again, review of circumstances changed over time. This was the longest of the mandates obviously. It went through to September the following year.
CH	Although it was narrowed in July, so it was reviewed regularly and it was narrowed in July to only those directly on the frontline.
DK	Yes, it was narrowed in July. I think the document that sets out when it was changed – again, let's start with the overall question. With the benefit of hindsight, do you think that could've been removed earlier or was there particular considerations that were keeping it in place until September?
CH	We had Professor Skegg's group review that in March. There was a Ministry of Health review in May. There was a review I think at the end of June. The mandate as a result of that June review was narrowed from 7 th of July. There was another review in August so it was being regularly and routinely reviewed.
DK	The paper – this is document 10 of the documents we provided which is the paper ultimately leading to its removal in September, so the document's dated 29 August. But it says under the assessment of continued need for vaccinations order, it says that the public health advice is that there's no convincing rationale for continuing it because of high vaccination rates amongst the group of workers as well as the general population. As of July. And the rates that are in quotes are of July. The reduced effectiveness of vaccines are preventing Omicron transmission, reduced risk of reinfection for those who have recently recovered from COVID and declining number of active Omicron cases in the community. And I'm only trying to clarify this because that list of criteria all seemed to be things that existed earlier on a factual basis. There was really high vaccination rates, we knew that there was reduced

	effectiveness of vaccine and preventing Omicron transmission and reduced risk of reinfection, and declining number of Omicron cases earlier in the year. So the question is – only because it’s not apparent on the papers – do you recall what changed?
CH	So that’s what you're referring to in terms of the change in approach. I couldn’t quite understand that question.
DK	I think that’s about lockdowns and so I don’t think you ...
CH	I don’t think there was any change in approach to that. We were following the public health advice. Of course public health advice would change. There’d be more scientific evidence available to them as time progressed.
DK	Yes.
CH	More peer reviewed studies available to them as the situation continued to evolve. And I think they were very – the advice that we had was that they were very conscientious about making sure that they were updating their advice as new information arrived.
DK	So those factors that are written there just seem to be things that all existed earlier in the year, so it was hard to determine what ...
CH	Those are probably questions for the people who prepared that advice. As I said, Professor Skeggs’ advice in March, the Ministry’s advice in May and June and then again in August were all prepared based on that information. It’s probably a question for the people who prepared it.
DK	Okay. Any other on health ... ?
AH	This is very helpful. Just got a question and a proposition. You’ve already answered the proposition, but I just want to test with you again. The question is, it’s clear from the papers that the international context was a very pressing kind of dynamic. New Zealand had the advantage of being in a very good situation. It had also a little bit of time to anticipate. We know that there was contextual international comparators being offered at critical points in time and helpfully. So interested in understanding to what extent did that shape the actual decisions in New Zealand, or did New Zealand’s unique and specific elements mean that actually we made our own calls, but we’re aware of what’s happening. I'm trying to understand how much the international activity and use of the tools was shaping the way we thought about and deployed the tools. So mandates is a really good example. We’re talking about mandates, it’s as good as an example as any.

