

By email: [REDACTED]

Ref: H202004169

Dear [REDACTED]

### Response to your request for official information

Thank you for your request for information under the Official Information Act 1982 (the Act) which was transferred from the Ministry of Justice under section 14 of the Act to the Ministry of Health (the Ministry) on 10 June 2020. You asked:

*“What medical or biological evidence do you have to prove that the unborn child is not a human being with a right to life until it is born?”*

*The Royal Commission on Contraception Sterilisation and Abortion, in its report to Parliament in 1977 stated that they had received expert biological evidence from around the world confirming that human life began at conception. The Commission also stated that the child from implantation has a status which entitles it to preservation and protection and that from implantation to birth, changes in the unborn child are of a developmental nature only. The three events suggested as being of significance, namely, quickening, viability and brain development, are no more than stages in that development and are not indicative of any qualitative changes in the developing child which would make it non-human at one point of time and human at another.”*

As you are aware, Parliament passed a new legislative framework for abortion services in New Zealand on the 24 March 2020. The Ministry’s role is to implement the legislation as passed by Parliament and monitor the performance of all service providers to ensure their delivery of services complies with the law as specified. The legislative framework pertaining to the health service as defined in the relevant statutes is the policy framework that the Ministry and providers of health services adhere to.

The Royal Commission you refer to in your question is now 50 years old. The more recent Law Commission’s report, commissioned by the government in 2019 ‘*Alternative approaches to abortion law*’, provided the basis for the government’s review of the legislation. This report is available at:

<https://www.lawcom.govt.nz/sites/default/files/projectAvailableFormats/Law%20Commission%20-%20ALR%20Ministerial%20Briefing%20Paper%20-%20FINAL.pdf>

The Law Commission’s report above only uses the term ‘unborn child’ when referring to existing legislative provisions that include it, as it is not a scientific term and does not have a commonly accepted definition. The term ‘unborn child’ is not used in the recently amended Contraception, Sterilisation, and Abortion Act 1977.

The Act enables people to request official information from the Ministry. However, the Act only applies to information that is already held by the Ministry. There is no obligation on the Ministry to create information in order to respond to a request. The information you are seeking in this case is not held by the Ministry and would need to be created in order to respond to your request. I am therefore refusing your request in full under section 18(g) of the Act.

I trust that this information fulfils your request. Under section 28(3) of the Act you have the right to ask the Ombudsman to review any decisions made under this request.

Yours sincerely



Clare Perry  
**Acting Deputy Director-General**  
**Health System Improvement and Innovation**