

## Health Care and Policy Working Group

5<sup>th</sup> October 2021

### COVID - 19 Vaccination Certificates in Aotearoa New Zealand

The Health Care and Policy Working Group has considered the use of COVID-19 vaccination certificates (the certificates) as part of the country's ongoing response to the COVID-19 pandemic, noting we have been further informed by Prime Minister Jacinda Ardern and Deputy-Director General, Digital and Data, Ministry of Health at today's (5<sup>th</sup> October) media briefing.<sup>1</sup>

#### Preliminary key points

- It was announced that the certificates are to be introduced in November 2021.
- A new framework is in preparation covering where the use of certificates will be mandated, where they may be recommended, and where their use will not be permitted.
- Their use will be mandated for high risk settings, including large scale events such as music festivals; consultation is underway on their use in hospitality and close personal services such as hairdressers; areas where they will not be applied include essential health services and supermarkets.<sup>1</sup>
- The certificates will be governed by legislation, likely to be a COVID-19 Public Health Response Order.

It is essential that all implications associated with the creation, use and limitations of the certificates have been considered prior to their implementation; that their proposed uses follow agreed principles and any additional specified requirements; social and human rights impacts are considered and mitigated as much as reasonably possible; and the intended benefits outweigh both the risks and the direct and indirect costs. These discussions are currently taking place.

#### Principles

The Health Care and Policy Working Group recommends the fundamental principles, formulated by the Australia Institute's Centre for Responsible Technology,<sup>2</sup> be applied to the development of Aotearoa New Zealand's COVID-19 vaccination certificate.

These principles are largely privacy related. They are set out below in an adapted format:

- Respect privacy
- Only for the intended purpose of verifying COVID-19 vaccination status

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<sup>1</sup> NZ COVID-19 Media Briefing 5<sup>th</sup> October on vaccination records (5 October 2021);

<https://covid19.govt.nz/alert-levels-and-updates/latest-updates/covid-19-media-conference-5-october-2021/>

<sup>2</sup> The Australia Institute Centre for Responsible Technology: Please check-in: a blueprint for a safe, fair and ethical vaccination 'passport' (August 2021);

[https://d3n8a8pro7vhmx.cloudfront.net/theausinstitute/pages/3117/attachments/original/1630984184/P114\\_5\\_Blueprint\\_for\\_a\\_safe\\_and\\_ethical\\_vaccination\\_passport.pdf?1630984184](https://d3n8a8pro7vhmx.cloudfront.net/theausinstitute/pages/3117/attachments/original/1630984184/P114_5_Blueprint_for_a_safe_and_ethical_vaccination_passport.pdf?1630984184)

- Data expires after its intended use is fulfilled
- Flexible user control and consent; managed by users directly
- Only record the minimal amount of data necessary (recognising likely sharing and access by others)
- Have clear and unambiguous terms and conditions
- Allow for verifiable non-digital format of the certificate
- Allow for legitimate exemptions to provide alternative verification
- Cover groups not eligible for publicly funded health care – including temporary migrants and residents, and international students
- Be safe from fraudulent and harmful access and misuse
- No use of biometrics for identification
- Work with the private sector as needed

### **Additional requirements**

Health Care and Policy Working Group members acknowledge there are wider implications than privacy and security safeguards to be considered with the implementation of COVID-19 vaccination certificates. There are important societal and ethical aspects to be taken into account. Use of the certificates risks exacerbating existing inequities if the restrictions consequent on not being vaccinated are unreasonably disproportionate.

The Group has identified the following additional requirements:

- Comprehensive impact assessment to be undertaken to incorporate privacy, social, human rights and equity impacts; that there be an opportunity for public consultation; that the impact assessment be published.
- Legislative protection, including protection from misuse, unnecessary access and sovereignty.
- Exemptions and protection from discrimination or denial of access to services and activities for those who are unable to be vaccinated.
- Certificates, whether they be in digital or non-digital format, to be free of charge and easily accessible.
- Physical, hard copy certificates could be provided by default to all NZ citizens and residents to address technology and accessibility inequities.
- Technical security and robust identity management; protect and utilise master data records to ensure data integrity and quality across various public records; data and systems are securely integrated only as necessary; secure access to databases; access requirements do not present additional location privacy or security risks.<sup>3</sup>
- De-linuation from, and separate appropriate management of, contact tracing requirements, technologies and processes.
- Processes in place for returning NZ citizens, residents and international visitors to access a NZ-generated COVID-19 vaccination certificate or an acceptable equivalent.