CH	<p>Yeah. I was in regular contact with other Ministers from around the world, particularly from Australia, the Minister of Health in Australia and I were in regular contact with each other. The Minister of Health in Singapore, and then we were looking at the UK and the US but perhaps with less direct contact with them. Reviewing Europe. Harder to get information out of China. But we were certainly looking for whatever information we could find about what was working and wasn't working in other countries.</p>
AH	<p>Do you think that was influencing – you can't answer this for others, but was that shaping the advice or was it shaping your consideration of the advice? Clearly the conversations with your international counterparts was helpful at least.</p>
CH	<p>I think to some extent to provide reassurance that the advice that we were getting was not off beam. So all the way through the pandemic you would find Ministers getting quite a wide range of advice. We placed heavy emphasis on the public health advice.</p>
AH	<p>Indeed, yeah.</p>
CH	<p>But that doesn't mean that we weren't getting plenty of advice from elsewhere. Everywhere we went there were business leaders giving us their reckons on things. They were all very contradictory but they certainly had strong opinions. The education sector had some very strong views on it, and even within the health system, I spent a lot of time out and about within the health system. So there were a lot of strands of advice coming through to Ministers. Government departments all had the opportunity to feed into the process as well, so it wasn't just health that was informing Ministers' advice. Before every Cabinet meeting each portfolio Minister – where relevant – would get advice from their departments on the impact of prospective Cabinet decisions on their portfolio area. And that all fed into the collective decision making process at each Cabinet conversation. So there was certainly quite a wide stream of advice coming through that was all reflected around the Cabinet table. The Minister of Finance would always get advice from the Treasury before every Cabinet meeting. That was probably some of the most comprehensive non-health advice that the Cabinet was getting, was through the Minister of Finance and through the Treasury on economic impacts and so on. I think all the decisions, we made the call as a Cabinet – coming back to your very introductory remarks – that health, the economy and society were all intricately linked and that a good healthy outcome was actually really important for the economy and important for society as well. But we were still considering the individual strands of the impacts of decisions on all of those areas.</p>

AH	<p>Thanks, it's helpful. Picking up your point about mandates and the fact that they're an array of tools in the toolbox that didn't exist and weren't used [inaudible 1:32:43] really, pre-pandemic, this one internationally. Mandates is one. [Inaudible 1:32:47] proposition, mandates should be in the toolbox. A surprising number of people out there seemed to agree with that in submissions to the Commission. The Commission doesn't have a view yet. But my sense of mandates are quite properly in the toolbox for the future. I probably would be inclined to think there needs to be quite frequent review, possibly more frequent than has been given here and possibly with criteria established at the start, recognising certainty now, not possible for tomorrow. But that concept of yes, mandates are in the toolbox. Yes, there needs to be frequent review and transfer in there so it gets established criteria to the extent possible given reality at the time. What do you think about that?</p>
CH	<p>Yeah, I canvassed with the first Royal Commission quite extensively just how structurally you could do things differently in terms of the COVID-19 response. No-one expected COVID-19 would take 2½, nearly 3 years from wo to go. I think we were expecting maybe six months at the beginning and then maybe a year and then maybe vaccination and then maybe that would be it and all the way along the end point seemed to be very flexible. Had we known we were going to be dealing it for three years we probably would have made different decisions at the beginning about how we structured that response. Some of the more controversial things. MIQ. I know that's not within your remit but no-one thought that we were going to have a border restriction in place for nearly 2½ years at the beginning. Initially it was for weeks. We literally set up those MIQs to manage through a couple of weeks and then 2 years later we're still there. And so I think one of the things – to bring it directly to your point – one of the things that I would do differently is have clearer differentiation around the work strands involved in the response. Recognising that you want to have a group of people who are focused on much longer term, so thinking about – almost like gaming out all of the different scenarios for where the pandemic might go and how it might end. Another group that's focused on the immediate. So what is happening right now and how do we respond to all of the different things that are flaring up here there and everywhere. And then another group that's focused on the bit in between, which is between the response of now and where we might go in the long term, how do we implement those decisions in the medium term. And I think because everything was just so immediate all of the time, those things like what would a good review process look like, you could do that differently if you had clearer workstreams doing that. And we did attempt along the way to</p>

