

Proactive Release

Authorised by the Minister for Social Development

18 December 2019

Data Protection and Use Policy



Data Protection and Use Policy

Hon Carmel Sepuloni, Minister for Social Development

December 2019

These documents have been proactively released as authorised by the Minister for Social Development at <https://sia.govt.nz/publications/ministers-and-cabinet/>.

Cabinet has endorsed the Data Protection and Use Policy, a shared set of rules for the safe, ethical and transparent use of social sector data. This pack contains:

- Data Protection and Use Cabinet paper.
- Cabinet Social Wellbeing Committee: Minute of Decision [SWC-19-MIN-0177].

Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest has been identified that would outweigh the reasons for withholding it. This is the key to the redaction codes used for this release:

- Section 9(2)(f)(iv): This information is under active consideration. The release of this information at this time would be likely to prejudice the ability of government to consider advice and the wider public interest of effective government would not be served.

Note:

- The Data Protection and Use Policy has been released publicly on: www.dpup.sia.govt.nz.

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In Confidence

Office of the Minister for Social Development
Office of the Chair of the Social Wellbeing Committee

Cabinet Social Wellbeing Committee

Data Protection and Use Policy

Proposal

- 1 This paper seeks endorsement of the Data Protection and Use Policy and proposes a progressive adoption of this Policy, beginning January 2020.

Executive Summary

- 2 Many organisations, including government agencies, are increasingly focused on the potential for the data we collect to enable richer insights that enable better outcomes. However, that potential needs to be supported by clear checks and balances so that New Zealanders have confidence that not only is their privacy being protected, but also that their data and information is being used in a respectful manner, within transparent and agreed values and behaviours.
- 3 Following the Privacy Commissioner's April 2017 inquiry into the collection of individual client-level data from non-government organisations (NGOs), I asked the Social Investment Agency (SIA) to develop a shared set of rules for the safe, ethical and transparent use of social sector data.
- 4 The Data Protection and Use Policy (the Policy) has been collaboratively developed with the wider sector, including government agencies, NGOs, and people who use social services. I also appointed a diverse working group to oversee the work.
- 5 The Policy consists of five principles that articulate values and behaviours that should underpin our actions in relation to people's information, and four guidelines which describe good practice in areas identified by the sector as critically in need of greater clarity. It aligns to existing work in the social system and builds on the Privacy Act 1993 to provide practical guidance on how to apply it in the particular context of the social sector. The majority of the Policy reflects what is in the Privacy Act 1993, the remainder is above the Privacy Act 1993 but the impact on agencies is mitigated by a progressive implementation approach.
- 6 The Policy provides advice on both uses of personal information, and non-personal information that is derived from it. It goes beyond solely privacy considerations to apply ethical considerations and is based on transparency, inclusion, and diversity, to ensure that if and when we contemplate using people's information, it's done with the involvement, understanding, and support of the people impacted by those proposals.
- 7 The purpose of the Policy is to ensure that service users know what they can expect from agencies and organisations and that their information will be treated respectfully. This will help service users to better understand why and how their information might be used, and they will be better placed to act on their rights to access and request changes to their information.
- 8 Implementing the Policy widely across both government agencies and NGOs will help to build up trust and confidence in government. Use of the Policy will support transparent and ethical

use of data, as key elements to building trust in its use. It will therefore allow government to deliver better outcomes for New Zealanders by fully utilising data to improve people's wellbeing.

- 9 This paper seeks endorsement of the Policy and proposes a progressive adoption of the Policy by government agencies in the social sector.
- 10 The first phase of implementation, beginning in January 2020, involves a foundational group of social sector organisations, comprised of five government agencies.
- 11 I propose that the foundational government agencies be the Ministry of Education (MoE), Ministry of Health (MoH), Oranga Tamariki, Ministry of Social Development (MSD), and the SIA. These agencies have already begun work that is in line with the Policy. This does not preclude other government agencies from joining the foundational group.
- 12 This foundational group, supported by a dedicated support function housed in the SIA, will help us identify what it takes to put the Policy in place. This includes establishing a clearer view on any costs, over and above what can be met by agencies and others; other impacts; and the steps required for embedding the Policy. This phase is estimated to take 18 months.
- 13 I propose directing the SIA to report back prior to December 2020 on implementation progress, including; any changes required to the Policy as a result of what we are learning through the foundational phase and any matters arising from the implementation of the Privacy Bill; any barriers, including cost and required capabilities, to adopting the policy; the recommended approaches to support the broader adoption of the Policy; and options for the ongoing maintenance and monitoring of the Policy.
- 14 9(2)(f)(iv)

