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22 February 2024

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Tēnā koe Nigel

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

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