	<p>try and retrofit some of that into the response. So we had Professor Skegg's group set up to look specifically at the medical part of that. I set up a different group which had Brian Roche chairing it that was about just the mechanics of the system. Were we getting the right advice, was the implementation of our decisions being done appropriately. But you can look at that now and say if you were designing the architecture for a response at the beginning, we know so much more about what's involved in this now that you could design a much better architecture for governing the response than we had at the time because we were literally making it up as we went along. And that would include things like review criteria and all of those things. I certainly think we got a lot out of having those two independent, or quasi independent, review groups from Professor Skegg and Brian Roche because even though they didn't highlight that the advice we were getting was wrong, they certainly highlighted process improvements, including things like reviews, which I think were really important.</p>
AH	<p>Yeah, I think that's really helpful.</p>
GI	<p>Just on your point about the architecture, that you had to make up as you went along, if we were making recommendations upon that issue, would they involve more appropriate legislation?</p>
CH	<p>That's really tricky and hopefully you would have seen in my answers to your first set of written questions, this is something that I have laboured over quite a lot in the last five years, including at the time, because the COVID-19 Public Health Response Act is legislation that as a parliamentarian and someone who believes in parliamentary democracy, makes me very uncomfortable. But it's a necessity in those situations. And there are plenty of other examples: the Canterbury earthquakes. We actually modelled it off the Canterbury earthquakes legislation. But the question of should there be something sitting on the shelf there, my answer to that is that would make me quite uncomfortable, the notion that someone can sign an order and declare there's an emergency situation and then have access to all of these tools, because that could be abused. So I still think that the legislation required should be tasked on a case by case basis. I think parliament should have to pass legislation for each individual such event. And then if you look at the COVID-19 Public Health Response Act, it changed and evolved. So what you needed right at the beginning was different to what you needed as you went along. So we were adding and removing things. So in the beginning we were adding some provisions around MIQ, for example, that allowed us to make that system run more smoothly. But then as we went along we were actually removing</p>

	<p>legislation as it was no longer required because I was firmly of the view that once there's no longer a very clear rationale for those provisions in law, then they should be removed immediately and they shouldn't be allowed just to linger. So that was certainly something that I was very, very attuned to all the way through. The building in of the sunset provision was a good safeguard. The building in of the regulations review of all orders was really important. But it wasn't just the regs review that was important, it was also what we did with that. So because that was being provided live in real time to me as the Minister responsible for making those orders, and because many of those orders were regularly having to be changed and updated, I was incorporating the feedback of the Regulations Review Committee live in real time. So Chris Penk who was the Chair, he's an Opposition Member of Parliament, I think in his public comments has said that he thought this process worked really well. He would write me a letter and I would write back to him saying 'completely accept that, we're doing another version of this order at midnight tonight, we've incorporated your feedback'. And in areas where we disagreed, we would exchange correspondence. It was never a closed conversation. So I think that parliamentary oversight was really important. I think parliament has changed the way it functions now to allow for this, so now parliament can meet remotely. So in the event something like this happened and suddenly we were all at home and no-one could meet in Wellington, parliament could still pass a law, so there's no justification in my view for it to be a standing law.</p>
GI	<p>No, it wouldn't be a standing law but the broad architecture, the tools in the toolbox and some conditions as to when those tools can be used, surely would be far better than what was effectively a Henry VIII clause that you were operating under. While we might be disposed to accept that your use of those powers was all in good faith and totally responsible, we can envisage situations where a less disciplined politician might be exercising powers in a way that wasn't as reasonable.</p>
CH	<p>Yeah, and we canvassed this. I was on the other side of this argument when the Canterbury earthquake happened and the problem is it's just so hard to envisage what you may or may not need to do that a prescriptive piece of legislation runs the risk that you wouldn't be able to do the things that you need to do. I remember having a conversation with Gerry Brownlee about his sudden need to exempt trucks from the weighting requirements because otherwise the streets were going to stay blocked because the trucks couldn't take all of the rubbish away. And it's the sort of stuff that you just couldn't map out in advance. One of the</p>

