**All the questions we asked**

These are all the questions we asked in our exposure draft of a biometric code of practice: consultation paper.

**Question 1:** Do you agree with these provisions? Do these rules or considerations adequately respond to concerns about Māori data? Do you have any suggestions for changing them? Have we missed anything?

**Question 2:** If you are Māori, do you agree with the way we are proposing to protect your biometric information?

**Question 3:** Do you agree that the code should focus on automated processing of biometric information?

**Question 4:** Do you agree with the definitions of physiological and behavioural biometrics? Can you think of any types of biometric information that aren’t captured within these definitions that should be? Or any types that we should exclude?

**Question 5:** Do you agree with the definition of biometric information and the types of biometrics it includes (samples, templates, results)?

**Question 6:** Do you agree with the exclusion of heartbeat from the definition of behavioural biometrics, or do you think it should be covered by the code? Why?

**Question 7:** Do you agree with the definitions of biometric processing and biometric verification and identification? What would you change and why?

**Question 8:** Do you agree with the more technical definitions in the code (biometric search, query, reference, sample, template and comparison decision)? Are they accurate, too detailed, not detailed enough?

**Question 9:** Do you agree with our definition of biometric classification i.e. do you agree that a biometrics code should cover these types of biometric classifications? Is it too broad or too narrow? What would you add, amend, or remove and why?

**Question 10:** Do you agree with the intent to exclude some processes from the definition of biometric classification? What do you think of the two exclusions we’ve proposed (detection of readily apparent expressions and integrated analytical features) and the way they are defined?

**Question 11:** Do you agree that the code should apply to any organisation that starts using biometrics after the code becomes law?

**Question 12:** Do you agree that organisations already using biometrics when the code comes into force should have more time to comply? If you are an organisation that is already doing biometric processing, do you think the additional six-months to bring your activities into alignment with the code is fair?

**Question 13:** Do you agree with the exclusion for health agencies?

**Question 14:** Do you agree that health agencies collecting non-patient biometric information should have to comply with the code?

**Question 15**: Do you agree with the additional requirement that organisations must ensure the biometric processing is proportionate?

**Question 16**: Do you agree with the six factors listed in rule 1(2) that an organisation must consider when considering proportionality? Would you amend, add, or remove any of these factors and why?

**Question 17**: Do you agree with our definition of privacy risk? Do you agree with the privacy risks listed? Would you amend, remove, or add to any of these risks?

**Question 18**:Do you agree with the definition of benefit? Do you agree that the higher weighting should be given to public and individual benefit (as opposed to the benefit to the organisation)?

**Question 19**: Do you agree with the requirement for organisations to adopt reasonable and relevant privacy safeguards to mitigate privacy risk?

**Question 20**: Do you agree with the definition of privacy safeguards? Do you think the list of privacy safeguard covers appropriate safeguards for biometric processing? Would you amend, add, or remove any of these factors and why?

**Question 21:** Do you agree with the additional notification matters? Can you think of any other matters that an organisation should be transparent about?

**Question 22:** Do you agree with the requirement for organisations to have a conspicuous notice? Do you agree with the definition of conspicuous notice?

**Question 23:** Do you agree with the matters that need to be on the conspicuous notice? Are there any items that you think should be added to the conspicuous notice? Or removed?

**Question 24:** Do you agree with the requirement for agencies to have an accessible notice? Do you agree with the definition of accessible notice?

**Question 25:** Do you agree that some exceptions should be removed to strengthen the notification obligations? Would you remove, keep or add some exceptions, and if so, which ones?

**Question 26:** Do you agree with the fair processing limit on using biometrics to detect or attempt to detect health information?

**Question 27**: Because health agencies are excluded from scope, insurance agencies providing health insurance won’t be subject to this processing limit on inferring health information (although they’ll still have to comply with the HIPC). Do you think this is problematic or a gap in the code’s coverage? Are you aware of any other regulation that puts rules in place for insurance agencies that would regulate this?

**Question 28**: Do you agree with the fair processing limit on using biometrics to infer or attempt to infer emotions, personality or mental state?

**Question 29:** Do you agree with the fair processing limit on using biometrics to detect physical state generally? Do you agree with the exception for detecting physical state if necessary to comply with a health or safety standard? Or do you think this use should also be restricted? Is the exception drafted too broadly or too narrowly?

**Question 30:** If you are an employer or employee, what do you think about this exception? Can you see beneficial or problematic cases for monitoring physical state (attention, fatigue) for health and safety reasons in your workplace?

**Question 31:** Do you agree with the fair processing limit on using biometrics to place people in categories that are protected under the HRA? Are there any categories we’ve missed that are intrusive? Can you think of any beneficial uses for placing people into these categories?

**Question 32:** Do you agree with the exception for age-estimation? Do you agree with the way we’ve drafted the age-estimation exception – can only use it if necessary to comply with lawful obligation to apply an access limit or meet a duty of care?

**Question 33:** Do you agree with providing the standard ‘serious threat’ and ‘research’ exceptions to the fair processing limits? Do you agree that the research exception should be strengthened by adding written authorisation requirement and ethical oversight and approval requirements?

**Question 34:** Do you agree with the exception to the fair processing limits for assisting an individual with accessibility? Do you agree with our definition of accessibility?

**Question 35:** Do you think there needs to be other exceptions to the fair processing limits? What exceptions would you suggest and why are they needed?

**Question 36:** Do you agree that the collection exception should be changed so the threshold is higher for relying on it?

**Question 37:** Do you agree that agencies shouldn’t be able to rely on this exception to collect biometric information by web scraping? What do you think of our definition of web scraping? Does it cover what we intend to capture?

**Question 38**: Do you agree that an organisation should have to tell the individual what form of biometric information they hold about them?

**Question 39**: Do you have ideas for other ways rule 6 could be modified to give a person more oversight of what information is held by the organisation?

**Question 40**: Do you agree with the intent of this modification? Do you agree with how this provision is drafted?

**Question 41:** Do you agree that rule 12 should require the organisation to make sure the overseas jurisdictions they’re sending to have protections that reflect the heightened protections in the biometrics code, rather than the general Privacy Act?