



23 February 2022

Chris McCashin

By email: fyi-request-18353-6260ab2a@requests.fyi.org.nz

Dear Mr McCashin

OFFICIAL INFORMATION REQUEST – GOVERNMENT LEGISLATION AND LEGAL RECOURSE

I refer to your request under the Official Information Act 1982 dated 27 January 2022.

In my capacity as Attorney-General, I am not subject to the Official Information Act. This is because in this capacity I am acting as an independent Law Officer, and not as a Minister, and accordingly the Official Information Act does not apply. However, I thought it might still be helpful to respond to your questions below.

“Roles, position description and functions of the attorney general”

The Attorney-General is the principal legal adviser (the “senior law officer”) to the Crown. The Attorney-General is a Minister and almost always a member of Cabinet. When exercising the law officer functions, the Attorney-General acts independently—that is, he or she is not influenced by party political considerations.

The Attorney-General holds responsibility for the government’s proper administration of the law through his role as senior law officer. In discharging this responsibility, the Attorney-General is constitutionally responsible to Parliament for two key dimensions of the Crown’s legal business:

- a. determining the Crown’s view of what the law is; and
- b. ensuring that the Crown’s litigation is properly conducted in the courts.

The Attorney-General is supported by the Solicitor-General, the junior law officer, to carry out these responsibilities. The Solicitor-General is both the junior law officer and the Chief Executive of the Crown Law Office.

More information on the role of the Attorney-General can be found in the Cabinet Manual, published on the [website of the Department of Prime Minister and Cabinet](#).¹

¹ [Attorney-General | Department of the Prime Minister and Cabinet \(DPMC\)](#).

Vaccine mandates

The COVID-19 Public Health Response Act 2020 was passed in 2020 to provide for the Government's response to the COVID-19 pandemic. That legislation includes the provisions that have been relied upon by the Government in making orders requiring that certain types of work can only be undertaken by vaccinated workers. The Act came into force on 13 May 2020.

Prior to that legislation being introduced in the House, I was required to give advice to the Government as to the consistency of the Bill with the New Zealand Bill of Rights Act 1990. A copy of that advice may be found on [the Ministry of Justice website](#).²

Question relating to legal recourse

In my role as Attorney-General I provide legal advice to the Government. I cannot and do not give legal advice to members of the public. I recommend that you seek your own independent legal advice in relation to your questions relating to available legal recourse.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Parker', written in a cursive style.

Hon David Parker
Attorney-General

² <https://www.justice.govt.nz/assets/Documents/Publications/COVID-19-Public-Health-Response-Bill.pdf>.