	risks I think of this whole process is the next pandemic might be nothing like COVID-19. Could be something entirely different.
GI	Sure, but it's going to be an infectious disease. It's going to be a situation – we've had quarantine requirements in our law since 1882 and provisions about people being effectively locked down and vaccinated, so it's not as if it's going to be – it's easy to exaggerate the differences without appreciating that there might be a lot of similarities as well, and instead of just giving one Minister – albeit under some sort of supervision – giving you all of the powers to do the things that you did, why wouldn't it be sensible to have a better architecture of the type that you described earlier?
CH	If you can come up with a better architecture I'll be interested to see what it looks like.
GI	Okay.
AH	Clearly we have been having conversations about this issue, but it's not at all straightforward. And personally I quite liked the – I thought it was quite clever actually the COVID Act in the way that it gave you as the decision maker some parameters, but it also let Cabinet speak into it, and what was quite unusual in a sense, the [inaudible 1:43:42] books aren't littered with similar provisions actually so I thought it was quite a helpful way to let Cabinet say this is a really big important issue 'cos we're about to do something that affects a lot of the population, or affects a small part of the population in a very significant way. And it allowed you to take that decision into account, even though technically you couldn't have [inaudible 1:44:10] that decision although you were at the table, which is not at all unhelpful in this context. I personally liked the fluidity of the integration dimension of that, and actually figuring out what the alternative looks like is not straightforward, as you just rightly pointed out. But if you got – you've clearly been thinking about this a lot – have you got any suggestions for that? As I said, I liked the mechanism. I accept why it made you uncomfortable and it's a little uncomfortable for me too for similar reasons actually. But it was done in a hurry and it worked. It was able to make sure and the way the government worked, I liked the integration. Yes, a Minister having a bad day might have said thanks Cabinet, really helpful but no, we're not going that way today, I'm going to do something quite different. And the statute let you do that as well. But in the thinking in the debates that you undoubtedly had, have you got any kind of commentary on what an alternative might look like?

CH	I think there's often a misunderstanding about Ministerial powers prescribed in legislation in that for significant decisions, very seldom – and this is just without any context or almost any context – very seldom will Ministers make decisions on significant matters, even when the law is clear that it's their discretion, without reference to Cabinet.
AH	Right.
CH	And it's a very bold Minister who makes a decision going against the collective will of the Cabinet. They generally don't tend to be Ministers for very long.
AH	Yes.
CH	I think that you're right. I think the Act did allow for that kind of Cabinet collective responsibility to take shape. But I think every other law where Ministers are given some decision making power – except for individual cases – Immigration Minister making an individual decision, unless it's controversial, generally won't bring those to Cabinet. But if you're exercising a discretionary power as a Minister under a delegated legislative provision, by and large they go through some kind of Cabinet process.
AH	I've sat with Ministers as they've received calls from their Prime Minister and had situations explained, so I totally understand.
CH	Yeah. I think there are all sorts of bits and pieces which I think we thought about at the time, 'cos I wasn't involved in the drafting of that legislation. David Parker as the Attorney-General put that Bill through the House. And I became Minister of Health shortly after. I think I was the first Minister to issue an order under it, but I wasn't the Minister of Health at the time that it was passed, I was seconded into that role a little bit further into the pandemic. Things like it names the Director-General of Health in a number of areas, which was appropriate at that time because it was Doctor Bloomfield, but it is conceivable that we could have a Director-General of Health who is not a doctor. And the law as passed did not allow for that possibility. And so there's things like that, that you would want to improve. So to make it clear, if the Director-General of Health is not a medical professional then it should come from the Director of Public Health or there needs to be – I think the law could have been clearer in some of those respects.
GI	We now have a situation where the COVID Response Act has been repealed.
CH	Yeah.

