



TRACKING THE SOUTH AFRICA 'MAC' ADVISORIES

**When Expert Advice and
Secrecy Collide in a Pandemic:**
Assessing government transparency in
public health decision making and vaccine
prioritization and selection

August 2020 – August 2021

The purpose of this Health Justice Initiative (HJI) briefing paper is to explore key examples of the South African government's response to, and action on, scientific advice related to vaccinating the nation against Covid-19.

The HJI has been calling for greater transparency on the part of government and private sector players, to ensure that the country's Covid-19 response is rooted in timely, voluntary disclosure of information, not secrecy, and that it is based on evidence, not personal or vested interests.

The precedent-setting decision matrix and decision making in this pandemic will play a vital role in an effective and rights-based handling of future pandemics.

This briefing paper focuses on

- some of the advice given by the Ministerial Advisory Committee on Covid-19 (C-19 MAC) and the Vaccine Ministerial Advisory Committee (VMAC);
- the delays by the Department of Health in publishing these advisories; and
- the South African government's decisions regarding the prioritisation of certain groups and regarding vaccine selection.

We identified, catalogued and analysed 120 Ministerial Advisory Committee (MAC) advisories published on the Department of Health's portal between 25 August 2020 and 18 August 2021.

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Disclaimer

All errors are our own. To the best of our ability we have tried to ascertain the correct information and we welcome feedback on any factual inaccuracies.

EXECUTIVE SUMMARY

This briefing paper explores key examples of the South African government's use of, and responses to, scientific advice related Covid-19 decision making.

The Health Justice Initiative (HJI) has called for greater transparency and accountability from government and the private sector to ensure that the country's Covid-19 response is rooted in evidence, is timely and includes the voluntary disclosure of information.

This briefing paper focuses on advisories given by Ministerial Advisory Committee on Covid-19 (C-19 MAC) and the Vaccine Ministerial Advisory Committee (VMAC) published between 25 August 2020 and 18 August 2021 – and on the delays by the National Department of Health in publishing these. In its analyses of the advisories, it enquires specifically into the South African government's decisions on the prioritisation of certain groups and on its vaccine selection. This paper does not deal with the issues of vaccine manufacturer secrecy, supply delays or constraints and intellectual property strangleholds in the provision of vaccines to South Africa by global and local vaccine manufacturers. These issues are addressed by the HJI elsewhere.

Our analyses find that the National Department of Health initially failed to disclose all expert advice given to it, with a considerable time lag in the release of certain critical expert recommendations. Despite requests to do so, it has not released or published all outstanding information which we believe should be in the public domain.

Despite undertakings to do so, the National Department of Health did not sufficiently prioritise people with co-morbidities in the initial national vaccine rollout programme, and no administrative provision was initially made to vaccinate people without identity documentation. Paradoxically the Department was able to create a dispensation for 'special categories' of people to receive priority access to vaccines which was not always based on health risk.

This briefing paper also addresses the halting of the rollout of the AstraZeneca/ University of Oxford vaccine (Covishield)¹ in early 2021.

1 In this paper we used the common and popular description of vaccines identified for use in South Africa. For more regulatory approval detail and the registered names, see also www.sahpra.org.za

We make seven substantial recommendations – largely to do with greater transparency and disclosure regarding decision making and access to vaccinations, especially for those who are undocumented and the prioritisation of those who are most vulnerable. The recommendations are made within a broader consideration of strengthening the health system as a whole and supporting the implementation of National Health Insurance.

It is recommended that the following are considered by the South African government and National Department of Health in order to improve the country's public health response to the Covid-19 pandemic.

1. The publication and placing in the public domain of
 - the names of all Covid-19 expert advisors to the South African government (including the local C-19 MAC and V-MAC));
 - their listed expertise; and
 - any conflicts of interest (as well as any other fiduciary duties).
 - and that these be regularly updated.
2. Any and all previous expert advice or recommendations given in 2020 and in 2021 to be placed in the public domain and **all** C-19 MAC and VMAC advisories to be published, and in a timeous manner.
In future all such advisories to be published within 72 hours of submission to the Minister/ President/ National Coronavirus Command Council (NCCC).
3. In instances where the government has not sought independent expert advice and / or does not follow the recommendations of such independent experts in making policy decisions, that it states so clearly, and explains the health, ethics or other rationale for doing so, so that decision making processes that impact lives and livelihoods, are transparent.
4. Rigorous investment in adequate patient information systems and ethical data-sharing is urgently made. This is needed to avoid placing public sector patients with co-morbidities at even greater risk as the vaccine programme advances.

5. To vaccinate ‘everyone, everywhere’ and to avoid a breeding ground for variants, nationality cannot be a proxy for first access; because xenophobia also fuels hesitancy. A ‘firewall’ should be set up so that people seeking care and vaccination are not arrested or criminally prosecuted for documentation or status related reasons. Similarly, homeless people to be supported with dedicated outreach programmes. The departments of Home Affairs and Health to work together to ensure that all people without documentation – including cross-border migrants – can access the health and social services they need.
6. Pandemic management criteria to be drafted to address rationing and the principles of access in a time of scarcity.
 - We have not been able to locate the National Department of Health’s written Allocation Framework for Vaccine Access in South Africa. If one exists, it has not been shared.
 - So far, only press briefings and PowerPoint presentations to Parliament and the National Department of Health’s special ‘circulars’ make reference to access and allocation.
 - Clear upfront guidelines to be made available on the prioritisation of appropriate interventions, testing, treatment and/or vaccines based on ethical principles and public health rationales. This is especially important to address periods of scarcity or excess, and to guide programmes using significant quantities of donated stock / supplies. These guidelines to include
 - criteria and the appropriate processes for any exceptions;
 - guidance on transparent decision making to decide what the Department of Health itself has referred to as ‘special’ cases; and
 - crucially, the process by which exceptions to the rule are recommended to be insulated from any influence of those with a vested interest in such a recommendation, particularly political or executive undue interference. The same applies for vaccine selection.
7. The government and the NCCC should pay particular attention to the communication of its policy choices and decisions that affect access; it is not sufficient to rely on communication by virtual press briefings alone.
 - Information and decisions to be circulated clearly and rapidly through various communication mediums in all languages, in accessible, plain language formats - including for people with reading or hearing disabilities.
 - Public service announcements also to be used to draw attention to the publication of all expert advisories.

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INTRODUCTION

On 5 March 2020 the first case of Covid-19 was reported in South Africa – the same day on which the World Health Organization (WHO) first described Covid-19 as a ‘pandemic’.² Within ten days, South Africa declared a State of Disaster³ and a ‘Level 5’ lockdown commenced at midnight on 26 March 2021. As at late November 2021, the ‘Disaster’ declaration is still in place.

It is officially estimated that since March 2020, South Africa has lost at least 85,000 lives to Covid-19.⁴ Analyses by the South African Medical Research Council (SAMRC) and the University of Cape Town’s Centre for Actuarial Research (UCT CARE) indicate that the number of ‘excess deaths’ (i.e. deaths in addition to the numbers which might be expected to die in a given period) is likely to be several times higher, however.⁵

Since the beginning of the pandemic, the South African government has stated that its response will be rooted in ‘science and evidence’. This is quite different from its initial handling of the AIDS crisis in the late 1990s to mid-2000s, which was characterised by state supported AIDS denialism.

In April 2020, President Cyril Ramaphosa remarked that the WHO had commended South Africa for its ‘rapid response to the pandemic’ because it ‘followed scientific advice’. He also assured the public that government’s Risk Adjusted Strategy (or lockdown levels) ‘is guided by the advice from scientists’.⁶ A month later, he stated

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- 2 WHO (2020). *WHO Director-General's opening remarks at the media briefing on COVID-19, 11 March 2020*. [online] Available from: <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> [Accessed 3 November 2021]
 - 3 Department of Co-operative Governance and Traditional Affairs (2020). Government Gazette No 43096, 15 March 2020. Available from: <http://www.health.gov.za/covid19/> [Accessed 14 December 2021]
 - 4 Department of Health. Covid-19 dashboard, as at 15 Sept 2021. Available from: <http://www.health.gov.za/covid19/> [Accessed 21 September 2021]
 - 5 The South African Medical Research Council and the UCT Centre for Actuarial Research calculated that 257,543 excess deaths have occurred since May 2020. Bradshaw D et al (2021). *Report on Weekly Deaths; 5-11 Sept 2021*. Burden of Disease Unit, South African Medical Research Council, 14 September 2021. Available from: <https://www.samrc.ac.za/sites/default/files/files/2021-09-15/weekly11Sep2021.pdf> [Accessed 14 December 2021]
 - 6 President Cyril Ramaphosa (2020). *SA's response to Coronavirus COVID-19 pandemic* [online] 23 April 2020. Available from: <https://www.gov.za/speeches/president-cyril-ramaphosa-south-africas-response-coronavirus-covid-19-pandemic-23-apr-2020> [Accessed 14 December 2021]

that ‘our considerations [for Lockdown Level 4] are based on empirical evidence, scientific and economic data and international best practice’.⁷

Transparency

Evidence-based policy formation is essential in rigorous pandemic management. As Uzma Alam and colleagues point out:

‘Effective epidemic detection and response are dependent on decision makers having the right information via health information systems and data platforms; this structure is particularly important in resource-limited settings where there are often considerable variations in demand for resources, leading to wastage and suboptimal health outcomes.’⁸

At the same time, transparency about the rationale that underlies all public health decision making is key. Openness increases the public’s confidence in the measures taken and encourages active support of, and engagement with, such measures.

A commitment to transparency is the hallmark of an ‘open’ government. During a pandemic, information sharing, and expert scientific advice is even more critical, as it contributes to mitigating opposition to public health measures that can keep people safe, healthy and free from infection, illness and premature death.

‘Transparency is an element of procedural fairness and is a key condition for accountable decision-making and the promotion of public trust. Evidence and assumptions used by authorities in making decisions, the manner in which those decisions are being made, and by whom, are crucial to building trust and maintaining confidence in policy makers. Accordingly, all relevant information about a pandemic and its decision-making processes ought to be communicated or made accessible to the public to uphold its trust.’

J A Singh (2020). How SA’s Ministerial Advisory Committee on Covid-19 can be optimised. *South African Medical Journal* 110(6)

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- 7 Cyril Ramaphosa (2020) *From the Desk of the President* [online] 4 May 2020. Available from: <https://www.thepresidency.gov.za/from-the-desk-of-the-president/desk-president%2C-monday%2C-4-may-2020> [Accessed 14 December 2021]
- 8 Alam U, Nabyonga-Orem J, Mohammed A-A, Malac D R (2021). ‘Redesigning health systems for global health security’ *The Lancet, Global Health*, 1 April 2021, 9(4):E393-E394 Available from: [https://www.thelancet.com/journals/langlo/article/PIIS2214-109X\(20\)30545-3/fulltext](https://www.thelancet.com/journals/langlo/article/PIIS2214-109X(20)30545-3/fulltext) [Accessed 14 December 2021]

During a pandemic, governments must proactively share information in a timely manner and increase communication, including through robust public and media engagement. This bolsters public trust and confidence in, and support for, decisions that affect the health and lives of everyone. These principles should hold for all aspects of governance and the health system but are particularly cogent in anticipation of the transformation of the national health system (National Health Insurance).

Transparency International has also explained why information sharing by governments is key to pandemic preparedness:

‘Governments have had to respond quickly to fast-changing contexts, with many competing interests, and little in the way of historical precedent to guide them. Transparency here is paramount; publicly available information is critical to reducing the inherent risks of such a situation by ensuring governmental decisions are accountable and by enabling non-governmental expert input into the global vaccination process.’

Transparency International

‘For Whose Benefit? Transparency in the development and procurement of Covid-19 vaccines’ May 2021

Where experts are advising the government on public health measures – which in turn influence the Presidency – an ‘open’ government would be characterised by the immediate sharing of expert advice, disclosure of the research basis of that advice, and a noting of all professional conflicts of interest. This has not been the case in South Africa with respect to the Covid-19 pandemic, however.

In July 2020 the Minister of Health stated that the Department of Health would not release the (MAC) advisories as they ‘did not represent the government’s final position on the issues under discussion and that it was necessary to appreciate government’s complex policy formation process’.⁹

Regrettably, since July 2020 the Health Justice Initiative (HJI) has responded to this lack of transparency by engaging in lengthy correspondence with the government and other regulatory bodies to ensure that even basic information is shared. We have pursued a range of requests for information and, in the absence of their voluntary disclosure, will be turning to the courts for relief.

9 Kahn T (2020). ‘Scientific advisories on coronavirus will not be released, says Mkhize.’ *Business Day*, 13 July 2020 Available from: <https://www.businesslive.co.za/bd/national/health/2020-07-13-scientific-advisories-on-coronavirus-will-not-be-released-says-mkhize/> [Accessed 24 November 2021]

South Africa is not alone in having to address issues of the timely sharing of information and transparency in a pandemic.

An assessment of the UK's Scientific Advisory Group for Emergencies ('SAGE') highlighted the danger of public distrust where information is not shared. It found weaknesses in their 'communication and engagement, delays in publication of its advice and a lack of transparency'. Further a 'lack of transparency about (UK) SAGE's membership and advice in the first four months created suspicion about the (British) government's approach that it has struggled to shake off, even after much greater publication and openness. Lack of access to evidence also undermined the implementation of specific policies'.¹⁰

In this respect, it was suggested that, in a pandemic, the scientific advice from the (UK SAGE) ...should be published within 24 hours of it being given, or the policy being decided, whichever is the later, to ensure the opportunity for rapid scientific challenge and guard against the risk of 'groupthink'. In addition, minutes and SAGE papers should be published within 48 hours of the meeting taking place.¹¹

Leadership

Another key aspect of effective and responsible pandemic management is public trust and confidence in the leadership of those managing the response.

Despite the existence of the National Coronavirus Command Council (NCCC) and the declaration in March 2020 of a State of Disaster, the National Department of Health has mainly driven the country's Covid-19 management strategy and execution, often without the necessary support of other key government departments. Its ability to do so has been affected by a high turnover of key players, however, within both the Ministry and Department of Health. From May 2019 to September 2021 there have been three ministers of health,¹² two deputy ministers of health¹³ and four directors-general of health.¹⁴

10 Sasse, T, Haddon, C & Nice A (2020). *Science advice in a crisis*. Institute for Government, UK, December 2020, Available from: https://www.instituteforgovernment.org.uk/sites/default/files/publications/science-advice-crisis_0.pdf [Accessed 14 December 2021]

11 House of Commons (2021). *Coronavirus: lessons learned to date*. Sixth Report of the Health and Social Care Committee and Third Report of the Science and Technology Committee of Session 2021–22, 21 September 2021. Available from: <https://committees.parliament.uk/publications/7496/documents/78687/default/> [Accessed 14 December 2021]

12 Dr Zweli Mkhize, Mmamabolo Kubayi-Ngubane (acting) and Dr Joe Phaahla.

13 Dr Joe Phaahla and Dr Sibongiseni Dhlomo.

14 Precious Matsoso, Dr Anban Pillay (acting), Dr Sandile Buthelezi, Dr Nicholas Crisp (acting).

In addition, there has been disruption within the Department of Health. In September 2021, six high-ranking officials were placed on cautionary suspension following alleged corruption charges.¹⁵ While rapid leadership turnover is disruptive for any government department, this is particularly acute when some posts are vacated following allegations of corruption and maladministration.

At exactly the time that the Department of Health required particularly stable and inspiring leadership to address the Covid-19 crisis, then, this rapid succession of people in strategic posts has inevitably damaged the reputation of the Department as well as the government's handling of certain aspects of its pandemic response. It has disrupted the continuity of any strategy and contributed to particularly poor communication and rationales with respect to several aspects of its decision making.

Against these contextual considerations, this briefing paper explores three main examples of Covid-19 decision making, with an emphasis on the advice of the Ministerial Advisory Committees (MACs).

THE SOUTH AFRICAN MINISTERIAL ADVISORY COMMITTEES

The Covid-19 Ministerial Advisory Committee

The then-Minister of Health, Dr Zweli Mkhize, established a Covid-19 Ministerial Advisory Committee – 'the C-19 MAC' – on 30 March 2020. He did so using the provisions of the National Health Act (2003) (NHA) which provides for the establishment of 'advisory and technical committees' and makes provision for 'committees to be appointed by the Minister of Health after consultation with the National Health Council; and be Gazetted'.¹⁶ It is unclear, however, whether the

15 Ellis, E (2021). 'Newsflash: Minister of Health apologises for Digital Vibes scandal and announces suspension of Anban Pillay and other senior officials.' *Daily Maverick*. Available from: <https://www.dailymaverick.co.za/article/2021-09-30-minister-of-health-apologises-for-digital-vibes-scandal-and-announces-suspension-of-anban-pillay-and-other-senior-officials/> [Accessed 26 November 2021]

16 Section 91:
(1) The Minister may, after consultation with the National Health Council, establish such number of advisory and technical committees as may be necessary to achieve the objects of this Act.
(2) When establishing an advisory or technical committee, the Minister may determine by notice in the Gazette-
(a) its composition, functions and working procedure;
(b) in consultation with the Minister of Finance, the terms, conditions, remuneration and allowances applicable to its members; and
(c) any incidental matters relating to that advisory or technical committee.

