



27 July 2022

Alex Parmley
Chief Executive
Waitaki District Council
aparmley@waitaki.govt.nz

Tēnā koe Mr Parmley

Decision in relation to fluoridation direction

Thank you for responding to my letter of 3 May 2022. I have considered the information you have provided, alongside further information I am required to consider under section 116E of the Health Act 1956 (the Act). I have also received and considered advice from the Director of Public Health.

Informed by the matters I am required to consider, I have decided to exercise my statutory powers under section 116E of the Act to direct you to fluoridate the Oamaru drinking water supply in your region.

In accordance with section 116I of the Act, you are required to ensure that by 30 June 2024 you are fluoridating at the optimal levels (between 0.7ppm to 1ppm, parts per million) at the Oamaru supply. Contravening these requirements, or permitting these requirements to be contravened, constitutes an offence under section 116J of the Act.

Fluoridation of the Oamaru drinking water supply is an important step in improving the oral health of your community, and it is my intention that Manatū Hauora (the Ministry of Health) will work constructively with you to implement these important changes.

In reaching my decision to issue this direction to you, I considered the scientific evidence on the effectiveness of adding fluoride to drinking water in reducing the prevalence and severity of dental decay. I am satisfied that community water fluoridation is a safe and effective public health measure that significantly reduces the prevalence and severity of dental decay. In reaching this conclusion, I considered: *Water fluoridation to prevent tooth decay* (Cochrane Collaboration 2015), *Health effects of water fluoridation: A review of the scientific evidence* (PMCSA and Royal Society Te Apārangi 2014) and *Fluoridation: An update on evidence* (PMCSA 2021).

In reaching my decision, I also considered whether the benefits of adding fluoride to the drinking water outweigh the financial costs, taking into account: the state or likely state of the oral health of your community served by the Oamaru supply; the number of people who are reasonably likely to receive drinking water from this supply; and the likely financial cost and savings of adding fluoride to the drinking water of this supply, including any additional financial costs of ongoing management and monitoring.

I am satisfied that the benefits of introducing community water fluoridation across the Oamaru drinking water supply outweigh the financial costs of doing so. In reaching this conclusion, I gave weight to the following:

- the Oamaru community would receive significant benefit, through improvement to the state of its oral health, because fluoridation of the drinking water supply would significantly reduce the prevalence and severity of dental decay in its community
- approximately 15,561 people are reasonably likely to receive drinking water from the Oamaru supply
- the likely financial cost and savings of adding fluoride to drinking water for the Oamaru supply, including any additional financial costs of ongoing management and monitoring.

My decision-making process included inviting written comment from Waitaki District Council, and having regard to the comments I received. Below I summarise and respond to the comments I received:

- the estimated capital cost of introducing fluoridation for the Oamaru supply is \$367,500. Ongoing management and monitoring costs were not specified at this time.
- the Waitaki District Council cannot provide a date by which it could comply with a direction, as there are many factors leading into this.

As part of considering whether to issue a direction to fluoridate, I considered the cost estimates you provided. I have also factored in that you were unable to provide a specific date by which you could comply with a direction. I have issued a compliance date (30 June 2024) that I believe is reasonable given the size of the Oamaru supply and timeframes that generally apply for supplies of this scale.

Appendix 1 presents a more extensive summary of the information that informed my decision-making, including the advice I received and considered from the Director of Public Health.

Funding

Manatū Hauora is making capital works funding available for local authorities that have been issued a direction to fluoridate, and that begin work to fluoridate drinking water supplies by the end of 2022. It will shortly provide detailed information about the application process for this funding to cover fluoridation-related capital costs.

Communicating this 'direction to fluoridate' decision

Manatū Hauora is responsible for communicating this decision at a national level. Please note too, that as required under section 116E(5) of the Act, all direction letters will be published on the Manatū Hauora website in due course.

Next steps

An official from Manatū Hauora will contact your team in the coming weeks to discuss any needs you might have for further clarity or additional information. Manatū Hauora recognises that this is a busy time for local authorities and wishes to work with you to make the process as straightforward as possible for your team.

Nākū noa, nā

A handwritten signature in black ink, appearing to read 'A Bloomfield', written in a cursive style.