GI	So we're back under the 1956 Health Act. It's absurd, isn't it.
CH	Yeah. But also the Epidemic Preparedness Act, as we discovered, was manifestly inadequate for what we needed.
GI	It doesn't prepare in any respect for an epidemic.
CH	No. All it does, is it gives you the power to rewrite laws by executive fiat. It actually goes even – the Epidemic Preparedness Act is far, far broader than the COVID-19 Public Health Response Act was.
GI	Well except that all it does is to enable statutory powers to be exercised in different ways.
CH	Well it allows you to rewrite primary legislation by Order in Council.
GI	Okay. Given that we're back to square one and we're under the 1956 Act, albeit as amended, it doesn't provide any appropriate powers to deal with a pandemic situation of the kind that we have experienced. So in some form or another we should have amended legislation.
CH	The Epidemic Preparedness Act absolutely I think needs to be changed.
GI	And the Health Act surely.
CH	Well the Health Act was slated to be replaced. One of the ironies of politics, that work was underway and then a change of government happened and it all got stopped.
GI	I'm not blaming you.
CH	No, no, no, but we absolutely – even some of the issues we had around testing, for example, testing and the approval of new testing technologies, the changes to the Medicines Act that we had passed that have subsequently been repealed actually dealt with many of those roadblocks, and so I hope that in whatever legislation now repeals the repeal, that that will again be picked up because we'd captured those lessons and we had already fixed them, but the political cycle has taken things back.
DK	Judy, do you want – I'm just conscious we've got ten minutes left, but do you have burning questions?
JK	That's okay, I think that Mr. Hipkins has a clearer idea of where my colleagues are thinking and where they are debating and as an economist, I'm going to save my questions for Mr. Robertson.
CH	He'll love that.

LC	Well just on process, obviously then you will have flagged that with Mr. Robertson 'cos those questions that we've just canvassed were not in the questions that were in our list.
GI	Well they kind of were.
LC	No, they weren't. The point has been made but yeah, just to note on your process points again.
DK	Thank you. As you can imagine, it's evolving thoughts going on very much so, as we are getting to the end of the evidence gathering so appreciate you being flexible to some of these.
AH	This conversation has been really helpful.
JK	Very helpful but also I can see that we were broad in the first interview down into the mandates which really spoke very much to the decisions, the individual decisions, that you were making under the Act, and the advice that you were receiving which is [1:51:28] to consider the adequacy of those arrangements.
CH	Great.
DK	So we did have exemptions, we have already covered with Grant's questions. And I'll just check with the Commissioners if there's any questions about vaccine passes you want ... ?
JK	I did have a question about the exemptions.
DK	Oh good yes, sorry.
JK	As I understand it, there were two classes of exemptions. There were the medical exemptions and then there were the exemptions to keep running essential services. And it struck me that there might be people who held very deeply their belief that they had a right not to be vaccinated, but they couldn't get a medical exemption for a medical reason, but on the other hand if they were lucky enough to be working in some kind of essential service, that in fact they could get an exemption, and there were people who saw, we've been told, who saw apparent unfairness in that situation. It seems though the process for essential service exemptions was quite easy, quite lax, in comparison to medical exemptions. Did you have any sense about that process of how it was run and was it as you had envisaged?
CH	I think the reason for that criteria existing – and I'm racking at my memory to recall it – there were issues around some fields, say, air traffic controllers, where it's a very, very narrow range of people who can actually do that work. And so there was concern that it wouldn't

	<p>take too many of them to be away and you'd be grounding the country's aeroplanes, and so it was designed to capture that, it was designed to capture people where there was nobody else who could do that work, and the consequences of that work not being done would've far outweighed the alternative. So that was the intention of that particular pathway. It was to ensure that where there would be serious consequences for lack of available technical expertise for essential work, then there would be some provision to cover that.</p>
JK	<p>I can recall Ashley saying something too about it often, it was an exemption not for yes/no exemption but a bit longer time in order to get those people over the line in getting their vaccination.</p>
CH	<p>Yeah, and I do remember we had issues going right back to the beginning around port workers and so on where we ...</p>
JK	<p>Just had to ...</p>
CH	<p>It was a question of education. It wasn't that they were opposed to vaccination, it's just that it was all brand new and we had an education role there and generally we found that it was the people who you had doing the vaccination made quite a big difference. So people who were patient and took the time to sit down with people and talk them through, generally had a pretty high success rate.</p>
JK	<p>We had heard stories about sometimes it was five visits by the time you could get over the line.</p>
CH	<p>Yeah.</p>
JK	<p>Anyway, that's all I had.</p>
CH	<p>Yeah, thank you.</p>
DK	<p>Just on vaccine passes. I'll just take the last minute or two. I think a lot of these topics overlap with the discussions we've already had on the other mandates, so I don't think we'll go through them all. And just one thing in terms of the rationale for the use – and I understand that it was high risk settings, particularly in the initial planning of it, it was discussion of high risk settings, the highest risk setting ever, large gatherings et cetera. Do you recall particular consideration of, again, the incremental benefit that came from requiring vaccines in a population that was already so highly vaccinated by the time they were brought in – 90-plus percent?</p>

