

Statement from the Privacy Foundation New Zealand

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More Oversight and Transparency Needed for Facial Recognition Technology

The Privacy Foundation notes the increasing public concern with the use of biometrics and Facial Recognition Technology and calls for more oversight and transparency around their use by the government and the public sector.

The media has revealed in recent days some of the government's plans to expand the use of digital identity services using Facial Recognition Technology (FRT). It is of concern that these plans, which appear to be well advanced, have not been well communicated to the public.

In our view, the government and public sector should be very transparent about the use of biometrics, and FRT in particular. We believe the governance model should require :

1. For the sake of **transparency**, it should be mandatory to carry out Privacy Impact Assessments (PIA) of the proposed public sector projects including the use of biometrics.

Some agencies do that voluntarily, but it is crucial for retaining public trust to proactively show that the risks for the individuals and the public are minimal or properly mitigated. The PIAs should be proactively published on a government website, similarly to the practice in Australia.¹

2. The **oversight** of the Privacy Commissioner should be mandatory for these projects and information exchange between government agencies.
Currently, some information exchange schemas are not under such oversight, for example, the identity information exchange (Part 7 subpart 2 of the Privacy Act 2020) and law enforcement information exchange (Part 7 subpart 3 of the Privacy Act 2020).

3. Meaningful and ongoing communication with the public.

¹ <https://www.abs.gov.au/about/legislation-and-policy/privacy/privacy-impact-assessments>

Continued lack of transparency and oversight, and a failure to adequately communicate with the public, risk increasing concerns among the general public to the detriment of public trust and confidence in government services. Wide-scale use of facial images for identity verification services risks speculation about its progression to the use of a national ID number which has caused heated debates in the past.

The Privacy Foundation is also calling for a rethink of the regulatory model for biometrics given the surge of new biometric technologies. This is critical. The use of biometric personal information bears significantly **more risks** for people because they cannot change it. The Law Commission recommended in their 2011 review of Privacy Law that the Privacy Commissioner should consider issuing a **code of practice covering biometrics**.² This recommendation is now more urgent than ever before.

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² Recommendation 106 Law Commission *Review of the Privacy Act 1993: Review of the Law of Privacy Stage 4* (NZLC R123 2011), at 272-3.