Minister did actually ‘consult’ with the National Health Council when he set up the advisory committee.¹⁷

The C-19 MAC was only formally gazetted on 7 August 2020.¹⁸ This was after the Committee’s Terms of Reference, which was dated 30 March 2020 and was subsequently published by Bhekisisa.¹⁹ Setting out the scope and duties of that Advisory Committee, the Terms of Reference provided that²⁰

- the C-19 MAC is a ‘non-statutory, advisory Committee appointed by the Minister of Health to provide high level strategic advice to the Minister of Health on the management of the Covid-19 outbreak in SA’; and
- the C-19 MAC’s role is to provide guidance to government, but its advice is ‘non-binding’.²¹

The Terms of Reference also included a ‘confidentiality’ clause.

Membership

The C-19 MAC was initially chaired by professors Salim S Abdool Karim and Marian Jacobs. When Prof Karim stood down on 23 March 2021, he was replaced by Prof Koleka Mlisana.

The C-19 MAC originally consisted of 51 scientists, many of whom are world-renowned and are specialists in the fields of epidemiology, virology, vaccinology, microbiology, and infectious diseases. In September 2020, when the Vaccine MAC was launched, several members were controversially removed and replaced in a

17 Singh, J A (2020). ‘How SA’s Ministerial Advisory Committee on COVID-19 can be optimised.’ *South African Medical Journal* (SAMJ), 110(6).

18 South Africa. Department of Health (2020). Regulation Gazette No 11158 Vol. 662; 7 August 2020 No. 43599; Directions issued in terms of Regulation 3(3) of the Regulations made under Section 27(2) of the Disaster Management Act, 2002 (Act No 57 of 2002): Criteria to guide the determination of alert levels.

The Gazette provides for the following:

‘Ministerial Advisory Committee’ means the committee appointed by the Minister of Health in terms of section 91 of the National Health Act, 2003 (Act No. 61 of 2003), for the purposes of advising on Covid-19 related matters’. Available from: <http://www.health.gov.za/mac-advisories/>
MACs previously established in terms of the NHA include: mental health, e-health, control of cancer, antimicrobial resistance, among others.

19 South Africa. Department of Health (2020). *Ministerial Advisory Committee on Covid-19 Terms of Reference*. Available from: <https://bhekisisa.org/wp-content/uploads/2020/05/530fbd17-ministerially-advisory-committe-on-covid-19-terms-of-reference.pdf> [Accessed 26 November 2021]

20 South Africa. Department of Health (2021). *Covid-19 South African Coronavirus News and Information Portal*. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/>

21 MAC Chair Prof Koleka Mlisana: ‘The advice provided by the MAC on COVID-19 is non-binding and is considered, together with other relevant information, before final decisions are taken by the responsible authorities, including the National Coronavirus Command Council.’

process which the Department of Health termed a ‘reconfiguration’.²² This process was meant to identify, and also include in the various MACs, ‘bio-medical practitioners; clinical experts; specialists in ethics; the nursing profession; social scientists; researchers; and community leaders’.²³

Some were not optimistic about this ‘reconfiguration’, however, and called it a ‘purge’ of government critics.²⁴ Scientists and researchers who had publicly expressed their disagreement about certain aspects of the government’s Covid-19 response (related to lockdown decisions) were not included in the reconfigured C-19 MAC or the VMAC; some were publicly rebuked and dismissed.

MAC members do not openly share their views on the record following, in our view, a chilling effect produced by the National Department of Health’s sharp rebuke to, and controversial removal from the first C-19 MAC of, the President of the South African Medical Research Council (SAMRC) (Prof Glenda Gray) on 14 September 2020 - and of others including Prof Shabir Madhi (Wits Dean of the Faculty of Health Sciences and Prof of Vaccinology). Even if subsequently privately addressed, perhaps, the public rebuke and the C-19 MAC reconfiguration have serious consequences for freedom of expression and academic freedom – and for public trust and confidence in government departments.²⁵

Table 1:
C-19 MAC members since inception and re-configured membership as at September 2020

C-19 MAC Members (August 2020)	Designation	Status (September 2020)	Re-configured C-19 MAC - additional members
Prof Salim S Abdool Karim (Co-Chair)	Infectious Disease Epidemiologist and Director, Centre for the AIDS Programme of Research in South Africa (CAPRISA)	Resigned	
	Executive Manager: Academic Affairs, Research & Quality Assurance, National Health Laboratory Service (NHLS)	Active	Prof Koleka Mlisana (Co-chair)
Prof Marian Jacobs (Co-Chair)	Emeritus Professor, Paediatrics and Child Health, University of Cape Town	Active	Prof Marian Jacobs (Co-chair)
Mr Sibulele Bandezi	KwaZulu-Natal Area Manager, National Health Laboratory Services (NHLS)	Relieved of duties	Prof Nhlanhla Mkhize (Vice-chair)
Dr Motlatji Maloba	Head of Department, Medical Microbiology, University of Free State (UFS), NHLS	Relieved of duties	Prof Barry Schoub; Prof Portia Jordan

22 South Africa. Department of Health (2020). Media statement: *Update on Covid-19 (14th September 2020)*. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2020/09/14/update-on-covid-19-14th-september-2020/> [Accessed 26 November 2021]

23 South Africa. Department of Health (2020). Media statement: *Update On Covid-19 (28th September 2020)* SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2020/09/28/update-on-covid-19-28th-september-2020/> [Accessed 26 November 2021]

24 Rose, R (2020). ‘Hear no evil: Mkhize axes the critics from his experts panel.’ [online] *Business LIVE*. Available from: <https://www.businesslive.co.za/fm/opinion/editors-note/2020-09-30-rob-rose-hear-no-evil-mkhize-axes-the-critics-from-his-experts-panel/> [Accessed 26 November 2021]

25 Singh, J, Habib, A, Jansen, J (2020). ‘Freedom of speech and public interest, not allegiance, should underpin science advisement to government’ *South African Medical Journal* (SAMJ), 110(7): 578-580.

C-19 MAC Members (August 2020)	Designation	Status (September 2020)	Re-configured C-19 MAC - additional members
Dr Zinhle Makhathini	Clinical Virologist (Senior Pathologist), NHLS	Relieved of duties	Prof Marc Mendelson
Prof Wolfgang Preiser	Head, Division of Medical Virology, University of Stellenbosch, NHLS	Relieved of duties	Prof Nombulelo Magula
Prof Wendy Stevens	Head, National Priority Programmes, NHLS	Relieved of duties	Prof Jeremy Nel
Prof Anne van Gottberg	Clinical Microbiologist & Laboratory Lead, Centre for Respiratory Diseases and Meningitis, National Institute for Communicable Diseases (NICD)	Relieved of duties	Prof Rudo Mathivha
Prof Eftyhia Varda	Clinical Virologist, Head of Department of Virology, Allergy and Immunology, Lancet Laboratories & University of Stellenbosch	Relieved of duties	Dr Dean Gopalan
Dr Moherndran Archary	Pediatrics Infectious Disease Specialist, King Edward VIII Hospital/University of KwaZulu-Natal (UKZN)	Relieved of duties	Prof Sithembiso Velaphi
Prof Shabir Banoo	Chief Technical Specialist and Head: Pharmaceutical Policy and Programmes, Right to Care	Relieved of duties	Prof Shaheen Mehtar
Dr John Black	Infectious Diseases Physician, Livingstone Hospital	Relieved of duties	Prof Ian Sanne
Prof Lucille Blumberg	Deputy Director, National Institute of Communicable Diseases (NICD)	Relieved of duties	Prof Matilda Mokgatle
Prof Morgan Chetty	Specialist Family Physician and Chairman, Independent Provider Association Foundation of SA	Relieved of duties	Dr Juliet Pulliam
Dr Angelique Coetzee	Family Practitioner and National Chair, South African Medical Association (SAMA)	Relieved of duties	Prof Jacqui Miot
Dr Francesca Conradie	Deputy Director, Clinical HIV Research Unit, Wits University	Relieved of duties	Prof Helen Rees
Prof Prakash Jeena	Associate Prof, Paediatrics, University of KwaZulu-Natal (UKZN)	Relieved of duties	Dr Heidi van Rooyen
Dr Lance Lasersohn	Specialist Anesthesiologist, Intensive Care Physician and President, South African Society of Anesthesiologists	Relieved of duties	Ms Dikeledi Tsukudu
Dr Theo Ligthem	Disaster Medicine Planning and Training, University of Free State (UFS)	Relieved of duties	Prof Doug Wassenaar
Dr Kerrigan McCarthy	Case Management, National Institute of Communicable Diseases (NICD)	Relieved of duties	Dr Thuthula Balfour
Prof James McIntyre	Chief Executive Officer (CEO), Anova Health Institute	Relieved of duties	
Prof Yunus Moosa	Head of Infectious Diseases, University of KwaZulu-Natal (UKZN)	Relieved of duties	
Dr Ndiviwe Mphothulo	Public Health Specialist, Rural Doctors Association of South Africa (RuDASA)	Relieved of duties	
Ms Silingene Ngcobo	Community and Primary Health Care Nurse, University of KwaZulu-Natal (UKZN)	Relieved of duties	
Dr Elijah Nkosi	General Practitioner and Director, Independent Provider Association Foundation of South Africa	Relieved of duties	
Prof Sithembiso Velaphi	Clinical Head of Department of Pediatrics and Associate Prof, Wits University	Relieved of duties	
Prof Francois Venter	Division Head – Ezintsha, Faculty of Health Sciences, Wits University	Relieved of duties	
Prof Shabir Madhi	Director of Respiratory and Meningeal Pathogens Research Unit, South African Medical Research Council (SAMRC)	Relieved of duties	
Prof Quarraisha Abdool Karim	Infectious Diseases Epidemiologist and Associate Scientific Director, Centre for the AIDS Program of Research in South Africa	Relieved of duties	

C-19 MAC Members (August 2020)	Designation	Status (September 2020)	Re-configured C- 19 MAC - additional members
Dr Kamani (Kamy) Chetty	CEO, National Health Laboratory Service (NHLS)	Relieved of duties	
Prof Cheryl Cohen	Head, Centre for Respiratory Diseases and Meningitis, National Institute of Communicable Diseases (NICD)	Relieved of duties	
Dr Natalie Mayet	Deputy Director, National Institute of Communicable Diseases (NICD)	Relieved of duties	
Prof Gesine Meyer-Rath	Associate Prof/Principal Researcher, Boston University; Health Economics and Epidemiology Research Office, Wits University	Relieved of duties	
Dr Harry Moultrie	Senior Medical Epidemiologist, National Institute of Communicable Diseases (NICD)	Relieved of duties	
Prof Simon Nemutandani	Dean: Head, School of Oral Health Sciences, Wits University	Relieved of duties	
Mr Imraan Patel	Deputy Director-General, Department of Science and Innovation	Relieved of duties	
Dr Lindiwe Ringane Ka Seme	External Advisory, Health and Presidency	Relieved of duties	
Prof Glenda Gray	CEO, South African Medical Research Council (SAMRC)	Relieved of duties	
Ms Glaudina Loots	Director: Health Innovation, Department of Science, and Innovation	Relieved of duties	
Prof Shaheen Mehtar	Emeritus Prof, Unit of Infection Prevention and Control, University of Stellenbosch/Infection Control Africa Network	Relieved of duties	
Prof Lynn Morris	Interim Executive Director, , National Institute of Communicable Diseases (NICD)	Relieved of duties	
Dr Jacqui Miot	Division Director, Health Economics and Epidemiology Research Office, Wits University	Active	
Prof Juliet Pulliam	Director: SACEMA, South African DSI-NRF Centre of Excellence in Epidemiological Modelling and Analysis, Stellenbosch University	Active	
Prof Matilda Mokgatle	Health Promotion, Social and Behavioral Health Science, Sefako Makgatho Health Sciences University	Active	
Prof Ian Sanne	CEO, Right to Care	Active	
Dr Jeremy Nel	Infectious Diseases Specialist, Wits University	Active	
Prof Nombulelo Mogula	Head, Department of Internal Medicine, University of KwaZulu-Natal (UKZN)	Active	
Prof Dean Gopalan	Chief Specialist and Head of Discipline: Anesthesiology and Critical Care, University of KwaZulu-Natal (UKZN) President: Critical Care Society of Southern Africa (CCSSA)	Active	
Prof Lufuno Mathivha	Critical Care, Wits University	Active	
Prof Koleka Mlisana	Executive Manager: Academic Affairs, Research and Quality Assurance, NHLS	Active	
Prof Mark Mendelson	Prof, Infectious Diseases and Head, Division of Infectious Disease and HIV Medicine, University of Cape Town (UCT)	Active	
Prof Helen Rees	Executive Director, Wits Reproductive Health and HIV Institute and Co-Director, Wits African Leadership in Vaccinology Excellence; Chairperson of South Africa Health Product Regulatory Agency (SAHPRA)	Active	

*Note: The HJI wrote to the Department of Health on 16 November 2021 to request the most recent list of members of the C-19 MAC and the VMAC for purposes of this briefing paper. The HJI was directed to 'submit the request to the office of the Minister of Health' - a request we had made earlier (see below) to which we have not yet had a response.

The Vaccine MAC

On 14 September 2020, the Minister of Health announced the establishment of a sub-committee of the C-19 MAC focusing on 'vaccine development' - the 'VMAC'.

Table 2:
Members of the VMAC, 28 September 2020

Prof Barry Schoub (Chair)	Emeritus Prof of Virology, (Wits University)
Dr Morena Makhoana	CEO, The Biovac Institute
Ms Glaudina Loots	Director, Health Innovation, Department of Science and Technology
Prof Greg Hussey	Director, Vaccines for Africa (UCT)
Prof Jeff Mphahlele	Immunologist & SAHPRA Board Member, South African Medical Research Council (SAMRC)
Prof Helen Rees	Executive Director, Reproductive Health and HIV Institute (RHI), (Wits University)
Prof Ames Dhai	Director of the Steve Biko Centre for Bioethics, (Wits University)
Dr Mark Blecher	Chief Director, National Treasury of South Africa

The Social Behavioural Change MAC

Another sub-committee, focusing on Social Behavioural Change – the 'SBC MAC' – was announced on 16 July 2020, largely comprising representatives from civil society organisations.²⁶ To date, almost no expert advisories or guidance from the SBC MAC are in the public domain.

26 South Africa. Department of Health (2020). *Minister speaks: Mkhize launches MAC for Social Behavioural Change*. 16 June 2020. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2020/06/16/mkhize-launches-mac-for-social-behavioural-change/> [Accessed 26 November 2021]

Table 3: Members of the SBC MAC, June 2020

South African Council of Churches (SACC)	Bishop Malusi Mpumlwana (Chair)
African Catholic Bishops	Buti Joseph Tlhagale
Age-in-Action Organisation	Ingrid Cupido
Alliance of Pentecostal and Charismatic Churches of South Africa	Apostle Collins Dhlomo
Congress of Traditional Leaders of South Africa (CONTRALESA)	Zolani Mkiva
Council of Muslim Theologians	Vilal Vaid
Daughters of Africa	Sulosh Pillay
Democratic Nursing Organisation of South Africa (DENOSA)	Cassim Lekhoathi
Diaz Rues Africa	Yamkela Makupula
Disabled People South Africa (DPSA)	Dan Kekane
Financial Sector Campaign Coalition (National Co-ordinator)	Tebello Radebe
Grace Bible Church	Bishop Mosa Sono
Health & Other Services Personnel Trade Union of South Africa (HOSPERSA)	Susan Ntlatleng
Health Users Sector Network	Lauren Pretorius
Hindu community	Pundit Ashwin Trikamjee
Icamacu Institute	Nokuzola Ndende
Jewish community	Chief Rabbi Warren Goldstein
Maada Mudzi Religious Organisation	Joseph Mbereni
Moslem Judicial Council (MJC)	Abdul Khaliq Allie
Muslim community	Moulana Ebrahim Bham
National Association of People Living with HIV and AIDS (NAPWA)	Mluleki Zazini
National Economic Development and Labour Council (NEDLAC)	Mr Thulani Tshefuta
National Education, Health and Allied Workers' Union (NEHAWU)	Khaya Xaba
National House of Traditional Leaders	Inkosi Sipho Etwell Mahlangu
National Unitary Professionals for African Tradition Health Practitioners of SA	Solly Nduku
National Working Committee for the SAN National Civic Organisation (SANCO)	Lucas Qhakaza
Older Persons Forum (chairperson)	Jacob Skosana
People's Health Movement of South Africa (PHM-SA)	Dr Lydia Cairncross
Public Servants Association of South Africa	Jannie Oosthuizen
Rhema Family Church	Pastor Ray McCauley
Section27	Sasha Stevenson
Sonke Gender Justice	Rev Bafana Khumalo
South African Interfaith Council	Avhasei Mulovhedzi
South African Jewish Board of Deputies	Mary Kluk
South African National AIDS Council (SANAC)	Steve Letsike
South African National Apex Co-operative (SANACO)	Lawrence Bale
The Church of Jesus Christ of Latter-Day Saints	Elder Ephraim Msane
Traditional Healers Organisation (passed away in January 2021)	Phephisile Maseko
Violence against Women (activist)	Lisa Vetten,
Zion Christian Church (ZCC)	Bernard Molokoane
Zion Christian Church (ZCC)	Piet Lekganyane

Advisories

Since its inception, the C-19 MAC has provided multiple recommendations to the government in the form of advisories,²⁷ but they are not responsible for their publication. The Department of Health acts both as the secretariat for the MACs and decides if and when expert advice, and MAC advisories, are published. From the outset, the advisories have been shrouded in secrecy and not officially released – and, as noted above, in July 2020, the then-Minister of Health, Dr Zweli Mkhize stated that the advisories would not be published.