Background

- 15 Many organisations, including government agencies, are increasingly focused on the potential for the data we collect to enable richer insights that enable better outcomes. However, that potential needs to be supported by clear checks and balances.
- 16 New Zealanders need confidence that not only is their privacy being protected, but also that their data and information is being used in a trusted and respectful manner, within transparent and agreed to values and behaviours. The potential and value of any insights we might seek to develop requires people to trust that we will respect their personal information and data and only use it if and when we are clear and transparent about how doing so will improve their wellbeing. It requires us to ensure that we treat people with dignity and respect.
- 17 In April 2017 the Privacy Commissioner published an inquiry into the proposed collection of individual identifiable client-level data from NGOs as a general condition of contracting with them. I formally withdrew that approach early in this Government's term of office, but questions remained about how such an approach could be proposed despite clear concerns being raised. It pointed to a lack of clear and explicit agreement amongst the diverse organisations in the social sector about what's reasonable, and what's not.

- 18 In response I asked the SIA to develop a shared set of rules for the safe, ethical and transparent use of social sector data (a Data Protection and Use Policy). In April 2018 Cabinet agreed to a public engagement process facilitated by SIA to seek people's views on the Government's approach to investing in social wellbeing. Cabinet also noted that this process would be used to develop a Data Protection and Use Policy for the social sector [SWC-18-MIN-0038 refers].
- 19 Having a shared set of rules for the respectful, ethical and transparent use of social sector data for both government agencies and NGOs will result in better use of data, build trust and confidence in government and deliver better outcomes for New Zealanders.

The Data Protection and Use Policy has been developed collaboratively with government agencies, NGO's, and people who use social services

- 20 A summary of the Policy itself, is included in the A3 in Appendix A.
- 21 To develop the Policy the SIA facilitated the 'your voice, your data, your say' engagement. This involved people from across the social sector (83 hui across 27 locations and an online survey), including service users, NGOs, regional and national government agencies, district health boards, philanthropic organisations, educational institutions, iwi and Māori groups, Pacific people, and disabled people.
- 22 The engagement phase also included agencies who have an interest in application of relevant laws, use of people's information, or the wellbeing of relevant communities. These included: Statistics New Zealand, Ministry for Women, Te Arawhiti, Ministry of Pacific Peoples, Office for Disability Issues, Office of the Children's Commissioner, Human Rights Commission, Office of the Privacy Commissioner, and the Office of the Ombudsman.
- 23 To ensure the engagement was inclusive and effective, I appointed a working group to oversee the engagement and policy development process. The working group is made up of representatives from government agencies, NGOs, peak bodies, Māori and Pacific peoples, a disability advocate, and a client representative.
- 24 The SIA has published the results from the engagement on their website¹. The results showed that government needs to continue to work to build trust in how it uses people's information and work in partnership to improve outcomes across the social sector, including a 'two-way flow' of information between government, service providers, and the people who rely on services. A need for shared principles to guide the collection and use of personal information was identified.
- 25 Building on the engagement feedback, the SIA then worked collaboratively with a diverse sub-group of engagement participants, including government agencies, to create a Policy, made up of principles and guidelines. On 26 June 2019 an oral item was taken to this Committee to update you on the results of the engagement process and to outline the Policy Principles [SWC-19-Min-0075 refers].
- 26 The SIA then undertook a final check-in (10 hui across four locations, and an online survey and forum) with participants to review the final form of the Policy, identify implementation options, and understand what potential implementation impacts would be.
- 27 The Policy has been subject to:

