

1 October 2021

133 Molesworth Street
PO Box 5013
Wellington 6140
New Zealand
T+64 4 496 2000

New Zealand Council for Civil Liberties

By email: fyi-request-16694-04dfa1ec@requests.fyi.org.nz
Ref: H202112129

Tēnā koe New Zealand Council for Civil Liberties

Transfer of your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) on 10 September 2021 for:

- “a) Consideration of, advice on, or responses to communications received from third parties about statutory limitations on the use of contact record information provided by members of the public to a workplace; and*
- b) Advice to Ministers or senior officials since 1 January 2021 about mandating the provision and collection of contact information from members of the public when they visit a workplace; and*
- c) Advice to Ministers or senior officials since 1 January 2021 on limitations on the use of contact record information provided by members of the public to a workplace; and*
- d) Advice to Ministers or senior officials since 1 March 2020 on privacy protection for contact record information provided by members of the public to a workplace; and*
- e) Advice to Ministers or senior officials since 1 March 2020 on police, intelligence and security agency, or public service department access to information provided by the public to organisations undertaking contact tracing for Covid-19 public health purposes; and*
- f) All advice on the retention and disposal of contact records by workplaces since 1 January 2021 that informed the drafting of clause 11(2) of the Order.”*

The Ministry of Health does not hold any information relating to your request. However, I have been advised that this information is held by the Department of Prime Minister and Cabinet (DPMC). For this reason, I have decided to transfer your request to their office under section 14(b)(i) of the Act. You can expect a response from DPMC in due course.

Under section 28(3) of the Act you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Nāku noa, nā



Nick Allan
Manager OIA Services
Office of the Director-General

Copy of OIA request

From: New Zealand Council for Civil Liberties <fyi-request-16694-04dfa1ec@requests.fyi.org.nz>
Sent: Friday, 10 September 2021 11:27 am
To: OIA Requests <oiagr@health.govt.nz>
Subject: Official Information request - Use of information gathered under the COVID-19 Public Health Response (Alert Level Requirements) Order (No 10) 2021

Dear Ministry of Health,

This is a request under the Official Information Act. A similar request has been made to the Department of Prime Minister and Cabinet, so for the avoidance of doubt we are seeking the information held by the Ministry that it can make decisions on, and does not need to transfer any part of this request to the Department of Prime Minister and Cabinet.

The New Zealand Council for Civil Liberties is concerned that the COVID-19 Public Health Response (Alert Level Requirements) Order (No 10) 2021 (the Order) does not provide that information gathered from members of the public about their visits to workplaces under the provisions of the Order may only be used for the purpose of contact tracing. Without such protection, we are concerned that the Police or other organisations may use this information for law enforcement or other purposes. We are not satisfied by verbal assurances provided by Ministers and officials as we have seen similar assurances disregarded by the police in Singapore and some Australian states.

We are also concerned that the Order does not require workplaces to use ballot box style tools for people drop slips of paper with their contact details into, instead permitting the continued use of open registers.

We are also concerned that clause 11(2)(a) of the Order does not require destruction of the record after 60 days, only 'disposal'.

We therefore request information held by the Ministry (including unrecorded information known to the relevant Ministry officials) about:

- a) Consideration of, advice on, or responses to communications received from third parties about statutory limitations on the use of contact record information provided by members of the public to a workplace; and
- b) Advice to Ministers or senior officials since 1 January 2021 about mandating the provision and collection of contact information from members of the public when they visit a workplace; and
- c) Advice to Ministers or senior officials since 1 January 2021 on limitations on the use of contact record information provided by members of the public to a workplace; and
- d) Advice to Ministers or senior officials since 1 March 2020 on privacy protection for contact record information provided by members of the public to a workplace; and
- e) Advice to Ministers or senior officials since 1 March 2020 on police, intelligence and security agency, or public service department access to information provided by the public to organisations undertaking contact tracing for Covid-19 public health purposes; and
- f) All advice on the retention and disposal of contact records by workplaces since 1 January 2021 that informed the drafting of clause 11(2) of the Order.

The Council believes the strong public interest in accountability for advice and internal discussion of issues pertaining to privacy and extraordinary state powers to record and trace information about the movement of people outweighs any grounds for withholding information under the section 9 withholding grounds.

If the Ministry decides to withhold any information in response to this request we further request, under section 19(a)(ii) of the OIA that the Department provide the specific reasons for citing each withholding ground.

Yours sincerely,

The New Zealand Council for Civil Liberties