From May 2020, News24 submitted two Promotion of Access to Information Act (PAIA) requests to the National Department of Health for access to the MAC advisories and to the ‘detailed Covid-19 data collected’.²⁸ Their requests for information were seemingly ignored, however, and they reported that ‘Mkhize said the advisories could not be made public as, once received, advice was implemented together with inputs from ‘other players’ based on issues that came up during ‘the process of consultation’ which sometimes forced changes’.²⁹

After pressure from public health professionals, the media and civil society organisations, however, the National Department of Health announced on 27 August 2020 that it would publish the MAC advisories.³⁰ The Department loaded several MAC advisories onto their website the day before, on 26 August 2020.

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- 27 The advisories that are publicly available are uploaded on the Department of Health’s Covid-19 portal at <https://sacoronavirus.co.za/category/mac-advisories/>
- 28 Cowan, K, Karrim, A and Hunter, Q (2020). ‘Mkhize doubles down on keeping advice secret as scientists push for transparency.’ [online] News24, 19 July 2020. Available from: <https://www.news24.com/news24/SouthAfrica/Investigations/mkhize-doubles-down-on-keeping-advice-secret-as-scientists-push-for-transparency-20200719> [Accessed: 2 December 2021]
- 29 Cowan, K, Karrim, A, & Hunter, Q (2020). ‘Mkhize doubles down on keeping advice secret as scientists push for transparency,’ [online] News24, 19 July 2020. Available from: <https://www.news24.com/news24/SouthAfrica/Investigations/mkhize-doubles-down-on-keeping-advice-secret-as-scientists-push-for-transparency-20200719> [Accessed 14 December 2021]
- 30 South African Government (2020). *Health on availability of Coronavirus Covid-19 MAC advisories being accessible to public*. South African Government. 27 August 2020. Available from: <https://www.gov.za/speeches/health-availability-coronavirus-covid-19-mac-advisories-being-accessible-public-27-aug-2020> [Accessed 26 November 2021].
It noted that this decision was made ‘so that all members of the public can have access to it’ and that ‘45 advisories [were] currently available to the public’.

Expert scientists

As the South African government publicly committed itself to an evidence-based and scientific pandemic response, many assumed that the government's Covid-19 response and decisions were driven by the recommendations of the MAC. Key scientists were included in several media briefings³¹ with the Minister of Health at the outset of the pandemic.

In the months to follow, however, this was shown to not be the case, when several MAC members openly criticised the government for some of its lockdown and related decisions.³²

'One scientist - who advises the government and who wishes to remain anonymous for fear of reprisal - expressed frustration with the authorities' communication and decisions, saying policy often contradicted debates in, and advice by, the C-19 MAC. "Many decisions are not discussed within the MAC, or go against the MAC advice, and then ministers say this comes from scientists and advisors. Who are these people? And what is the justification for the advice?" they told News24.'³³

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- 31 South Africa. Department of Health (2021). *Media Briefing: Important Update on Vaccines - SA Corona Virus Online Portal*. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2021/02/07/media-briefing-important-update-on-vaccines/> [Accessed 2 December 2021]
- 32 See, for example, the advisories on alcohol and tobacco:
'**Alcohol**: While some members did not think the MAC was the appropriate body to advise on alcohol and some had reservations about restricting alcohol, the technical working group on alcohol recommended either:
Option 1: Temporary alcohol ban – An alcohol ban over the next 8-weeks, models estimate could reduce the alcohol admissions of 189,677 days in general wards and 17,714 ICU-bed days by 20%-30%.
Option 2: Partial alcohol restrictions – such as a ban on the sale of large containers of alcohol, setting purchase limits, reducing drunk driving alcohol limit, etc.
(C-19 MAC 'Advisory on the NCCC questions on actions to curb the surge' 22 July 2020.)
It recommended that the restrictions on **tobacco** be lifted and that 'The imperative to implement interventions aimed at protecting health services so that they are better able to cope with the surge is no longer essential. Therefore, most of the health reasons for maintaining restrictions on tobacco and alcohol fall away. Any concerns that tobacco may cause more severe forms of Covid-19 are no longer a concern because the health care system will be in a better position to deal with this once there is a consistent decline in cases and health services are no longer under the pressure of the surge in cases'.
(C-19 MAC Advisory: 'Proposal for Alert level 2' dated 17 Aug 2020.)
- 33 Cowan, K, Karim, A, Hunter, Q (2020). Mkhize doubles down on keeping advice secret as scientists push for transparency. *News24*. Available from: <https://www.news24.com/news24/SouthAfrica/Investigations/mkhize-doubles-down-on-keeping-advice-secret-as-scientists-push-for-transparency-20200719> [Accessed 2 December 2021]

While some senior scientists have called for the release of the advisories,³⁴ it is significant that some were not willing to be placed on record for calling for greater transparency as they are concerned about possible reprisals.

In response to the lack of transparency and adequate public engagement, several scientists formed a multidisciplinary group called the 'Scientists Collective' to deliver key and accessible messages to the public.³⁵

Other research or advice from experts informing government decision making has also not been placed in the public domain – notably the mathematical modelling on which the government asserted that the original (severe) lockdown measures in March 2020 had been based. This modelling was said to 'predict Covid-19 infections, deaths and the impact on health facilities'; President Ramaphosa referred to it 'as our own modelling'.³⁶ Responding to criticism when these models were not made available,³⁷ the President's spokesperson stated that the 'government was not putting all the models in the public domain to avoid panic and the stigmatisation of people with Covid-19'.³⁸ One of these models was released two months after the initial lockdown announcement, however.

34 Cowan, K, Karim, A, Hunter, Q (2020). Mkhize doubles down on keeping advice secret as scientists push for transparency. *News24*. Available from: <https://www.news24.com/news24/SouthAfrica/Investigations/mkhize-doubles-down-on-keeping-advice-secret-as-scientists-push-for-transparency-20200719> [Accessed 2 December 2021]

35 Nortier, C (2021). 'Covid-19 Pandemic: Collaborate to communicate in a crisis: How clinicians, scientists and journalists pulled together to spread good science.' *Daily Maverick*. Available from: <https://www.dailymaverick.co.za/article/2021-06-20-collaborate-to-communicate-in-a-crisis-how-clinicians-scientists-and-journalists-pulled-together-to-spread-good-science/> [Accessed 6 December 2021].

The Science Collective articles can be accessed here:

<https://www.dailymaverick.co.za/author/thescientistscollective/>

36 'It is clear from the development of the disease in other countries and from our own modelling that immediate, swift and extraordinary action is required if we are to prevent a human catastrophe of enormous proportions in our country.' *Statement by President Cyril Ramaphosa on escalation of measures to combat the Covid-19 epidemic, Union Buildings, Tshwane | The Presidency*. Thepresidency.gov.za. (2020). Available from: <http://www.thepresidency.gov.za/speeches/statement-president-cyril-ramaphosa-escalation-measures-combat-covid-19-epidemic%2C-union> [Accessed 2 December 2021]

37 Villiers, J (2020). Explainer 'Who are the experts behind SA's grim Covid-19 projections?' *News24*. Available from: <https://www.news24.com/news24/Analysis/explainer-who-are-the-experts-behind-sas-grim-covid-19-projections-20200520> [Accessed 2 December 2021]

38 Wicks, J, Hosken, G (2020). 'Government keeping information on virus under wraps to 'avoid Covid-19 panic'.' [online] *TimesLIVE*. Available from: <https://www.timeslive.co.za/sunday-times/news/2020-05-10-government-keeping-information-on-virus-under-wraps-to-avoid-covid-19-panic/> [Accessed 2 December 2021]

The role of the HJI in advocating for transparent public health decision making in a pandemic

Since its inception in July 2020, the HJI has raised the issue of access to safe, effective, and affordable vaccines for both the public and private sector in South Africa as well as the global South generally, while calling for their equitable allocation, and for transparent and accountable decision making. The HJI has also worked with others to ensure that the government and the private health sector adopted a single Vaccine Access and Equitable Allocation Plan to ensure that everyone who required a vaccine could access one, irrespective of health insurance, wealth status or access to identity documentation.

- In November 2020, following global vaccine supply scarcity and a serious lack of regular communication or timely sharing of information by the government, the HJI initiated formal correspondence³⁹ to inquire about the vaccine access and allocation plans for South Africa. This was addressed to the National Disaster Management Centre; the Department of Co-operative Governance and Traditional Affairs; and the Minister of Health. Various officials, including the VMAC chairperson, Prof Barry Schoub, were sent copies of the correspondence.
- At that time, little information was forthcoming. It was clear that while important government decisions would sometimes rely on advice from the MACs, key MAC advisories on vaccine access in particular were not published at the time.
- By early January 2021, the Department of Health announced a plan for vaccine access. The HJI and others provided commentary.⁴⁰
- By February 2021, the government had made promises of vaccine access for healthcare workers on the front line, using the AstraZeneca/ University of Oxford vaccine called 'Covishield' obtained from the Serum Institute of India.
- On 10 February 2021 it announced that this vaccine programme was paused, however, due to 'new' data on its efficacy for South Africa.
- The government then announced that vaccinations for healthcare workers would continue instead through a specially approved study programme / trial

39 Health Justice Initiative (2021). Letter: *Development of a plan to ensure affordable access to and equitable allocation of Covid-19 vaccines*. Available from: https://healthjusticeinitiative.org.za/wp-content/uploads/2021/04/201116-HJI-Correspondence-Covid-19-Vaccine-Access-and-Allocation-Plans_compressed.pdf. [Accessed 26 November 2021]

40 Health Justice Initiative. (2021). *HJI's Commentary on Government's Presentation of its 'Vaccine Strategy' - Health Justice Initiative (HJI)*. Health Justice Initiative (HJI). Available from: https://healthjusticeinitiative.org.za/2021/01/07/vaccine-equity-access-and-allocation/?_ga=2.156138235.1574583704.1635848784-982131455.1625643782. [Accessed 4 November 2021]

called ‘Sisonke’, using the Johnson & Johnson vaccine, which was specially and speedily authorised for that purpose only.⁴¹

- Other countries had begun to roll out vaccines when the temporary pause of the AstraZeneca/ University of Oxford vaccine was announced locally. Given the public interest and the importance of scientific advice and expert opinion during a pandemic, the HJI wrote to the Department of Health in March 2021 to request the ‘release of all outstanding MAC advisories and expert advice related to vaccine selection for the country’. The HJI frequently followed up on this correspondence, but the Department of Health’s MAC secretariat replied on 9 March 2021 that ‘internal processes’ must be followed before advisories could be published.⁴²
- Other civil society groups, including the People’s Vaccine Campaign–South Africa, also called on the government to ‘release all the MAC advisories or to provide justifications for why the advisories were not published’.
- By July 2021, when it became clear that the Department of Health was not willing to voluntarily share all relevant information related to expert advice and recommendations submitted to it with respect to this pandemic, the HJI submitted a formal request for information under the Promotion of Access to Information Act of 2000 (‘PAIA’) on 20 July 2021. Table 4 sets out the substance of the request.

Table 4:
Information requests from the HJI to the National Department of Health, 20 July 2020, made through the Promotion of Access to Information Act (PAIA) – and current status

The HJI Request to the National Department of Health	Response from the National Department of Health
A list of the names of all local and international expert advisors to the National Department of Health on Covid-19, irrespective of whether they also serve on a/any MAC for Covid-19.	Not provided
Copies of all C-19MAC and VMAC Advisories and other expert advice, that are currently not in the public domain.	Response from Director-General of Health on 29 July 2021: ‘Kindly note that all advisories of the MAC on vaccines can be found on the website: www.sacoronavirus.co.za ’ It is unclear whether this is indeed the case (see below).

41 The Minister of Health said that the scientists would meet and deliberate further on the use of the AstraZeneca/ University of Oxford vaccine in South Africa.

42 The HJI sent requests for updates on 23 March and on 14, 20, and 30 April, 14 May, and 02 June. The Department of Health’s MAC secretariat representative replied on 9 March 2021 that ‘internal processes’ must be followed before advisories could be published.

The HJI Request to the National Department of Health	Response from the National Department of Health
Copies of all memoranda and advisories that relate to options and recommendations for vaccinating all people with co-morbidities.	Not provided in full.
Copies of all written advice related to the vaccine selection and priority group eligibility criteria for South Africa from December 2020 to date produced by C-19 MAC, VMAC, National Department of Health, South Africa Health Product Regulatory Agency (SAHPRA); and/or any other expert recommendations and experts as well as ethic bodies/other professional or expert bodies – including the South African Medical Research Council (SAMRC) and the South African Medical Association (SAMA); plus copies of any changes in the respective recommendations/advice over this time period.	Not provided in full.
A copy of the written and current approved (or in draft form) risk and priority group framework or similar, and the timeline, that the National Department of Health is using to <ul style="list-style-type: none"> • to vaccinate people in South Africa; and • to make vaccine allocation and prioritisation (eligibility) decisions. 	Not provided
Copies of all submissions on the issue of vaccine selection for South Africa; and prioritisation of certain groups of others made by any other government department, trade union, political party, business body, organisations, medical schemes, statutory bodies, or any other body, whether locally or internationally.	Not provided
Copies of all C19-MAC and VMAC advisories on the use or non-use in South Africa of the AstraZeneca/Covishield vaccine (from Serum Institute of India) for February – July 2021, , in addition to the 7 February 2021 advisory (signed on 18 March 2021) and 19 February 2021 advisory.	Not provided
Copies of all recommendations on the use or non-use of the AstraZeneca / Covishield vaccine (from the Serum Institute of India) for February – July 2021, for Covid-19 , produced by SAHPRA and any other expert group or individual.	Not provided

The HJI Request to the National Department of Health	Response from the National Department of Health
Copies of National Department of Health memoranda, C-19 MAC and VMAC recommendations or any other expert groupings memoranda setting out the decision to donate/sell the AstraZeneca / Covishield vaccine (from the Serum Institute of India) in early 2021.	Not provided
A copy of the contract and details of the final sale/donation of the AstraZeneca / University of Oxford / Covishield vaccine (from the Serum Institute of India), including all details of the cost recovery or lack thereof.	Not provided

- **During August 2021 the HJI lodged a PAIA formal request with the Department of Health's Information Officer, related to, inter alia, the MAC advisories. Within a couple of days, 26 advisories were uploaded to the Department's website.**
- While the HJI acknowledged the publication of these formerly unreleased MAC advisories (some of which are analysed below) and their potential role in increasing transparency,⁴³ we note that key information related to the C-19 MAC, VMAC and its advice, as well as other information that we requested, remain outstanding.
- Due to the deemed refusal by the Department of Health and relevant research and statutory bodies to provide the requested information, the HJI lodged Internal Appeals under the provisions of PAIA on 9 and 15 September 2021, respectively. These have also been met with silence, and a refusal to voluntarily share the requested information.
For this reason, the HJI will be bringing applications against the National Department of Health by early 2022.

43 Health Justice Initiative (2021). Press Release: *Transparency and secrecy do not go hand in hand: Ministerial Advisory Committees' (MACs) advisories are finally released but SA's vaccine contracts remain hidden.* 28 July 2021. Available from: <https://healthjusticeinitiative.org.za/2021/07/28/health-justice-initiative-hji-statement-on-access-to-information-requests-and-vaccine-contracts/> [Accessed 14 December 2021]

MAC ADVISORY ANALYSIS AND METHODOLOGY

The HJI's analysis of the available MAC advisories was undertaken to assess the evidence provided to support some of the key decisions in the country's vaccine programme. We identified, catalogued and analysed 120 MAC advisories published on the Department of Health's Covid-19 web portal between 25 August 2020 and 18 August 2021.

Figure 1 (below) shows that considerably more advisories were submitted (and/or published) from the C-19 MAC than the VMAC – being 98 and 21 respectively. This may be as

- the C-19 MAC had been in existence for longer than the VMAC and also had a broader mandate (although we note that the Terms of Reference for the VMAC are not publicly available); and
- there was a significant delay between the date of issue of all these advisories and the date of their publication; from the date of signature it took, on average, 68 days for C-19 MAC advisories and 111 days for VMAC advisories to be uploaded to the Department of Health's website (see Appendices A & B).

