

Privacy Foundation Newsletter!

Kia ora,

Welcome to the first members' newsletter of 2022-23. It is also my first newsletter as Chair. It has been a while since our last newsletter, so I want to take this opportunity to let you know what has been done and our plans for the near future. Also, I wanted to let you know about opportunities for you to contribute.

The last months have been busy for submissions. Collectively, we submitted on:

- [Proposed changes to the Privacy Act 2020.](#)
- A [proposed Approved Information Sharing Agreement for Veteran's Affairs.](#)
- A [Digital Strategy for Courts and Tribunals.](#)
- The [Office of the Privacy Commissioner's regulation of biometrics.](#)
- The NZ [Health International Patient Summary.](#)

We have met with the new Privacy Commissioner, his officers, and the new Government Chief Privacy Officer.

Last year we joined our focus on a campaign about children's privacy rights in online education. Since then, we have gathered information, made OIA requests and met with the Privacy Commissioner and Ministry of Education. All of this work lead to an issues paper, you can read [here](#).

We are proud of all of this work, which is all volunteer led. If you would like to get involved, there is room for you. The work is varied and there is no need to have any special skills or expertise. We have five working groups; you can read about these later in this newsletter. There are also opportunities to work on our communications, such as this newsletter. So, if you want to be involved contact me.

Our plans for the immediate future involve more activities advocating for safe online learning for our children and de-identification as an important method of protecting privacy. We are also going to be running regular online events discussing privacy topics.

Thank you for your ongoing support!

Ngā mihi nui,

Marcin Betkier

Chairperson, Privacy Foundation NZ

Marcin.Betkier@vuw.ac.nz

New Committee

After the last Annual General Meeting ([minutes](#)) we have new Committee Members and a new Patron – Dame Marie Shroff ([you can read about them online](#)).

An Update On Our Campaign on Children’s Privacy in Learning Online.

We put the privacy of tamariki in New Zealand schools as our priority for 2022. Our concerns centered on the platforms used in the online learning environment.

We wanted to know whether our children were safe. What safeguards were in place? Are our children’s information only being used for their education, or is it being used for other purposes?

We contacted the Ministry of Education, Netsafe, New Zealand School Trustees Association, Office of the Privacy Commissioner, and some schools. We also requested information under the Official Information Act. You can read this information on our [website](#).

In August we published the [preliminary issues paper](#), listing our initial discoveries and privacy concerns. From this, we chose to focus on two specific problems:

1) **Governance of Privacy in Online Learning**

There is a gap in responsibility for privacy analysis of the online systems and software. The decisions about the use of software are shifted to schools and parents, but they have limited expertise and resources, and no negotiating power. They simply use the online tools as they are provided.

New Zealand should have a policy stating clear privacy standards, duties and responsibilities, and a system in place that actively verifies that. This is especially critical when the software is centrally purchased by the Ministry of Education.

2) **Educational Platforms**

Educational technologies and platforms should be transparent as to their data collection and use practices, and should declare that they will not use the data for their own commercial interests. More specifically, advertising, marketing, profiling or big data analytics should be excluded.

It is evident that there are issues with having a consent-based model in this context, and we do not see that this can be relied on, given the vulnerabilities of children and that there is little or no meaningful choice. Active privacy by design should be incorporated into the software. To achieve that, responsibility for safety would need to shift back to government and the software companies themselves.

Next we are going back to stakeholders with our findings, trying to get change. We will be writing to Edtech providers in the New Zealand market and looking to engage more directly with schools across the motu. The recent publication of a draft Student Data Pledge for Aotearoa is another area where we see the need for the Foundation to be involved.

From the Working Groups

Children's Privacy (Convenor: Rebecca Hawkins)

The Children's Privacy Working Group focuses on the privacy rights of children and how those are at threat. The Group brings together a diverse range of interests and expertise. With the Campaign we have a lot of mahi to do and so we are always welcoming of new members.

Besides the Campaign, there will always be broader children's privacy issues to focus on, including "sharenting", commercialisation, and children's health data. We would like to continue to discuss these topics and provide commentary which we can publish on the Foundation website.

