

Collective ways of working



Under the Privacy Act 2020

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Collective privacy

53 Other reasons for refusing access to personal information

An agency may refuse access to any personal information requested if—

[...]

(b) the disclosure of the information would involve the unwarranted disclosure of the affairs of—

(i) another individual; or

(ii) a deceased person;

Collective good

Information privacy principle 11

Limits on disclosure of personal information

(1) An agency that holds personal information must not disclose the information to any other agency or to any person unless the agency believes, on reasonable grounds,—

[...]

(f) that the disclosure of the information is necessary to prevent or lessen a serious threat to—

(i) public health or public safety; or

(ii) the life or health of the individual concerned or another individual;

Cultural perspectives on privacy

21 Commissioner to have regard to certain matters

The Commissioner must, in performing any statutory function or duty, and in exercising any statutory power,—

[...]

(c) take account of cultural perspectives on privacy;

[...]

Te Pou Matakana Limited v Attorney-General judicial review

- Te Pou Matakana (the Whānau Ora Commissioning Agency) requested relevant information about unvaccinated Māori from the Ministry of Health.
- The Ministry of Health declined the request to provide identifiable information.
- Te Pou Matakana successfully challenged the decision twice in the High Court.
- The Ministry of Health provided identifiable information with restrictions on its use and retention.
- The Privacy Commissioner's submission included advice on, *"... the wider context of how questions of use and protection of individuals' health information on grounds of their own, others' or public health may be resolved through the application of interconnected data privacy and health rights, **including in light of obligations under the Treaty** and of evolving principle and practice connected with the current pandemic."*
- The Ministry of Health, the Privacy Commissioner and the High Court all factored Treaty and tikanga obligations in their assessments, decision-making and advice given around the application of the Privacy Act in this case.

Family Group Conferences (FGCs)

Youth justice co-ordinator must ensure that relevant information and advice made available to family group conference

Every youth justice co-ordinator who convenes a family group conference must take all reasonable steps to ensure that all information and advice the co-ordinator considers is required by the conference to carry out its functions (including information and advice relating to the health and education needs of every child or young person in respect of whom the conference is convened) is made available to the conference.

Family Group Conferences (FGCs)

Oranga Tamariki Act grounds for disclosure:

- To prevent harm or neglect to a child or young person.
- For Family Group Conferences and other Care and Protection work.
- To make, carry out, or review a risk assessment, needs assessment, prevention plan or support plan for a child or young person.
- In relation to external services facilitated by Oranga Tamariki for a child or young person and their family or whānau.

Privacy Act grounds for disclosure:

- To prevent or lessen a serious risk to the life or health of the individual concerned or another individual.
- The use or disclosure is one of the purposes for which the information was collected, or a directly related purpose.
- To avoid prejudice to the maintenance of the law by any public sector agency.

[i.e. child welfare obligations under the Oranga Tamariki Act]

Information Sharing Agreements (ISAs)

- ***Approved Information Sharing Agreement (AISA)*** - a legal mechanism that authorises information sharing not otherwise authorised by the Privacy Act. Can only apply to the delivery of public services and must have a Government agency as a lead agency.
- ***Information Sharing Agreement (ISA)*** - a less prescribed agreement that documents the operational-level specifics of information sharing, including the existing legislative authority (e.g. section 66C of the Oranga Tamariki Act or an exception under IPP 11 of the Privacy Act).
 - Standalone or as schedules under a contract or MOU
 - Schedules for specific information shares

Wrap-up