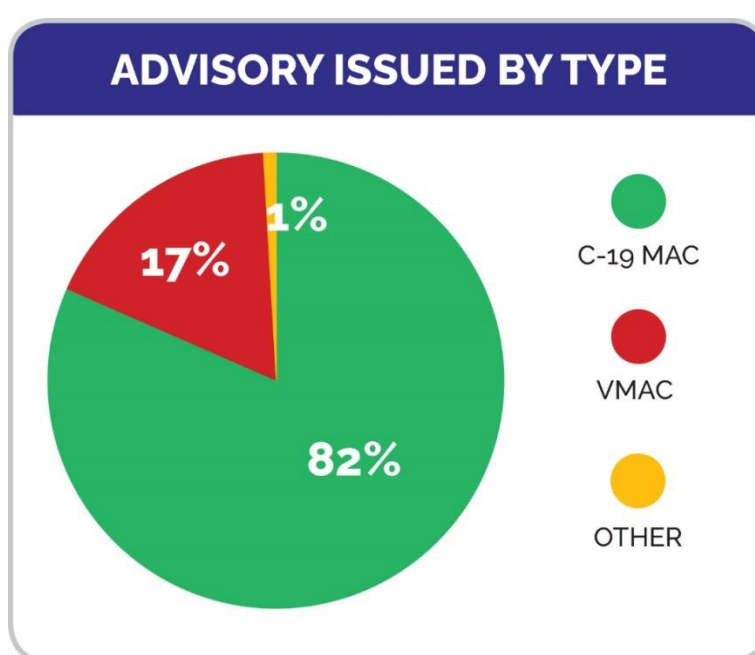


Figure 1: Distribution of advisories issued - by type of Ministerial Committee

Note:

- After the HJI's initial cataloguing on 18 August 2021 of the MAC advisories, two additional advisories were uploaded in early September (thus falling outside of the purview of this briefing paper's analysis).

- The Department of Health uploaded these **faster than previously**, immediately after the HJI's PAIA request,⁴⁴ suggesting that the Department paid greater attention to publishing them in a timely manner following the request:
- One advisory was uploaded seven days between signature and publication (relating to the 'extension of level 3 restrictions beyond 12 September 2021', dated 6 September 2021); and
 - Another advisory was uploaded on the same day as the signature ('Advisory on vaccination of immuno-compromised individuals (other than HIV and associated infections) - v2', dated 16 September 2021).

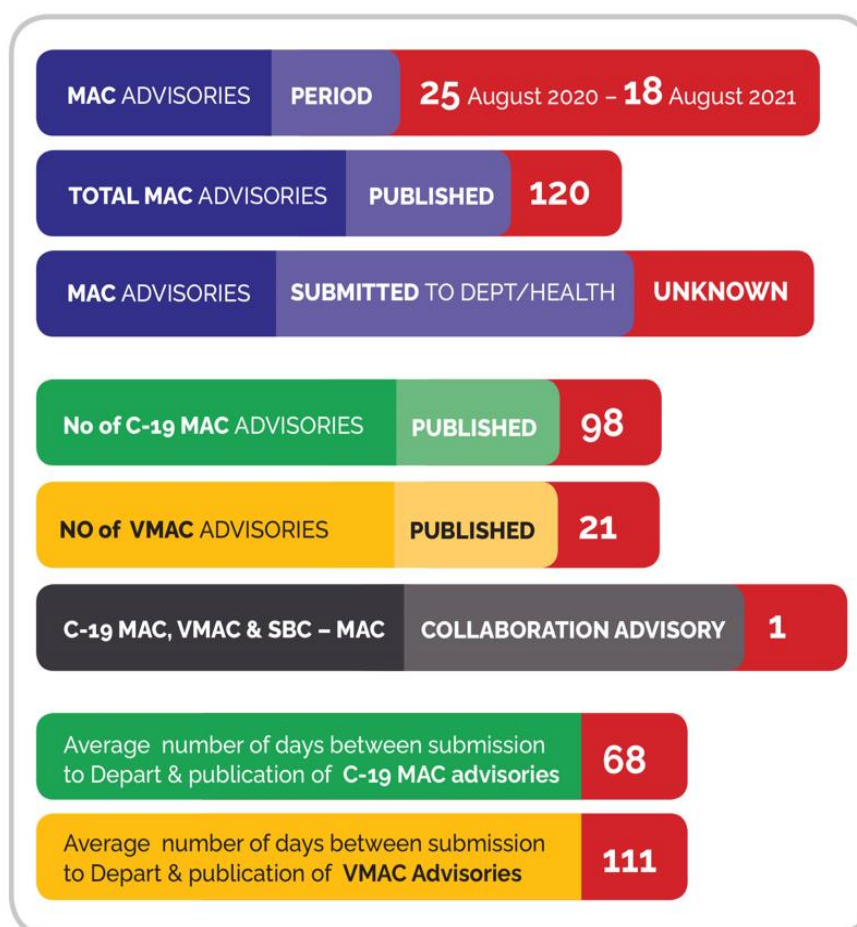


Figure 2: MAC Advisories at a glance

44 Ministerial Advisory Committee (MAC) on COVID-19 (2021). *Extension of Level 3 restrictions beyond 12 September 2021*. 6 September 2021. Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/09/MAC-Advisory-Memo_Extension-of-Alert-Level-3_6September2021_FINAL.pdf. [Accessed 6 December 2021]

And

Ministerial Advisory Committee (MAC) on COVID-19 Vaccines (2021). *Advisory on vaccination of immunocompromised individuals (other than HIV and associated infections) - version 2*. 16 September 2021. 16 September 2021. Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/10/Advisory-on-vaccination-in-immunocompromised_version-5-2nd-edition.pdf [Accessed 6 December 2021]

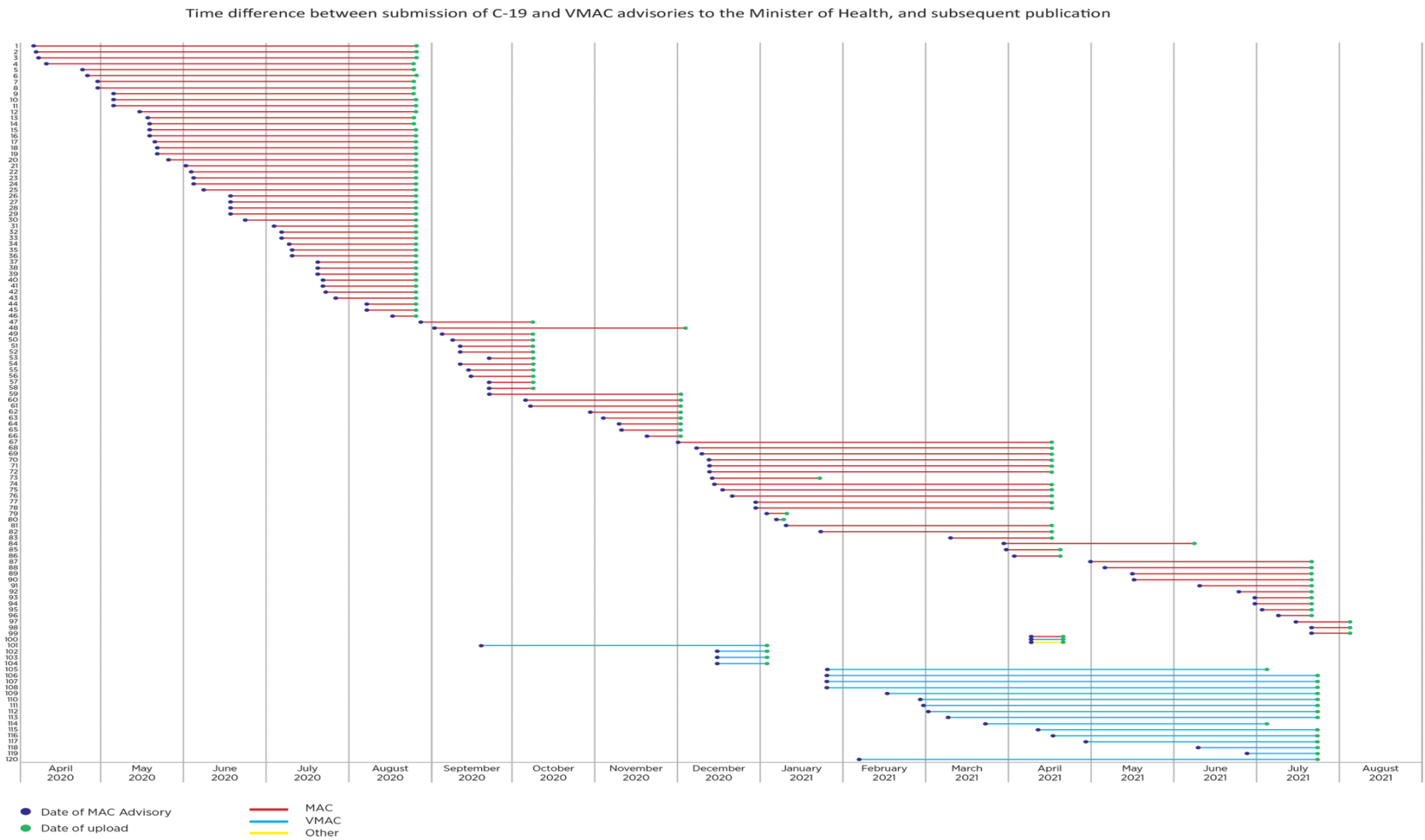


Figure 3: Time difference between submission of C-19 and VMAC advisories to the Minister, and subsequent publication

KEY QUESTIONS

While the HJI has catalogued the MAC advisories from August 2020 to August 2021, we only analysed some key C-19 MAC and VMAC advisories to understand the expert opinion and evidence that underlies certain decisions in South Africa's vaccine rollout programme.⁴⁵ In doing so, we focused on those that addressed vaccine selection and prioritisation, and addressed the following issues:

- | | |
|----|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A. | The basis of the decision to pause the rollout of the AstraZeneca/ University of Oxford vaccine and its sale/donation (vaccine selection). |
| B. | Recommendations related to the commencement of vaccination for people with co-morbidities (prioritisation). |
| C. | The inclusion of athletes, sport officials, government officials, diplomats and others who are not healthcare workers and who were regarded as 'Special Groups' - before vaccinating the elderly and those with co-morbidities (prioritisation). |
| D. | The policy framework for not/vaccinating undocumented people, including cross-border migrants (prioritisation). |

Our findings are as follows.

A. Pausing the rollout of the AstraZeneca/ University of Oxford vaccine: Science matters; so does expert consensus

In early 2021, the first vaccine secured and approved for use in South Africa and earmarked for healthcare workers was the AstraZeneca/ University of Oxford vaccine (Covishield).

- The vaccine was approved on 27 January 2021 by the South Africa Health Product Regulatory Agency (SAHPRA) under Section 21 of the Medicines and Related Substances Act.
- On 1 February 2021 one million doses arrived in the country from the Serum Institute of India through a special dispensation from the government of India.⁴⁶

⁴⁵ A follow-up HJI publication will consider MAC advisories post-August 2021.

⁴⁶ Ellis, E (2021). 'AstraZeneca rollout halted in South Africa, switch to J&J.' *Daily Maverick*. Available from: <https://www.dailymaverick.co.za/article/2021-02-08-south-africa-switches-to-jjs-astrazeneca-vaccine-halted/> [Accessed 6 December 2021]

- A week later, on the publication of early data⁴⁷ which showed possible reduced efficacy against the Beta variant (also known as the 501Y.V2 variant), the Minister of Health⁴⁸ announced that the use of this vaccine would be paused until such time as ‘expert scientists’ advised the government on the ‘next steps it should take’. A meeting of scientific experts was promised by the Minister of Health on several occasions, including during media interviews.
- Some scientists and health experts criticised the decision to halt the rollout of the AstraZeneca/ University of Oxford vaccine⁴⁹. They stated that South Africa had ‘lost the opportunity to safeguard people and that it would take a long time to obtain additional vaccines’ and that the ‘speed of the vaccination programme is far more important than getting the perfect vaccine’.⁵⁰
- For several weeks the decision was poorly explained by the government. The experts emphasised that these debates were ‘not open to the public’ and called for ‘greater transparency’ in government’s vaccine selection and decision making.
- On 23 March 2021 the Minister of Health stated that the 1 million doses had been ‘sold’ to the African Union.⁵¹

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- 47 Mancini, DP, Kuchler, H, Pilling, D, Cookson, C, Cotterill, J (2021). ‘Oxford/AstraZeneca jab fails to prevent mild and moderate Covid from S African strain, study shows.’ 7 February 2021, *Financial Times*. Available from: <https://www.ft.com/content/e9bbd4fe-e6bf-4383-bfd3-be64140a3f36> [Accessed 4 November 2021]
- 48 Department of Health (2021). Media Briefing: *Important update on vaccines*. 7 February 2021. Youtube.com. Available from: <https://www.youtube.com/watch?v=Mfu-Bk7zuPY&t=533s> [Accessed 12 November 2021]
ENCA (2021). *SONA 2021 debate: Health Minister Dr Zweli Mkhize*. 16 February 2021, ENCA Youtube.com. Available from: <https://www.youtube.com/watch?v=KEeZJWNocE> [Accessed 12 November 2021]
- 49 See for example the debate in the South African Medical Journal:
Venter, W D F, Madhi, S A, Nel, J, Mendelson, M, Van den Heever, A, Moshabela, M (2021). ‘SA should be using all the COVID-19 vaccines available to it – urgently.’ *South African Medical Journal*, 111(5).
Schoub, B D (2021). ‘Dial down the rhetoric over COVID-19 vaccines’ *South African Medical Journal*, 111(6).
Venter, W D F, Madhi, S A, Nel, J, Mendelson, M, Van den Heever, A, Moshabela, M (2021). ‘COVID-19 vaccines – less obfuscation, more transparency and action’ *South African Medical Journal*, 111(6).
- 50 Venter, W D F, Madhi, S A, Nel, J, Mendelson, M, Van den Heever, A, Moshabela, M (2021). ‘SA should be using all the COVID-19 vaccines available to it – urgently.’ *South African Medical Journal*, 111(5).
- 51 Pijoo, I (2021). ‘It’s official! SA has sold its batch of AstraZeneca vaccines to the AU — Mkhize.’ [online] *TimesLIVE*. Available from: <https://www.timeslive.co.za/news/south-africa/2021-03-21-its-official-sa-has-sold-its-batch-of-astrazeneca-vaccines-to-the-au-mkhize/> [Accessed 26 November 2021]

To date, it is not known

- which scientists met to discuss options and to advise the government from a scientific and public health point of view; and
- what informed the decision to indefinitely pause the use of the vaccine and to sell / donate the doses.

The VMAC advice – aside from the advisory ‘dated’ 7 February 2021 (discussed below) – and any other expert advice on this issue, are still not in the public domain.

- It is healthy for scientists to have different approaches and proposals on managing a pandemic, but they should be able to discuss all the evidence and data and ideally reach consensus, together.
The government’s role is vital. It should be a neutral party when listening to the evidence, show leadership in its decision making and, ultimately, communicate its decision to the public in a timely and accessible manner, with clear justifications on why it took a particular approach and the evidence used to do so. Crucially, all the evidence on which a decision is made should be presented to the public.

MAC and VMAC advisory analysis

Limited information has been provided on the pause of the rollout in February 2021. In all the published advisories there are only four mentions of the AstraZeneca/ University of Oxford vaccine:

- The 7 February 2021 VMAC advisory⁵² is the most comprehensive but is less than two pages long (and, oddly, it was only signed off by the Chairperson on 18 March 2021). It states that:
 - ‘there is insufficient data to assess the efficacy of any of the vaccines with regard to protection against serious infection and hospitalisation with the 501Y.v2 variant’; and
 - ‘a high-level consultative meeting of the technical working group of the MAC will be held on Monday, 8th February (2021). This will consist of local and international experts in the field to develop a considered advisory on the way forward’.

52 Ministerial Advisory Committee (MAC) on COVID-19 Vaccines (2021). *Advisory: Developments around indications that Astra-Zeneca Covid 19 vaccine may be deficient in its protectivity against the 501y.v2 variant virus*. 7 February 2021. Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/12-Advisory_AstraZeneca-retrospective-publish_V2.pdf [Accessed 6 December 2021]

It not clear if the meeting of 8 February 2021 took place; there is no record of it in any of the published advisories.⁵³

- The 19 February 2021 VMAC advisory⁵⁴ stated that the AstraZeneca/ University of Oxford vaccine **and the Novavax vaccine**:
 - ‘may not be suitable in South Africa in this time’; and
 - ‘AstraZeneca has very low efficacy against mild/moderate disease protection (10-20%), complete escape of the 501Y.V2 variant in some neutralisation assays and no data for severe disease protection’.
- The only other references to the AstraZeneca/ University of Oxford vaccine are minor and are in advisories dated:
 - 26 January 2021⁵⁵ - which deals with the recommended ‘time period for second dose of the AstraZeneca vaccine for health care workers’; and
 - 12 April 2021 – which deals with the ‘the decision on the halt of the AstraZeneca rollout may have increased vaccine hesitancy...’.⁵⁶

Summary and recommendations

An analysis of published advisories suggests that not all of the information underpinning the decision to pause the rollout of the AstraZeneca/ University of Oxford vaccine is available in the public domain.