Dr Ashley Bloomfield
Te Tumu Whakarae mō te Hauora
Director-General of Health

Appendix 1:

Waitaki District Council: Oamaru water supply

Analysis	
Criterion	1. Scientific evidence on the effectiveness of adding fluoride to drinking water in reducing the prevalence and severity of dental decay
Evidence	<p>The Ministry has considered the following information:</p> <ul style="list-style-type: none"> • Fluoridation: an evidence update Office of the Prime Minister's Chief Science Advisor (June 2021) • Health effects of water fluoridation: A review of the scientific evidence (August 2014) Office of the Prime Ministers Chief Science Advisor and Royal Society of New Zealand Te Aparangi • Water fluoridation to prevent tooth decay Cochrane Collaboration (June 2015). <p>Fluoridation: An update on evidence (PMCSA 2021) examines new evidence on water fluoridation published since the Royal Society Te Apārangī report in 2014. The Cochrane Collaboration’s water fluoridation to prevent tooth decay (2015) is a high-quality scientific meta-analysis of a large number of high-quality research studies conducted over a long period worldwide.</p>
Analysis	<p>The sources of evidence referred to above are reviews that examine substantial bodies of research generated over periods of time on the safety of community water fluoridation (CWF) and its effectiveness at reducing dental decay. Considered together, these reports provide an up-to-date and high-quality scientific assessment of the state of the scientific evidence on the health effects of CWF. They find that the provision of CWF at a level of 0.7-1 mg/L is safe and significantly reduces the prevalence and severity of dental decay.</p> <p>The summary analysis of evidence stated above justifies the conclusion that provision of CWF at a level of 0.7-1 mg/L in the Oamaru water supply would be safe and effective at significantly reducing the prevalence and severity of dental decay in the populations serviced by this water supply.</p>
Director of Public Health advice	Informed by the findings of the reviews noted in ‘Criterion 1 Evidence’ above on CWF, my assessment is that there is strong evidence that CWF is a safe and effective way to improve oral health outcomes, by reducing and preventing dental decay. I also consider that this strong evidence applies to the communities served by the Oamaru water supply.
Criterion	2. whether the benefits of adding fluoride to drinking water outweigh the financial costs, taking into account:
Criterion	2a. the state or likely state of the oral health of a population group or community where the local authority supply is situated
Evidence	<p>The Ministry has considered the following information:</p> <ul style="list-style-type: none"> • data on Age 5 and Year 8 oral health outcomes from the Community Oral Health Service (Ministry of Health) • data from the New Zealand Health Survey: Oral Health (New Zealand Health Survey Ministry of Health NZ) • Oral Health Survey Report (Our Oral Health: Key findings of the 2009 New Zealand Oral Health Survey Ministry of Health NZ) • 2013 New Zealand Index of Deprivation (NZDep) (Socioeconomic deprivation profile ehinz)

	<p>This is the most relevant up-to-date data available. It should be noted that oral health outcome data can take a long time to change substantially.</p>
Analysis	<p>The Oamaru supply is situated within the previous Southern District Health Board area.</p> <p>2020 data for children aged 0-12 in Southern District Health Board show:</p> <ul style="list-style-type: none"> - overall, 32 percent of children had experienced tooth decay at age five - on average, children at age five have 1.29 decayed, missing or filled primary teeth, and at school year 8 have on average 0.66 decayed, missing or filled adult teeth - Māori and Pacific children have significantly worse outcomes than other children within Southern District Health Board. For example, 46 percent of Māori children had experienced decay at age five compared to 28 percent for all other (non-Māori and non-Pacific) children. <p>The 2017- 2020 New Zealand Health Survey results for Southern District Health Board show:</p> <ul style="list-style-type: none"> - 47.6 percent of adults (15+) had one or more teeth removed in their lifetime due to decay, an abscess, infection or gum disease - 7.1 percent of adults (15+) had one or more teeth removed in the last 12 months due to decay, an abscess, infection or gum disease. <p>From the data summarised above, it is reasonable to conclude that there are significant levels of dental decay in the communities serviced by the Oamaru water supply. There is strong evidence that CWF reduces dental decay. There are therefore also significant opportunities for oral health improvement for the communities served by the Oamaru water supply. The evidence indicates that fluoridation of the Oamaru water supply would make significant improvements to oral health outcomes for the communities it serves.</p> <p>Within the Oamaru area, there are significant levels of deprivation. In the 10-level score in which decile 1 has the least deprivation, Oamaru South is in decile 6, and Oamaru Central and Oamaru North are in decile 7. There is a significant body of evidence that levels of tooth decay are highest among the most deprived socioeconomic groups.</p>
Director of Public Health advice	<p>Informed by the evidence and data sources listed above at ‘Criterion 1 Evidence’ and ‘Criterion 2a Evidence’, I have reviewed the state of oral health of the populations served by the Oamaru supply. In summary, my assessment is as follows. The Oamaru population presently have significant levels of preventable dental decay. The evidence that CWF improves oral health outcomes by reducing dental decay is applicable to this population. So too is the evidence that these benefits tend to be greater for populations that experience higher levels of tooth decay, such as Māori and Pacific communities. Fluoridation of the water supply that serve these communities would consequently improve oral health outcomes and is likely also to reduce health inequities.</p>
Criterion	2b. the number of people who are reasonably likely to receive drinking water from the local authority supply
Evidence	<p>We have considered the following information:</p> <ul style="list-style-type: none"> • the Public Register of Drinking Water Suppliers.

