

# Impact Summary: Death AISA

## Section 1: General information

### Purpose

The Department of Internal Affairs (DIA) is solely responsible for the analysis and advice set out in this Impact Summary, except as otherwise explicitly indicated. This analysis and advice has been produced for the purpose of informing Cabinet’s final policy decisions on the Death Approved Information Sharing Agreement (Death AISA).

### Key Limitations or Constraints on Analysis

The proposed Death AISA is the third in a series of AISAs that will make DIA’s information sharing more effective and replace existing information sharing agreements that are no longer fit for purpose. Cabinet endorsed this broad approach in March 2018 [GOV-18-MIN-004] and the specific approach for the Death AISA in March 2021 when it approved the release of the draft Death AISA for public consultation [GOV-21-MIN-0005].

The Privacy Act 2020 (the Act) sets the framework for what an AISA can contain and the how it can modify the way the Act applies, such as authorising exemptions from some of the information privacy principles. The Act also sets out the process that must be followed to make an AISA. To come into force, an AISA must be created by Order in Council. The operation of an AISA is subject to reporting in accordance with requirements set by the Privacy Commissioner.

This AISA intends to facilitate approved access to death information held by the Registrar-General of Births, Deaths and Marriages (the Registrar-General). The AISA seeks to share this information with core government agencies that do not have access to this information and with a range of ‘classes’ of organisations beyond the public sector, as provided for in the Privacy Act 2020 s142.

With one exception, the AISA focuses only on death information, and does not intend to facilitate sharing of any other information held by the Registrar-General. Sharing of a broader range of information is covered by other AISAs that DIA has developed or is developing. The exception for this AISA relates to Mortality Review Committees established under the New Zealand Public Health and Disability Act 2000. As these committees are required to identify factors contributing to certain types of deaths, they also need access to certain other information relating to births, marriages and civil unions.

**Responsible Manager (signature and date):**

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Department of Internal Affairs – Te Tari Taiwhenua

27/07/2021

**Quality Assurance Reviewing Agency:**

Department of Internal Affairs

**Quality Assurance Assessment:**

The panel considers that the information and analysis summarised in the RIA meets the quality assurance criteria.

**Reviewer Comments and Recommendations:**

The RIA presented a convincing case for implementing the Death Approved Information Sharing Agreement (AISA). It demonstrated that the Department had carried out thorough consultation with a wide range of stakeholders throughout the AISA development process, in particular with Māori stakeholders.

## Section 2: Problem definition and objectives

### 2.1 What is the policy problem or opportunity?

#### **Access to authoritative death information is limited**

The Registrar-General of Births, Deaths and Marriages (the Registrar-General) is responsible for registering key life events that occur in New Zealand, including deaths. The information that is registered (in this case, for deaths) is used by many other organisations as authoritative evidence that a person has died. This is often in the form of a death certificate purchased by or for the bereaved family.

Under existing legal settings, access to the authoritative information about deaths in New Zealand held by the Registrar-General is very limited. The Births, Deaths, Marriages and Relationships Registration Act 1995 (BDMRRA) provides for a small number of government agencies to have access to some information for narrowly specified purposes. It also provides for non-government organisations, private sector agencies and people to receive death information, but they may only use this information to remove deceased clients from databases and lists. There is no provision for many government agencies to receive death information from the Registrar-General, other than buying a large number of death certificates.

#### **The problem - unmet need**

These restrictions have created an unmet need for authoritative death information, which has a range of negative consequences:

- Organisations are often unaware that a person has died, and cause distress to grieving relatives by sending out correspondence to that person. This can escalate into media activity that has negative consequences for organisational reputation, particularly where the organisation is seeking payment such as fines or rates.
- Families bear the burden of convincing financial, land and other institutions that a person has died, and often have to purchase multiple death certificates. This can cause financial hardship and delays to actions like closing accounts, settling insurance claims and organising land succession.
- Where organisations do not use authoritative information to determine that a person has died, services are sometimes withdrawn in error from a person who is still alive, but has the same name as a deceased person.
- Resources are wasted because organisations are unaware that a resource such as social housing is now available, and because they continue to pay the costs of sending out correspondence that has no living recipient.
- Iwi and other groups wishing to offer specific support to groups such as kaumātua have difficulties reaching out to offer support to the right people, as membership lists often include people who have died.
- Organisations that nominate individuals for awards and roles such as governance roles are sometimes embarrassed to discover that a person nominated for an award or position has died.
- Where an organisation cannot verify or does not know about the death of a member, there is scope for the identity of the deceased to be misused to access funds, services and other privileges.

