

Hon Chris Hipkins

MP for Remutaka

Minister for COVID-19 Response

Minister of Education

Minister for the Public Service

Leader of the House



31 March 2022

Ashleigh Fechney

By email: fyi-request-18774-ed884a91@requests.fyi.org.nz

Ref: OIA0648

Dear Mr Fechney

Thank you for your request dated 4 March 2022 submitted through FYI.org.nz for “all affidavits prepared for the purposes of any judicial review relating to any COVID-19 Order”, pursuant to the Official Information Act 1982 (Act). I have interpreted your request to refer to any affidavits filed by the Crown when responding to a judicial review challenging decisions made pursuant to a COVID-19 Order.

As you may be aware, the Crown has responded to numerous judicial reviews relating to decisions made in accordance with COVID-19 Orders. These judicial reviews have challenged various decisions made as part of the government’s COVID-19 response, including in relation to the operation of the border, the COVID-19 vaccine rollout and workplace vaccine mandates. In responding to these judicial reviews the Crown has filed affidavits from Ministers, decision-makers and other public servants to support the decisions that have been challenged.

The affidavits you have requested are “court information” for the purposes of section 173 of the Senior Courts Act 2016. Any person may have access to that information “to the extent provided by, and in accordance with, rules of the court” (section 173(1)). Accordingly, I must refuse your request under section 18(c)(i) of the Act, as making the information you have requested available would be contrary to the provisions of the Senior Courts Act 2016 and the Senior Courts (Access to Court Documents) Rules 2017.

You are entitled to apply to the relevant Courts to access the documents you have requested, pursuant to the Senior Courts (Access to Court Documents) Rules 2017.

You have the right to seek an investigation and review by the Ombudsman of the decisions set out in this letter, in accordance with section 28(3) of the Act. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Yours sincerely

A handwritten signature in blue ink, appearing to be 'CH' followed by a stylized flourish.

Chris Hipkins
Minister for COVID-19 Response