53 *Advisory: Developments around indications that Astra-Zeneca COVID-19 vaccine may be deficient in its protectivity against the 501Y.V2 variant virus* includes a special note reading as follows: ‘Notes on the reasons for retrospective submission of this advisory: • This advisory was finalised on the 7th of February, of which NDoH officials were aware of. • It was never submitted as a formal advisory at the time as the VMAC was made aware that the AZ vaccines were to be sold to other country/ies in the African Union. • In hindsight, to ensure that there is a proper paper trail, this advisory is retrospectively being formally submitted to regularise the information conveyed in the advisory. • As it is only being submitted retrospectively, it was signed off on the date that the Committee recommended that it be submitted retrospectively to the NDoH, which was at the VMAC meeting on the 18th of March 2021’.

54 Ministerial Advisory Committee (MAC) on COVID-19 Vaccines (2021). *Advisory on vaccine choices for South Africa -rolling review. 19 February 2021.* Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/13-ADVISORY-Vaccine-choices-for-South-Africa_19Feb21_V4.pdf [Accessed 6 December 2021]

55 Ministerial Advisory Committee (MAC) on COVID-19 Vaccines (2021). *Advisory: Delaying the administration of the second dose of AstraZeneca covid-19 vaccine to healthcare workers.* 26 January, 2021. Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/3-Advisory-dosing-interval_V2.pdf [Accessed 6 December 2021]

56 Ministerial Advisory Committee (MAC) on COVID-19, MAC on COVID-19 Vaccines, and the Multi-sectoral MAC on Social Behaviour (2021). *Strategies to address Covid-19 vaccine hesitancy and promote acceptance in South Africa.* 12 April 2021. Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/04/InterMAC-Advisory_Vaccine-Hesitancy_12-April-2021-final.pdf [Accessed 6 December 2021]

The HJI's PAIA request specifically asked for 'the rationale for the decision to halt the rollout of AstraZeneca vaccines and to sell/donate vaccines doses' - but this information has not been voluntarily provided thus far.

- It is unclear if, when and where the scientist experts met on this matter, what their expert advice was, and what conflicts of interest they themselves may have had, if applicable.
- It is unclear which other statutory bodies and/or clinicians advised the government, and if they were or were not part of any vaccine research trials themselves.

Our recommendations are that

- this information be released into the public domain immediately; and
- transparent decision making systems for vaccine and medicine selection especially, are created for future pandemics.

B. Prioritisation of co-morbidities: A case of mostly empty and broken promises

Globally, accepted public health practice and risk principles recognise that in this pandemic, vaccine rollout programmes should prioritise people with co-morbidities ahead of people without co-morbidities.⁵⁷ This is also based on the 'Values Framework for the Allocation and Prioritisation of Covid-19 Vaccination' issued by the WHO Strategic Advisory Group of Experts on Immunisation (SAGE)⁵⁸ – which states the following:

57 The WHO Strategic Advisory Group of Experts on Immunization ('SAGE') recognised that people with co-morbidities are at high risk of severe disease and death with contracting COVID, and placed them in Phase 2 of vaccine rollout. – SAGE (2020). 'Roadmap for prioritizing the use of COVID-19 vaccines in the context of limited supply' Prepared by the SAGE Working Group on COVID-19 vaccines, 13 Nov 2020' Available from: <https://www.who.int/docs/default-source/immunization/sage/covid/sage-prioritization-roadmap-covid19-vaccines.pdf> [Accessed 14 December 2021]

In its decision-making framework the African Centers for Disease Control (Africa CDC) placed people with co-morbidities after health care workers and 'before adults':

- Africa CDC (2021) 'January 2021 Framework for Fair, Equitable and Timely Allocation of COVID-19 Vaccines in Africa'. Available from:

<https://africacdc.org/download/framework-for-fair-equitable-and-timely-allocation-of-covid-19-vaccines-in-africa/> [Accessed 14 December 2021]

58 WHO (2020). *WHO SAGE values framework for the allocation and prioritization of COVID-19 vaccination*. Available from: https://apps.who.int/iris/bitstream/handle/10665/334299/WHO-2019-nCoV-SAGE_Framework-Allocation_and_prioritization-2020.1-eng.pdf [Accessed 4 November 2021]

WHO SAGE Values
Framework for the Allocation and Prioritization of COVID-19
Vaccination

Overarching Goal

Covid-19 vaccines must be a global public good. The overarching goal is for Covid-19 vaccines to contribute significantly to the equitable protection and promotion of human well-being among all people of the world.

Principles

1. Human Well-Being
Protect and promote human well-being including health, social and economic security, human rights and civil liberties, and child development.
2. Equal Respect
Recognise and treat all human beings as having equal moral status and their interests as deserving of equal moral consideration.
3. Global Equity
Ensure equity in vaccine access and benefit globally among people living in all countries, particularly those living in low-and middle-income countries.
4. National Equity
Ensure equity in vaccine access and benefit within countries for groups experiencing greater burdens from the C-19 pandemic.
5. Reciprocity
Honour obligations of reciprocity to those individuals and groups within countries who bear significant additional risks and burdens of Covid-19 response for the benefit of society.
6. Legitimacy
Make global decisions about vaccine allocation and national decisions about vaccine prioritization through transparent processes that are based on shared values, best available scientific evidence, and appropriate representation and input by affected parties.

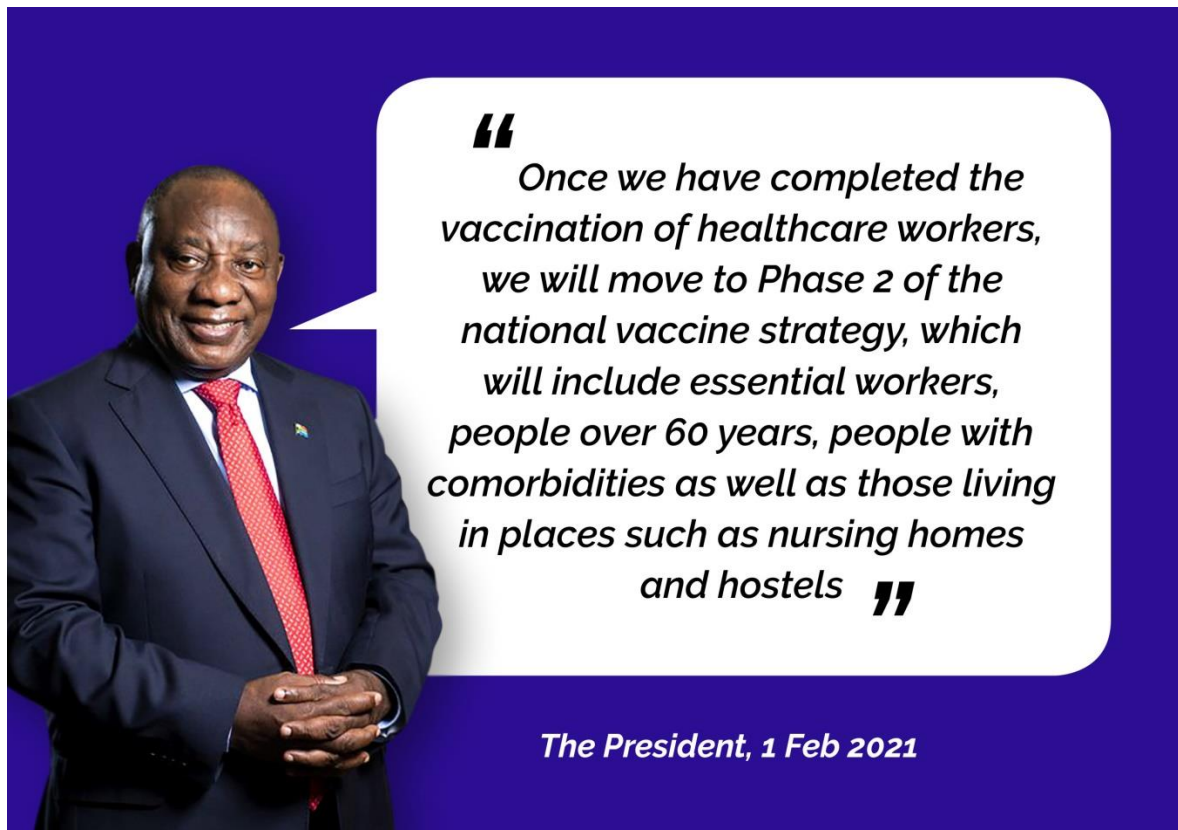
The C-19 MAC / VMAC advised the government that ‘persons with co-morbidities and those at risk for morbidity and mortality’ should be prioritised in the vaccine rollout programme. While the government initially accepted this approach in principle, this subsequently changed without any real advanced warning, notice or detailed rationale, leading to speculation about the reasons for this change.

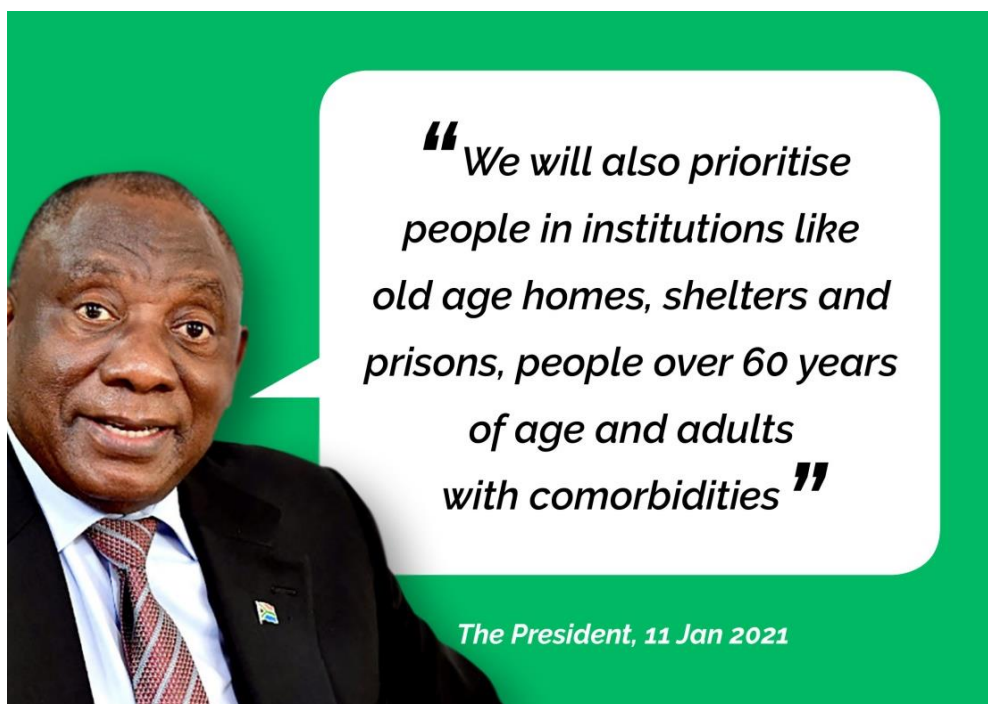
In summary it is unclear:

- whether people with co-morbidities were not prioritised at the beginning of the rollout because it was operationally impossible to do so on a national basis; and
- what consultation took place provincially, and with medical providers, on this far-reaching decision.

If such prioritisation was operationally impossible, this points to a more pressing issue – namely of a weak health system with poor public sector / state patient information management systems.

Even more troubling is that the President and Minister of Health had made public representations and statements that ‘people with co-morbidities are at high risk’ and ‘would be prioritised’ in the vaccine rollout (see below).





On 30 March 2021, the Minister of Health⁵⁹ told Parliament that the vaccine prioritisation plan would be as follows:

VACCINE PRIORITISATION PLAN:

- 1. Phase 1** (17 February – 17 May), targeting **608 295 healthcare workers**
- 2. Phase 2A** (17 May – July 31), targeting **5 449 980 people over the age of 60**
- 3. Phase 2B** (August – 31 October), targeting **12 900 160 people over the age of 40**, and prioritising those with co-morbidities and workers in high-risk settings
- 4. Phase 3** (November – 28 February 2022), targeting **22 600 640 people**

Minister of Health; 30 March 2021

59 Parliamentary Monitoring Group (2021). *Update on NHI parliamentary process; COVID-19 vaccine procurement and roll-out update; with Minister & Deputy Minister*. Parliamentary Monitoring Group (PMG). Available from: <https://pmg.org.za/committee-meeting/32678/> [Accessed 18 November 2021]

And on 28 April 2021 the National Department of Health told Parliament that it was ‘prioritising senior citizens, **those over 40 years who had co-morbidities** and workers on the frontline, that included teachers, police, industrial workers, and community workers’.

- These commitments to prioritise people with co-morbidities were not honoured, however, and no explanations regarding the reasons for the change were provided. It is also not clear whether the C-19 MAC / VMAC advised on this course of action.

In a televised interview with eNCA on 20 June 2021, Prof Barry Schoub stated¹ that the VMAC was developing ‘recommendations and advice’ on the issue of co-morbidities.

However we cannot locate this advisory on the Department of Health’s website, if indeed it was submitted.⁶⁰

- It is equally unclear whether members of the MACs agreed with the initial non-prioritisation of all persons with co-morbidities.

‘Phase 1’ of the vaccine rollout - the Sisonke study - focused on vaccinating healthcare workers and support staff on the front line. Instead of following this with prioritising people over 75 years *and people with co-morbidities*, as good public health practice would suggest, the government chose to determine vaccine access based on age and, oddly, ‘Special Group’ status (addressed in the next section). As in the timeline given above, they commenced with vaccinating everyone over 60 years.

This took many by surprise, especially since the Department of Health later went out of its way to create a special system for what they called ‘special groups’. Announced in its 5 July 2021 Circular, it approved ‘students studying overseas, businesspeople and sports people representing the country’ getting vaccinated - with special permission- ahead of their age cohort (see Section C below).

What followed was, in the main, a staggered and phased age cohort approach to vaccine registration and administration.

⁶⁰ ENCA (2021). *Discussion | Medical experts torn over vaccine choice*. 20 June 2021, ENCA. Youtube.com. Available from: <https://www.youtube.com/watch?v=BHbJ7Fy-gjk> [Accessed 26 November 2021]

On 16 April 2021 the phased age-based rollout commenced as follows:

From 16 April 2021	'citizens 60 years and older'
From 1 July 2021	'citizens 50 years and older'
From 1 August 2021 (actual: 15 July)	'persons aged between 35 and 50 years'
From 20 August 2021	'persons aged between 18 and 35 years' ⁶¹
From 20 October 2021	'persons aged between 12 and 17 years'

The Department of Health used the exclusionary term 'citizens' in its initial announcements, whereas the MAC had used the phrase 'people' or 'persons'.

As a result, for most of 2021, people with co-morbidities had to wait until their age cohort was eligible for vaccination, despite their documented higher risk.

On 3 August 2021, the HJI petition addressed a petition to the President and the Acting Minister of Health signed by 1,700 people that called for the 'urgent prioritisation of people with co-morbidities.'⁶² To date, the Presidency and the Department of Health have not acknowledged receipt – although in late November 2021 the government announced that 'immuno-compromised persons would be eligible for a 'booster' shot from 1 December 2021'.

Why did the National Department fail to prioritise co-morbidities?

It is not that clear why the National Department changed track regarding its earlier pronouncements to prioritise people with co-morbidities.

On 21 July 2021 the Acting Director-General of Health, Dr Nicholas Crisp, defended this approach at a meeting of the Parliamentary Portfolio Committee on Health.⁶³ He indicated that there had been 'mounting evidence that age is a crucial factor in predicting risk of infection and that there were 'administrative challenges

61 South African Government (2021). *Electronic Vaccination Data System (EVDS) Self Registration Portal*. [online] Available from: <https://www.gov.za/covid-19/vaccine/evds>. [Accessed 6 December 2021]

62 Health Justice Initiative (2021). *HJI Petition calling for the prioritisation of all adults living with a comorbidity in the Vaccine Programme in South Africa - Health Justice Initiative (HJI)*. Health Justice Initiative (HJI). Available from: <https://healthjusticeinitiative.org.za/2021/08/10/hji-petition-calling-for-the-prioritisation-of-all-adults-living-with-a-comorbidity-in-the-vaccine-programme-in-sa/> [Accessed 6 December 2021]

63 Parliamentary Monitoring Group (2021). *COVID-19 vaccine pipeline & Ivermectin: SAHPRA briefing; Update on vaccine roll-out: Department briefing; with Acting Minister & Deputy Minister* Parliamentary Monitoring Group (PMG). Available from: <https://pmg.org.za/committee-meeting/33310/> [Accessed 6 December 2021]

in running *sectoral* vaccination programmes'. He also raised concerns about the possible infringement of people's privacy in 'publicly declaring their co-morbidities'. In an interview with *Spotlight* on 28 July 2021, he noted that prioritising people with co-morbidities and other risky conditions was 'too complicated'.⁶⁴

The HJI and others, including public health experts, have raised concerns that this change in the government's prioritisation plans was occasioned by the lack of adequate national data and records on persons with co-morbidities in the public sector. If this is the case, it is alarming and surprising, and points to a public health system that was at the time, and may still be, incapable of prioritising those most at risk of illness.