Analysis	Water supply		Population size	
	Oamaru		15,561	
Criterion	2c. the likely financial cost and savings of adding fluoride to the drinking water, including any additional financial costs of ongoing management and monitoring			
Evidence	<p>The Ministry has considered the following information:</p> <ul style="list-style-type: none"> • Review of the Benefits and Costs of Water Fluoridation in New Zealand. Sapere Research Group. May 2015. • Water Fluoridation Engineering Costs. August 2015. • Waitaki District Council's estimated costs, including ongoing management and monitoring costs (for more detail on Waitaki District Council's comments see table below). 			
Analysis	<p>The 2015 Sapere Report estimated that adding fluoride to New Zealand's water treatment plants classified as medium sized and above (ie, those supplying populations of over 5000) is cost-saving, and for smaller supplies (ie, those supplying populations of over 500) is likely to be cost-saving. The Sapere report also noted:</p> <ul style="list-style-type: none"> - an estimated total net discounted saving over 20 years for smaller supplies and above to be \$1,401 million, made up of a cost of fluoridation of \$177 million and cost offsets of \$1,578 million from reduced dental decay - "We estimate the 20-year discounted net saving of water fluoridation to be \$334 per person, made up of \$42 for the cost of fluoridation and \$376 savings in reduced dental care" <p>The Oamaru supply fits into the category of supplies servicing over 5000 people (see further detail in Criterion 2b). The estimated costs provided by Waitaki Council are presented in the table below. These estimates vary from the cost estimates Sapere 2015 used in reaching its conclusion that fluoridation is cost-saving for supplies servicing over 5000 people. For water supplies servicing over 10,000 people, Sapere 2015 estimated \$347,004 for capital costs, and \$8742 per annum for management and monitoring costs; while for the Oamaru supply servicing 15,561 people, Waitaki District Council estimated \$367,500 for capital costs. The ongoing management and monitoring costs for the Oamaru supply were not specified.</p>			
	Water Supply		Population size	Waitaki District Council estimate of capital cost
Oamaru		15,561	\$367,500	n/a
Total		15,561	\$367,500	

Summary of the information received from Waitaki District Council

As required by section 116G, Waitaki District Council was invited to give written comments on the estimated financial costs of adding fluoride to the drinking water, including any additional costs of ongoing management and monitoring; and the date by which each local authority would be able to comply with a direction. Waitaki District Council responded within the required timeframe. A copy of Waitaki District Council's formal response is attached to this Report as Appendix One.

For Waitaki District Council's estimated financial costs of adding fluoride to the drinking water, including any additional costs of ongoing management and monitoring please see Criterion 2c above.

Oamaru Water Supply

The Waitaki District Council cannot provide a date by which it could comply with a direction, as there are many factors leading into this.



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17 November 2023

Alex Parmley
Chief Executive
Waitaki District Council
Aparmley@waitaki.govt.nz

Tēnā koe Alex

Update on directions for community water fluoridation

As you may be aware, in June 2023, New Health New Zealand Incorporated filed an application for judicial review of the directions issued by the Director-General of Health in July 2022, that required 14 local authorities to fluoridate one or more of their drinking water supplies. Your local authority was one of those issued with a direction.

On 10 November 2023, the High Court issued its judgment on the preliminary issue, finding that the Director-General of Health made an error of law by not explicitly considering the rights under the New Zealand Bill of Rights Act 1990 in making a decision on each direction.

The implications of the judgment are being considered by Manatū Hauora (Ministry of Health). It's important to note that the Court has not quashed the directions, and at this time the directions remain in force. Manatū Hauora will continue to support you to implement your direction, including by providing funding for the capital works.

Should you wish to read the judgment, you can find it on the Courts of New Zealand website, at [2023-NZHC-3183.pdf \(courtsofnz.govt.nz\)](https://www.courtsofnz.govt.nz/2023-NZHC-3183.pdf).

The decision pertains to the process required to be used in deciding to issue a direction. The judgment is not about the public health merits of fluoridation, or whether fluoridation can be justified under the New Zealand Bill of Rights Act 1990.

Thank you for your ongoing collaboration as we work together to improve the oral health of the communities we serve.

If you have any questions or would like to contact the team, please continue to use the email address: fluoride@health.govt.nz. The team is more than happy to respond to any inquiries.

Nāku noa, nā



P11 Privacy Act and S7(2)(a) LGOIMA


Director-General of Health
Te Tumu Whakarae mō te Hauora



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22 February 2024

Alex Parmley
Chief Executive
Waitaki District Council
Aparmley@waitaki.govt.nz

Tēnā koe Alex

Community water fluoridation court decision update

I am contacting you to provide an update on the judicial review of the directions issued by the Director-General of Health in July 2022, that required 14 local authorities to fluoridate one or more of their drinking water supplies.