¹ <https://www.sia.govt.nz/assets/Uploads/what-you-told-us.pdf>

- a. Legal review to ensure consistency and clarity in relation to the Privacy Act 1993, and by The Crown Law Office in relation to use of Māori terms within the Policy.
- b. Ethical review by an academic ethicist.
- c. Review by the Office of the Privacy Commissioner. The Privacy Commissioner's comments are as follows: The Privacy Commissioner has been pleased with the open approach SIA has taken with the development of the Policy. He considers the Policy to be well-crafted and that it will help social sector improve its privacy maturity.
- 28 The Policy is based on privacy legislation and does not form a Te Ao Māori view of privacy. Iwi and Māori groups have been consulted and Māori terms are used in the policy, highlighting the Government's respect to Māori tikanga.
- 29 The Data Protection and Use Policy sets out values and behaviours to underpin data collection and use. The final Policy consists of five Principles and four Guidelines. These are attached in full as Appendix B and summarised in Appendix A. The Policy provides a basis for government agencies and service providers to take an active role in the purposes, methods and outcomes of information collection and use.
- 30 Implementing the Policy will increase the quality of the resulting insights and the range of organisations who can use those insights for their communities. They will also help to increase trust and confidence with service users by making it easier to understand how their data is being respected and used to help them or people in similar circumstances.
- 31 The Principles articulate values & behaviours required to underpin data protection and use across government agencies and service providers. The five Principles are:
- 31.1 **He tāngata** – Focus on improving people's lives – individuals, children and young people, whānau, iwi and communities.
- Strive to create positive outcomes from any collection, sharing or use of data and information. Use appropriate checks and balances and ensure that information is suitable and reasonably necessary for the intended outcome.
- 31.2 **Manaakitanga** – Respect and uphold the mana and dignity of the people, whānau, communities or groups who share their data and information.
- Recognise and incorporate diverse cultural interests, perspectives and needs. Include and involve services users whenever possible. Incorporate the needs and priorities of people with a specific or particular interest in what is done with their data and information.
- 31.3 **Mana whakahaere** – Empower people by giving them choice and enabling their access to, and use of, their data and information.
- Where possible, give people choices and respect the choices they make. Give people easy access to and oversight of their information wherever possible.
- 31.4 **Kaitiakitanga** – Act as a steward in a way that is understood and trusted by New Zealanders.
- Recognise you are a kaitiaki, rather than an owner of data and information. Be open and transparent; support people's interest or need to understand. Keep data and information safe and secure and respect its value.

31.5 **Mahitahitanga** – Work as equals to create and share valuable knowledge.

Confidentially share relevant information between professionals so people get the support they want and need. Make sure there is a two-way street of sharing (de-identified) data, analysis, results and research findings to grow collective knowledge and improve services.

32 The Guidelines describe good practice in undertaking key activities in accordance with the Principles. These also help organisations to understand and apply the Privacy Act 1993 in relation to these key activities, with the particular characteristics of the social sector in mind. The Guidelines are consistent with the Privacy Act 1993, but in some areas the Guidelines recommend good practice above and beyond the minimum legal requirements of the Act. For example, the guideline on Sharing Value is new. Agencies are not legally bound by such good practice advice but are encouraged to follow it in accordance with the spirit and intent of the Principles. The Policy is not solely an implementation guide to the Privacy Act. The Guidelines make it clear where the recommended practice is above the legal minimum. The four Guidelines are:

32.1 **Purpose Matters guideline** – be clear about the purposes of collecting personal information, only collect what's needed, and consider how collection and use could affect people's wellbeing.

32.2 **Transparency and Choice guideline** – when collecting information from people, help them understand why it's being collected, how that might help them or people in similar circumstances, and what rights they have to access and request changes. Provide them with choices whenever possible.

32.3 **Access to Information guideline** – help people to understand what personal information is held about them, to access it, to request correction of it and, where possible, to correct it themselves.

32.4 **Sharing Value guideline** – Work together and be inclusive to ensure that information used to create insights is relevant and usefully describes real experiences. Share insights that deliver value and improved wellbeing.

When fully rolled out, the Policy will apply to government agencies, NGOs and other service providers across the social sector

33 The scope of the Policy is intended to encompass government agencies and organisations working with individuals and whānau in the areas of welfare, housing, health, education, child wellbeing, justice and disability support services. This includes government agencies who fund or deliver social sector services in this regard, as well as NGOs and other providers who deliver those services within communities². Agencies within the scope of the Policy are those that fund or deliver services in the social sector, and/or are custodians of the data generated by it.

34 The Policy provides advice on practices in relation to both personal data (that can be used to identify specific people, in line with the definition in the Privacy Act 1993), and non-personal

² This includes the Ministry of Social Development, Te Puni Kōkiri, Ministry of Education, Ministry of Health, Ministry of Housing and Urban Development, Housing New Zealand, New Zealand Police, Ministry of Justice, Accident Compensation Corporation, Oranga Tamariki - Ministry for Children, Department of Corrections, Ministry of Business, Innovation & Employment, Inland Revenue Department, Department of Internal Affairs, Tertiary Education Commission, and New Zealand Qualifications Authority.

data (in which the possibility of using such data to identify specific people has been removed, for example in summaries and aggregate statistics).

