

Privacy Foundation New Zealand

Health Care and Policy Working Group

Contact Tracing -

APProaching the Future

The Privacy Foundation is pleased to have had the opportunity to read Dr Ayesha Verrall's audit report on contract tracing for COVID-19 in New Zealand. We take heart from her assurance that what has been put in place by the Ministry of Health so far is heading in the right direction but there is still more work to do.

The Privacy Foundation has considered the report from a privacy perspective. We acknowledge the COVID-19 crisis means some privacy rights have been altered for the duration of the crisis under the powers within existing legislation to enable a coordinated response. However the response must be proportionate to the need and this must be kept in mind in the planning and execution of the contact tracing programme.

Manual Tracing using the National Contact Tracing Solution (NCTS)

We are pleased to hear from Dr Verrall that the NCTS, established to support the National Close Contact Service (NCCS), is a high quality contact tracing database. From a privacy perspective we need to know that it is robust and the general public is appropriately informed about how it works, what personal information is collected, who has access to their information, with whom their information is shared, how long it will be retained and the process for disposal. We have noted the NCTS '*repurposes case management software designed for the National Screening Solution, called the National Screening Solution*'. Has a Privacy Impact Assessment (PIA) been undertaken for this previously unanticipated use of the NSS, or has the PIA that should have been undertaken prior to the intended use by the National Bowel Screening Programme, been updated? Irrespective, the PIA must be made public.

Future Use of the NCTS

The Privacy Foundation believes there is more discussion to be had around the future use of the National Contact Tracing Solution. Dr Verrall sees value in its being the system used by all Public Health Units.

If it is to become a national contact tracing system used by all Public Health Units for their routine contact tracing e.g. TB, measles, mumps then a further privacy impact assessment will need to be undertaken. There would need to be transparency around this. There are additional privacy implications to be considered.

The Minister of Health has also signalled the NCTS '*will be developed further and future-proofed so that it can manage the delivery of a COVID-19 vaccine when one becomes available*'. This is a significant variation to the use of the NCTS and again, will need to be the subject of a Privacy Impact Assessment when the time comes.

Out-of-date addresses and contact information

Dr Verrall was concerned only 60% of phone contacts could be easily reached by phone due to incorrect phone numbers or people choosing not to answer an unidentified number.

The Privacy Foundation shares this concern. Information Privacy Principle 8 requires that agencies take reasonable steps to ensure information is accurate before it is used. Out-of-date address and contact information is inaccurate information. It is particularly unhelpful in these circumstances. We are well aware that address information that **must** be collected and the contact information that **may** be collected in the National Health Index, may be out-of-date. One response from the Ministry of Health indicates that about 30% is out-of-date. This is a significant issue. Monthly data matching between PHO enrolment databases and the NHI goes some way toward updating addresses for the enrolled population, but more work still needs to be done on ways to resolve out-of-date information issues.

We expect the first phase of the smartphone app that will enable people to register their contact information will see that information matched with the NHI and the NHI updated accordingly.

We believe the National Close Contact Service needs to explore further options for making it obvious to people that the phone call is coming from the NCCS. Publication of the two relevant phone numbers on the Ministry's COVID-19 webpages is a step in the right direction.

Use of digital technology in contact tracing

The Privacy Foundation was pleased with Dr Verrall's clear explanation around the use of digital technology in contact tracing – that it could not replace the work undertaken by Public Health Units, but it could be a useful supplement in the contact tracing process.

She supported the use of an app for smartphones and that it would be good to have it by the time we go down to Alert Level 2 but she recognised there were potential problems with an app and that it needed to be piloted and evaluated first. It was important to establish the technology was acceptable to the public because public buy-in was required to achieve optimal uptake and effectiveness of the app in the contact tracing process. The example of the last census illustrates the difficulties of any large-scale technology-based project.

Some Issues

The Privacy Foundation strongly supports Dr Verrall's comments. We reiterate our own views, previously expressed. A Privacy Impact Assessment must be undertaken and made publicly available prior to the adoption of the app or any other new technology; the public must be well informed in language they can understand about how the app will work within the contact tracing process, what they can expect when contacted, what information will be collected, who it will be shared with, how long it will be retained, how it will be disposed of and how the app will be turned off once the crisis is over.

We remain concerned that the introduction of a smartphone app has the potential to increase inequities in communities that are already vulnerable due to lower rates of digital access. If increasing reliance is placed on the use of an app as a component of contact tracing we are concerned that contact tracing in these communities may be impaired and therefore they may be at higher risk in the event of an outbreak. We need to be assured that those people who don't have access to digital technology will continue to have access to the requisite level of analogue support.

The introduction of an app to support contact tracing at this stage in the epidemic can be seen as an ideal opportunity to identify the risks, benefits and costs of such a programme, and in this way have a blue-print for any future need. Any review needs to be comprehensive, and its findings made public.

For any measures taken in emergency situations to be successful, there needs to be public acceptance of the relevance, usefulness and need for such measures. This means that public trust needs to be fostered through clear information about all aspects of the measure, especially when these impinge on individual and collective rights.

For further comment:

<https://www.privacyfoundation.nz/wp-content/uploads/2020/04/COVID-19-Contact-Tracing.pdf>

Dr Verrall's report, 'Rapid Audit of Contact Tracing for COVID-19 in New Zealand':

https://www.health.govt.nz/system/files/documents/publications/contact_tracing_report_verrall.pdf

Barbara Robson, Pat Cunniffe, Paul Holmes

Members, Health Care and Policy Working Group

Privacy Foundation New Zealand