

10 May 2022

s9(2)(a)



Thank you for your email dated 9 February 2022, addressed to the Department of Internal Affairs and also forwarded to the Ministry of Justice and the Ministry of Health, requesting the following information under the Official Information Act 1982 (the Act):

*“Kainga Ora has recently implemented a mandated vaccine policy for all staff, consultants and contractors, this was after first informing their people, at the start of the consultation process, that it would only be their frontline staff. With this lack of honesty and clear bias during the consultation process, it is clear that information is required as to how this change occurred?”*

- *Any Ministerial meeting minutes with the housing minister, health ministry and director of health (and deputies) with the ceo, directors and gm's of kainga Ora requiring or discussing vaccine mandates.*
- *Internal leadership correspondence regarding vaccines and fully mandating vaccines.*
- *Medical advice on RAT testing and the benefits of the vaccine on the omicron virus.*
- *Medical advice on spread from fully vaccinated staff members*
- *Board decision minutes on the mandates and who voted for the vaccine mandate.*
- *Past meetings where the front line staff & mandatory vaccines were discussed.*
- *The kainga Ora vaccine injury and death of staff members policy. How staff forced to vaccinate will be compensated upon an adverse reaction or death.*
- *The Vaccine policy consultation process, the numbers of respondents involved (total numbers responding matched against the total number of staff at kainga Ora).*
- *Legal advice on the mandate process and management culpability and liability. This is because they have issued documents trying to absolve themselves of responsibility.*
- *Declaration of conflict interest from the kainga Ora board, ceo and leadership team on whether they have any shareholding's in Pfizer, blackrock or vanguard.”*

As advised in our email of 10 February 2022, your request was transferred to Kāinga Ora – Homes and Communities under section 14(b)(ii) of the Act. I note that you subsequently asked the following:

- *“...can I also ask for confirmation that the Pfizer mRNA vaccine data sheet and risks from the vaccine were incorporated in the risk assessment and that legal advice included the point of responsibility for adverse reactions and deaths from the vaccine, is this to be Andrew McKenzie the ceo or the director of health and safety, I'm sure they*

*are aware that there are stiff fines and prison sentences for the breaches of contract and coercion of staff.*

- ..... as a number of double vaccinated staff and their families have come down with Covid, how is your mandatory vaccination policy going to work in the office as people are getting the virus? Would it not be more sensible to ditch the mandate and use RAT testing because the vaccine doesn't prevent harm?*
- In the light of mandates being ruled illegal, can you confirm if you are changing your mandates or continuing with the policy despite the court ruling?"*

In late 2021 Kāinga Ora – Homes and Communities began an engagement process with all our people on a Control Assessment for COVID-19 Risks. This Control Assessment, and the feedback received, then informed a proposed Kāinga Ora Vaccination Policy. The intention of the proposed policy was to ensure the health, safety and wellbeing of our people, customers, partners, contractors and the communities Kāinga Ora supports, while continuing the delivery of housing and tenancy services in a COVID-19 environment. Following a second consultation process with all our people, the Kāinga Ora Vaccination Policy was implemented from 8 February 2022.

As part of the response to COVID-19, Kāinga Ora developed an interim Kāinga Ora COVID-19 Protection Framework, which outlined controls as to how Kāinga Ora would operate under the Government's COVID-19 Protection Framework (CPF – also known as the 'traffic light system'). The Kāinga Ora interim framework took effect from 3 December 2021 until 18 February 2022, at which point it was no longer used as an interim framework, but a way of operating. It is designed to keep all Kāinga Ora employees, customers, suppliers and construction and maintenance partners safe under each level of the CPF.

I will address each part of your request in the order listed above.

*Any Ministerial meeting minutes with the housing minister, health ministry and director of health (and deputies) with the ceo, directors and gm's of kainga Ora requiring or discussing vaccine mandates.*

Officials meetings with Ministers are not minuted. I am therefore declining this part of your request under section 18(e) as the information requested does not exist.

*Internal leadership correspondence regarding vaccines and fully mandating vaccines.*

Correspondence with regards to instructions, consultation and meeting minutes for consultation and instructions regarding mandatory vaccination is attached as Appendix one. I would note that informal meetings held between people leaders and their teams are widespread across the organisation and not minuted.

