

PRIVACY FOUNDATION WELCOMES DECISION ON INDIVIDUAL CLIENT DATA

Media Statement for immediate release - 29 May 2017

Privacy Foundation New Zealand welcomes the announcement (Beehive, 24 May 2017) by Social Investment Minister Amy Adams and Minister for Children Anne Tolley that contracts with social service providers will not require the collection of individual client level data (ICLD) until a new data protection and use policy is in place. However we reserve our opinion until the Government proves that such a policy meets its stated commitment to proper data collection and use. In particular, we draw attention below to our concerns with the original proposal, especially the high likelihood that, had it gone ahead, it would have led to individual complaints by affected individuals leading to litigation.

The Foundation welcomes the Government's stated goal of working with providers on how data on individual clients is collected, as well as the appropriate purposes for which that data can be used. This is in line with the recommendations of the Privacy Commissioner's *Inquiry Into the Ministry of Social Development's Collection of Individual Client-Level Data from NGOs*. The Foundation supports the Inquiry's recommendation that alternative means of attaining the Government's goals should be explored such as by having the information collated and analysed by Statistics New Zealand. These means could, for example, involve data anonymised so as not to be linked to names or other identifying details but still allow the success of individual outcomes to be mapped.

The Foundation also supports the Inquiry's recommendation that vulnerable individuals not be deterred from seeking assistance. The proposal to collect ICLD was likely to lead to many of the individuals most in need of assistance to not seek it in the first place. The personal circumstances of many such individuals, including victims of domestic and sexual abuse, make them particularly vulnerable to misuse of their personal data and they ought not to be forced to make an invidious choice between sharing it and not obtaining help.

The Inquiry's recommendations that the Government's purposes for collecting, holding, using and disclosing information are specific, relevant to its functions and clearly conveyed, and that the information collected is necessary to achieve these purposes is, in the foundation's view, the most critical aspect. Carte blanche vacuuming-up of all data with a view to later working out how it can be used contravenes all the central tenet of informational privacy as well as exposing individuals to risks unknown at the time they shared the data.

The Foundation wishes to highlight the fact that, had the Government proceeded with collecting ICLD, affected individuals may have had legal grounds to bring a complaint before

the Privacy Commissioner under the Privacy Act. Such a complaint could eventually be taken before the Human Rights Review Tribunal which has the power to award compensation and other remedies. Indeed a successful action was brought, by a beneficiary, against Housing New Zealand in 2014. The Tribunal ruled that Principle 1 of the Act applied to the collection of data even where no data had in fact been collected, as the beneficiary had instead chosen to forego the benefit. The agency had set up a system for collecting personal information from an identifiable class of persons that was not reasonably necessary for its legitimate purposes, thus contravening the Act.

The Foundation applauds the setting up of a Working Group including Statistics New Zealand, the Office of the Privacy Commissioner and NGOs. Privacy Foundation New Zealand is supportive of this process and calls for consultation to be as inclusive and as wide-ranging as possible. The Foundation believes that in order for this to be meaningful expertise is needed from multiple disciplines, including those of law, information science and statistics.

Contact for media enquiries: Gehan Gunasekara phone 09 923 5218, (021 0743419 mob.); or email acting Foundation Chair Gehan Gunasekara - g.gunasekara@auckland.ac.nz

Background Notes for Journalists

* * Foundation activities will include:

- public statements on data protection and privacy issues of public importance including policy issues and proposals;

- submissions to select committees of parliament including relevant legislation

- representations to relevant business, government and interest groups

* The website gives the opportunity to join and or to provide support for the Foundation.

* The Privacy Foundation New Zealand Incorporated is a registered incorporated society. Further information is available on its website: www.privacyfoundation.nz

* The volunteer committee and group of individuals supporting the Foundation have a range of expertise, knowledge and interest in privacy issues. Officers are: Chair, Marie Shroff; Deputy Chair and Secretary, Gehan Gunasekara; Treasurer, Alida van Klink. Committee members: Alex Sims, Kathryn Dalziel and Katrine Evans

* The Foundation is a voluntary group and will not be able to provide advice about individual privacy complaints. Similarly the Foundation will not have the capacity to answer individual enquiries from the public. It will refer any privacy complaints or enquiries to the Privacy Commissioner or elsewhere as required.