We have worked closely with other government agencies to ensure the Policy aligns with and complements existing work

- 35 The Policy needs to work with related initiatives and existing work. In developing the Policy, the SIA has worked closely with other government agencies to ensure alignment with key work, including the recent guidance on sharing personal information produced by Oranga Tamariki and the Ministry of Justice.
- 36 The Policy is part of a wider set of initiatives that address both legal and ethical expectations about data use. This work includes:
- 36.1 Information Sharing Guidelines in relation to the Oranga Tamariki act and also in relation to Family Violence.
 - 36.2 Principles for the safe and effective use of data and analytics, set out by Stats NZ and the Office of the Privacy Commissioner (OPC)
 - 36.3 Digital Identity Trust Framework (Government Chief Digital Officer (GCDO))
 - 36.4 National Health Information Platform (MoH)
 - 36.5 Curriculum Progress and Achievement, and Te Rito (MoE)
 - 36.6 Building closer partnerships with Māori (Te Arawhiti)
 - 36.7 Establishment of a Data Ethics Advisory Group (Government Chief Data Steward (GCDS))
 - 36.8 Māori Data Governance (GCDS)
 - 36.9 The draft Algorithm Charter (GCDS)
 - 36.10 Data Strategy and Roadmap (GCDS)
 - 36.11 Privacy Human Rights and Ethics (PHRaE) framework at MSD.
- 37 The Policy supports these initiatives by providing information on good practice for the respected, trusted and transparent use of data across the social sector. It also provides advice and practical guidance on how to appropriately apply the Privacy Act in the particular context of the social sector.
- 38 The Policy complements the Information Sharing Guidelines in 36.1 by looking more broadly about when and why we might even collect people's data in the first place, and if we use it, how that's done in an inclusive, transparent and fair manner.
- 39 The Policy directly supports the National Health Information Platform, and the MoE initiatives (36.4 and 36.5), building on these by providing both the values and behaviours, and good practice guidelines that underpin trust, transparency, and inclusion.
- 40 The Policy has explicit guidance about how to involve, collaborate, and partner with clearly identified people and organisations who have a legitimate interest in proposed insights for

which data might be collected or used, aligning it with the Māori Data Governance work (36.8) and the building closer partnerships with Māori.

I propose a progressive approach to implementing the policy, beginning with five foundational agencies

- 41 I propose a progressive adoption of the Policy by government agencies in the social sector supported by dedicated implementation assistance from the SIA. Implementation will be governed by a working group similar to the group that guided the formation of the Policy, using a similarly diverse representation of members.
- 42 Implementation will begin in January 2020 with a foundation group of five government agencies.
- 43 The government agencies proposed for the foundational group are MSD, MoE, MoH, SIA and Oranga Tamariki. Other agencies can join, as they are ready, and as implementation processes and impacts become clear. The Policy will be applied to forward looking work, new projects and initiatives, rather than undertaking a retrospective review of all data-holdings. However, in some instances, it will be valuable to review established data collection and/or use on a priority basis, based on importance or sensitivity.
- 44 To maintain momentum and reduce any delay I seek authorisation to make any necessary changes to the composition of the working group and the addition of other interested agencies to the foundational implementation group.
- 45 I anticipate that government agencies will adopt and apply the Policy in the context of existing programmes of work, and regular cyclic business activities such as funding, contracting, and policy reviews for which the Policy is relevant.
- 46 The key impacts on agencies and organisations adopting the Policy will involve changes to information collection and use (*business processes*); how to collaboratively and inclusively work with others to derive and share insights (*relationships /partnerships*); and ensuring service users understand what their information might be used for and their rights to access and request changes to their information (*front-line interactions*).
- 47 The Policy can be applied in a wide range of quite different contexts to support the work of agencies in the social sector. Agencies are invited to use it in a way that makes sense for them, the type of work they do, and the communities they work for.
- 48 Agencies and organisations are expected to progressively and continuously build up their use of the Policy over time rather than adopt the policy in full at once. Use of the Policy is a maturity building exercise, rather than a compliance exercise.
- 49 I therefore will not be seeking any funding for implementation by government agencies at this stage. Information on how implementation has gone and what future financial implications are going to be, form part of the report back proposed in paragraph 51.