Online presentations, in the form of webinars, were conducted throughout the engagement and consultation process to provide further information and support for our people through the process. Watching the webinars was voluntary. The following presentations are included in Appendix one:

<b>Purpose</b>	<b>Document name as attached</b>
Webinar – 21 December 2021 – information on engagement	Consultation Online Session – 21 Dec 2021

Webinar – 18 January 2021 – information session with Dr Siouxsie Wiles	Siouxsie Wiles Session – 18 January 2022
Webinar – 8 February 2022 – information on the final outcome	Consultation PL session – 8 February 2022

Internal correspondence related to the Vaccination Policy was also distributed via newsletters Te Hā (for all our people) and Te Huinga (for people leaders) as outlined in the following table and included in Appendix one. Information that is out of scope of your request has been withheld.

Content purpose	Document Name as attached
Indication that Vaccination Mandates may be required	Te Huinga People Leader Update – 16 November 2021
Engagement launched	Te Huinga People Leader Update - 24 November 2021
Engagement closed	Te Huinga People Leader Update – 8 December 2021
Consultation launching	Te Huinga People Leader Update – 14 December 2021
Consultation closing	Te Huinga People Leader Update – 18 January 2022
Consultation Outcomes and Vaccination Policy	Te Huinga People Leader Update – 8 February 2022
Draft Risk Assessment – excerpt	Te Hā - 26 November 2021
COVID-19 Vaccination Policy - excerpt	Te Hā - 11 February 2022

Regular updates throughout the Vaccination Policy engagement and consultation process were provided by Kāinga Ora Chief Executive, Andrew McKenzie as outlined in the following table and included in Appendix one. Information that is out of scope of your request has been withheld.

Document name as attached
Andrew's pānui – 12 November 2021
Andrew's pānui – 24 November 2021
Andrew's pānui – 8 December 2021
Andrew's pānui – 17 December 2021
Andrew's pānui – 8 February 2022

A Business Alert sent to all our people on 8 February 2022 outlined Kāinga Ora Board approval of the Vaccination Policy and is included in Appendix one.

*Medical advice on RAT testing and the benefits of the vaccine on the omicron virus*

Medical advice on the use of Rapid Antigen Tests (RAT) was received from Dr Robert Hickson and Dr Simon Ryder-Lewis. This advice was used to inform the risk assessment, but ultimately Kāinga Ora followed advice and guidelines from the Ministry of Health (MoH) as outlined on the MoH website. The advice from Drs Hickson and Ryder-Lewis is attached as Appendix two.

*Medical advice on spread from fully vaccinated staff members*

Medical advice on the spread of COVID-19 from fully vaccinated staff members was not sought. I am therefore declining this part of your request under section 18(g) of the Act as the information is not held by Kāinga Ora.

*Board decision minutes on the mandates and who voted for the vaccine mandate  
Past meetings where the front line staff & mandatory vaccines were discussed*

Approval to implement a vaccine mandate was made at a Special Board meeting held on 3 February 2022. The minutes of that meeting are included in Appendix three. I note that the decision of the Board was collective and was not put to a vote. The Board did not discuss the vaccination policy at any previous meetings but was kept updated on the engagement and consultation process.

*The kainga Ora vaccine injury and death of staff members policy. How staff forced to vaccinate will be compensated upon an adverse reaction or death*

Kāinga Ora does not have a “vaccine injury and death of staff members” policy. I am therefore declining this part of your request under section 18(e) of the Act as the information does not exist. Physical injury resulting from a vaccination, including the COVID-19 vaccine, may be covered by the Accident Compensation Corporation (ACC) if the criteria for treatment injury are met. Under ACC legislation, the injury must be clearly caused by the vaccination and must not be a necessary part or ordinary consequence of the treatment.

*The Vaccine policy consultation process, the numbers of respondents involved (total numbers responding matched against the total number of staff at kainga Ora)*

As outlined above, Kāinga Ora undertook extensive engagement on the Risk Assessment, which in turn informed a draft Kāinga Ora Vaccination Policy, which was also subject to consultation. This process was split into two stages:

1. Engagement phase – which included a survey on the Control Assessment for COVID-19 Risks - December 2021 (note this was conducted through an online survey tool).
2. Consultation phase - feedback from engagement on the Control Assessment for COVID-19 Risks informed a proposed Vaccination Policy, which was consulted on in January 2022.

