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Tena koutou

### **Consultation on the Death Information Approved Information Sharing Agreement**

The Privacy Foundation New Zealand welcomes the opportunity to comment on the proposed Death Information Approved Sharing Agreement. We apologise that we have not been able to form a position on the specific questions raised for consultation. Instead, we provide a general comment.

#### **The Privacy Foundation's General Comment**

The Privacy Foundation are not opposed to Approved Information Sharing Agreements, the purpose of which is to facilitate public services.<sup>1</sup> We acknowledge that AISA can facilitate complex multi-agency sharing.<sup>2</sup> Accepting these things, we raise the risk of broad multi-party AISA's undermining the transparency, coherence and understandability of New Zealand's data protection regulation.

To our reading the proposed AISA would provide a broad and open-textured modification of how death information is dealt with in Aotearoa, New Zealand. There are numerous parties and purposes. The purposes themselves are broad and include many rights-impacting scenarios.

The Privacy Foundation note the significant importance of maintaining and promoting a coherent and consistent data protection regime in New Zealand. Broad AISA, particularly with open-textured drafting, risk undermining this. Serious dedication would be required for any ordinary member of the public to understand this proposal, its ramifications and its implications for them. Furthermore, the risk of unintended consequences due to this broad proposal is significant and underexplored in the Privacy Impact Assessment.

In particular, the inclusion of clause 5.2(i) results in a proposed AISA with substantial impact on the rights of New Zealanders. The scope of this purpose is broad, including the prevention, detection and investigation of offenses, and the conduct of civil proceedings including judicial review. The necessity of this, over and above the existing unmodified law, is unclear and the proportionality of the proposed sharing is underexplored.

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<sup>1</sup> Privacy Act 2020, s 136

<sup>2</sup> Privacy Act 2020, s 139-141.

Finally, we note the cultural significance of death information in te ao Māori. This aspect is underexplored in the Privacy Impact Assessment and the agreement itself.

For these three reasons, the Privacy Foundation is of the view that the Department of Internal Affairs should pursue these purposes through primary legislation or return to public consultation with a narrower proposal.

Best wishes,

Gehan Gunasekara  
Chairperson Privacy Foundation New Zealand