- Where an organisation cannot verify or does not know about a person's death it may continue to pay entitlements to the person's account, thus creating a debt which may have to be recovered.

While it is difficult to quantify the unmet need for authoritative death information, the DIA Information Partnerships team receives regular approaches from organisations that need this information, but cannot receive it directly from the Registrar-General because of current legislative constraints.

In the absence of any change, the negative consequences are expected to continue. Some commercial organisations have begun to offer 'death check' services for a fee, but these are based on sources such as obituaries and death notices, as these organisations do not currently have access to the registered New Zealand death records.

While the legal settings that restrict access to death information held by the Registrar-General have been in place for some time, the expectation that key life event information will be accessible electronically to support online services and other transactions has grown significantly over recent years. For this reason, the BDMRRA provides an avenue to provide further access, by developing an AISA (BDMRRA s78AA).

### **The proposed solution**

The proposed Death AISA is the third in a small series of AISAs being developed by DIA to address issues with existing older types of information sharing agreements that were developed under the Privacy Act 1993. The key issues are that :

- Older information sharing agreement types are narrow, inflexible, and do not readily respond to changes in customer needs and information sharing technologies; and
- The narrow scope of these older agreements has resulted in a proliferation of agreements that is difficult to oversee, expensive to maintain, and restricts transparency for members of the public; and
- There is considerable evidence of unmet need for government agencies and other organisations to have safe and legitimate access to births, deaths and marriages information.

AISAs, which are a more recently developed type of information sharing agreement under New Zealand privacy law, provide considerably more flexibility and transparency. A single AISA, such as the proposed Death AISA, can have multiple parties and encompass different purposes and modes of information sharing.

The Privacy Act 2020 allows for organisations outside of the core public sector to join a class of parties to the AISA, where the organisation is delivering a public service as defined in the Act. This effectively provides for inclusion of organisations involved in the broader business of government, including local authorities, organisations established by or administering a statute, and organisations that are included as a matter of government policy.

## 2.2 Who is affected and how?

### Participating agencies and their clients

The Death AISA proposes to allow prescribed access to death information held by the Registrar-General to a small set of core public service agencies that will be named parties to the AISA. The lead agency for the AISA is DIA. It is not possible for the Registrar-General to be lead, as this role is not a separate agency.

The agencies intending to be named parties are:

- Civil Aviation Authority of New Zealand (CAA)
- Department of Internal Affairs (DIA)
- Department of Prime Minister and Cabinet (DPMC)
- Fire and Emergency New Zealand (Fire and Emergency)
- Ministry of Ethnic Communities (MEC - included in consultation material as OEC, a part of DIA that would receive death information under the AISA)
- Ministry for Pacific Peoples (MPP)
- Ministry for Women (MfW)
- Ministry of Foreign Affairs and Trade (MFAT)
- New Zealand Defence Force, for use by Veterans' Affairs (NZDF)
- Te Tumu Paeroa – The Māori Trustee
- The Registrar-General Births, Deaths and Marriages
- WorkSafe New Zealand

Note that a number of larger government agencies not included in this list can already access death information, or will be able to, under other AISAs in the set that provide a broader mix of information to meet the more diverse needs of those agencies.

All of these parties need to know when an individual with a connection to them has died so that they can update databases and take appropriate action. Some of the parties to the AISA have large numbers of staff, former staff and also volunteers with whom they may have enduring connections (e.g. Fire and Emergency, Veterans' Affairs). Several parties manage nominations databases for awards and governance positions (e.g. MEC, MPP, MfW, DPMC). Some other parties to the AISA need to know when a member of a group has died so that they can update certain licences and authorisation registers (e.g. CAA, WorkSafe). Some of the parties wish to offer support (e.g. Fire and Emergency) or to make payments on the death of an individual (e.g. Te Tumu Paeroa).

