Frequently Asked Questions

About the Policy

Why do we need this Policy?

Information collection and use play an important role in ensuring the most effective services are provided to the people who need them. At the same time, people who use services need confidence that the right processes are in place to ensure their personal information is being collected and used appropriately.

The Policy will make it easier for agencies and organisations to:

- be clear about the **purpose** for collecting and using people's personal information
- enable people to understand what's happening with their information and what choices they have
- make it easy for people to see and request correction of their information
- work together for better insights and outcomes

Who is the Policy for?

This Policy was created by the social sector, for the social sector. It is relevant to:

- Government agencies that work in the social sector, or fund social sector agencies.
- Non-government organisations who deliver social services.
- Other agencies or groups that fund or support the social sector.
- Organisations or universities that research the social sector or social services.

Even for people who don't collect people's information directly, or use it directly in their day-to-day work, it may still contain relevant advice. For example: people have a role in making sure service users know who uses their information and why; or who have input into deciding what data or information about service users, their whānau or communities is collected or used for a certain purpose; or who have a role in designing programmes and policies based on insights that have been built using data and information that is from, or about people.

The Policy takes a broad view of data and information: anything that is recorded about a service user, their whānau or community. That could mean things such as date of birth and name, detailed notes that a frontline worker writes as part of an assessment, through to an excel spreadsheet that has rows of numbers and doesn't show who anyone is. It covers words and numbers, things that do, or can, identify people, and things that don't and can't: even when information can no longer identify people, they may still think of it as personal or sensitive to them, their whānau, or their community, as it may describe situations they feel strongly about.

There seems to be some overlap between the Principles and Guidelines. Which type of Policy element (i.e. Principle or Guideline) should I choose when I need information in a hurry?

The overlap is intentional. The Principles are about articulating values and behaviours, and we anticipate these will become part of the culture of 'how your agency works', if they aren't already. The Guidelines bring the Principles to life by explaining key practices (those identified as the most important ones during engagement) that reflect the intent of the Principles.

How does the Policy relate to Māori protocols such as kawa, tikanga, rahui, mana, and tapu?

The Principles have been developed to respect and acknowledge cultural considerations and have been tested with a range of Māori stakeholders. There is a significant focus in this area led by Stats NZ in partnership with Māori, to understand this topic in greater detail and develop approaches that support good collaboration over Māori interests in data.

How does this Policy relate to the Privacy Act?

This Policy describes values and behaviours for the social sector that will help build trust and help to ensure that data practices are focused on the wellbeing of people and communities. These values and behaviours are represented as five Principles that have people and their wellbeing at the centre. The focus is on relationships, rather than rules – a way of working that respects people, their information and their stories.

The Policy provides good practice guidance on how to uphold these Principles in four key areas (you can find the four Guidelines here: https://dpup.swa.govt.nz/guidelines/overview-of-guidelines/). These Guidelines help organisations to understand and apply the Privacy Act in relation to these activities and are up to date with respect to the Privacy Act 2020.

However, this Policy goes beyond solely privacy considerations, to also think about ethical considerations when making decisions. Good practice requires that if, and when, agencies contemplate using people's information, it's done with the involvement, understanding, and support of the people impacted by those proposals.

The Policy doesn't change the law. Its focus is on building good relationships, rather than prescriptive rules. It's designed to help implement good practice in their day-to-day work in a respectful and transparent way.

It has advice about the collection and use of information that can or does identify people as well as advice about information that doesn't and can't (the Privacy Act is only about data or information that can identify people).

How does the Policy make it easier to navigate the wide range of laws, guidelines and codes of practice that inform how and when personal information is collected, used and shared within the social sector?

Each Guideline makes it clear what the minimum legal requirement is in the context of each Guideline topic, and the Policy provides links to further detail where relevant. Commonly applied codes of practice are also referenced. Where the Guidelines recommend good practices that are more than what the law requires, this is made clear.

Will funding and contracting models be changed?

We think this is likely. For example in the Sharing Value Guideline the Policy identifies contracting and funding processes as one place where the guidance will very likely change and evolve practices to be more inclusive. Other areas of the Policy, for example the Purpose Matters Guideline, also have implications for contracting processes, by ensuring that information collection makes sense in the context of the services being contracted.

Adopting the Policy

Is it compulsory to adopt the Policy? What does it look like to "comply"?

Agencies and organisations are encouraged to adopt the Policy in a way that makes sense in their context and to work towards maturing understanding and capability. For the most part, the Principles and Guidelines clarify what agencies and organisations should already be looking to achieve, including aspects of the Privacy Act. They

also include ethical and human-centred considerations that the wider sector has described in terms of respectful and transparent use of people's information. Some of these considerations are not required by law and it's made very clear when this is the case.

