



Report Title:	Public Service system response to inquiry into the protection of personal information		
Report No:	MOSR 2025-0002		
Date:	24 January 2025		
To:	Hon Judith Collins KC, Minister for the Public Service		
Action Sought:	Note and agree	Due Date	28 January 2025
Contact Person:	Dean Rosson, Manager, Strategy, Policy and Integrity		
Contact No:	9(2)(a) privacy		
Encl:	Appendix 1 - Cabinet oral item talking points: Appendix 2 - Commission media statement Appendix 3 - Reactive media lines	Priority:	High
Security Level:	IN CONFIDENCE		

Executive Summary

1. The Public Service Commission has received the report for the Inquiry into the Protection of Personal Information, directed by the Prime Minister in June 2024. The Inquiry which was led by Pania Gray and Michael Heron KC considered how government agencies protected personal information provided for Census 2023 and Covid-19 vaccination purposes.
2. The report and Inquiry findings will be published alongside a press conference on 29 January 2025. Details of the Inquiry findings and agencies involved are outlined in the attached media statement (Appendix 2).
3. The Inquiry found significant failures by several agencies to protect personal information. A referral has also been made to the Privacy Commissioner and there is an ongoing police investigation.
4. In response, the Public Service Commission (the Commission) has worked with digital, data and procurement system leads to:
 - a. prepare a new, mandatory information sharing standard and guidance for consultation in February, issue in April and implementation from July 2025,
 - b. amend the Government model contract template and guidance on managing conflicts of interest, for adoption in all new contracts from March 2025, and
 - c. update and re-issue Conflicts of Interest model standards.
5. Updates to these standards and guidance will be implemented by agencies in coming months. These are mandated requirements for Public Service agencies and we will encourage adoption by the wider public sector wherever possible.

6. We will work with system leads in supporting agencies to implement the changes and seek assurance from chief executives that mandatory standards have been adopted.
7. We recommend you brief Cabinet on the report's findings and Public Service response in an oral item at the Cabinet meeting on 28 January 2025. Suggested talking points are in Appendix 1.

Recommended action

We recommend that you:

- a **note** that the Commission has coordinated the Public Service's system response to the Inquiry findings, which indicated a need to strengthen information sharing agreements with third parties, amend Government model contract arrangements for conflict of interest management and review the Conflicts of Interest model standards, which will continue after the report's publication on 29 January 2025.
- b **note** that relevant agencies have been advised of the findings in the report and have already started work to address these findings.
- c **note** that a referral has been made to the Privacy Commissioner and there is an ongoing investigation by NZ Police.
- d **agree** to brief Cabinet on the report's findings and Public Service response in an oral item at the Cabinet meeting on 27 January 2025 (suggested talking points are in Appendix 1)
agree / disagree.
- e **agree** the Commission release this briefing in full at the same time as the Final Report is publicly released on 29 January, as part of a proactive release pack.
agree / disagree.

Hon Judith Collins KC

Minister for the Public Service

Purpose of report

8. This report outlines work undertaken to respond to significant failures in several agencies found by the Inquiry, effectively leaving the door open to possible misuse of information.
9. The Public Service Commissioner (the Commissioner) intends to publish the report and hold a press conference on 29 January 2025. Suggested talking points for an oral briefing to Cabinet are provided in Appendix 1.
10. This approach reflects direction from the Prime Minister and the previous Minister for the Public Service, who agreed the Public Service Commissioner would lead the announcement and release of the Inquiry report.

Public Service system response

11. The Commission has coordinated a system-wide response focusing on three key areas raised by the Inquiry's findings, which indicate a need to:
 - a. issue a mandatory standard for sharing personal information with third parties, including provisions for assurance and enforcement,
 - b. update the Government model contract template to strengthen conflict of interest arrangements, including provisions for assurance and enforcement, and
 - c. strengthen conflict of interest management practices.

