



Te Kawa Mataaho
Public Service Commission

18 February 2025

Mr Mark Sowden
Acting Government Statistician and Chief Executive of Stats NZ
Statistics New Zealand

Email: mark.sowden@stats.govt.nz

Dear Mark

Mark

Inquiry into the protection of personal information

As you know, the inquiry into how government agencies protected personal information provided for the 2023 Census and COVID 19 vaccination purposes has concluded.

This inquiry was directed by the Prime Minister and the Minister for the Public Service in June 2024, in response to allegations that personal information may have been misused by third party service providers during the 2023 election. Acting Public Service Commissioner Heather Baggott appointed Pania Gray and Michael Heron KC to conduct the inquiry as her delegates.

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.

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 Statistics New Zealand (Stats NZ) staff to complete the inquiry.

Above all, I also want to acknowledge the decision you have made, as this work has progressed, to not seek reappointment. I respect the commitment you have shown in addressing what needs to be done while you are the acting Chief Executive.

The findings and my expectations

The inquiry has 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. It is particularly concerning to me that the most serious findings in the inquiry report relate to Stats NZ – the lead agency for government-held data.

The security and integrity of Census data is a fundamental duty of Stats NZ. It is critical that New Zealanders have trust and confidence in the protection of Census data and that this data is safeguarded from potential misuse. Stats NZ must get this right every time, and as I have said to you, there is no materiality or acceptable level of non-compliance with this.

For completeness, the inquiry identified a series of failings at Stats NZ, including that:

- The usual processes and safeguards that Stats NZ uses for Census activity were not used in this case. The high trust model was inappropriate in the circumstances and fundamental confidentiality protections (Certificates of Confidentiality) were not in place. This is troubling as it has limited options for redress.
- Stats NZ staff raised serious concerns about the processes being followed by subcontractors, but these were not acknowledged or adequately dealt with by the agency.
- Concerns about the contracting process were raised internally within Stats NZ. Risks of conflicts, privacy breaches and poor process were identified and not dealt with.
- The possibility of conflicts of interest were not adequately identified or managed.

In summary, Stats NZ's processes, training and risk management procedures created the potential for the misuse of Census data. Whether the data was misused or not is outside the scope of this inquiry is of itself not directly relevant to the fact the processes or systems gave rise to the possibility. This situation cannot occur again.

Given the seriousness of these matters, you met with Deputy Public Service Commissioners Heather Baggott and Rebecca Kitteridge in November 2024 to discuss how you would address the findings in the report, which were still in draft at that time. As the situation demanded, you were already formulating an action plan to address the findings. As a result of the meeting, you undertook to include additional external oversight into the action plan to ensure that it is effectively implemented.

Since that meeting, the inquiry report has been finalised and you have also received the final report from your own independent assurance investigation, which was conducted by Doug Craig. Thank you for sharing a copy of Mr Craig's final report with me. Having read both reports together, I am of the view that there is a significant amount of work that needs to be done to restore public trust and confidence.

At minimum, the action plan needs to:

- set expectations for contract managers to ensure specific contractual requirements such as Certificates of Confidentiality, and training of third-party providers, are completed when provided for in a contract,
- ensure that conflict of interest expectations are communicated to third party providers as outlined in the [Conflict of Interest Model Standards: Partnerships with other stakeholders](#), and
- promote a speak-up culture that empowers staff to raise concerns and be confident they will be taken seriously and considered at an appropriate level of seniority.

My expectation is that you will provide me with the following:

- An outline of your strategy for enforcing the contractual obligations that existed in this case, concerning the use and deletion of Census data.
- An assurance that you will review both reports to determine whether any internal disciplinary action is appropriate in this case, noting your advice that some of the key personnel no longer work at Stats NZ.

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,¹ 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.

Next steps

I would appreciate written confirmation today that you fully accept the findings and recommendations of both reports and that you will take timely and decisive action to address them. Once you have finalised your action plan, we will need to confirm the proposed timeframes for each action.

From there, I ask that Stats NZ provides the Commission with progress reports every two months and, between those reports, keep your Assistant Commissioner Martin Kessick 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.

Stats NZ's systems, processes, capability and capacity around privacy protection, conflict of interest management and complaint handling need to be improved. Thank you for starting this work. I am confident that done well, it will build public trust and confidence in your agency.

I have also written 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 Stats NZ will also consider the matters set out in that letter.

Thank you, Mark, for your approach to these matters.

Nāku noa, nā



Sir Brian Roche KNZM
Public Service Commissioner | Head of Service
Te Tumu Whakarae mō Te Kawa Mataaho

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