



29 July 2020

Dr Ashley Bloomfield
Director-General of Health
Email: Ashley.Bloomfield@health.govt.nz

Dear Dr Bloomfield,

Investigation into COVID-19 active cases privacy breach

Mr Michael Heron QC has now concluded his investigation into the COVID-19 active cases privacy breach. An embargoed copy of his final report is attached.

The investigation report is clear that the Ministry of Health was not responsible for placing this information in the public arena and the breach was the result of actions taken by Ms Boag and Mr Walker.

As you know, the investigation found that the Ministry of Health's policy and process in notifying emergency services of active cases was a considered response to the pressures arising during the early stages of the crisis. However, Mr Heron QC said that the policy should have been reviewed once there were no longer cases in the community and the dissemination to emergency services of personal information ought to have stopped. The investigation also found that the information should not have been sent in such an insecure and open manner.

I am aware that you have already put in place a number of measures to strengthen the privacy protections around COVID-19 related patient information. I also acknowledge that these events occurred at a time when the Ministry was responding to a fast-moving global pandemic and that no system is completely immune from individuals who are motivated to misuse personal information. Nonetheless, this was personal information relating to individuals in a vulnerable position. We need to ensure that the public have confidence that when this kind of information is held by the public service it is in safe hands.

Given the inquiry's findings, I am seeking your assurance that the dissemination of information about active COVID-19 cases by the Ministry of Health is robust and secure, and in line with best practice and the appropriate guidance and standards.

I understand that the Ministry is considering its contractual remedies against the Auckland Rescue Helicopter Trust. I would appreciate being kept up to date as to the progress of that action.

I also understand that you or one of your senior team intend to communicate further with the 18 affected individuals prior to the report's public release to assure them that the Ministry takes their privacy seriously. That is the right thing to do.

I appreciate your personal attention to these matters.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'H. Quilter'.

Helene Quilter
Deputy State Services Commissioner

30 July 2020

Helene Quilter
Deputy State Services Commissioner
State Services Commission

Dear Helene

Response to investigation into COVID-19 active cases privacy breach

Thank you for your letter dated 29 July 2020 which seeks my assurance in relation to the investigation into the COVID-19 Active Cases Privacy Breach.

I have read Mr Michael Heron QC's report and accept his conclusions and will act on the findings that relate to the Ministry of Health. The Ministry of Health takes the security of identifiable personal information seriously and is committed to improving processes for sharing of information with external agencies in line with best practice.

In terms of the Ministry's policies and processes, on 27 July 2020 I commissioned an external privacy expert, INFO by Design to undertake a review of current privacy practices and capability relating to our COVID-19 response. The focus will be on ensuring we are well positioned in the event of a COVID-19 resurgence. INFO by Design's report will be delivered by 24 August 2020. I will consider the recommendations and report back to you by 01 September 2020. I will consult with the Privacy Commissioner and seek advice from the Government Chief Privacy Officer and the Government Chief Digital Officer as appropriate throughout the process.

As a result of the initial enquiries I undertook following the incident, I have taken a number of steps. More importantly, at the time of being made aware of the breach, public health units contacted the 18 individuals affected to apologise and keep them informed. I can confirm that we also contacted them yesterday to let them know about the report's impending release. Yesterday we also issued a breach of contract notice to the Auckland Rescue Helicopter Trust and I will keep you updated on this, as requested.

In parallel, I will provide Mr Heron QC's report to the Data Governance Sharing Group who will provide the expertise to inform our approach. The Ministry's Risk and Assurance Committee will receive updates on our actions taken in response.

Should personal information be required to be shared with external parties in the short term (ie in the case of community transmission) we will send it to those organisations using a secure process. We have reviewed which organisations will receive the information. We are continuing to explore alternative means of secure exchange to meet the varying needs of the agencies.

I am regretful that this incident has happened, even if it was not the primary responsibility of the Ministry of Health. I assure you I am fixing the areas identified for improvement in Mr Heron QC's report. I also give my personal commitment that I will ensure the necessary changes are implemented so that the Ministry's policies and processes are strengthened and align with best practice.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'A' followed by a long horizontal stroke that tapers to a point.

Dr Ashley Bloomfield
Director-General Health
Ministry of Health

cc: Peter Hughes, State Services Commissioner

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT



30 July 2020

John Edwards
Privacy Commissioner
By email: john.edwards@privacy.org.nz

Dear Commissioner

Investigation into COVID-19 active cases privacy breach

Mr Michael Heron QC has completed an investigation (using powers under the State Sector Act 1988) into how a Ministry of Health spreadsheet, containing sensitive personal information about active COVID-19 cases, ended up in the media's hands in early July 2020.

I am referring his report to you.

In particular, I am referring the actions of Ms Boag, Mr Walker and the Auckland Rescue Helicopter Trust to you for specific attention. Mr Heron QC found that Ms Boag and Mr Walker "were responsible for the unauthorised disclosure of this sensitive personal information" but they are not within my jurisdiction. I am aware that Mr Walker's actions may also fall outside your jurisdiction but that is a matter for you to determine.