MAC and VMAC advisory analysis

Although limited in number, the MAC advisories that were published suggest that the experts did advise the government of the increased risk of people with co-morbidities and **supported their prioritisation**.

- In an advisory dated 29 April 2020,⁶⁵ the C-19 MAC referred to 'people of ALL ages with underlying medical conditions' in its summary on 'Risk Factors for Severe Covid-19', which focused on co-morbidities.⁶⁶
- Then in September 2020, the Chairperson of the C-19 MAC reiterated this risk in another advisory: 'Persons with significant co-morbidities and/or ≥60 years are at increased risk of severe Covid-19'.⁶⁷

64 'Another pressure point was the dozens of lobby and support groups with urgent and legitimate, but logistically complex operational requests, like vaccination for pregnant women, patients on renal dialysis, or those with multiple sclerosis: 'It's too complicated to do. It cannot just happen on a Friday. It does not work like that. They must still register. Remember, people of 60 and older have a four times higher risk than younger folk with comorbidities. We have to get to the most vulnerable first and as quickly as possible in order to take pressure off the health care system,' he stresses'. Bateman, C (2021) 'COVID-19: Crisp on the challenges with SA's vaccine rollout' *Spotlight*, 30th July 2021. Available from: <https://www.spotlightnsp.co.za/2021/07/30/covid-19-crisp-on-the-challenges-with-sas-vaccine-rollout/> [Accessed 14 December 2021]

65 South Africa. Department of Health (2020). *Risk Factors for Severe Covid-19*. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2020/04/29/risk-factors-for-severe-covid-19/> [Accessed 6 December 2021]

66 Ministerial Advisory Committee (MAC) on COVID-19 (2020). *Request to provide guidance on deployment of healthcare workers at a higher risk of mortality from Covid-19*. 29 April 2020. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2020/08/Memo_Recommendations-for-HCW-60-and-over-29-April-2020-FINAL.pdf [Accessed 6 December 2021]

67 South Africa. Department of Health (2020). *Return to work for those with comorbidities-over 60 Years*. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2020/09/21/return-to-work-for-those-with-comorbidities-over-60-years/> [Accessed 6 December 2021]

- A few months later on 15 December 2020, the VMAC⁶⁸ recommended that the Minister of Health adopts an ‘Advisory Framework for (the) Rational Allocation of Covid-19 Vaccine in SA’;⁶⁹

In a radio interview on 12 January 2021, Prof Salim Abdool Karim advised that ‘the vaccine should be first distributed to health workers, followed by the elderly, those with co-morbidities and then essential workers’.⁷⁰

- It also recommended a phased approach so that ‘persons with co-morbidities and at risk for morbidity and mortality’ should follow once healthcare workers had accessed vaccines.⁷¹ This advice was not implemented.
- A VMAC advisory of 24 March 2021 proposed that ‘persons over the age of 18 with co-morbidities’ should be part of Phase 2B in the vaccine rollout after ‘persons 60 years and older’ (Phase 2A).⁷² Despite the Minister of

68 South Africa. Department of Health (2020). A framework for rational Covid-19 vaccine allocation in South Africa. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2020/12/15/a-framework-for-rational-covid-19-vaccine-allocation-in-south-africa/> [Accessed 6 December 2021]

69 Prof B Schoub: Chair of the Ministerial Advisory Committee (MAC) on COVID-19 Vaccines (2020). *Advisory: Framework for rational allocation of Covid-19 vaccine in South Africa*. 15 December 2020, Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/01/Advisory_VaccineAllocationFramework_15Dec2020SF.pdf [Accessed 6 December 2021]

70 Shange, N (2021). ‘I feel I let my country down’ in vaccine race, says Prof Salim Abdool Karim.’ 12 January 2021, *Times LIVE*. (Available from: <https://www.timeslive.co.za/news/south-africa/2021-01-12-i-feel-i-let-my-country-down-in-vaccine-race-says-prof-salim-abdool-karim/> [Accessed 8 November 2021])

71 ‘5.2. Identification, classification, and prioritization of risk groups based on the above values: These include:

1. **‘Health Care workers:** Health professionals and general health workers at high risk of infection, care home workers and traditional healers.
2. **Persons with co-morbidities and at risk for morbidity and mortality:** These include persons 60 years and older, persons living with HIV, tuberculosis, diabetics, chronic lung disease, cardiovascular disease, renal disease, obesity etc.
3. **Persons in congregate or overcrowded settings:** This includes persons in prison, detention /centres, shelters, and care homes. In addition, people working in the hospitality and tourism industry, and educational institutions are also at risk.
4. **Essential workers:** This group includes police officers, miners and workers in the security, retail food, funeral, banking and essential municipal and home affairs, border control and port health services’.

South Africa. Department of Health (2021). *COVID-19: Vaccine Strategy. Urgent need for a vaccine*. Department of Health, 3 January 2021. SA Corona Virus Online Portal. Available from: <https://sacoronavirus.co.za/2021/01/03/covid-19-vaccine-strategy/> [Accessed 14 December 2021]

72 South Africa. Department of Health (2020). *Advisory phase 2 Covid-19 vaccination rollout*. Sacoronavirus.co.za. Available from: https://sacoronavirus.co.za/wp-content/uploads/2021/07/11-ADVISORY_MAC-VACC_Phase-2-rollout_V5.1.pdf [Accessed 6 December 2021]

The recommendation are as follows:

‘The recommendations for sequencing of the various groups for vaccination in the phase 2 rollout are as follows in order of priority (note: ‘2’ stands for phase 2):

- 2.A All persons 60 years and older.

Health⁷³ telling Parliament on 30 March 2021, that this would be part of the vaccine prioritisation plan, this advice and commitment were not implemented.

- In advisories related to ‘Pregnancies’ on 13 April 2021⁷⁴ and again on 11 June 2021⁷⁵, the VMAC recommended that ‘pregnant women with or without co-morbidities should be prioritised in the context of **limited** (supplies of) vaccines’. This advice was not immediately implemented.

Summary and recommendations

Despite expert recommendations and advice by the C-19 MAC and VMAC that ‘people with co-morbidities’ should be prioritised in the vaccine rollout, this was not implemented. Once healthcare workers were vaccinated, age and, regrettably, ‘special group’ status, were used as a key determinant for access. While this approach covered co-morbidities among those in advanced age groups (over 60 years), it then left younger patients with co-morbidities vulnerable to the risk of infection, illness, and death.

Our recommendation for future pandemics is that the government invests in adequate patient information and ethical data sharing systems. This would mitigate placing public sector patients – in this instance with co-morbidities – at greater risk and to properly prioritise such patients in national vaccination programmes.

2.B All persons over 18 years of age with co-morbidities.

2.C Workers in the red and orange economic categories (as in the table above) not covered in 2A and 2B above.

2.D Persons in congregate settings*; workers in the yellow economic category (as in the table above) not covered in 2A and 2B above.

2.E Workers in green category (as in the table above) not covered in 2A and 2B above and other people >50 years of age.

*This includes but is not limited to persons in high density settlements; educational and correctional facilities; student housing complexes; hostels; care facilities including childcare and drug treatment centres; homeless shelters.’

73 Parliamentary Monitoring Group (2021). Update on NHI parliamentary process; COVID-19 vaccine procurement and roll-out update; with Minister & Deputy Minister. Parliamentary Monitoring Group (PMG). Available from: <https://pmg.org.za/committee-meeting/32678/> [Accessed 18 November 2021]

74 Ministerial Advisory Committee (MAC) on COVID-19 Vaccines (2021). *Advisory: Recommendations on Covid-19 vaccination in pregnancy*. 13 April 2021, Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/21-Advisory-Vaccination-and-Pregnancy_V3.1FINAL.pdf [Accessed 6 December 2021]

75 Ministerial Advisory Committee (MAC) on COVID-19 Vaccines (2021). *Second update of the advisory on recommendations on Covid-19 vaccination in pregnancy*. 11 June 2021, Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/25-Advisory-Vaccination-and-Pregnancy_2nd-Update_V1.pdf [Accessed 6 December 2021]

At the time of writing in late November 2021, the Department of Health announced that immuno-compromised people may be able to access an additional vaccination⁷⁶ 'if requested by a patient's doctor'.⁷⁷ It seems that the Department indeed has the capacity to be more flexible in its approach to allow particularly vulnerable groups based on public health grounds to receive prioritised access to vaccines.

C. 'Special Groups' – the Circulars: Some are more special than others

On 4 July 2021, just four months into the vaccine rollout, the Department of Health released an unusual circular (Circular 1) on the 'Vaccination of Special Groups and Individuals'. Although subsequently withdrawn, it made provision for the 'prioritisation' of:

- ministers, deputy ministers, premiers, MECs and their staff;
- South African diplomats and embassy staff;
- sportspeople (athletes) who needed to travel to 'represent' South Africa;
- businesspeople who needed to travel for work reasons;
- students studying abroad; and
- individuals accessing medical care abroad.⁷⁸

They were to be given access ahead of everyone else in the country, **irrespective of their age**.

This was immediately met with public alarm and media scrutiny – mainly as it was not based on public health risk need, and was being implemented in a context of scare vaccine supplies. The People's Health Movement-South Africa⁷⁹ and the HJI issued a joint press release⁸⁰ calling for

76 Qukula, Q (2021). 'Immunocompromised people to be offered extra vax dose 'within the next week'.' [online] *CapeTalk*, 24 November 2021. Available from: <https://www.capetalk.co.za/articles/433081/immunocompromised-people-to-be-offered-extra-vax-dose-within-the-next-week> [Accessed 6 December 2021]

77 Khan, T (2021). 'Government to offer additional Covid shots to people with weakened immune systems.' [online] *BusinessLIVE*. Available from: <https://www.businesslive.co.za/bd/national/health/2021-11-24-government-to-offer-additional-covid-shots-to-people-with-weakened-immune-systems/> [Accessed 6 December 2021]

78 A copy of the circular was posted on Twitter on the 6 July 2021) by the Acting Minister of Health, who distanced herself from the Circular. Available from: <https://twitter.com/mmkubayi/status/1412367416223580163> [Accessed 14 December 2021]

79 <https://www.phm-sa.org/>

80 People's Health Movement-SA and the HJI (2021). Press Release: Department of Health's prioritisation of 'special groups' circular of 4 July - and subsequent (6 July) withdrawal' 7 July 2021. Available from: <https://healthjusticeinitiative.org.za/2021/07/07/joint-hji-phm-press-release-on-doh-special-categories> [Accessed 14 December 2021]

- the withdrawal of the Circular and for ‘public health risk principles to determine prioritisation’; and
- ‘equity and prioritisation to be based on processes that are deliberative, independent and fair’.

The circular was withdrawn by the Acting Health Minister two days later on the basis that it was ‘not authorised’ and also that it had been issued due to a ‘lack of sleep’⁸¹ and in ‘error’.⁸²

However, a new and ‘revised’ Circular⁸³ (Circular 2) was then issued on 29 July 2021, still providing for the vaccination of certain ‘Special Groups and Individuals’ – again ahead of their respective age cohorts – which included

- ‘businesspeople’;
- ‘sportspeople’ (athletes); and
- ‘people who need to study abroad and/or are seeking medical care abroad’.

Circular 2 made no provision for people with co-morbidities or people without identity documents – both of whom, we believe, should have received priority attention by this stage of the vaccine rollout.

MAC and VMAC advisory analysis

An analysis of the available MAC advisories suggests that neither the VMAC nor the C-19 MAC gave input on prioritising these ‘special groups’. In our view, the Department of Health chose to prioritise ‘Special Groups and Individuals’ seemingly based on political or economic reasons, not public health principles – and the **health rationale** for this decision has not been shared, publicly.

As the HJI cannot locate a MAC advisory related to this, we have sought the disclosure of all related expert advice.

81 Monama, T (2021). ‘Circular approving vaccinations for ‘special groups, individuals’ was ‘error of judgement’ - Health Dept.’ [online] News24. Available from: <https://www.news24.com/news24/southafrica/news/circular-approving-vaccinations-for-special-groups-individuals-was-error-of-judgement-health-dept-20210706> [Accessed 18 November 2021]

82 South Africa. Department of Health (2021). *Retraction of circular: vaccination of special groups and individuals against Covid-19* - SA Corona virus online portal. Available from: <https://sacoronavirus.co.za/2021/07/06/retraction-of-circular-vaccination-of-special-groups-and-individuals-against-covid-19/> [Accessed 6 December 2021]

83 South Africa. Department of Health (2021). *Instructions on process for vaccination of special groups and individuals against Covid-19*. Sacoronavirus.co.za. Available from: <https://sacoronavirus.co.za/wp-content/uploads/2021/07/specialgroup-circ-form.pdf>. [Accessed 6 December 2021]

Summary and recommendations

Our recommendation for future pandemics is that the government follows public health and ethics principles as supported by international, regional and domestic bodies. Where government policy deviates from this set of principles and advice, the reasons for such a deviation should be clearly presented and substantiated. Similarly, the process by which exceptions to the rule are recommended must be insulated from any influence of those with a vested interest in such a recommendation.

D. The exclusion of people without documentation: Talking left, walking right – more broken promises

A key public health principle of containing Covid-19 anywhere is that ‘no-one is safe until everyone is safe’. The epidemiological, scientific and public health importance and rationales of everyone adhering to non-pharmaceutical interventions (NPIs) and vaccinating the vast majority of adults in any population⁸⁴ (without differentiation) is well established.

The Electronic Vaccination Data System – and the need for identification

In South Africa, the Department of Health decided to implement the Covid-19 national vaccination programme by introducing a new ‘Electronic Vaccination Data System’⁸⁵ (EVDS). This initially required anyone wishing to register to do so using a mobile phone or computer (with an internet connection).

The system requires the following information on registration:

- Identity number / passport number (non-South Africans)
- General contact information (mobile number)
- Employment details (primary employer and location)
- Professional registration details (for healthcare workers)
- Medical insurance details (if applicable).⁸⁶

84 WHO (2020). *Coronavirus disease (Covid-19): Herd immunity, lockdowns, and COVID-19*. Who.int. Available from: <https://www.who.int/news-room/q-a-detail/herd-immunity-lockdowns-and-covid-19> [Accessed 8 November 2021]

85 South African Government (2021). *Electronic Vaccination Data System (EVDS) Self Registration Portal*. South African Government. Available from: <https://www.gov.za/covid-19/vaccine/evds> [Accessed 4 November 2021]

86 <https://www.gov.za/covid-19/vaccine/evds> as on 30 Sept 2021.

Many people live (and work) in South Africa without an identity document or form of identification.

Many cross-border migrants lack the necessary papers largely due to reported and documented inefficiencies in the Department of Home Affairs – South Africa’s immigration regime and the policy choices of the South African government.⁸⁷

Without timely and proper access to the essential documentation it is difficult for many people living in South Africa to access social relief and other services; and, in 2021, vaccines.

- Current estimates are that about **12% of South Africans** do not have official documents (Statistics SA).⁸⁸
- The number of **undocumented migrants** in South Africa is unknown. Statistics South Africa estimated that by mid-2021 there were 3.95 million ‘international migrants’ in South Africa (with or without documentation).⁸⁹

The Special Rapporteur on the right to physical and mental health and other UN Special Rapporteurs and experts released a statement in March 2020 emphasising the following:

‘Everyone, without exception, has the right to life-saving interventions and this responsibility lies with the government. The scarcity of resources or the use of public or private insurance schemes should never be a justification to discriminate against certain groups of patients,’ the experts said. ‘Everybody has the right to health.’

People with disabilities, older persons, minority communities, indigenous peoples, internally displaced people, people affected by extreme poverty and living in overcrowded settings, people who live in residential institutions, people in detention, homeless people, migrants and refugees, people who use drugs, LGBT and gender diverse persons – these and other groups need to receive support from governments.

