

2 March 2023

s 9(2)(a)

By email: s 9(2)(a)
Ref: H2023020487

Tēnā koe s 9(2)(a)

Response to your request for official information

Thank you for your request under the Official Information Act 1982 (the Act) received by Manatū Hauora (the Ministry of Health) as a transfer from the Ministry of Business, Innovation and Employment (MBIE) on 15 February 2023. You requested:

"I am aware that the NZDC is a Body Corporate established by the Government. As such I require the Body Corporate Number. Body Corporate solicitors state unequivocally that a Body Corporate MUST be assigned such a number, OR they would be an illegal entity. Please advise of the Body Corporate number in order to confirm the legitimacy of this organisation."

The Dental Council is an authority created by the Health Practitioners Competence Assurance Act 2003: www.legislation.govt.nz/act/public/2003/0048/latest/DLM203312.html. Part 6 of the Health Practitioners Competence Assurance Act 2003 provides for the appointment of responsible authorities. Section 114 provides:

114 Authorities appointed

- (1) Each body named in column 1 of Schedule 2 —
 - (a) continues in existence and is appointed as an authority under this Act in respect of the profession specified opposite to it in column 2 of that schedule; and
 - (b) is to be known by the name by which it is identified in column 1 of that schedule.
- (2) **This subsection establishes a body corporate as the authority appointed in respect of the professions of dentistry, dental hygiene, clinical dental technology, dental technology, and dental therapy; that authority is to be known as the Dental Council.** (Emphasis added).
- (3) This subsection establishes a body corporate as the authority appointed in respect of the profession of midwifery; that authority is to be known as the Midwifery Council.
- (4) This subsection establishes a body corporate as the authority appointed in respect of the profession of osteopathy; that authority is to be known as the Osteopathic Council.
- (5) This subsection establishes a body corporate as the authority appointed in respect of the profession of pharmacy; that authority is to be known as the Pharmacy Council.

The dental council exists because of the application of section 114(2) of the Health Practitioners Competence Assurance Act 2003.

Section 117 provides that:

Section 117 Status and capacity of authorities

- (1) Every authority appointed by or under this Act is a body corporate with perpetual succession, and has and may exercise all the rights, powers, and privileges, and may incur all the liabilities and obligations, of a natural person of full age and capacity.
- (2) Each authority may exercise its rights and powers, and may incur liabilities or obligations, only for the purpose of performing its functions.
- (3) For the purposes of the exercise or performance of the powers, duties, and functions of an authority, the persons who for the time being are the members of the authority are to be taken to be the authority.
- (4) All decisions relating to the powers, duties, and functions of an authority are to be made —
 - (a) by the authority in accordance with Schedule 3; or
 - (b) by a committee or person authorised to make the decision concerned under a delegation given under clause 17 or clause 19 of Schedule 3.

This means that the council is a body corporate (note this does not mean it is a company). This section (117) confers on the Dental Council all of the legal authority it needs to exercise the powers, functions and duties of a responsible authority under the Health Practitioners Competence Assurance Act 2003 – this is explicitly provided for in section 117 and no further separate legal authority (including a business number) is required for the council to perform these functions.

Therefore, your request is refused under section 18(g)(i) of the Act as the information requested is not held by Manatū Hauora and there are no grounds for believing it is held by another agency subject to the Act.

Manatū Hauora suggests that you seek your own legal advice if you require further information.

Under section 28(3) of the Act, you have the right to ask the Ombudsman to review any decisions made under this request. The Ombudsman may be contacted by email at: info@ombudsman.parliament.nz or by calling 0800 802 602.

Please note that this response, with your personal details removed, may be published on the Manatū Hauora website at: www.health.govt.nz/about-ministry/information-releases/responses-official-information-act-requests.

Nāku noa, nā



Phil Knipe
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Government and Executive Services | Te Pou Whakatere Kāwanatanga