50 9(2)(f)(iv)

51 I propose that the SIA report back to this Committee prior to December 2020 on implementation progress, including; any changes to the Policy as a result of what we are learning through the foundational phase and any matters arising from the implementation of the Privacy Bill; any barriers, including cost and required capabilities, to adopting the policy; the recommended approaches to support the broader adoption of the Policy; and options for the ongoing maintenance and monitoring of the Policy.

Organisations adopting the Policy will be supported through a Toolkit, Communities of Practice and a dedicated support function

52 The Policy development process identified the following three key elements are needed to support government agencies and NGOs / service providers implementing the Policy:

52.1 **Toolkit:** a range of collaboratively developed materials to enable understanding and adoption of the Policy, for example, the Privacy, Human Rights, and Ethics (PHRaE) framework, designed by MSD. The foundational elements of the Toolkit, identified by participants in the Policy's development process, are set out in Appendix C.

52.2 **Communities of Practice:** voluntary regional-based groups of service providers, supported by government agencies, to facilitate the sharing of resources, experience and knowledge. This will make use of natural clusters that already exist throughout the sector, for example regionally, functionally through peak bodies and existing collaborations. The SIA will assist with establishing Communities of Practice during the initial stages of implementation.

52.3 **Dedicated support function:** expert assistance will be available to those organisations implementing the Policy during the foundational phase. The SIA will provide this support through to June 2021.

53 Longer term, this work needs to form part of the government's overall approach to data privacy, ethics, and human rights. I have asked the SIA to work with the Government Chief Privacy Officer (GCPO) to define and agree an approach to including the Policy into their own maturity driven approach for privacy practice within government agencies. This activity will also look more broadly, in collaboration with MSD, at the potential opportunities to look at broader adoption of the PHRaE tool and process in this context. SIA will work with the GCPO and the GCDS, so that system-level guidance and support is coherently delivered and considered.

The foundational agencies have already begun work to align with the Policy

54 Through the development of the Policy, some organisations, both government agencies and service providers, have already begun to align with it.

55 The MoE is using the Policy as part of its current work in establishing suitable mechanisms for the safe and respectful use of Education data, initially surfaced through the work of the Ministerial Advisory Group for Curriculum Progress and Achievement, but also required to support implementation of the Learning Support Action Plan and the Data for Wellbeing Te Rito/Student Information Sharing Initiative. The SIA is working with the Ministry of Education to support this work.

56 MSD is committed to lifting trust and confidence in its use of information. MSD has an existing programme of improvements including PHRaE, explainers on their operational algorithms, and an Independent Research and Evaluation Ethics Panel. They intend to progressively adopt the Policy as part of that programme. For example, MSD is currently working with SIA on a new consent form that reflects the Policy.

57 The MoH intend to accommodate the Policy within future projects looking at their privacy and data governance practices, including current work to refresh their privacy policy. Systematic

application of the Policy will be initiated through strategic programmes. For example: the proposed national Health Information Platform, and health sector data strategy.

- 58 Oranga Tamariki propose to progressively introduce and refine the Policy into its approaches to the collection, collation, storage, analysis and reporting of data covered by the Policy. As a young agency Oranga Tamariki is continuing to review and develop its strategic framework in regard to Privacy and is keen to adopt the Policy as an integral part of education and awareness programmes that are being developed. There are a number of opportunities in the foreseeable future to include the Policy, including with the application of the information sharing guidelines, the introduction of new services for tamariki on the edge of care, and as they look to refresh their contracting and reporting process and infrastructure.
- 59 The SIA is also implementing a work programme to adopt and embed the policy. In addition, a number of NGOs have clearly signalled their interest in being early adopters of the Policy. In a small number of cases the Policy is already being integrated into NGOs' various operating practices.
- 60 This approach of applying the Policy is consistent with discussions throughout its development, that the Policy will make sense in different ways to different organisations.

Maintaining and monitoring the Policy

- 61 There will still need to be ongoing maintenance, monitoring and governance of the Policy. I propose that the SIA include options on how to achieve this as part of the proposed report back set out in paragraph 52.

Consultation

- 62 The following agencies were consulted on this paper: Accident Compensation Corporation; Department of Internal Affairs; Department of Corrections; Housing New Zealand Corporation; Human Rights Commission; Inland Revenue Department; Ministry for Pacific Peoples; Ministry for Women; Ministry of Business, Innovation, and Employment; Ministry of Education; Ministry of Health; Ministry of Housing and Urban Development; Ministry of Justice; Ministry of Social Development; New Zealand Police; New Zealand Qualification Authority; Office for Disability Issues; Office of the Children's Commissioner; Office of the Ombudsman; Office of the Privacy Commissioner; Oranga Tamariki; State Services Commission; Statistics New Zealand; Te Arawhiti; Te Puni Kōkiri; Tertiary Education Commission; The Treasury.
- 63 The Department of Prime Minister and Cabinet was informed of the paper.