CH	We were considering a range of factors – social cohesion, very, very strong demand from events organisers and so on to have these tools available to them, so large events, some of those large events wouldn't have happened without us making the vaccine pass available to them as a tool because the event organisers wouldn't have been willing to take the risk of doing it without it.
DK	Yes.
CH	So all of those certainly were things that we were weighing up.
JK	When you said 'social cohesion', and I note there was also I think in initial discussions it was looking at high risk settings, particularly – and again ultimately was applied to quite wide settings with cafes and hospitality as well. And I note there was – this is in the topics we've had wider than initially anticipated or something quote which is from document 25. But it was about risks related to social cohesion, saying that the revised settings are broader than what was originally considered by Cabinet in November and those without CVCs would potentially be excluded from a much wider range and this risks isolating unvaccinated and increases the likelihood that we'll see large scale protests similar to those experienced in other countries. So looking at risks of social cohesion the other way, did I see you to be saying that bringing them in was also about improving social cohesion?
CH	Of course. We had situations where people wouldn't go into places unless they knew that other people were going to be vaccinated, and we wanted to try and get life back to as normal as possible. So the vaccine passes, as we were first discussing them – we've talked about that four or five month continuum – it was in that period where we were trying to move Auckland out of a restrictive state, where we were trying to reconnect the country internally and prepare to reconnect the country to the world, and vaccine passes was a pretty important tool in our ability to do that.
DK	Because it enabled people who were fearful otherwise?
CH	But also a vaccine pass as opposed to a level 3 or level 2 lockdown, or a level 3 or level 2 on the alert level framework, was definitely far more permissive than the previous restrictions.
DK	And so – raised with us the approach to enforcement and compliance, that was a high trust model, we discussed that last time, and you stated that was designed, developed alongside Police and I take that, but I guess the question is whether that high trust model undermined

	the need for the mandate or the compulsory measure if it's not being closely enforced, if that makes sense?
CH	Generally we found that the demand for vaccine passes was so high that it wasn't actually such an issue. The people who really wanted to see vaccine passes in place were pretty conscientious about enforcing it themselves. And there wasn't a huge amount of blowback against those people who were on the front lines of that.
DK	Of enforcing it in the place, right.
CH	And we were monitoring that regularly through the Police, so all through that time I was still having my 11.30 daily Zooms with all of the different government agencies. The Police were represented in that at a very senior level so if the Commissioner himself wasn't on there then one of his deputies was on the daily call. And they were just giving us regular updates on what Police were seeing and hearing around the country.
DK	We covered this at the beginning. I don't think we need to go over it again, the points about extent and duration of social division but I think you've answered that at the beginning, unless there's anything you want to add. Anyone else?
GI	Okay, all right.
CH	Thank you.
GI	We really appreciate your willingness to come along and answer all these questions. It must be a little unpleasant to have to go back over all of that stuff but as you know, we've been given the task of revisiting it, so we've had to ask you to revisit it as well. We really, really do appreciate the hard work that you did at the time. We appreciate that it's not easy to go back over it and for many reasons, including the whole process must be a bit of a blur for you.
CH	It was actually. Just every day, it was a pretty all-consuming period for about 2½ years.
GI	All right, well thanks so much, and class dismissed.
CH	Thank you. Very good.
End of interview	