



22 December 2021

New Zealand Council for Civil Liberties  
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Ref: OIA-2021/22-0489

Dear New Zealand Council for Civil Liberties

### Official Information Act request relating to vaccine certificates

Thank you for your Official Information Act 1982 (the OIA) request received on 27 October 2021. You requested:

1. *Copies of all the information provided to those people or organisations outside government that the Prime Minister said were being consulted on vaccination certificates; and*
2. *Information, correspondence, or advice received from the Privacy Commissioner or his officials, and minutes of meetings with the Commissioner or his officials, on the subject of vaccination certificates since 1 January 2021; and*
3. *Advice held, or received, on the Human Rights Act and NZ Bill of Rights Act implications of introducing vaccination certificates; and*
4. *Advice to Ministers since 1 January 2021 on police, intelligence and security agency, or public service department access to information gathered when a vaccination certificate is scanned or authenticated by a place that a certificate holder visits; and*
5. *Advice to Ministers since 1 May 2021 about vaccination certificates (not 'vaccination passports' for international use)*
6. *Why is the government not consulting the public on vaccination certificates?*
7. *How is the government upholding Te Tiriti by working with Māori?*
8. *Why has the government not published the advice from the Privacy Commissioner, officials working on the Human Rights Act and NZ Bill of Rights Act implications, and the papers considered by Cabinet?*
9. *Will there be any limits on who can download and use the app for scanning vaccination certificates? If so, what limits?*
10. *What data will be collected by the app that scans the certificates? How much of this data will be retained on the app, or will it all be deleted once a certificate has been verified as genuine?*
11. *What data will be logged by the government when a vaccination certificate is scanned by a venue? Will this include location, date and time of the scan? If yes to any of this, for how long will this information be retained?*
12. *Will any of the data logged by the government when a certificate is scanned be shared with any other government agency? Will the government legislate to prevent this data from being shared or accessed by any other agency?*
13. *Will the data retained by the government be shared in aggregate form?*

14. *Will the data retained by the government be shared in so-called 'anonymous' form?*
15. *Will the government legislate to protect people's rights by prohibiting supermarkets, dairies, health centres, pharmacies, and other essential public services such as transport and Work and Income offices from requiring people to show a vaccination certificate?*
16. *Will the government put a sunset clause in the legislation to shut down the domestic vaccination certificate system?*

### **Questions 1, 2, 4 and 5**

The information you have requested in these parts of your request has been proactively released on the Unite against COVID-19 website ([covid19.govt.nz/about-our-covid-19-response/proactive-releases/alert-levels-and-restrictions](https://covid19.govt.nz/about-our-covid-19-response/proactive-releases/alert-levels-and-restrictions)). Additionally, the information and correspondence received from the Office of the Privacy Commissioner is reflected in the relevant briefings and Cabinet papers.

Accordingly, I am refusing these parts of your request under section 18(d) of the OIA, as the information is, publicly available.

### **Question 3**

Information held by DPMC on advice relating to the Human Rights Act 1993 and New Zealand Bill of Rights Act 1990 implications of introducing vaccination certificates is protected from disclosure under legal professional privilege. I am therefore withholding this information under section 9(2)(h) of the OIA, to maintain legal professional privilege.

### **Question 6**

During the policy process, officials consulted with religious and community groups, as well as sector, business and industry representatives on the use of vaccination certificates in various settings.

### **Question 7**

Māori representatives on the DPMC community panel provided Māori perspectives which were incorporated into the policy process. Officials also engaged with the National Iwi Chairs Forum on vaccine certificates as part of wider discussions about the COVID-19 response and sought feedback from Te Puni Kōkiri and Te Arawhiti.

### **Question 8**

As mentioned in my response to question 2, advice received from the Office of the Privacy Commissioner on vaccine certificates has been reflected in the relevant briefings and Cabinet papers which have been proactively released on the Unite against COVID-19 website ([covid19.govt.nz/about-our-covid-19-response/proactive-releases](https://covid19.govt.nz/about-our-covid-19-response/proactive-releases)).

Additionally, information held by DPMC on advice relating to the Human Rights Act 1993 and New Zealand Bill of Rights 1990 is protected from disclosure under legal professional privilege and withheld under section 9(2)(h) of the OIA.

### **Question 9 – 14**

The information requested in these questions is not held by DPMC. I believe that these questions would be more appropriately responded to by the Ministry of Health, as they administer the My Vaccine Pass application.

### Question 15

Cabinet has already made decisions on setting where the use of vaccine requirements to limit access are prohibited, papers supporting this decision have been proactively released on the Unite against COVID-19 website ([covid19.govt.nz/about-our-covid-19-response/proactive-releases](https://covid19.govt.nz/about-our-covid-19-response/proactive-releases)). These decisions are also reflected in the COVID-19 Public Health Response (Protection Framework) Order 2021 (the Order), and can be found publicly on the Parliamentary Counsel Office's website ([legislation.govt.nz/regulation/public/2021/0386/latest/LMS563461.html](https://legislation.govt.nz/regulation/public/2021/0386/latest/LMS563461.html)).

Officials will continue to monitor the need for expanding or amending the current list of designated premises in the Order and will advise decision makers accordingly.

### Question 16

There is an existing sunset clause in the COVID-19 Public Health Response Act which repeals the Act on the 13 May 2023, if it has not been repealed prior to that date. Cabinet has also directed officials to review the vaccine certificate settings in early 2022, to ensure they remain fit-for-purpose.

In making my decisions on your request, I have taken the public interest considerations in section 9(1) of the OIA into account.

You have the right to ask the Ombudsman to investigate and review my decision under section 28(3) of the OIA.

This response will be published on the Department of the Prime Minister and Cabinet's website during our regular publication cycle. Typically, information is released monthly, or as otherwise determined. Your personal information including name and contact details will be removed for publication.

Yours sincerely



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