Mandatory standard for sharing personal information with third parties

12. A cross-agency team led by Inland Revenue has developed a new standard for information sharing with third parties (the Standard) that sets minimum requirements for Public Service agencies when entering agreements to share personal information with third parties.¹
13. Subject to your agreement the Government Chief Digital Officer (GCDO, based in Department of Internal Affairs) intends to issue the new Standard under s 57(1) of the Public Service Act (the Act). We are aware that the GCDO has briefed you on this matter.
14. The Standard will be mandatory for core Public Service agencies and operate as guidance to other State services (under s 57(6) of the Act). The Standard will require agencies to ensure agreements are legally binding to enable enforcement.
15. We expect to consult Public Service agencies, the Privacy Commissioner and Crown Law on the draft Standard and template during February 2025 (immediately following the Inquiry report's release).
16. If approved the GCDO intends to publish the Standard in April 2025. All new information sharing agreements will be required to meet the new Standard from July 2025. Existing agreements will be updated at the next point of review unless agency risk assessments suggest sooner.

¹ The cross-agency team included Department of Internal Affairs, Statistics NZ, Health NZ, Ministry of Health, Ministry of Business, Innovation and Employment and Ministry of Social Development.

Strengthening conflict of interest arrangements in procurement

17. We have worked with the New Zealand Government Procurement Lead (NZGP, based in the Ministry of Business, Innovation and Employment (MBIE)) to amend the Government model contract template to strengthen procurement conflict of interest arrangements. This will strengthen supplier obligations in relation to identifying and managing conflicts of interest (across all stages of the procurement process and including supplier subcontractors).
18. NZGP intends to publish changes to the Government model contract on the MBIE website in March 2025. It is estimated that 80% of agencies use the MBIE website automated template tool to draft contracts, supporting rapid dissemination of updated requirements.
19. Agencies will be expected to use the updated requirements in new contracts from the time of publication and update existing contracts at the next review point.

Conflict of interest Model Standards

20. The Commissioner intends to re-issue updated Conflict of Interest Model Standards, to set minimum expectations for Public Service agencies on managing conflicts of interest, including with third parties and their subcontractors.
21. We have drawn on lessons from historical investigations and our experience working with agencies on conflicts of interest; these will also inform case studies and learning materials. We will work with our Integrity Champions network to embed changes to practice².

Implementation

22. Making changes across information sharing, procurement and conflicts of interest will require agencies to update practices and processes in a short timeframe. Initial feedback suggests a perception of increased compliance and administration costs. Where agencies have already adopted existing expectations and best practice, we consider the changes to be manageable and sustainable.
23. We will continue to work closely with system leads to support adoption. Consultation with agencies on the proposed standards and templates may give us more insight and enable us to adapt our communications and engagement approach.
24. Across all three areas, updated standards, templates and guidance will apply to new contracts and agreements. Alongside this, agencies will be expected to take a risk-based approach to updating existing agreements to ensure they meet the new standard.
25. The Commissioner expects the Inquiry's subject agencies to undertake specific actions to respond to the Inquiry findings and recommendations. Some agencies have already initiated work to respond to areas for improvement identified during the Inquiry and/or their own investigations.
26. More broadly, the Commissioner will hold chief executives accountable for meeting minimum expectations in relation to information sharing with third parties, procurement

² The Integrity Champions Network comprises tier 2 and 3 Managers appointed by their agency chief executive. There are 63 Champions across the wider public service.

and contract management practices, and conflicts of interest. He will seek specific assurance from agencies that they have implemented the mandatory standards.

Monitoring progress and signs of success

27. We will monitor agency progress in responding to the Inquiry's findings, recommendations and related action plans. Individual agencies will also brief their Ministers as required.
28. In the initial phase of implementation, we will work with GCDO and NZGP to engage with agencies and monitor adoption of updated standards, templates and guidance. We will seek assurance from chief executives that mandatory standards have been adopted.
29. Agencies will be responsible for their own ongoing monitoring and assurance of implementation, including third-party compliance with contracts and agreements.

Government Statistician and Chief Executive of Statistics New Zealand

30. The Government Statistician and Chief Executive of Statistics New Zealand has decided not to seek re-appointment and will inform the Minister for Statistics of his decision on 24 January 2025. His term ended on 20 January; however he will continue to act in the role until 30 March 2025 for continuity purposes.
31. The Commission in consultation with the Minister for Statistics will appoint an acting Government Statistician and Chief Executive after 30 March and commence recruitment. This will be publicly announced as part of the Commission media conference and release of the inquiry report on 29 January 2025.