As you are aware, on 10 November 2023, the High Court issued its judgment on the preliminary issue, finding that the Director-General of Health made an error of law by not explicitly considering the rights under the New Zealand Bill of Rights Act 1990 in making a decision on each direction. There was a second hearing on 2 February 2024 to consider the validity of the current directions, and any relief.

The Judge decided that the directions remain in place. However, the Judge directed the Director-General of Health to assess whether each of the 14 directions made in 2022 were, in terms of section 5 of the New Zealand Bill of Rights Act, a justified limit on the right to refuse medical treatment that is provided for in section 11 of the New Zealand Bill of Rights Act.

As directed by the Judge, I will carry out this assessment against the New Zealand Bill of Rights Act, for each of the directions. I will continue to update you as this process progresses.

Manatū Hauora is continuing to provide support to local authorities that are implementing their directions, including by providing funding for the capital works.

Thank you for your ongoing collaboration as we work together to improve the oral health of the communities we serve.

Nāku noa, nā



Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora

From: [REDACTED]@waitaki.govt.nz> on behalf of Alex Parmley
<aparmley@waitaki.govt.nz>
Sent: Friday, 24 May 2024 2:07 pm
To: [REDACTED]@health.govt.nz
Subject: Fluoridation Extension Request
Attachments: Fluoridation Extension Request.pdf P11 Privacy Act and S7(2)(a) LGOIMA

Dear [REDACTED] P11 Privacy Act and S7(2)(a) LGOIMA

Please see attached letter seeking an extension to the directive by former Director General of Health, Ashley Bloomfield to add fluoride to the Oamaru water supply.

Sincerely

Alex Parmley
Chief Executive

Email: aparmley@waitaki.govt.nz
Web: www.waitaki.govt.nz
Tel: +64 3 433 0300

Waitaki District Council
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Waitaki
DISTR
TE KAUNIHERA Ā RO



WE LOVE THIS PLACE WAITAKI

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Waitaki

DISTRICT COUNCIL
TE KAUNIHERA Ā ROHE O WAITAKI
Growing strong communities.

24 May 2024

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██████████
Director General of Health

By email: ██████████@health.govt.nz

P11 Privacy Act and S7(2)(a) LGOIMA

Dear ██████████

Urgent Request for Extension of Fluoridation Directive Deadline

I am writing on behalf of Waitaki District Council to seek an extension to the directive by former Director-General of Health Dr Ashley Bloomfield, under section 116E the Health Act, to add fluoride to the Ōamaru water supply by 30 June 2024.

While we have been advised by the Ministry of Health that the directive still stands regardless of the High Court judgement made on 10 November 2023 and have prepared to fluoridate the supply accordingly, Waitaki District Council has concerns around the potential impacts arising from the ongoing ambiguity resulting from this judgement.

Like other councils issued with the directive, Waitaki District Council is caught between the prospect of facing significant fines if we fail to comply, and strong opposition to fluoridation from several within our community who may challenge us with proceedings in light of the High Court findings.

To manage this situation in the interim in the best interests of our community, Council has instructed that on their behalf I request an extension of time from you to commence this action in line with extensions already given to other water supply entities.

While we are conscious of and appreciate the need to achieve the right public health outcome for our community, we are also concerned at the implications of taking final steps to comply with the directive by 30 June without more definitive outcomes from the High Court judgement.

We appreciate your consideration of this request and look forward to a response as soon as possible in advance of the 30 June deadline.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'A. Parmley'.

Alex Parmley
Chief Executive

From: [Redacted]
Sent: Wednesday, 24 July 2024 10:09 am
To: gkircher@waitaki.govt.nz
Cc: aparmley@waitaki.govt.nz
Subject: Community Fluoridation in Oamaru
Attachments: MFD Scan - 2024-07-24_10-02-03-735 .pdf

P11 Privacy Act and S7(2)(a) LGOIMA

Kia ora [Redacted]

Please find attached a letter from [Redacted] in response to your letter to [Redacted]

Nga mihi,

P11 Privacy Act and S7(2)(a) LGOIMA

Director-General of Health
Te Tumu Whakarae mō te Hauora

Email: [Redacted]@health.govt.nz
www.health.govt.nz



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Waitaki

DISTRICT COUNCIL
TE KAUNIHERA Ā ROHE O WAITAKI

Growing strong communities.