I enclose an embargoed copy of the final report.

Nicola Purvis, Chief Legal Officer (nicola.purvis@ssc.govt.nz) will be very pleased to assist any of your staff in relation to this matter should that prove helpful.

Kind regards,

A handwritten signature in blue ink, appearing to be 'HQ' with a flourish.

Helene Quilter
Deputy State Services Commissioner



30 July 2020

Hon Chris Hipkins
Minister of State Services

Dear Minister,

Investigation into COVID-19 active cases privacy breach

You asked the State Services Commissioner to investigate how a Ministry of Health spreadsheet, containing sensitive personal information about active COVID-19 cases, ended up in the public arena. He appointed Michael Heron QC to conduct that investigation on his behalf and attached is an embargoed copy of Mr Heron QC's final report.

One area the investigation focused on was "whether any individual or individuals were responsible for the incident". I am pleased to report that no State servant was responsible. On this point, Mr Heron QC concluded:

Ms Boag and Mr Walker were each responsible for the unauthorised disclosure of this sensitive personal information. Their motivations were political. Their actions were not justified or reasonable. Each acknowledged their error publicly and cooperated fully with this inquiry.

I am referring the report to the Privacy Commissioner.

In particular, I am referring the actions of Ms Boag, Mr Walker and the Auckland Rescue Helicopter Trust to the Privacy Commissioner for specific attention. Mr Heron QC found that Ms Boag and Mr Walker "were responsible for the unauthorised disclosure of this sensitive personal information" but they are not within my jurisdiction. I note that Mr Walker's actions may also fall outside the Privacy Commissioner's jurisdiction but that is a matter for him to determine.

I also draw your attention, in your role as the Minister of Health, to the investigation's findings concerning the Ministry. Mr Heron QC found that the Ministry of Health's policy and process in notifying emergency services of active cases was a considered response to the pressures arising during the early stages of the crisis. However, Mr Heron QC said that the policy should have been reviewed once there were no longer cases in the community and the dissemination to emergency services of personal information ought to have stopped. The investigation also found that the information should not have been sent in such an insecure and open manner.

I have discussed these findings with the Director-General of Health and have stressed the importance of ensuring that the public has confidence that, when sensitive personal information is held by the public service, it is in safe hands. I have asked the Director-General to personally look into these matters and to assure me that the dissemination of information about active COVID-19 cases by the Ministry of Health is robust and secure, and in line with best practice and the appropriate guidance and standards. I understand the Ministry has already put a number of relevant measures in place and is working on further improvements. I will leave it to the Director-General to brief you on those matters directly.

Kind regards



Helene Quilter
Deputy State Services Commissioner

RELEASED BY SSC UNDER OUR COMMITMENT TO OPEN GOVERNMENT

Nicky Dirks

From: Helene Quilter
Sent: Thursday, 30 July 2020 9:01 am
To: 9(2)(a) privacy @parliament.govt.nz
Subject: [IN CONFIDENCE] COVID 19 active cases privacy breach Michael Heron QC report
Attachments: 29 July final report embargoed till 11am 30 July 2020.pdf

[IN-CONFIDENCE]

Dear Ms Collins,

Yesterday afternoon I notified your office of my intention to hold a press conference at 11am today in relation Mr Michael Heron QC's investigation into the COVID 19 active cases privacy breach.

Given that it refers to two members of your Caucus and it mentions your possible jurisdiction at paragraph 73, please find enclosed an embargoed copy of Mr Heron QC's final report for your information.

You will receive a text message with the password to access the embargoed copy shortly – please let me know if you have any issues.

Kind regards,

Helene Quilter

Deputy State Services Commissioner

mobile: 9(2)(a) privacy email: helene.quilter@ssc.govt.nz



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[IN-CONFIDENCE]

Nicky Dirks

From: Helene Quilter
Sent: Thursday, 30 July 2020 9:01 am
To: trevor.mallard@parliament.govt.nz
Subject: [IN-CONFIDENCE] COVID-19 active cases privacy breach – Michael Heron QC report
Attachments: 29 July final report - embargoed till 11am 30 July 2020.pdf

[IN-CONFIDENCE]

Dear Speaker,

Yesterday afternoon I notified your office of my intention to hold a press conference at 11am today in relation Mr Michael Heron QC's investigation into the COVID-19 active cases privacy breach.

Given that it refers to two Members of Parliament and it mentions your possible jurisdiction at paragraph 73, please find enclosed an embargoed copy of Mr Heron QC's final report for your information.

Your office will receive a text message with the password to access the embargoed copy shortly – please let me know if you have any issues.

Kind regards,

Helene Quilter

Deputy State Services Commissioner

mobile: 9(2)(a) privacy email: helene.quilter@ssc.govt.nz



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