Financial Implications

- 64 I propose that this paper does not seek any funding for implementation by government agencies involved in the foundational implementation phase. There will be some costs for the foundational agencies but these will be expected to be absorbed into baseline.

- 65 9(2)(f)(iv)

Human Rights

- 66 This paper is consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Gender Implications

- 67 There are no gender implications.

Disability Perspective

- 68 To ensure there was a voice from those with a disability, representatives of the disability sector were specifically engaged with and a representative was part of the working group that has been overseeing the data protection and use policy work.

Legislative Implications

- 69 There are no immediate legislative implications arising from this paper.

Publicity and Proactive Release

- 70 I intend publicly announcing the Policy and the phased approach to implementing the Policy.
- 71 I intend to proactively release this paper.

Recommendations

It is recommended that the Committee:

- 1 **note** that in April 2018 Cabinet agreed to a public engagement process facilitated by SIA to test and refine the Government's approach to investing in social wellbeing, and noted that this process would be used to develop a Data Protection and Use Policy for the social sector [SWC-18-MIN-0038 refers]
- 2 **note** that the nationwide public engagement process involved service users, representatives of NGOs, regional and national government agencies, district health boards, philanthropic organisations, educational institutions, iwi and Māori, disabled people, and Pacific peoples.

Development of the Data Protection and Use Policy

- 3 **note** that the Social Investment Agency has continued to work with a diverse design group drawn from engagement participants to create the Data Protection and Use Policy that was then socialised with the sector and endorsed via a check-in phase.
- 4 **note** that reviews of the Data Protection and Use Policy were also conducted by the Office of the Privacy Commissioner, an ethics specialist and the Crown Law Office.
- 5 **note** that the Data Protection and Use Policy comprises five Principles and four Guidelines, that respectively articulate the values and behaviours, and describe expectations and good practice, required to underpin the respectful, trusted and transparent use of data across the social sector.
- 6 **note** that the Principles and Guidelines are summarised in Appendix A and detailed in full in the Data Protection and Use Policy, attached as Appendix B.
- 7 **endorse** the Data Protection and Use Policy set out in Appendix B.

Applicability of the Data Protection and Use Policy

- 8 **note** that the Principles and Guidelines are consistent with the Privacy Act 1993, with the Guidelines making it clear when they recommend good practice above and beyond the minimum legal requirements of the Act.
- 9 **note** that agencies are not legally bound by such good practice advice but are encouraged to follow it in accordance with the spirit and intent of the principles.

Implementation

- 10 **note** that implementation will vary across the social sector and is dependent on the nature of the organisation and the maturity of each organisation's policies, practices, capabilities, and systems.
- 11 **note** that the Data Protection and Use Policy will be progressively adopted by government agencies in the social sector.
- 12 **agree** that the first phase of implementation involve a foundational group of social sector organisations, comprised of five government agencies.
- 13 **agree** that the government agencies forming the foundational cohort are the Ministry of Education, Ministry of Health, Ministry of Social Development, Oranga Tamariki, and the Social Investment Agency.
- 14 **note** that the Social Investment Agency will provide implementation support, through until June 2021.
- 15 **note** that the Data Protection and Use Policy will be supported by a Toolkit (outlined in Appendix C), created and contributed to by the sector.
- 16 **agree** that the Social Investment Agency will facilitate the establishment of regional Communities of Practice, comprising government agencies and local providers, to enable the sharing of best practice and approaches to implementation.
- 17 **note** that a progressive implementation approach and dedicated implementation support provides flexibility to manage the pace of adoption and overall implementation costs.
- 18 9(2)(f)(iv)
- 19 **authorise** the Minister for Social Development to make any necessary changes to the composition of the working group and the addition of other interested agencies to the foundational implementation group.
- 20 **direct** the Social Investment Agency to report back to this Committee prior to December 2020 on implementation progress, including; the recommended approaches to support the broader adoption of the policy; and options for the ongoing maintenance and monitoring of the policy.

Ongoing maintenance and monitoring

- 21 **note** that the Data Protection and Use Policy is expected to evolve over time.
- 22 **note** that the report back in recommendation 20 will provide options for the ongoing maintenance and monitoring of the Data Protection and Use Policy.