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<sup>3</sup> Australia's vaccination certificate approach 'sad news for privacy' (27 September 2021) ; [https://www.innovationaus.com/australias-vaccination-certificate-approach-sad-news-for-privacy/?mkt\\_tok=MTM4LUVaTS0wNDIAAAF\\_1yd3nrXaAJD2dCWdz3nFuB1oP3u36hx-FvY\\_nWYz7-BpKiNCNg3nULXZR2a9poutL7GW2pHpUS3xOpl6uZFU8aQSft8qUSjZbv122QjJ6T5](https://www.innovationaus.com/australias-vaccination-certificate-approach-sad-news-for-privacy/?mkt_tok=MTM4LUVaTS0wNDIAAAF_1yd3nrXaAJD2dCWdz3nFuB1oP3u36hx-FvY_nWYz7-BpKiNCNg3nULXZR2a9poutL7GW2pHpUS3xOpl6uZFU8aQSft8qUSjZbv122QjJ6T5)

- Clear requirements for applicable venues and activities which require verification of vaccination certificates; and extent to which verification is sufficient (e.g. sighting evidence only, no further storage).
- Responsibility for enforcement and by whom, where use of the certificates is mandated, where they are recommended, and where their use will not be permitted. There must be clear ministerial ownership of enforcement where use is mandated or not permitted.
- Process for regular assessment and evaluation of the acceptability, appropriateness and effectiveness of the certificates; and ongoing comprehensive security monitoring, testing and evaluation of reliability, security and privacy risks.

## **Digital COVID – 19 Vaccination Certificate**

### **My COVID Record**

We have considered earlier information provided by Michael Dreyer, General Manager, National Digital Services, Ministry of Health about My COVID Record<sup>4</sup> and noted the more detailed information provided at today's media briefing. We have identified the following concerns:

- The digital process, as outlined, may be straightforward and easy to navigate for many, but may not be workable for others, especially for those who are already marginalised due to low levels of digital literacy and poverty.
- The concept of a digital health identity is not necessarily familiar to/well understood by the public. It is not the same as an individual's NHI number. There is an urgent need for the Ministry of Health to provide more specific information about digital health identity, including the identity records that will be required to provide proof of identity to establish an individual's digital health identity; how this integrates and works with our public records and identities.
- Irrespective of the use of digital health identity, proof of identity will be problematic where identity management may have been compromised at the outset, as may have occurred with COVID-19 vaccination. There will be inherent weaknesses to the reliability of any solution relying on vaccination booking records alone.
- The responsive web app, My COVID Record, requires internet or mobile access which will likely be a barrier for some population groups and areas, if a similar solution is used.
- We have observed the digital technologies that were put in place to support COVID-19 vaccination have not worked well for Māori, Pasifika and other marginalised communities. There is a risk of repeating the same mistakes if too heavy a reliance is placed on digitally generated COVID-19 vaccination certificates.

### **Conclusion**

This week's clarification of the Government's intent to implement COVID-19 vaccination certificates was important and not before time, given they are to be implemented in November, less than month away.

The Health Care and Policy Working Group is pleased that a framework is in preparation covering where the use of certificates will be mandated, where they will be recommended, and where their

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<sup>4</sup> Health Information New Zealand; My COVID Record to launch this year (9 September 2021) <https://www.hinz.org.nz/news/579337/My-Covid-Record-to-launch-this-year.htm>

use will not be permitted, and that the certificates and their uses will be governed by legislation. Our expectation is that the framework will incorporate the principles and additional recommendations we have set out, with the comprehensive impact assessment we have called for to be incorporated, perhaps as an Appendix, within the framework. It is disappointing there has not been an opportunity for wider consultation with the public.

We have identified concerns around identity, security, enforcement, vaccination certificates for people arriving from overseas, exemptions and protections for those people who can't be vaccinated or fully vaccinated. These must be resolved.

The Government and the Ministry of Health must commit to keeping the public well informed about the many aspects associated with COVID-19 certificates and their use in Aotearoa New Zealand. Creating a vacuum will lead to unhelpful speculation, mis-information and discontent in what are already difficult times, risking public adoption and trust of certificates. Lack of consultation also denies the various community groups – those at greatest risk, marginalised groups and subject matter leaders – from contributing to a solution that is fit for all Aotearoa New Zealanders.

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