

Attention is drawn to the order for non-publication at paragraph 5 of this determination

**IN THE EMPLOYMENT RELATIONS AUTHORITY
WELLINGTON**

**I TE RATONGA AHUMANA TAIMAHI
TE WHANGANUI Ā TARA ROHE**

[2023] NZERA 719
3266200

BETWEEN	TE WHATU ORA – HEALTH NEW ZEALAND Applicant
AND	ZCM First Respondent
AND	SIP Second Respondent
AND	SXY Third Respondent
AND	Unknown Respondents Fourth Respondents

Member of Authority: Andrew Dallas

Representatives: Rebecca Rendle, counsel for the Applicant

Date of Determination: 2 December 2023

SECOND PRELIMINARY DETERMINATION OF THE AUTHORITY

Employment Relationship Problem

[1] Last yesterday afternoon, the Applicant applied for various ex parte orders against the Respondents in relation to confidential personal health and other information contained in the Applicant's National Vaccination Database (The Database).

[2] By determination, the Authority made various orders.¹

[3] At the time of the orders, the Applicant requested the Authority issue an interim non-publication order in relation to “the pleadings, parties’ names and documents filed with the Authority”.

[4] Such an order was granted by the Authority under cl 10 of the second schedule of the Employment Relations Act 2000. The terms of the order were: “except where necessary for enforcement purposes, [the Authority] prohibit publication of the names of the *parties* and all or any identifying information, the pleadings and all documents filed with the Authority, until further order of the Authority. [The Authority] also prohibit publication of the Database and the Information by the Respondents”.² (emphasis added)

[5] The Applicant now seeks a variation to the non-publication so that it may be identified and make public statements today to assure the public, if necessary, that it has sought and been granted urgent *ex parte* orders by the Authority. This variation is **granted**. The Applicant is Te Whatu Ora – Health New Zealand, the national public health system.

[6] For the avoidance of all doubt, no other or further alteration or change is made to the orders granted in favour of Te Whatu Ora – Health New Zealand yesterday by the Authority because of this determination.

Service

[7] As with the first preliminary determination, the Authority directs Te Whatu Ora – Health New Zealand to serve ZCM, SIP and SXY personally and by email with this Determination.³

Contacting the Authority

[8] The parties may contact the Authority Officer via phone on 03 964 7850 or via email on christchurchera@era.govt.nz if further advice is required about the order made in this determination.

¹ *ISV v ZCM and Others* [2023] NZERA 718 (1 December 2023) at [14]

² Above n 1 at [18]

³ Above n 1 at [20]

Costs

[9] Costs are reserved.

Andrew Dallas
Chief of the Employment Relations Authority