Authorised for lodgement

Hon Carmel Sepuloni
Minister for Social Development
Chair – Social Wellbeing Committee

Appendix A: Summary of the Data Protection and Use Policy

Data Protection and Use Policy to support the respectful, trusted and transparent use of people's data and information SIA

Policy Principles: articulate the values and behaviours that underpin the respectful and transparent use of people's data across the social sector.

He tāngata - Focus on improving people's lives - individuals, children and young people, whānau, iwi and communities

Strive to create positive outcomes from any collection, sharing or use of data and information. Use appropriate checks and balances and ensure that information is suitable and reasonably necessary for the intended outcome.

Mana whakahaere Empower people by giving them choice and enabling their access to, and use of, their data and information

Where possible, give people choices and respect the choices they make. Give people easy access to and oversight of their information wherever possible.

Manaakitanga Respect and uphold the mana and dignity of the people, whānau, communities or groups who share their data and information

Recognise and incorporate diverse cultural interests, perspectives and needs. Include and involve services users whenever possible. Incorporate the needs and priorities of people with a special or particular interest in what is done with their data and information.

Mahitahitanga Work as equals to create and share valuable knowledge

Confidentially share relevant information between professionals so people get the support they want and need. Make sure there is a two-way street of sharing (de-identified) data, analysis, results and research findings to grow collective knowledge and improve services.

Kaitiakitanga Act as a steward in a way that is understood and trusted by New Zealanders

Recognise you are a kaitiaki, rather than an owner of data and information. Be open and transparent; and support people's interest or need to understand. Keep data and information safe and secure and respect its value.

Policy Guidelines: describe good practice in undertaking key activities in accordance with the five Principles above.

Purpose Matters

Be clear about the purposes of collecting personal information, only collect what's needed, and consider how collection and use could affect people's wellbeing.

Transparency and Choice

When collecting information from people, help them understand why it's being collected, how that might help them or people in similar circumstances, and what rights they have to access and request changes. Provide them with choices whenever possible.

Access to Information

Help people to understand what personal information is held about them, to access it, to request correction of it and, where possible, to correct it themselves.

Sharing Value

Work together and be inclusive to ensure that information used to create insights is relevant and usefully describes real experiences. Share insights that deliver value and improved wellbeing.

Appendix B: Data Protection and Use Policy

Please refer to the attached pdf document.

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Appendix C: Outline of 'Toolkit' to support initial implementation

The list below details the key elements of a foundational Toolkit to support the implementation of the Policy. The list was informed from participants in the check-in phase. Item 14. Principles in Action exists in its first version. Some of the other items currently exist within agencies and NGOs to be shared with others. SIA plans to curate these and work with the sector to improve/align these to the Policy as needed, and then collaboratively create and test the additional items.

Communication

1. Posters depicting the Principles and the Policy in action
2. Accessible information pamphlets on the Policy to inform people who use social services what they can expect from agencies/organisations that adopt the Policy
3. Short introductory video to explain what the Policy is and why it is important
4. Case studies that illustrate good practice in action
5. Presentation packs with modular components that can be packaged and targeted to varied audiences.

Training resources

6. eLearning module(s) to support staff training and induction (to be integrated with related government guidance)
7. Rapid orientation document for staff to help them gain a high-level understanding of the Policy
8. Summary versions for each of the four Guidelines
9. Real world scenarios that demonstrate how to apply each Guideline
10. Discussion starters/guides e.g. for leaders to use in team meetings
11. Supporting material to build cultural awareness of staff, particularly front-line staff
12. Guidance on how to run a collaborative approach when developing new insights (research, studies, analyses) to create and share value.

Practical guidance

13. Principles in Action (version 2) – practical descriptions of what applying the Principles looks like when applied by specific roles (Version 1 currently exists and was well received in the check-in. The plan is to update this to version 2)
14. Illustrated quick guides to inform practice e.g. flow charts and decision trees to guide staff
15. Answers to frequently asked questions on how to apply the Policy
16. Exemplars that can be adapted to an agency/organisation's context: layered privacy statement, data collection ("consent") form, privacy policy, contract guidance, and providing an OIA with appropriate context
17. Specific guidance on relevant topics, e.g. speaking with children, collecting and measuring specific data types
18. Checks and balances that can be employed to consider 'you can but should you' issues
19. Information security primer to guide appropriate protection of people's information (jointly with GCSB and DIA).