Hauora Health Privacy (Convenor: Barbara Robson)

HHP WG has been working on a response to the draft updated version of the Health Information Security Framework (HISF). 2022 HISF takes into account the reformed health system environment, the increasing use of digital technologies within health facilities and in the home, the ever-changing information security landscape and new and heightened cybersecurity risks. It is acknowledged that the health sector is playing catch-up with respect to health cybersecurity. Recent attacks at Pinnacle Midlands Health Network, the former Waikato DHB and before that, Wellington's Tu Ora Compass Health, highlight the risks and harms to organisations and individuals. It is timely an updated HISF is out for consultation, but the Group has found the document a challenge to understand.

Privacy in the Digital Economy (Convenor: Marcin Betkier)

The Privacy in the Digital Economy Working Group was heavily involved in policy works around our biometrics submission. We also closely monitor, follow and submit on the enactment of [Consumer Data Right in New Zealand](#). You can read our [submission](#) here.

We are drafting a paper advocating for the creation of de-identification guidelines in New Zealand. That follows up our earlier commentary about the problem of the [ignorance of anonymisation](#). We would like to shed light on the potential benefits for privacy and economy of such guidelines that could be issued by the Privacy Commissioner and could help small and medium agencies to properly de-identify personal information. This could lower privacy risks and allow better use of personal information.

Surveillance (Convenor: Gehan Gunasekara)

The Surveillance Working Group focuses on the rising tide of surveillance threats. These include Government backsliding on commitments made concerning police photography of members of the public especially youth and the ongoing calls for scrutiny of the police use of the ANPR (automatic number plate recognition) system on a systemic basis.

The convenor has spoken with a concerned member of the public and it appears these systems, which include biometric facial recognition in supermarkets etc, were originally

developed by retailers including supermarkets and service stations for retail-protection purposes as opposed to law enforcement purposes. The subsequent use of these by Police, as opposed to occasional emergency use, raises serious privacy concerns, for example the adequacy of privacy impact assessments.

Outgoing Chair Meets Foundation Members around Aotearoa

In the second half of 2022, former Privacy Foundation Chair, Gehan Gunasekara travelled around the country and met with several members of the Foundation.

I got to spend a day with Barbara Robson in Feilding. There we were able to discuss her work as convenor of the Hauora Health Privacy Working Group. This includes numerous threats in the move to digital information systems and technologies. I am extremely grateful to Barbara for her time as well as for her wealth of expertise.



Picture: Barbara and Gehan with the famous Feilding saleyards

In nearby Whanganui I spent an afternoon with Foundation member Pat Cunniffe. Pat has been actively involved in the data governance and health data arena long before the Foundation was conceived and possesses a wealth of expertise and practical experience.



Picture: Gehan and Pat in Whanganui.

In late July, I travelled to Wellington to meet with Ministry of Business Innovation and Employment officials steering the Consumer Data Right initiative. This law would allow individuals to allow third parties to access their data, for example banking or electricity data and even make decisions for them to switch providers. I also had the opportunity to meet Foundation members. There we had three chairs: incoming chair Dr Marcin Betkier and the Foundation's first Chair, Dame Marie Shroff. We were joined by newer Foundation members, Aya Yamaguchi-Murray and Jin Cha.



Pictured left to right – Aya Yamaguchi-Murray, Jin Cha, Dame Marie Shroff (former Chair) and Dr Marcin Betkier (new Chair).

Before leaving Wellington, I met with incoming committee member, Louisa Joblin, Convenor of the Legislation and Regulatory Reform Working Group. Louisa and her Working Group are very much in the front line of privacy.



(Gehan and Louisa in Wellington)

Finally, I visited Christchurch and met with our committee members Professor Annette Mills and Rebecca Hawkins. We hosted a Privacy Foundation event with the UC Business School and UC Law on ‘Data Sovereignty’, attended by over 30 persons, online and onsite.



(From left to right: Rebecca, Gehan and Annette)