Next steps

32. A press conference is scheduled for 10:30am on 29 January 2025, attended by the Public Service Commissioner and the Inquiry leads. The report and associated materials will be published at the same time. A copy of the Commission's media statement (Appendix 2) and reactive media lines (Appendix 3) are attached.
33. We recommend that you brief Cabinet in an oral item on Monday 27 January. Suggested talking points are provided in Appendix 1.

Appendix 1 - Cabinet oral item talking points: Inquiry into the protection of personal information

The Public Service Commission has received the report for the Inquiry into the Protection of Personal Information, directed by the Prime Minister in June 2024.

- This was a thorough investigation, led by Pania Gray and Mike Heron KC
- At the heart of this inquiry is public trust and confidence in the government protecting New Zealanders' personal data.

The report will be released on 29 January 2025. Its findings are embargoed until then.

Findings

Findings show significant failures by several agencies to protect personal information which effectively left the door open to possible misuse. These findings were:

- There were particularly concerning failures at Statistics NZ.
- MoH and Health NZ also had adverse findings.
- Most data sharing agreements were sufficient, but there were few mechanisms by which agencies could assure themselves of compliance with the agreements or impose consequences for non-compliance.
- Conflict of interest practices were also found wanting.
- Concerns raised in agencies about these matters were not always adequately addressed.

These findings raise serious concerns, given this Government's focus on social investment and commissioning for outcomes, which will involve increased data sharing and contracting arrangements with third parties.

The protection of personal information is something agencies must get right, every time, if we are to ensure public trust and confidence in its use.

Response

To restore and maintain public trust and confidence, the Public Service Commissioner has:

- ensured there will be accountability for failings at agency and individual levels, especially at Stats NZ, and
- required agencies in the frame of inquiry to immediately fix gaps in their processes and practices to avoid this situation happening again.

The Public Service Commission has also coordinated a system-wide response, working with digital/data and procurement system leads to:

- prepare new mandatory standards for information sharing with third parties, to be implemented by July 2025. This will require Public Service agencies to meet strengthened requirements, and offer more levers for assurance and consequences with third parties if something goes wrong,
- amend the Government procurement model contract and associated guidance by March 2025, to improve the identification and management of conflicts of interest over the whole procurement life cycle, including with subcontractors, and

- review and re-issue the Conflict of Interest model standards, to support agencies in improving practices around the identification, disclosure and ongoing management of potential, perceived or actual conflicts.

Government Statistician and Chief Executive of Statistics New Zealand

- The Government Statistician and CE of Stats NZ has decided not to seek re-appointment.
- His term ended accordingly on 20 January 2025; however he has agreed to act in the role until 30 March 2025 to ensure continuity.
- The Commission (after consultation with the Minister for Statistics) will identify an acting CE post 30 March and commence recruitment for the role.
- This will be publicly announced as part of the Commission media conference and release of the inquiry report on 29 January 2025.

Referrals

The Public Service Commission's mandate is extremely limited in relation to third-party providers. However, other oversight bodies continue to address matters that emerged from the Inquiry:

- Matters relating to allegations of improper use of information for political purposes have been referred to the Office of the Privacy Commissioner.
- There are also several matters relating to the Census that are the subject of an ongoing Police investigation.
- The Ministry of Justice has been invited to look at electoral law regarding financial incentives to switch electoral rolls

STRICTLY EMBARGOED UNTIL 10:30am WEDNESDAY, 29 JANUARY

MEDIA STATEMENT

29 January 2025

Findings of inquiry into protection of personal information released

Public Service Commissioner Sir Brian Roche today released the findings of an inquiry into the protection of personal information.

The inquiry looked at how government agencies protected personal information provided for the 2023 Census and COVID 19 vaccination purposes. The purpose was to establish the facts and provide an independent assessment of government agency activity in relation to allegations that personal data may have been misused during last year's general election.