Implementation support

20. Implementation plan worksheet to guide implementation of the Policy
21. Update of the draft web-site to provide supportive guidance and tools.



Cabinet Social Wellbeing Committee

Minute of Decision

This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.

Data Protection and Use Policy

Portfolio Social Development

On 13 November 2019, the Cabinet Social Wellbeing Committee:

- 1 **noted** that in April 2018, Cabinet agreed to a public engagement process facilitated by the Social Investment Agency to test and refine the government's approach to investing in social wellbeing, and noted that this process would be used to develop a Data Protection and Use Policy for the social sector [SWC-18-MIN-0038];
- 2 **noted** that the nationwide public engagement process involved service users, representatives of non-governmental organisations, regional and national government agencies, district health boards, philanthropic organisations, educational institutions, iwi and Māori, disabled people, and Pacific peoples;

Development of the Data Protection and Use Policy

- 3 **noted** that the Social Investment Agency has continued to work with a diverse design group drawn from engagement participants to create the Data Protection and Use Policy that was then socialised with the sector and endorsed via a check-in phase;
- 4 **noted** that reviews of the Data Protection and Use Policy were also conducted by the Office of the Privacy Commissioner, an ethics specialist, and the Crown Law Office;
- 5 **noted** that the Data Protection and Use Policy comprises five principles and four guidelines that respectively articulate the values and behaviours, and describe the expectations and good practice required to underpin the respectful, trusted and transparent use of data across the social sector;
- 6 **noted** that the principles and guidelines are summarised in Appendix A, and detailed in full in the Data Protection and Use Policy, attached as Appendix B to the submission under SWC-19-SUB-0177;
- 7 **endorsed** the Data Protection and Use Policy set out in Appendix B;

Applicability of the Data Protection and Use Policy

- 8 **noted** that the principles and guidelines are consistent with the Privacy Act 1993, with the guidelines making it clear when they recommend good practice above and beyond the minimum legal requirements of the Act;

- 9 **noted** that agencies are not legally bound by such good practice advice but are encouraged to follow it in accordance with the spirit and intent of the principles;

Implementation

- 10 **noted** that implementation of the Data Protection and Use Policy will vary across the social sector and is dependent on the nature of the organisation and the maturity of each organisation's policies, practices, capabilities, and systems;
- 11 **noted** that the Data Protection and Use Policy will be progressively adopted by government agencies in the social sector;
- 12 **agreed** that the first phase of implementation involve a foundational group of social sector organisations, comprised of five government agencies;
- 13 **agreed** that the government agencies forming the foundational cohort are the Ministry of Education, Ministry of Health, Ministry of Social Development, Oranga Tamariki, and the Social Investment Agency;
- 14 **noted** that the Social Investment Agency will provide implementation support, through until June 2021;
- 15 **noted** that the Data Protection and Use Policy will be supported by a Toolkit (outlined in Appendix C, attached to the submission under SWC-19-SUB-0177), created and contributed to by the sector;
- 16 **agreed** that the Social Investment Agency will facilitate the establishment of regional Communities of Practice, comprising government agencies and local providers, to enable the sharing of best practice and approaches to implementation;
- 17 **noted** that a progressive implementation approach and dedicated implementation support provides flexibility to manage the pace of adoption and overall implementation costs;
- 18 9(2)(f)(iv)
- 19 **authorised** the Minister for Social Development to make any necessary changes to the composition of the working group and the addition of other interested agencies to the foundational implementation group;
- 20 **directed** the Social Investment Agency to report-back to the Cabinet Social Wellbeing Committee prior to December 2020 on implementation progress, including the recommended approaches to support the broader adoption of the policy, and options for the ongoing maintenance and monitoring of the policy;

Ongoing maintenance and monitoring

- 21 **noted** that the Data Protection and Use Policy is expected to evolve over time;
- 22 **noted** that the report-back referred to in paragraph 20 will provide options for the ongoing maintenance and monitoring of the Data Protection and Use Policy.

Vivien Meek
Committee Secretary

Present:

Rt Hon Jacinda Ardern
Hon Dr Megan Woods
Hon Chris Hipkins
Hon Andrew Little
Hon Carmel Sepuloni (Chair)
Hon Nanaia Mahuta
Hon Stuart Nash
Hon Kris Faafoi
Hon Tracey Martin
Hon Willie Jackson
Hon Aupito William Sio

Officials present from:

Office of the Prime Minister
Officials Committee for SWC
Office of the Chair

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