



# Te Kawa Mataaho

## Public Service Commission

18 February 2025

Dr Diana Sarfati  
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Ministry of Health

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Tēnā koe Di

### **Inquiry into the protection of personal information**

In June 2024, following a direction from the Prime Minister and the Minister for the Public Service, Acting Public Service Commissioner Heather Baggott appointed Pania Gray and Michael Heron KC to conduct an Inquiry into allegations that personal information provided to government agencies as part of Census 2023, or for Covid-19 vaccination purposes, had been misused by third-party service providers during the 2023 general election.

Under the [terms of reference](#), the inquiry was to establish the facts and provide an independent assessment of government agency activity in relation to the allegations.

You have received an embargoed copy of the final report. Please keep this matter strictly confidential until public release, in accordance with the non-publication orders.

Thank you for the support that you, your senior leaders and staff gave the inquiry leads during this process. I also acknowledge your agency's co-operation in providing the inquiry leads with access to all relevant documents and Ministry of Health staff to complete the inquiry.

### **The findings and my expectations**

The inquiry found that there were serious failures by several Public Service agencies to protect personal information and that those failings effectively left the door open to possible misuse. That is not an outcome we can accept.

I recognise that the broader context for your data sharing agreements included addressing significant challenges around achieving equitable COVID 19 vaccination coverage for some population groups, and that this function transferred to Health NZ as a result of the Pae Ora reforms. Whilst the inquiry found the foundation terms of the Data Sharing Arrangements (DSA) adequately and appropriately set out the expectations of third party providers Te Pou Matakana and Whānau Tahī, it also identified some significant gaps in the auditing and assurance arrangements, including:

- The Ministry did not implement a systematic means for assuring itself that the service providers were meeting the expectations set out in the agreements. There were no mechanisms available to make sure systems for receiving, storing, using and disposing of data complied with the terms of the DSAs. I appreciate these functions were transferred to Health NZ as part of the Pae

Ora reforms and that circumstances where the Ministry will be involved in DSAs of this nature are less likely in the future.

- There were no controls in place once the files were downloaded by the provider's authorised staff.
- The possibility of conflicts of interest arising from the sharing of personal information with the relevant service providers was not adequately identified or managed.
- There was a lack of clarity between the Ministry and Te Puni Kōkiri regarding responsibility for identifying and managing any conflicts of interest in those circumstances.

Given the sensitivity of the COVID 19 vaccination data, it was not appropriate to simply rely on an assurance model of high trust and commercial incentives to ensure that personal information was protected. Whether the information was misused or not was outside the scope of this inquiry and is beside the point. Whenever personal health information is shared with a third party, robust audit and assurance controls must be in place and those controls must be activated to make sure the information is protected. That is what the public rightly expects from the Ministry and what occurred did not meet their expectations or mine.

I understand the Ministry has an action plan underway to ensure there is active consideration of conflicts of interest in the future. Given the seriousness of these matters, I expect you to bolster your action plan to include:

- engaging with Health NZ, which is undertaking a programme of work to strengthen its standard templates, capability and training around information sharing arrangements to draw from their experience, and
- where appropriate, improving the Ministry processes and practices across these critical areas.

I also request that you temporarily suspend, with immediate effect, entering into any new contracts, renewals and/or extensions of contracts with the relevant service providers,<sup>1</sup> until you provide me with assurance to my satisfaction that your contracts are fit for purpose and contain provisions for the adequate protection of personal information. I ask that you personally oversee how those matters are being addressed.

I want to be clear that I'm not asking you to pause or cancel existing contracts with these providers and there should be no disruption to service delivery in undertaking this assurance work. However, it's really important that you take immediate steps to learn from the findings of the Inquiry and make sure you have your contractual and implementation settings right going forward. If you have concerns about how to action this in accordance with any existing contractual obligations, I recommend you seek specific legal advice.

### **Immediate steps to provide assurance**

I would appreciate written confirmation today that you fully accept the findings and that you will take timely and decisive action to address them. I then expect you to report back on how you intend to address the findings of the report and the proposed timeframes for each action, via your Assistant Commissioner, Martin Kessick.

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<sup>1</sup> As named in paragraph 30 of the Report (excluding any subsidiaries of the named service providers or related parties).

From there, I ask that you provide the Commission with progress reports every two months and, between those reports, keep Martin regularly informed on your implementation of the action plan. Martin is also available to answer any questions you may have about the content of this letter.

I will release the inquiry's final report today. When I do, I will write to Public Service chief executives, as this is a timely opportunity for every Public Service agency to ensure that they have robust policies and practices in place to address the issues highlighted by the report. My expectation is that you will also consider the matters set out in that letter.

Thank you for your personal leadership in relation to these matters.

Nāku noa, nā



Sir Brian Roche KNZM

Te Tumu Whakarae mō Te Kawa Mataaho

Public Service Commissioner | Head of Service