87 Vearey, J et al (2021). ‘Leave No One Behind: We must urgently address vaccination of undocumented migrants and asylum seekers.’ *Daily Maverick*, 26 July 2021. Available from: <https://www.dailymaverick.co.za/article/2021-07-26-leave-no-one-behind-we-must-urgently-address-vaccination-of-undocumented-migrants-and-asylum-seekers/> [Accessed 14 December 2021]

88 Statistics SA (2018). *Recorded live births*. Statistical release P0305. Statistics South Africa. Available from: <http://www.statssa.gov.za/publications/P0305/P03052018.pdf> as cited by Vearey et al ‘Leave No One Behind: We must urgently address vaccination of undocumented migrants and asylum seekers.’ *Daily Maverick*, 26 July 2021. Available from: <https://www.dailymaverick.co.za/article/2021-07-26-leave-no-one-behind-we-must-urgently-address-vaccination-of-undocumented-migrants-and-asylum-seekers/> [Accessed 14 December 2021]

89 Statistics SA (2021). *Erroneous reporting of undocumented migrants in SA*. Statistics South Africa. Available from: [Accessed 6 December 2021] <http://www.statssa.gov.za/?p=14569> [Accessed 6 December 2021]

*Advances in biomedical sciences are very important to realise the right to health. But equally important are all human rights. The principles of non-discrimination, participation, empowerment and accountability need to be applied to all health-related policies.*⁹⁰

As at November 2021, details about the vaccination of people without documentation are uneven and it does not appear that a proper plan has been put in place across all provinces to support the vaccination of all undocumented people and the homeless.⁹¹

This is despite the President's promise on 1 February 2021 to 'make the vaccine available to all adults living in SA, regardless of their citizenship or residence status'.⁹²

Several civil society groups have consistently urged the government to urgently address this gap and to adhere to basic public

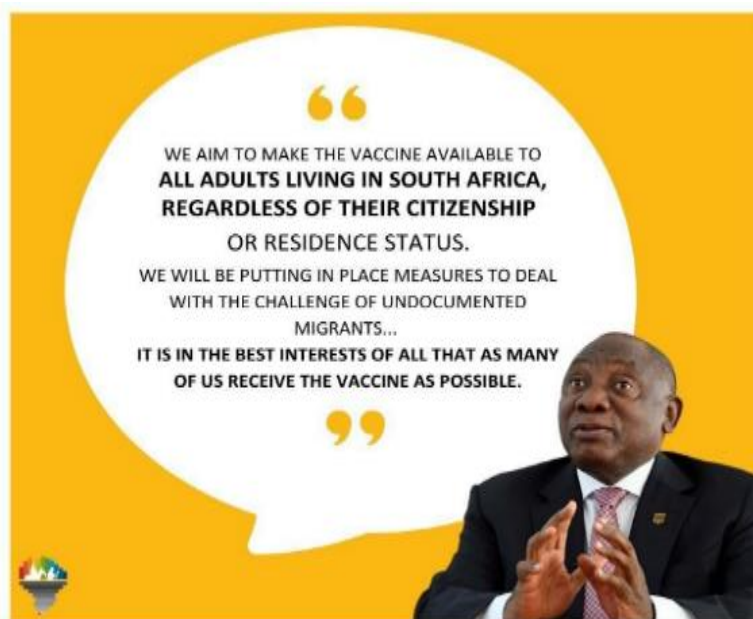


Image credit: Scalabrini Centre of Cape Town

90 United Nations Human Rights. Office of the High Commissioner (2020). 'No exceptions with Covid-19: 'Everyone has the right to life-saving interventions' – UN experts say.' 26 March 2020, United Nations Human Rights. Available from: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25746&LangID=E> [Accessed 14 December 2021]

91 The Western Cape has developed a system for vaccinating people without documentation and has done so since August 2021. A spokesperson for the National Department of Health said 'that the vaccination of undocumented and homeless citizens has been piloted and co-ordinated from the provincial level in Cape Town, Durban, and Tshwane. This is part of our commitment that no one will be left out of the vaccination programme. Other provinces will soon follow once all logistics have been finalised because this involves consultation and collaboration with several stakeholders.' – Stent, J (2021) 'Undocumented people can now get Covid vaccines - in some areas Provincial pilot programmes are underway but details are vague' *Groundup*, 21 October 2021. Available from: <https://www.groundup.org.za/article/undocumented-people-can-now-get-covid-vaccines-some-areas/> [Accessed: 19 November 2021]

92 South Africa. The Presidency (2021) *Statement by President Cyril Ramaphosa on progress in the national effort to contain the Covid-19 pandemic, 1 February 2021*. Available from: <http://www.thepresidency.gov.za/speeches/statement-president-cyril-ramaphosa-progress-national-effort-contain-covid-19-pandemic> [Accessed 14 December 2021]

health principles, human rights guarantees and social solidarity.⁹³

Recently, it was reported that the National Department of Health confirmed that the 'EVDS system can now accommodate people without documentation and that some pilot sites are vaccinating such people'.⁹⁴ In our assessment, however, a person who was not born in South Africa and is without official documentation will continue to battle to access a vaccine in South Africa.

Some media commentators have also contended that the EVDS system created a 'bottleneck' and questioned its necessity.⁹⁵ Other criticisms have included its lack of flexibility and that it did not function optimally. The Department of Health has defended the introduction and use of the EVDS system and argued its need was due to:

- limited vaccine supplies (EVDS matches supply and demand of vaccines);
- the need to schedule first and second doses at the same sites to avoid over-extending site capacity; and
- its ability to remind people of their appointments and second appointments (for the Pfizer two-dose vaccine) using an SMS system.⁹⁶

MAC and VMAC advisories analysis

The HJI has been unable to locate any published C-19 MAC or VMAC advisories that specifically deal with undocumented people in the national vaccine rollout programme.

- 'Undocumented' does not appear in any MAC advisory and the only advisories that mention 'migrants', relate to expert recommendations on:
- 'COVID screening at *land border crossings*';
 - 'The impact of *border closures* on 'foreign nationals'; and
 - 'Considerations of support to vulnerable groups such as foreign nationals'.⁹⁷

93 Vearey, J et al (2021) 'Leave No One Behind: We must urgently address vaccination of undocumented migrants and asylum seekers.' *Daily Maverick*, 26 July 2021. Available from: <https://www.dailymaverick.co.za/article/2021-07-26-leave-no-one-behind-we-must-urgently-address-vaccination-of-undocumented-migrants-and-asylum-seekers/> [Accessed 14 December 2021]

94 Stent, J (2021). 'Undocumented people can now get Covid vaccines - in some areas Provincial pilot programmes are underway but details are vague' *Groundup*, 21 October 2021. Available from: <https://www.groundup.org.za/article/undocumented-people-can-now-get-covid-vaccines-some-areas/> [Accessed: 19 November 2021]

95 Geffen, N, Low, M (2021). 'One week of Covid vaccines: What are we doing well? What can be done better?' *Ground Up News*, 24 May 2021. Available from: <https://www.groundup.org.za/article/one-week-vaccines-what-are-we-doing-well-what-can-be-done-better/> [Accessed 4 November 2021]

96 Crisp, N (2021). 'Vaccines: it's not so simple.' *Ground Up News*. Available from: <https://www.groundup.org.za/article/vaccines-its-not-so-simple/> [Accessed 8 November 2021]

97 Ministerial Advisory Committee (MAC) on Covid-19 (2020). *Screening process for land border crossings during the festive season*. 14 December 20102, Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/04/MAC-Advisory-Memo_land-border-crossings-festive-season_14-December-2020.pdf [Accessed 4 November 2021]

However, in a VMAC Advisory from the end of 2020 (*'A Framework for Rational Covid-19 Vaccine Allocation in South Africa - December 2020'*) the advisors draw no distinction on the basis of nationality and specifically emphasise that the fair allocation of vaccines should be based on the values of:

- affirming the humanity of others;
- survival of the community;
- social solidarity; and
- meaningful community engagement.⁹⁸

South Africa. Department of Health (2020). *Screening process for land border crossings during the festive season (update)* - SA Corona Virus Online Portal. Available from:

<https://sacoronavirus.co.za/2020/12/30/screening-process-for-land-border-crossings-during-the-festive-season-2/> [Accessed 6 December 2021]

Ministerial Advisory Committee (MAC) on COVID-19 (2021). *Update: Recommendations to intensify prevention measures and bolster health system capacity in the context of a resurgence of Covid-19 infections 'third wave'*. 30 June 2021, Department of Health. Available from: https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/Advisory_Third-Wave-Recommendations_Intensify-Prevention-Measures-Bolster-Health-System-Capacity.pdf [Accessed 6 December 2021]

And, *Summary MAC Advisory Update Onset Third Wave* 26 June 2021 Available from:

https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/Summary-MAC-Advisory_Update-Onset-Third-Wave.pdf [Accessed 14 December 2021]

And

Ministerial Advisory Committee (MAC) on COVID-19(2021). *Update: Recommendations to intensify prevention measures and bolster health system capacity in the context of a resurgence of Covid-19 infections 'Third Wave'*. 10 June 2021, Department of Health. Available from: <https://sacoronavirus.b-cdn.net/wp-content/uploads/2021/07/Update-Onset-Third-Wave.pdf> [Accessed 14 December 2021]

'Closure of Borders: The closure of international borders is not recommended, with travel permitted for foreign nationals and South Africans required to travel for one of the following key reasons:

(21.1) Essential services, medical care and critical support for neighbouring countries to address the health services and COVID-19 pandemic response.

(21.2) Returning employees of companies registered in South Africa.

(21.3) Transfer of essential food and goods across borders to ensure the continuation of the regional economy.

(21.4) Returning students transferring across borders to attend institutions of higher 'learning or schools as these close or open following Lockdown 4'.

Date: 19 May 2020 'Future consideration of a generalised lockdown should be based on an epidemiological evaluation and on whether the number of cases is likely to exceed healthcare capacity and if implemented, should protect human rights and strengthen social support measures offered to all vulnerable groups including foreign nationals.'

98 South African Medical Research Council (2021). *Framework for fair, equitable and timely allocation of COVID-19 vaccines in Africa: A collaboration between the Africa Centres for Disease Control and Prevention and the South African Medical Research Council*. South African Medical Research Council. Available from: <https://www.samrc.ac.za/sites/default/files/attachments/2021-03/FrameworkAfrica.pdf> [Accessed: 11 November 2021]

Summary and recommendations

The exclusion of undocumented people from the national vaccine programme for much of the rollout to date is a self-defeating public health strategy. It is also contrary to global public health evidence and human rights principles. The exclusion constitutes unfair discrimination and undermines the Covid-19 response in South Africa, as well as regionally and globally.

We recommend that the National Department of Health urgently expands the national vaccination programme to people without documentation beyond the handful of select provincial ‘pilot sites’.

- As the government has established that it can provide alternative systems to allow for other ‘special groups’ (as set out above), it should be able to do something similar for people without documentation.
- Simultaneously, the departments of Home Affairs and Health should work together to ensure that cross-border migrants especially can access the services they need. They should also ensure that a ‘firewall’ is in place that will assure those seeking vaccination that health facilities would not report their documentation status to the Department of Home Affairs and that there will be no penalties for accessing such services.⁹⁹ Any adverse experiences could lead to severe negative consequences and would lead to communities avoiding seeking support, health services, and thus ultimately vaccination.¹⁰⁰

CONCLUSION AND RECOMMENDATIONS

This briefing paper has addressed select themes and questions in relation to the timing and content of the expert advice given in the period August 2020 to August 2021 – especially the C-19 MAC and VMAC advisories – which underpinned or informed the government’s decision making. We have paid particular attention to vaccine selection and prioritisation, as well as transparency and timely information sharing.

99 Maple, N, Walker, R, Vearey, J (2021). Covid-19 & Migration governance in Africa. Occasional paper #2, June 2021, African Centre for Migration and Society, Wits University. Available from: <https://www.mahpsa.org/wp-content/uploads/2021/06/MiCoSA-Covid19-and-migration-governance-in-Africa-OccasionalPaper-2-June2021.pdf> [Accessed 6 December 2021]

100 Hacker, K, Anies, M, Folb, B L, Zallman, L (2015). Barriers to health care for undocumented immigrants: a literature review. *Risk Management and Healthcare Policy*, 8:175–183. Available from: <https://doi.org/10.2147/RMHP.S70173> [Accessed 14 December 2020]

The Covid-19 pandemic has proved to be a stark reminder of the extent of global and local inequalities and the lack of adequate investment in health and social services. We believe that some of the lessons of this pandemic can be used to help build public trust in state institutions and global solidarity.

Against this background, transparency, accountability and a robust ecosystem of open decision making have emerged as key elements on which to build public trust and confidence in the public health measures that are necessary to contain the pandemic. This approach is in line with international guidelines,¹⁰¹ public health best practice and South Africa's Constitutional guarantees. These should also be the key values that drive the future rollout of any iterations of a universal health care system in South Africa.

Ordinarily, but especially in a pandemic, it is the duty of civil society, academia, and the media to hold government, statutory and research bodies, and the pharmaceutical industry to account, both on their own terms, but also as this is in the public interest and for the public good. This includes insisting on robust justification for expert decisions that inform policy choices.

Our analysis suggests the following:

- The National Department of Health has not always disclosed expert advice provided to it in a timely manner; nor has it disclosed all of the recommendations of the C-19 MAC and VMAC. In certain cases, it has not sought, or followed, expert advice at all.
- The National Department of Health has not always disclosed the names of all of its expert advisors both from South Africa and elsewhere (anyone who is not a government employee).
- Important questions remain about what expert advice actually underpinned the halting of the rollout of the AstraZeneca/ University of Oxford vaccine for healthcare workers in early February 2021.

101 See in particular Article 15 of the UN International Covenant on Economic, Social and Cultural Rights on the benefits of scientific progress.
The United Nations General Comment 25 on Article 15 mentions 'transparency' nine times (see the back cover of this report for relevant extracts) - General comment No. 25 (2020) on science and economic, social, and cultural rights (Article 15 (1) (b), (2), (3) and (4) of the International Covenant on Economic, Social and Cultural Rights); Economic and Social Council, Committee on Economic, Social and Cultural Rights, E/C.12/GC/25, April 2020.

- The National Department of Health did not initially prioritise all people with co-morbidities in the national vaccine rollout programme – contrary to prevailing public health evidence and expert advice/ recommendations, and despite initial undertakings by the President and the Minister of Health that it would do so.
- No administrative provisions were initially made to vaccinate people without documentation (nationals and non-nationals) across all provinces; at present, uncertainty remains over how this group of people will access vaccines in the next few months in a safe and non-discriminatory manner.

At the time of writing, the government and other sectors in society such as large employers, are considering the implementation of ‘workplace vaccine mandates’ to encourage vaccination and to safeguard public health in workplaces. A vital consideration in this regard must be what measures all role players and the government will take to avoid exacerbating current inequalities in access, if insufficient attention is paid to ensuring that everyone in South Africa can access vaccines in a timely manner.¹⁰²

- Trust in South Africa’s vaccine programme and the government’s management of the pandemic has been hampered by a combination of a high turnover in senior leadership within the National Department of Health, the absence of timely release of information and expert advice, and the public reprimanding of some scientists who questioned government decision making early on, which created a ‘chilling effect’ on any debate or criticism. This could fuel vaccine hesitancy too, and undermine the goals of effective pandemic management.

South Africa needs a health system where decisions are made in an evidence-based manner, free of any conflict or vested interests and where the expert advice and basis for decisions is made publicly available speedily. It is not satisfactory that civil society has to spend time, money, and valuable resources to seek the voluntary disclosure of all relevant information in a pandemic, including resorting to litigation.

102 See for example, Heywood, M (2021). Still no national plan to ensure access to vaccines for ‘the undocumented.’ *Daily Maverick* 13 December 2021. Available from <https://www.dailymaverick.co.za/article/2021-12-13-still-no-national-plan-to-ensure-access-to-vaccines-for-the-undocumented/> [Accessed: 14 December 2021]

Recommendations

Separate from the HJI's recommendations on urgently addressing supply scarcity and Intellectual Property limitations in this pandemic, it is recommended that the following are considered by the South African government and National Department of Health in order to improve the country's public health response to the Covid-19 pandemic. This could build some public trust in the government's decision making processes and in its public health system and initiatives.

These recommendations are also made with a view to strengthening the health system as a whole and to supporting the implementation of universal health care in our country: .

1. The publication and placing in the public domain of
 - the names of all Covid-19 expert advisors to the South African government (including the local C-19 MAC and V-MAC));
 - their listed expertise; and
 - any conflicts of interest (as well as any other fiduciary duties).
 - and that these be regularly updated.
2. Any and all previous expert advice or recommendations given in 2020 and in 2021 to be placed in the public domain and **all** C-19 MAC and VMAC advisories to be published, and in a timeous manner.
In future all such advisories to be published within 72 hours of submission to the Minister/ President/ National Coronavirus Command Council (NCCC).
3. In instances where the government has not sought independent expert advice and / or does not follow the recommendations of such independent experts in making policy decisions, that it states so clearly, and explains the health, ethics or other rationale for doing so, so that decision making processes that impact lives and livelihoods, are transparent.
4. Rigorous investment in adequate patient information systems and ethical data-sharing is urgently made. This is needed to avoid placing public sector patients with co-morbidities at even greater risk as the vaccine programme advances.
5. To vaccinate 'everyone, everywhere' and to avoid a breeding ground for variants, nationality cannot be a proxy for first access; because xenophobia also fuels hesitancy. A 'firewall' should be set up so that people seeking care and vaccination are not arrested or criminally prosecuted for documentation or status related reasons. Similarly, homeless people to be supported with dedicated outreach programmes. The departments of Home Affairs and

Health to work together to ensure that all people without documentation – including cross-border migrants – can access the health and social services they need.