The following documents related to the consultation process are included in Appendix four:

<b>Stage of consultation</b>	<b>Document name as attached</b>
Engagement Survey on the Control Assessment for COVID-19 Risks	Questions and Next Steps – Control Assessment for COVID-19 Risks
COVID-19 Control Assessment Engagement – Data analysis	Engagement Survey findings
Rationale for proposed COVID-19 Vaccination Policy statement	Rationale for Kāinga Ora Vaccination Policy
Consultation on a proposed Vaccination Policy	Vaccine policy consultation document

Advice on the final and approved Vaccination Policy	COVID-19 Vaccination Policy Final Decisions
COVID-19 Vaccination Policy Implementation	COVID-19 Vaccination Policy Implementation

The Engagement Survey findings provides a summary of participation in the engagement phase. The COVID-19 Vaccination Policy Final Decisions document provides a summary of participation in the consultation phase.

*Legal advice on the mandate process and management culpability and liability. This is because they have issued documents trying to absolve themselves of responsibility*

I am declining this part of your request under section 9(2)(h) of the Act to maintain legal professional privilege.

*Declaration of conflict interest from the kainga Ora board, ceo and leadership team on whether they have any shareholding's in Pfizer, blackrock or vanguard.*

Shareholdings of individuals is private information held in a personal capacity. I have interpreted this part of your request as asking that the Kāinga Ora board, CEO and leadership team make a declaration of a conflict as to whether they have any shareholdings in Pfizer, Blackrock or Vanguard. This would involve creating new information which does not currently exist. I am declining this part of your request under section 18(e) of the Act as the information does not exist.

*Can I also ask for confirmation that the Pfizer mRNA vaccine data sheet and risks from the vaccine were incorporated in the risk assessment and that legal advice included the point of responsibility for adverse reactions and deaths from the vaccine, is this to be Andrew McKenzie the ceo or the director of health and safety, I'm sure they are aware that there are stiff fines and prison sentences for the breaches of contract and coercion of staff*

It is not the role of Kāinga Ora to assess potential risks from vaccines. Quality assurance of specific vaccines is the role of Government through the New Zealand Medicines and Medical Devices Safety Authority (MEDSAFE). Information on the vaccine risk management plan for Comirnaty (the Pfizer-BioNTech COVID-19 mRNA vaccine) is publicly available on the MEDSAFE website here: <https://www.medsafe.govt.nz/COVID-19/Comirnaty-RMP.pdf>

An evaluation of potential adverse effects of a vaccine was out of scope of the Risk Assessment and Kāinga Ora followed MEDSAFE and MoH guidance as the relevant agencies for such an evaluation.

*As a number of double vaccinated staff and their families have come down with Covid, how is your mandatory vaccination policy going to work in the office as people are getting the virus? Would it not be more sensible to ditch the mandate and use RAT testing because the vaccine doesn't prevent harm?*

The "Kāinga Ora Interim Covid-19 Control Protection Framework" can be found in Appendix five. The framework outlines how Kāinga Ora will continue to operate with COVID-19 in the community. It was designed to keep all Kāinga Ora employees, customers, suppliers and construction and maintenance partners safe under each level of the CPF. Kāinga Ora has also provided Rapid-

Antigen Test (RAT) kits to our people to use should symptoms of the virus be experienced. Kāinga Ora continues to encourage our people to follow health advice as publicly outlined by MoH.

*In the light of mandates being ruled illegal, can you confirm if you are changing your mandates or continuing with the policy despite the court ruling*

Throughout the changing COVID-19 environment, Kāinga Ora is constantly monitoring and reviewing the updates provided by Government, MoH and Te Kawa Mataaho - Public Service Commission, and have modified settings and response to keep up with these changes.

I would note that the High Court decision in late February that you refer to is restricted only to the two mandates challenged and that the court's decision does not affect any other vaccine mandates or departmental policies.

When the Vaccination Policy was implemented, it was intended to be reviewed shortly after. Kāinga Ora is currently evaluating whether current controls are still appropriate, and to identify if any new controls are available which could minimise the risks to the health of Kāinga Ora people, customers and those worked with.

You have the right under section 28(3) of the Act to seek an investigation by the Ombudsman about this response. Information about this is available at either [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or Freephone 0800 802 602.

Please note that Kāinga Ora proactively releases our responses to official information requests where possible. Our response to your request may be published at <https://kaingaora.govt.nz/publications/official-information-requests/> with your personal information removed.

Nāku iti noa, nā



Rowan Macrae  
**General Manager – People Governance and Capability**