Office of the Mayor

24 May 2024

██████████
Minister of Health
Parliament Buildings
Wellington 6160

██████████ [@ministers.govt.nz](mailto:█@ministers.govt.nz)

Dear Minister

The Waitaki District Council is one of the Councils which received a directive from the Director General last year to fluoridate our largest water supply. Since that time, we have had a group of local people mobilise to fight against the directive and to encourage our Council to decline carrying out the order. We have received from them a petition containing the names of over five hundred Waitakians, requesting that we do not proceed with the fluoridation of the Ōamaru Water Supply.

Given that the directive has been determined to be unlawful, we are seeking to have an extension of time to allow the directive to go through the process to make it lawful. We ask that we are given that extension to ensure we are not in breach of any part of the directive.

Secondly, our Council resolved to consider writing to you to request that communities be given the right to choose whether or not fluoride is added to their water. In the spirit of local decision-making, we request that the government consider whether local communities should have the right to make that decision.

On that note, we believe that the responsibility to provide information to communities on fluoridation should sit with the decision-maker. Communities have the right to be fully informed of the benefits or risks of fluoridation and providing that information should not be left to local Councils if they are not making the decision. If the status quo is to be retained, with the decision to be made by the DG of Health, then that responsibility of information should be carried out by the Ministry of Health.

Thank you for your consideration of this matter.

Yours sincerely,

Gary Kircher
Mayor for Waitaki

Whitestone Waitaki - naturally better



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5 June 2024

Alex Parmley
Chief Executive
Waitaki District Council
Aparmley@waitaki.govt.nz

Tēnā koe Alex

Information relevant to community water fluoridation Bill of Rights Act analysis

As you are aware, I am currently carrying out an analysis against the New Zealand Bill of Rights Act 1990 (NZBORA) for each of the 14 directions to fluoridate made in 2022. This analysis was directed by the judge in the February 2024 High Court decision. The judge also decided that the directions remain in place.

I am writing to outline the local information I'll be considering as part of the NZBORA analysis and also to invite you to provide comment on this information or on any other local matters which in your view may be relevant to my NZBORA analysis.

My analysis will follow the framework commonly used for analyses against the NZBORA, which includes the following considerations:

- a. Does community water fluoridation serve a purpose sufficiently important to justify curtailment of the right or freedom (specifically the right in section 11 of the NZBORA)?
- b. Is community water fluoridation rationally connected with its purpose (to improve oral health)?
- c. Does community water fluoridation impair the right or freedom (specifically the right in section 11 of the NZBORA) no more than is reasonably necessary for sufficient achievement of its purpose?
- d. Is the limit in due proportion to the importance of the objective?

As part of this analysis, I will be considering the oral health outcomes and the profile of the population served by each water supply that is being considered.

I'm considering the following information for the Southern Te Whatu Ora district:

		Experienced caries (2022 data)	Mean dmft/DMFT (2022 data)
Aged 5	All children	33.02%	1.39
	Māori children	40.71%	1.81
	Pacific children	53.01%	2.59
Year 8	All children	34.28%	0.74
	Māori children	40.47%	1.05
	Pacific children	54.64%	1.15



Percentage of population children under 14 and adults over 65 (2018 data)	18.2% children aged 0-14-years 22.7% adults aged 65-years or older
Percentage pacific population (2018 data)	3.8%
ASH rate for dental events that could be impacted by fluoridation (dental caries and diseases of pulp and periapical tissues) (2022 data)	3,099 per 100,000 population

I'm considering the following data relevant to the Ōamaru water supply:

Total population (2022 data)	16,553
Percentage Māori population (2022 data)	8.7%
Percentage of the population considered high deprivation (score 8-10 on the 2018 NZDep Index)	36.7%

If you have any comments on the above data or any other additional information regarding local matters that you consider may be relevant to my NZBORA analysis, please provide this to my team using the fluoride@health.govt.nz email address. I request that any additional information be provided to me by 27 June 2024.

Consistent with the statutory policy in section 116H of the Health Act 1956, you are not required to consult with your communities when responding to this invitation.

Please also note that you are not required to respond to this letter, which instead simply provides an opportunity for you to comment if you wish.

If you have any questions, my team will be happy to help if you contact them at the email address above.

Thank you for your ongoing collaboration to improve the oral health of your communities.

Nāku noa, nā

Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora



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6 June 2024

Alex Parmley
Chief Executive
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aparmley@waitaki.govt.nz

Tēnā koe Alex

Community water fluoridation extension request

Thank you for your letter of 24 May 2024, seeking an extension to the compliance date for the Director-General of Health direction to the Waitaki District Council to fluoridate the Ōamaru water supply.

Your letter requests an extension due to ambiguity arising from litigation processes. As was confirmed by the High Court in the 16 February relief decision, the directions remain valid. This was again confirmed in a recent decision of the High Court on 24 May 2024¹, in which the Court dismissed a challenge which sought to prevent a local authority's implementation of my directions to fluoridate. That being so, I will not be granting extensions because of legal uncertainty raised by litigation processes.

