

Amy S Van Wey Lovatt

By email: [fyi-request-12082-da65c956@requests.fyi.org.nz](mailto:fyi-request-12082-da65c956@requests.fyi.org.nz)  
Ref: H202000326

Dear Ms Amy S Van Wey Lovatt

### Response to request for official information

Thank you for your request of 25 January 2020 to the Ministry of Health (the Ministry) under the Official Information Act 1982 (the Act):

*"RE: Regulations and policies regarding access, use or disclosure of human tissue*

*According to section 121A of the Health Act 1956, Regulations as to retention of health information*

*(1) Regulations made under this Act may provide for all or any of the following matters:*

*...*

*(b) the safeguards to be taken by any holder, or any class or classes of holder, of health information or specimens, to ensure that health information or specimens, or any class or classes of health information or specimens, is protected against all or any of the following:*

*...*

*(ii) access, use, modification, or disclosure, except where properly authorised:*

*Request 1:*

*I respectfully request a complete list of all regulations and MoH policies pertaining to the "access, use, modification, or disclosure" of specimens, which are defined as bodily sample or tissue sample taken from a person in clause 2 of s 121A.*

*Request 2:*

*According to the preamble of the Health (Retention of Health Information) Regulations 1996, "Pursuant to sections 117 and 121A of the Health Act 1956, His Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby makes the following regulations." Thus, are "specimens" therefore included as "Health Information" under the Health (Retention of Health Information) Regulations 1996?"*

There are no regulations made under section 121A pertaining particularly to specimens. The collection and use of human tissue are covered by the Human Tissue Act 2008. Further information about the Human Tissue Act 2008 can be found on the Ministry's website at: <https://www.health.govt.nz/our-work/regulation-health-and-disability-system/human-tissue-act>.

The full legislation is available at:

<http://www.legislation.govt.nz/act/public/2008/0028/latest/DLM1152940.html>.

The definition of health information in the regulation 2 of the Health (Retention of Health Information) Regulations 1996, in relation to an identifiable individual, means—

- (a) Information about the health of that individual, including that individual's medical history:
- (b) Information about any disabilities that individual has, or has had:
- (c) Information about any ... services that are being provided, or have been provided, to that individual:
- (d) Information provided by that individual in connection with the donation, by that individual, of any body part, or any bodily substance, of that individual.

Specimens themselves will usually be human tissue, but information derived from them will be health information.

You may wish to obtain your own legal advice if you require further information regarding the interpretation of the regulations.

I trust this information fulfils your request. Under the Act, you have the right to ask the Ombudsman to review any decisions made under this request.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sue Gordon', with a long horizontal line extending to the right.

Sue Gordon  
**Deputy Director-General**  
**Corporate Services**