6. Pandemic management criteria to be drafted to address rationing and the principles of access in a time of scarcity.
 - We have not been able to locate the National Department of Health's written Allocation Framework for Vaccine Access in South Africa. If one exists, it has not been shared.
 - So far, only press briefings and PowerPoint presentations to Parliament and the National Department of Health's special 'circulars' make reference to access and allocation.
 - Clear upfront guidelines to be made available on the prioritisation of appropriate interventions, testing, treatment and/or vaccines based on ethical principles and public health rationales. This is especially important to address periods of scarcity or excess, and to guide programmes using significant quantities of donated stock / supplies. These guidelines to include
 - criteria and the appropriate processes for any exceptions;
 - guidance on transparent decision making to decide what the Department of Health itself has referred to as 'special' cases; and
 - crucially, the process by which exceptions to the rule are recommended to be insulated from any influence of those with a vested interest in such a recommendation, particularly political or executive undue interference. The same applies for vaccine selection.
7. The government and the NCCC should pay particular attention to the communication of its policy choices and decisions that affect access; it is not sufficient to rely on communication by virtual press briefings alone.
 - Information and decisions to be circulated clearly and rapidly through various communication mediums in all languages, in accessible, plain language formats - including for people with reading or hearing disabilities.
 - Public service announcements also to be used to draw attention to the publication of all expert advisories.

These are critical elements of an open and democratic society that should set the baseline for South Africa's approach to all future pandemics. It forms a necessary framework for the strengthening of the health system as well as preparation for the implementation of a universal health system here.

Secrecy has no place in a pandemic.

APPENDICES

Appendix A: MAC Advisories August 2020 - August 2021

Title of C-19 MAC Advisory	Date of Issue	Date of website upload	Difference: No. of days between issue and date of upload
1. The MAC Covid-19 is supportive of the repatriation efforts by SAA	4/4/2020	26/8/2020	144
2. Report on Sars-Cov-2 infection outbreak at St. Augustine's Hospital	5/4/2020	26/8/2020	143
3. Medical certification for death due to Covid-19	4/6/2020	26/8/2020	83
4. Sars-Cov-2 infection outbreak at St. Augustine's Hospital	6/4/2020	26/8/2020	142
5. Public use of cloth facemasks for everyone	9/4/2020	25/8/2020	138
6. Applications of drone technology in the fight against Covid-19	23/4/2020	25/8/2020	124
7. Request to review medical evacuation plan document	25/4/2020	26/8/2020	123
8. Risk factors for Severe Covid-19	29/4/2020	25/8/2020	118
9. Request to provide guidance on deployment of healthcare workers at a higher risk of mortality from Covid-19	29/4/2020	26/8/2020	119
10. Request for input on guidelines for traditional health practitioners dealing with Covid-19	5/5/2020	25/8/2020	112
11. Timing of the use of invasive mechanical ventilation and the utility of CPAP (and other techniques) to avoid mechanical ventilation in the setting of Covid-19, and their relation to outcomes.	5/5/2020	26/8/2020	113
12. Request to review medical evacuation plan document - update	5/5/2020	26/8/2020	113
13. St Augustine hospital outbreak of Covid-19 – interim report	18/5/2020	26/8/2020	103
14. Switching from community screening and testing to hotspots	18/5/2020	25/8/2020	99
15. Release of modelling projections	19/5/2020	25/8/2020	98
16. Ministerial advisory committee comment on rational use of PPE poster	19/5/2020	26/8/2020	99
17. The path forward in the national Covid-19 response: concurrently saving lives and livelihoods	19/5/2020	26/8/2020	99
18. Advisory on regulations related to the alert levels imposed to control Covid-19 and the implementation thereof	21/5/2020	26/8/2020	97

Title of C-19 MAC Advisory	Date of Issue	Date of website upload	Difference: No. of days between issue and date of upload
19. Advisory on disinfection tunnels for preventing Sars-Cov2 transmission	22/5/2020	26/8/2020	96
20. Eskom safeguard implementation	22/5/2020	26/8/2020	96
21. Getting children back to school safely	26/5/2020	26/8/2020	92
22. Impact of Covid-19 on non-Covid healthcare utilisation	1/6/2020	26/8/2020	86
23. Time to peak of Covid-19 cases	3/6/2020	26/8/2020	84
24. Advisory on the urgent need to address the current challenges in testing through prioritisation for the Sars-Cov-2 daily test targets	4/5/2020	26/8/2020	83
25. Saliva as a reliable tool to detect Sars-Cov-2	8/6/2020	26/8/2020	79
26. Use of dexamethasone for the treatment of severe Covid-19	18/6/2020	26/8/2020	69
27. Mitigating legal liability of health care workers in the public and private sectors during Covid-19 pandemic in South Africa	18/6/2020	26/8/2020	69
28. Asymptomatic infections	18/6/2020	26/8/2020	69
29. Recommendations for use of antibody testing	24/6/2020	26/8/2020	63
30. Use of High-Flow Nasal Cannula (HFNC) oxygen in the treatment of Covid-19 Pneumonia	24/6/2020	26/8/2020	63
31. Advisory on taxi occupancy levels to mitigate Covid-19 risk	3/7/2020	26/8/2020	54
32. Decontamination – questions from National Joint Intelligence and Operational Structure (NATJOINTS)	6/7/2020	26/8/2020	51
33. Thermal screening for Covid-19	6/7/2020	26/8/2020	51
34. SARSCoV-2 Re-infection	9/7/2020	8/10/2020	31
35. Updated advice on taxi occupancy levels to mitigate Covid-19 risk	9/7/2020	26/8/2020	48
36. Updated memo on interferon and artemisia use for treatment and research	10/7/2020	26/8/2020	47
37. Proposal to reduce isolation time from 14 to 8 days	10/7/2020	26/8/2020	47
38. Keeping schools safe and managing Covid-19 infections in schools	20/7/2020	26/8/2020	37
39. Enhancing uptake of prevention measures for Covid-19	20/7/2020	26/8/2020	37
40. Environmental cleaning and disinfection	20/7/2020	26/8/2020	37

Title of C-19 MAC Advisory	Date of Issue	Date of website upload	Difference: No. of days between issue and date of upload
41. Use of favipiravir in the management of Covid-19	22/7/2020	26/8/2020	35
42. Advisory on the NCCC questions on actions to curb the surge	22/7/2020	26/8/2020	35
43. Fitness industry reopening framework	23/7/2020	26/8/2020	34
44. Making air travel safe during Covid-19	27/7/2020	26/8/2020	30
45. Managing outbreaks in community facilities	7/8/2020	26/8/2020	19
46. Managing outbreaks in healthcare facilities	7/8/2020	26/8/2020	19
47. What should the proposed easing of restrictions be for alert level 2, and when should this be considered?	17/8/2020	26/8/2020	9
48. Guide for non-emergency surgery during the Covid-19 pandemic	28/8/2020	8/10/2020	41
49. Healthcare worker protection and support through strengthening infection prevention and control programmes	1/9/2020	3/12/2020	93
50. Minimum physical distancing to getting children back to school safely	3/9/2020	8/10/2020	35
51. Masks for children of school going age	2/9/2020	8/10/2020	28
52. Recommendations around easing restrictions	13/9/2020	8/10/2020	25
53. Parental access to hospitalised children	14/9/2020	8/10/2020	24
54. Transmission of Sars-Cov-2	21/9/2020	8/10/2020	17
55. Re-opening of traditional initiation schools	21/9/2020	8/10/2020	17
56. Return to work for those with co-morbidities and/or over the age of 60 years	21/9/2020	3/12/2020	73
57. Covid-19 in pregnant and lactating women	7/10/2020	3/12/2020	57
58. Coalface issues	9/10/2020	3/12/2020	55
59. Use of antigen tests at ports of entry	30/10/2020	3/12/2020	34
60. An epidemiological assessment of the likelihood of a second wave of Covid-19	5/11/2020	3/12/2020	28
61. National state of disaster extension	11/11/2020	3/12/2020	22
62. Therapeutic bronchoscopy for mucus removal in patients with Covid-19	12/11/2020	3/12/2020	21
63. Resurgence of Sars-Cov-2 cases in the Eastern Cape	22/11/2020	3/12/2020	11
64. National Ventilator Project (NVP), HFNC, CPAP equipment use for Covid-19 disease and beyond the epidemic	2/12/2020	21/4/2021	140
65. Long-Covid	2/12/2020	21/4/2021	140

Title of C-19 MAC Advisory	Date of Issue	Date of website upload	Difference: No. of days between issue and date of upload
66. Mask exemptions/use of vented masks	9/12/2020	21/4/2021	133
67. Recommendations on December period proposal	11/12/2020	21/4/2021	131
68. Covid-19 testing for aviation crew and personnel	14/12/2020	21/4/2021	128
69. Regulations from State of Disaster for National Health Act	14/12/2020	21/4/2021	128
70. Screening process for land border crossings during the festive season	14/12/2020	21/4/2021	128
71. A framework for rational Covid-19 allocation in South Africa	15/12/2020	25/1/2021	41
72. Return of all learners 2021	16/12/2020	21/4/2021	126
73. Re-invigorate implementation of the Covid-19 prevention response over the festive season	19/12/2020	21/4/2021	123
74. Mitigating the spread of Sars-Cov-2, including the new coronavirus variant, and preserving	23/12/2020	21/4/2021	119
75. Screening process for land border crossings during the festive season	30/12/2020	21/4/2021	112
76. Regional and domestic airline travel risk reduction	30/12/2020	21/4/2021	112
77. Covid-19: vaccine strategy	3/1/2021	12/1/2021	9
78. Ivermectin for the treatment of Covid-19	7/1/2021	11/1/2021	4
79. Re-opening of schools for the 2021 school year	12/1/2021	21/4/2021	99
80. Wrapping of corpses in plastic covering prior to burial	25/1/2021	21/4/2021	86
81. Infection prevention and control during Covid-19 vaccination	11/3/2021	21/4/2021	41
82. Updated advisory on Ivermectin	29/3/2021	10/6/2021	73
83. Preparing for a potential third wave	31/3/2021	21/4/2021	21
84. What additional measures should be put in place to mitigate the spread of Sars-Cov-2 over the Easter period?	3/4/2021	21/4/2021	18
85. Travel restrictions from selected countries	29/4/2021	23/7/2021	85
86. Travel restrictions from selected countries - update	7/5/2021	23/7/2021	77
87. Criteria/triggers for new Covid-19 restrictions	16/5/2021	23/7/2021	68
88. Independent Electoral Commission (IEC) request for inputs regarding scheduling of the municipal elections	17/5/2021	23/7/2021	67

Title of C-19 MAC Advisory	Date of Issue	Date of website upload	Difference: No. of days between issue and date of upload
89. Update: recommendations to intensify prevention measures and bolster health system capacity in the context of a resurgence of Covid-19 infections 'third wave'	10/6/2021	23/7/2021	43
90. Questions and answers: frequently asked questions on the Covid-19 vaccine rollout	22/6/2021	26/7/2021	34
91. Summary of update: recommendations to intensify prevention measures and bolster health system capacity in the context of a resurgence of Covid-19 infections 'third wave'	26/6/2021	23/7/2021	27
92. Third wave reupdate: recommendations to intensify prevention measures and bolster health system capacity in the context of a resurgence of Covid-19 infections 'third wave' recommendations intensify prevention measures & bolster health system capacity	30/6/2021	23/7/2021	23
93. Update: Recommendations to intensify prevention measures and bolster health system capacity in the context of a resurgence of Covid-19 infections 'third wave'	30/6/2021	23/7/2021	23
94. Facility readiness workstream recommendations for resurgences of the Covid-19 pandemic	3/7/2021	23/7/2021	20
95. Extension of level 4 restrictions beyond 11 July 2021	9/7/2021	23/7/2021	14
96. Closure of schools	16/7/2021	5/8/2021	20
97. Extension of level 4 restrictions beyond 25 July 2021	22/7/2021	5/8/2021	14
98. Schools functioning at full capacity (daily attendance by all learners)	22/7/2021	5/8/2021	14
Average days:			68

Other: MAC, VMAC and Other

Title of MAC Advisory	Date of Issue	Date of website upload	Difference: Date of Website Upload vs Issue
1. Strategies to address Covid-19 vaccine hesitancy and promote acceptance in South Africa	12/4/2021	21/4/2021	9

Appendix B: VMAC Advisories

August 2020 to August 2021

Title of VMAC Advisory		Date of Issue	Date of Website Upload	Difference: Date of Website Upload vs Issue
1.	Participation of South Africa in the Covid-19 Vaccines Global Access (COVAX) Facility	17/9/2020	3/1/2021	108
2.	Advisory framework for rational allocation of Covid-19 Vaccine in South Africa	15/12/2020	3/1/2021	19
3.	Interim advisory key considerations in the selection of Covid-19 vaccine(s)	15/12/2020	3/1/2021	19
4.	Advisory Covid-19: vaccine strategy	15/12/2020	3/1/2021	19
5.	Advisory delaying the administration of the second dose of Astra-Zeneca Covid-19 vaccine to healthcare workers.	26/1/2021	6/7/2021	161
6.	Advisory offering vaccine to healthcare workers who have had previous Covid-19 infections	26/1/2021	26/7/2021	181
7.	Advisory offering vaccine to individuals who have participated or may be participating in clinical trials of vaccines	26/1/2021	26/7/2021	181
8.	Advisory impact of laboratory findings on variant 501.V2 indicating immune escape, on vaccine strategy.	26/1/2021	26/7/2021	181
9.	Advisory developments around indications that Astra-Zeneca Covid- 19 vaccine may be deficient in its protectivity against the 501y.V2 variant virus	7/2/2021	26/7/2021	169
10.	Advisory on vaccine choices for South Africa - rolling review: 19 February 2021-	19/2/2021	26/7/2021	157
11.	Advisory on concern following release of data on reduced neutralising antibody activity in sera from Pfizer vaccines	28/2/2021	26/7/2021	148
12.	Advisory on concern following release of data on reduced neutralizing antibody activity in sera from Pfizer vaccinees (updated)	1/3/2021	26/7/2021	147
13.	Advisory on concern following release of data on reduced neutralising antibody activity in sera from Pfizer vaccinees - 3 rd. update -	2/3/2021	26/7/2021	146
14.	Advisory difference between a phase 3b implementation study and a rollout of an authorised vaccine	10/3/2021	26/7/2021	138
15.	Advisory phase 2 Covid-19 vaccination rollout	24/3/2021	6/7/2021	104
16.	Advisory recommendations on Covid-19 vaccination in pregnancy	13/4/2021	26/7/2021	104

Title of VMAC Advisory	Date of Issue	Date of Website Upload	Difference: Date of Website Upload vs Issue
17. Advisory theoretical calculations to reach Covid-19 vaccine-induced herd immunity	19/4/2021	26/7/2021	98
18. Delay of second dose of Pfizer-BioNTech vaccine	22/4/2021	26/7/2021	95
19. Advisory feedback from the VMAC on Sputnik V, Gamaleya Institute	30/4/2021	26/7/2021	87
20. Second update of the advisory on recommendations on Covid-19 vaccination in pregnancy	11/6/2021	26/7/2021	45
21. Advisory implications of delta variant for vaccination strategy	28/6/2021	26/7/2021	28
Average days:			111



h HEALTH JUSTICE
INITIATIVE

‘I am surely not alone in switching on my bullshit detector when I hear politicians say that they ‘defer to the experts’ or claim that their responses to Covid-19 are ‘guided by the best science and evidence’.

Jeremy Baskin (2020)

Coronavirus and the Rightful Place of Science. *Arena*, 5 May 2020.

General Comment No. 25 of the International Covenant on Economic, Social and Cultural Rights (April 2020):

‘The principles of transparency and participation are essential to make science objective and reliable, and to ensure that it is not subject to interests that are not scientific or are inconsistent with fundamental human rights principles and the welfare of society. Secrecy and collusion are in principle contrary to the integrity of science at the service of humanity. Thus, States should take measures to avoid the risks associated with the existence of conflicts of interest by creating an environment in which actual or perceived conflicts of interest are adequately disclosed and regulated, especially those involving scientific researchers who give policy advice to policymakers and other public officials.’

[...]

‘As far as possible, scientific or technological policies should be established through participatory and transparent processes and should be implemented with accompanying transparency and accountability mechanisms.’

[...]

‘... in controversial cases, participation and transparency become crucial because the risks and potential of some technical advances or some scientific research should be made public in order to enable society, through informed, transparent, and participatory public deliberation, to decide whether or not the risks are acceptable.’