The inquiry found:

- Stats NZ (Stats) contracted Te Pou Matakana (also known as the Whānau Ora Commissioning Agency) to assist with a last-ditch attempt to collect Census returns for a further 10,000 households, aiming to get 50,000 additional individual forms completed by Māori. The work was aimed at people Stats had been unable to reach. On that score, the Census was a success, collecting an extra 40,000 Census forms from Māori.
- However, Stats' safeguards to protect personal information were insufficient, creating a risk the personal information provided to or collected by the third parties on behalf of Stats could be used for an improper purpose.
- Early in its engagement with Te Pou Matakana, concerns about the process were raised within Stats. Risks of conflicts, privacy breaches and poor process were identified and not dealt with.
- The usual processes and safeguards that Stats implemented for Census activity were not done. The high trust model was inappropriate in the circumstances. Fundamental confidentiality protections (such as the use of Certificates of Confidentiality) were not put in place.
- Complaints were made about the processes followed by Te Pou Matakana contractors (including Manurewa Marae). Stats staff raised serious concerns, but these were not acknowledged or adequately dealt with.

- Stats failed to implement the safeguards in the contract for services, allowing the potential for Census data to be mishandled.
- There was an increased risk of conflicts of interest with COVID-19 vaccinations due to the multiple roles held by some individuals involved with the three service providers (Te Pou Matakana, Waipareira and Manurewa Marae) and other organisations, including Te Pāti Māori. Neither the Ministry of Health, Te Puni Kokiri nor Te Whatu Ora were alert to this increased risk and consequently failed to introduce any safeguards.
- The Ministry of Health and Te Whatu Ora did not assure themselves that the relevant service providers were meeting contractual expectations. And there were no controls over files once they were downloaded by the providers' authorised staff.

“The report makes for very sobering reading,” said Sir Brian.

“It raises a number of issues that go to the core of the confidence and trust required to maintain the integrity and sanctity of information entrusted to government agencies.

“The system has failed and that isn't acceptable – and it must be, and will be, remedied.”

As a result of the inquiry's findings, the Government Statistician and Chief Executive Stats NZ has decided to not seek re-appointment.

“I think it is the right thing to do in the circumstances and I commend Mr Sowden for what would have been a tough decision,” said Sir Brian.

“Mr Sowden's decision to step down reflects very positively on his professionalism and integrity, which is in line with the standard of accountability I expect of public service chief executives.”

As a result of the inquiry findings, the Commissioner will:

- update guidance on information sharing agreements.
- strengthen public service procurement practices.
- review and updated Conflict of Interest model standards.
- direct agencies in the frame of the inquiry to immediately fix gaps in their processes and practices to avoid this situation happening again.
- strengthen accountability settings for all public service agencies when contracting and data sharing with third party service providers.
- 9(2)(g)(i) free and frank [REDACTED]
- 9(2)(g)(i) free and frank [REDACTED]

- ask the Ministry of Justice to consider electoral law regarding financial incentives to switch electoral rolls.

9(2)(g)(i) free and frank

“It is critical New Zealanders can trust that their personal information is secure and will not be exploited.”

The inquiry also identified a number of important matters it was unable to consider under the scope of the inquiry. These have been referred to other authorities for investigation:

- The inquiry heard an allegation that Manurewa Marae collected personal information for its own purposes, from people receiving their COVID-19 vaccination. This matter has been referred to the Office of the Privacy Commissioner.
- It was also alleged Manurewa Marae collected personal information for a Te Pāti Māori text message campaign information, at the point of vaccination, in the weeks leading up to the General Election. This matter has been referred to the Office of the Privacy Commissioner.
- An allegation that personal information collected at Manurewa Marae for the Census was entered into a data base owned by Waipareira Trust. This has been referred to the Office of the Privacy Commission for further investigation.
- The compulsory collection of personal information for the Census, when combined with a campaign, using incentives, to switch to the Māori roll (but not promoting a switch to the general roll), and the potential later use of the information, needs to be considered. Aspects of this matter are the subject of an ongoing investigation by New Zealand Police. The Commissioner has also written to the Ministry of Justice and asked the agency to consider, with the Electoral Commission, the issue of using incentives to encourage voters to switch rolls.

“These are serious allegations that go to the integrity of our democratic process,” Sir Brian said.

“The inquiry found some agencies fell short on their responsibility to protect and manage the sharing of personal information, which is unacceptable.

“While we don’t know if personal information was improperly used, the gate was left open. It will be for other authorities, with the appropriate regulatory and investigative tools, to determine whether personal data was misused.”

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9(2)(g)(i) free and frank

