

10 June 2019

Mike Bush
Police Commissioner
New Zealand Police

Tēnā koe Mike

Privacy Commissioner's submission on proposed information sharing agreement with the Department of Internal Affairs (DIA) to support identity verification by the New Zealand Police (Our Ref: IS/0036)

Police has consulted with me under section 96O of the Privacy Act 1993 (the Act) about the proposed approved information sharing agreement (AISA) to facilitate the provision of name change, non-disclosure direction and death information by DIA, to improve accuracy of information held by Police that accordingly supports identity verification and the maintenance of the law.

The AISA will provide the legal framework to enable Police to update the National Intelligence Application (NIA) to:

- link multiple identities to one individual;
- update records of individuals in NIA;
- detect and correct false information provided by individuals; and
- protect the identity of individuals who have a non-disclosure direction in force.

The AISA will enable name change, non-disclosure direction and death information to be shared beyond those reasons authorised by the statutes under which personal information was collected and on a regular and wholesale basis. I note that the sharing will not include information regarding:

- pre-adoptive birth registrations;
- pre-sexual assignment or reassignment birth registrations; and
- non-disclosure directions made under the Domestic Violence Act 1995.

Section 96O requires that I provide my submission to Police, being the agency consulting with me on the proposed agreement. In turn Police must give a copy of my submission to the Minister of Police (the Minister responsible for the lead agency). The Minister must take my submission into account before deciding whether to recommend the making of an Order in Council to approve the agreement.

Following the anticipated approval of the agreement by Order in Council, this submission is likely to form the basis of my report under section 96P to the Minister of Police. I expect to publish that report following consultation with the Minister.

I am satisfied that the AISA meets the requirements set out in Part 9A of the Act, and in particular those set out in section 96N, as set out below.

I note that this AISA is intended to permit the sharing of information from DIA to Police. I am satisfied that the overview of operational detail provided in this AISA (clause 8) meets the requirements of section 96I(2)(c) of the Privacy Act and gives sufficient information for people to understand how the programme will operate.

I further note that Police intends to supplement this AISA with operational procedures which will be provided to my office for consultation upon their development. These operational procedures will include further guidance on the one-off exchange of existing non-disclosure directions, destruction practices and match verification practices.

Comments in respect of section 96N

Under section 96N of the Act the Minister of Police must consider the following matters before recommending the making of an Order in Council for the proposed AISA. I have commented on these matters to support the Minister's decision-making in this regard.

1. Does the information sharing agreement facilitate the provision of any public service or public services?

The AISA is intended to facilitate information sharing from DIA to Police, as per clause 2, for the purposes of:

- (a) keeping the peace
- (b) maintaining public safety
- (c) law enforcement
- (d) crime prevention
- (e) community support and reassurance
- (f) national security
- (g) participation in Police activities outside New Zealand
- (h) emergency management
- (i) intervention to prevent or reduce harm to individuals and New Zealand society in general.

These purposes meet the criteria of supporting the delivery of public services.

2. Is the type and quantity of personal information to be shared under the agreement no more than is necessary to facilitate the provision of that public service or those public services?

Under the proposed AISA, DIA will send on a regular basis all updates to the name change, death and non-disclosure direction registers to Police. In accordance with clause 8, Police will run a matching process between identities held in NIA and information provided by DIA. Where there is a definitive match Police will then update the relevant NIA record. Once the matching process has been completed, Police will discard the information received from DIA.

In the case of non-disclosure directions where there is no match in NIA, Police will create a new identity record so that Police can appropriately protect that individual's identity should they interact with Police in the future.

DIA/Police have expressly excluded pre-adoptive birth registrations and pre-sexual assignment or reassignment birth registrations from the scope of the agreement. This exclusion is an acknowledgement of the high level of sensitivity of that information and the potential serious consequences for the privacy of the individual were it to be shared inappropriately.

I am satisfied that the type and quantity of personal information to be disclosed under the AISA is reasonably necessary to achieve the policy objective of improving the accuracy of identity information held by Police in NIA and to assist the Police in carrying out its maintenance of the law function.

3. Will the agreement unreasonably impinge on the privacy of individuals and contain adequate safeguards to protect their privacy?

I am satisfied that this agreement does not unreasonably impinge on the privacy of individuals and contains adequate safeguards to protect individuals' privacy.

These safeguards are important as the information sharing authorised by the agreement will provide Police with a greater knowledge of changes to individual circumstances for a large number of New Zealanders (all individuals with a NIA record including offenders, victims and witnesses).

I note that among the safeguards the parties are required to:

- ensure information is transferred via secure mechanisms that meet mandated security standards (NZISM);
- have procedures for the appointment and training of authorised staff so that information is shared appropriately and is only used for the purposes specified in the agreement;
- update information provided to individuals registering a death, name change or requesting a non-disclosure direction, so they are aware that their information will be disclosed to Police and the reasons for this;
- limit access to information transferred from DIA to a small number of Police staff; and
- ensure accurate verification of any matched data from DIA before Police update the NIA record.

4. Will the benefits of sharing personal information under the agreement be likely to outweigh the financial and other costs of sharing it?

I am satisfied that this agreement will result in positive benefits that outweigh the costs of sharing the information. Enabling Police to have more accurate and up to date identity information will assist them to correct false or inaccurate information, protect the identities of individuals with a non-disclosure direction in place, and facilitate their maintenance of the law functions more efficiently.

5. Are there any potential conflicts or inconsistencies between the sharing of personal information under the agreement and any other enactment, and have they been appropriately addressed?

I am not aware of any potential conflicts between the agreement and any other enactment. Section 78AA of the Births, Deaths, Marriages, and Relationships Registration Act 1995 permits the disclosure of information under an AISA.

This submission does not affect my position on what will constitute appropriate monitoring of compliance with this agreement, under the provisions of section 96S-96U and section 96W of the Act.

I hope that these comments assist in finalising approval of the AISA by Order in Council.

Nāku iti noa

A handwritten signature in blue ink, consisting of a large, stylized 'J' followed by a long, sweeping horizontal stroke that ends in a small hook.

nā John Edwards
Privacy Commissioner