It is good to hear that you are prepared to fluoridate the Ōamaru water supply, and I look forward to hearing about its commencement by the compliance date of 30 June 2024.

Waitaki District Council's role in community water fluoridation

I would like to take this opportunity to remind you that by amendments passed in 2021 Parliament added Part 5A to the Health Act 1956. That Part empowers the Director-General of Health to direct councils to fluoridate water supplies, and provides that councils must comply with the Director-General's directions. The recent decision of the High Court on 24 May 2024 confirmed that the current directions are valid, and that councils subject to a direction are under a statutory duty of mandatory compliance. Under Part 5A contravening a direction is an offence, and the statute provides for potentially significant penalties.

Thank you for your ongoing collaboration as we work to improve the oral health of the communities we each serve.

Nāku noa, nā



Director-General of Health
Te Tumu Whakarae mō te Hauora

P11 Privacy Act and S7(2)(a) LGOIMA

¹ Fluoride Action Network (NZ) Inc v Hastings District Council [2024] NZHC 1313, available at https://www.justice.govt.nz/jdo/documents/workspace_SpacesStore_e63abcf0_b2d7_4e9c_bfbd_8907f82dca16.pdf



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5 July 2024

Ref. H2024045241

Alex Parmley
aparmley@waitaki.govt.nz

Tēnā koe Alex

Thank you for your email of 27 June 2024 seeking clarification on the status of the directive for Waitaki District Council to fluoridate its water supply.

As outlined in my 6 June 2024 letter to you, the recent High Court decisions of 16 February and 24 May 2024 have confirmed that the fluoridation directions remain valid. Therefore councils subject to a direction are under a statutory duty of mandatory compliance.

As you are aware, contravening a direction is an offence under the Health Act 1956, and the statute provides for significant penalties. While a local authority commits an offence if it does not comply with its direction, the Ministry has discretion about whether to prosecute. Pursuant to the solicitor-general's guidelines, the Ministry ensures that there is a public interest as well as an evidentiary basis before bringing any proceeding.

Thank you also for your email of 2 July 2024, passing on the information about the misinformation campaigns and suggesting that the Ministry consider an education and information campaign. I have asked for further advice on this.

Nāku noa, nā



Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora



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24 July 2024

Gary Kircher
Mayor for Waitaki
gkircher@waitaki.govt.nz

Tēnā koe Gary

Community water fluoridation in Ōamaru

Thank you for your letter of 24 May 2024 to the Minister of Health, Hon Dr Shane Reti, regarding community water fluoridation in Ōamaru. As directions to fluoridate are the statutory responsibility of the Director-General of Health under the Health Act 1956, the Minister has forwarded your letter to me. I apologise for the delay in providing this response.

Request for extension

I note your letter seeks an extension to the compliance date for the Director-General of Health direction to the Waitaki District Council to fluoridate the Ōamaru water supply. I received a similar request from the Chief Executive of the Waitaki District Council, Alex Parmley, on 24 May 2024. I have attached a copy of my 06 June 2024 response for information.

That response advised the directions to fluoridate remain valid, as confirmed by the High Court in the 16 February relief decision and was again confirmed in a recent decision of the High Court on 24 May 2024¹. That being so, I will not be granting extensions because of perceived legal uncertainty, as the legal position is clear.

I understand that since your letter, the Waitaki District Council has now begun fluoridating the Ōamaru water supply. I would like to acknowledge the hard work your team has put into commissioning the plant and achieving this milestone. This is a great step towards improving oral health in your community, with approximately 16,000 more people now having access to fluoridated water.

Community information on community water fluoridation

As your letter raises the Ministry of Health's responsibility to inform communities about water fluoridation, I would like to let you know of resources available on the Ministry webpage, which provides a range of information on community water fluoridation. You can find that information

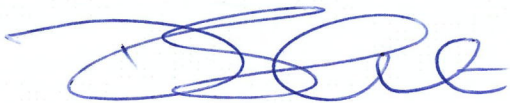
¹ Fluoride Action Network (NZ) Inc v Hastings District Council [2024] NZHC 1313, available at https://www.justice.govt.nz/jdo_documents/workspace_SpacesStore_e63abcf0_b2d7_4e9c_bfbd_8907f82dca16.pdf

at: www.health.govt.nz/our-work/preventative-health-wellness/oral-health/community-water-fluoridation

Of note, I have also asked my team to explore if there is any additional support we can provide local authorities, as they implement water fluoridation in their communities.

Thank you for writing and your ongoing collaboration towards improving the oral health of the communities we serve.