Many organisations will already work in ways that the Policy describes. It's still useful to check practice, processes and systems against the Policy to look for where there could be improvement. The Policy gives the sector a common language and way of thinking about data and information. It supports collaboration, the sharing of ideas and good practice, and a focus on transparency, respect and trust.

My organisation is not in the social sector – can I still adopt the Policy?

Yes. While the Policy has been designed by the social sector for the social sector, the Principles are useful in many other contexts where people's information is collected or used. The Guidelines were developed for the social sector environment, but we would invite you to adapt these in a way that makes sense to your context.

How does the Policy address, and deliver on safe data storage?

The Kaitiakitanga Principle describes the value and behaviours needed to care for people's data but it was decided that specific guidance on safe data storage belongs with established areas of advice, such as the government's Protective Security Requirements, and generally available advice on technology security. The engagement feedback on the Policy didn't focus significantly on technology considerations, but was more about what's reasonable, and what's not, when we're thinking about using people's information, how to improve transparency, and the importance of an inclusive and respectful approach. However, we hope to add advice to the Toolkit at some point, to cover practical advice on technology security.

Who can use, or contribute to, the Toolkit?

The Toolkit contains a range of tools to make it easier to learn about, plan for, and use, the Policy. You can find it at dpup.swa.govt.nz/learn, /plan, and /use. Anyone can use it, and anyone can contribute. Contact us at dpup@swa.govt.nz .

Are new IT systems necessary to adopt the Policy?

The Policy can be used without any IT changes, because it's about how we think, behave and collaborate. It's about building trusted relationships between people, regardless of IT systems, and working through clear practical steps to ensure that any collection or use of people's information is respectful, trusted, and transparent, as well as correctly thought through from a legal and ethical perspective.

Any data or information should be collected, stored, and transferred in a safe and secure ways, but the Policy doesn't advocate for any specific tools or systems to do this.

Working with Government

Which government agencies are using the Policy?

The foundational government agencies who are integrating the Policy into their wider information practices are: Ministry of Social Development, Oranga Tamariki – Ministry for Children, Ministry of Education, and Ministry of Health.

In addition, the Government Chief Privacy Officer is reviewing the core guidance material that most government agencies use to guide their privacy practice development and maturity. This is called the 'Core Expectations, and Privacy Maturity Assessment Framework' (PMAF).

The Data Protection and Use Policy is likely to form part of the refreshed guidance, when it becomes available for use in February/March 2021.

The refresh recognises the improvements that have been made to government's privacy practices and capability since the initial implementation of PMAF in 2014.

The new core expectations and framework are being designed to align with the Data Protection and Use Policy, minimise agency workloads to complete their privacy maturity self-assessment, and provide both qualitative and quantitative insights about government's privacy maturity and capability.

The new core expectations and framework will:

- establish privacy and data protection as a core part of high-quality public service delivery
- focus on the values, behaviours and practices that encourage a people-centred approach to privacy and data protection to complement established risk-informed practices
- encourage an approach to data collection that clearly links the personal information collected to the desired outcome and that investigates alternative ways to accomplish the desired outcome that eliminates or reduces the need for personal information.
- The refresh process is being guided by the values of respect, inclusion and transparency, in-line with the core concepts in the Data Protection and Use Policy.

How does the Policy work to achieve more transparency from government about the purpose of seeking data from service providers?

The Purpose Matters Guideline and to a lesser degree the Transparency and Choice Guideline address this topic. Social Wellbeing Agency has taken time to explore this subject with social sector agencies so that the intent and implications are understood. The outcomes of those discussions have been included within both the Principles and the Guidelines.

The Policy describes an expectation that we should all be able to understand and clearly and simply explain what people's information will be used for. How can the Policy help address this?

This topic is addressed directly in the Purpose Matters and the Transparency and Choice Guidelines. You can also find a number of practical steps to apply those guidelines in day to day work, in the Toolkit. Start at dpup.swa.govt.nz/learn, and dpup.swa.govt.nz/use.

As an NGO I want to know about the insights gained from the information that I am obligated to supply to government — how does the Policy ensure that our organisation will get these insights?

The expectation is the same for all organisations across the social sector, whether an NGO or government agency — the Sharing Value Guideline focuses on this topic. This Guideline sets out new expectations to share the value (and insights) of information with those who initially provide it, or to others who may have a legitimate interest in it. Funders and contractors may need to find new ways to work together collaboratively. It will take some time for capability and capacity to be built across the sector.

How does the Policy address the power imbalance between service users and providers, as identified during the engagement phase?

The Policy Guidelines have been carefully developed with insights from the engagement findings to strike the right balance between both parties. This starts with the Mahitahitanga Principle and is also woven through the Guidelines in various ways.