Nāku noa, nā




Director-General of Health
Te Tumu Whakarae mō te Hauora

cc: Alex Parmley, Chief Executive Waitaki District Council, aparmley@waitaki.govt.nz

From: [REDACTED]@health.govt.nz <[REDACTED]@health.govt.nz> P11 Privacy Act and S7(2)(a) LGOIMA
Sent: Friday, 5 July 2024 8:37 am
To: Alex Parmley
Subject: RE: Fluoride High Court judgement
Attachments: MFD Scan - 2024-07-05_08-31-47-033 .pdf

Kia ora Alex

P11 Privacy Act and S7(2)(a) LGOIMA

Please find attached a response letter from [REDACTED]

Ngā mihi nui

[REDACTED] P11 Privacy Act and S7(2)(a) LGOIMA

Te Tumu Whakarae mō te Hauora
Director-General of Health

[REDACTED] P11 Privacy Act and S7(2)(a) LGOIMA

Pronoun: She/ Her
<http://www.health.govt.nz>



From: Alex Parmley <aparmley@waitaki.govt.nz>
Sent: Thursday, 27 June 2024 11:19 am
To: [REDACTED]@health.govt.nz
Subject: Fluoride High Court judgement

P11 Privacy Act and S7(2)(a) LGOIMA

Dear [REDACTED]

Further to your letter to me of 6 June and High Court judgement yesterday, I would be grateful if you could confirm if you are to issue any further direction or clarification to the councils who have been directed to fluoridate water supplies and their communities, including the position on potential enforcement action.

Following yesterday's proceedings, many concerned residents in my district have contacted the Mayor and Councillors urging them to no longer implement the directive and I believe this is the case in other council areas too. Communications clarifying your position would be helpful to the councils concerned and their communities.

Given the imminent deadline and the level of community concern, I would appreciate if you were able to give this your urgent attention.

Ngā mihi nui

Alex

Alex Parmley
Chief Executive

Email: aparmley@waitaki.govt.nz

Web: www.waitaki.govt.nz

Tel: +64 3 433 0300

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24 July 2024

Gary Kircher
Mayor for Waitaki
gkircher@waitaki.govt.nz

Tēnā koe Gary

Community water fluoridation in Ōamaru

Thank you for your letter of 24 May 2024 to the Minister of Health, Hon Dr Shane Reti, regarding community water fluoridation in Ōamaru. As directions to fluoridate are the statutory responsibility of the Director-General of Health under the Health Act 1956, the Minister has forwarded your letter to me. I apologise for the delay in providing this response.

Request for extension

I note your letter seeks an extension to the compliance date for the Director-General of Health direction to the Waitaki District Council to fluoridate the Ōamaru water supply. I received a similar request from the Chief Executive of the Waitaki District Council, Alex Parmley, on 24 May 2024. I have attached a copy of my 06 June 2024 response for information.

That response advised the directions to fluoridate remain valid, as confirmed by the High Court in the 16 February relief decision and was again confirmed in a recent decision of the High Court on 24 May 2024¹. That being so, I will not be granting extensions because of perceived legal uncertainty, as the legal position is clear.

I understand that since your letter, the Waitaki District Council has now begun fluoridating the Ōamaru water supply. I would like to acknowledge the hard work your team has put into commissioning the plant and achieving this milestone. This is a great step towards improving oral health in your community, with approximately 16,000 more people now having access to fluoridated water.

Community information on community water fluoridation

As your letter raises the Ministry of Health's responsibility to inform communities about water fluoridation, I would like to let you know of resources available on the Ministry webpage, which provides a range of information on community water fluoridation. You can find that information

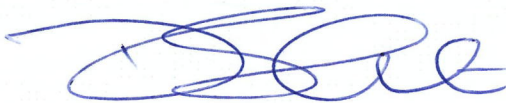
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at: www.health.govt.nz/our-work/preventative-health-wellness/oral-health/community-water-fluoridation

Of note, I have also asked my team to explore if there is any additional support we can provide local authorities, as they implement water fluoridation in their communities.

Thank you for writing and your ongoing collaboration towards improving the oral health of the communities we serve.

Nāku noa, nā




Director-General of Health
Te Tumu Whakarae mō te Hauora

P11 Privacy Act and S7(2)(a) LGOIMA

cc: Alex Parmley, Chief Executive Waitaki District Council, aparmley@waitaki.govt.nz



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

4 September 2023

Alex Parmley
Chief Executive
Waitaki District Council
aparmley@waitaki.govt.nz

Tēnā koe Alex

Update on consideration of directions for community water fluoridation

Thank you for working constructively with Manatū Hauora as you work to implement fluoridation in the Oamaru drinking water supply.

I last wrote to you on 3 November 2022 letting you know that I was actively considering 27 local authorities for a potential direction to fluoridate, under section 116E of the Health Act 1956, and that your local authority was not one of those being considered. Today I am writing to provide an update on this process.

The decision to issue directions to the 27 local authorities mentioned above remains under active consideration. This is due to taking further time to consider the impact of several wider factors including the Government's Water Services Reform programme, capacity pressures across the water services sector, and the impact of the recent weather events in the North Island. I have also written to the 27 local authorities under active consideration regarding this process.

Local authorities that received Director-General of Health directions to fluoridate in July 2022 are making good progress. One supply is now being fluoridated, and more are expected over the next 12 months. Manatū Hauora is working closely with these local authorities, and I appreciate the ongoing engagement as they work to implement community water fluoridation. Importantly, Manatū Hauora is gaining insights from this work that I will also be taking into consideration when making further decisions about directions to fluoridate.

At this stage, no further action is required from your Council. I will write to you again when I am able to provide any further updates relating to the timing of my decision-making. I will also be in touch with you should I decide to consider your local authority for a direction to fluoridate. At that time, I will seek written comment from you on the estimated costs of fluoridation, and the date by which you could comply with a direction to fluoridate.

In the meantime, there is nothing to prevent you from fluoridating your water supplies in the absence of a direction from me, should you decide to do so. Community water fluoridation is an effective way to improve oral health outcomes for your communities.

Thank you for your collaboration as we work together to improve the oral health of the communities we serve.

If you have any questions or would like to contact the team, please continue to use the email address: fluoride@health.govt.nz. The team would be more than happy to respond to any inquiries.

Nāku noa, nā

A handwritten signature in blue ink, appearing to read 'Diana Sarfati', written over a light blue horizontal line.

Dr Diana Sarfati
Director-General of Health
Te Tumu Whakarae mō te Hauora

From: Alex Parmley <aparmley@waitaki.govt.nz>
Sent: Thursday, 10 October 2024 11:47 am
To: [REDACTED]
Subject: Fluoridation of the Oamaru water supply - temporary stop
Attachments: WDC Fluoride Media Release 20241010.docx

P11 Privacy Act and S7(2)(a) LGOIMA

Dear [REDACTED]

I write to formally notify you of a temporary pause to the fluoridation of the Oamaru Water supply and to communicate a request from the Waitaki District Council.

Recent tests have shown that our equipment is dosing slightly above the target level of 0.8mg/l, with readings showing fluoride levels at 1.08mg/l. Whilst this remains well within safe limits we have paused dosing temporarily. When we are satisfied that both the dosing equipment and the monitoring equipment is properly calibrated we will resume the dosing. I attach a copy of our media release that will be issued today.

Sections of our community continue to protest against the addition of fluoride to the Oamaru scheme and express concerns about its safety. A further petition was received by Council at its meeting on 27 August 2024. At that meeting Council resolved to request from you:

1. A commitment to stop fluoridation of Waitaki's water supply at the directed level until such time as the judicial review court process on this matter is completed; and
2. Assurance that Waitaki District Council will not be subject to a penalty should it cease to fluoridate the water at the directed level until such time as the judicial review court process is completed and the consequences are understood.

Council also remains concerned about the lack of a public information campaign locally from the Department of Health, to explain the reasoning behind the directive to add fluoride and dealing with the concerns amongst sections of the community.

I would be grateful for a response to this request and concerns that I can pass on to the Council.

Yours sincerely

Alex Parmley
Chief Executive

Email: aparmley@waitaki.govt.nz
Web: www.waitaki.govt.nz
Tel: +64 3 433 0300

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Thursday 10th October 2024

Temporary Fluoridation pause on Oamaru Supply

Waitaki District Council is temporarily pausing the fluoridation of the Oamaru Water Supply.

Council targets 0.8 mg/L for fluoridation, following the Director General of Health's directive to fluoridate between 0.7 and 1.0 mg/L. Testing this week indicated levels of 1.07mg/L post-reservoir, and 1.08mg/L at South Hill.

Whilst marginally above the target level, these levels remain well within the Maximum Acceptable Value for fluoride in safe drinking water set at 1.5mg/L in the Water Services (Drinking Water Standards for New Zealand) Regulations 2022.

Fluoridation has stopped while Council's Water Services and our commissioning contractors Filtec recalibrate our dosing equipment and analyser to ensure water is fluoridated at around 0.8mg/L.

Water from the Oamaru Supply will continue to have fluoride present for up to two weeks from today as our reservoirs and wider network contains already fluoridated water.

It is anticipated that recalibration will be complete within two weeks, and fluoridation can recommence.

When fluoridation restarts, Council will perform regular testing at the treatment plant and in the reticulation network with an accredited laboratory, in addition to continue to use the dosing and analyser recording to ensure it remains at the targeted 0.8mg/L which is the requirement for monitoring fluoridated supplies.

The Director General of Health has been notified that dosing has stopped to allow for this recalibration.

ENDS