### Classes of parties

In addition to these parties, the AISA proposes to allow organisations outside the core public sector to apply to join one of the following classes of parties at any time after the AISA is approved:

- Statutory supervisory authorities and independent advisory committees
- Professional societies
- Trustee corporations
- Independent statutory bodies that are not part of the Public Service
- Crown entities
- Local authorities
- Public tertiary institutions
- Registrars

- Charities registered in New Zealand
- Iwi organisations and other Māori organisations
- Registered New Zealand companies, partnerships, registered limited partnerships, friendly societies, credit unions and incorporated societies
- Mortality Review Committees
- Intermediaries (who provide information services based on the information shared).

Most of the proposed types of organisations (classes) are eligible to be included in an AISA because they provide public services, either because they are established by statute, or because they are responsible for administering a statute. The classes relating to iwi and Māori organisations, companies, charities and information intermediaries are proposed for inclusion as a matter of government policy.

The Death AISA does not seek to compel any changes of behaviour, but will offer the opportunity for organisations to join a class of parties so that they can have access to an authoritative source to verify or be advised about deaths in a safe and privacy-protective way. This is expected to have positive impacts for the customers of parties, as well as the parties themselves.

The consultation process has shown very strong support for the proposal from a number of classes of parties, in particular Iwi organisations, local authorities and intermediaries. Some organisations that already have some access to death information under older agreements have indicated their intent to transition to this new agreement. In some cases this will enable them to use the information for purposes not permitted under existing legal settings, such as proactively contacting the estate of a person who has died where entitlements are due to the estate.

### 2.3 What are the objectives sought in relation to the identified problem?

The objectives stated in the Death AISA (text in italics quoted from the AISA) are to:

- *enable updating of records when an individual dies.* This could include updating mailing lists, customer databases and accounts;
- *enable agencies to gain customer service efficiencies and reduce the compliance load for individuals associated with the provision of death information by facilitating increased collaboration.* For organisations, there would be a reduced load of correspondence to people who are no longer alive. For individuals, there would be fewer occasions when they are required to purchase a death certificate to prove that someone has died;
- *assist in the prevention of deaths.* This reflects the work of the Mortality Review Committees, who use registered death information to help with their research to identify factors contributing to certain types of death, so that their occurrence can be prevented where possible;
- *enable the prevention, detection, investigation and prosecution of offences, and the conduct of civil proceedings including judicial review;* For example, financial institutions would be better able to prevent and detect fraud where an account holder has died, the organisation is not aware, and someone else claiming to be the account holder accesses the account and assets of the deceased; and
- apply Privacy by Design principles to the development and operation of the information sharing.

The Privacy by Design objective reflects the opportunity to introduce information sharing using newer, more privacy protective technologies and processes to verify a record of an individual electronically. Existing information sharing arrangements rely on bulk sharing of information, which inevitably means that each information share includes information about individuals whose information is not needed by the receiving agency.

There will be some variation in how some of these objectives are realised, depending on the specific needs and approved operating documentation applicable for each organisation that becomes a party to the AISA. The objective relating to the prevention of deaths relates mainly to the provision of information to the Mortality Review Committees established under the New Zealand Public Health and Disability Act 2000.

No conflicts between these objectives have been identified.

## Section 3: Options identification

### 3.1 What options have been considered?

Options considered included:

- Status quo – continuing to use the current legislative settings;
- amending a range of primary legislation, including the BDMRRA 1995;
- establishing a 'limited' AISA for government agencies only;
- establishing an AISA that addresses the needs of government agencies and organisations outside of the public service.

The criteria used to evaluate these options were:

- **efficiency** – reducing duplication of effort for organisations and compliance load for customers
- **access** – allowing a broader range of organisations to access death information
- **flexibility** – setting in place arrangements that can support organisations' changing needs and new technologies over time
- **transparency** – easy for people to understand how personal information will be shared and used, and by which organisations
- **achievability** – able to be put in place within a reasonable time span
- **privacy protection** – supporting the use of new, more privacy-protective information sharing processes and technologies as these become available, to reduce reliance on bulk information sharing.

The **status quo** option would involve leaving existing information sharing arrangements in place, with no possibility of extending the range of organisations with which death information can be shared, or purposes for which the shared information can be used. This option is clearly achievable, but fails to deliver on all other criteria and perpetuates the existing issues that need to be addressed.

**Amending primary legislation** would involve amending at least the BDMRRA in order to expand the range of organisations that can receive death information and the purposes for which the information may be used. This type of change has been ruled out of scope for the current work on amendments to the BDMRRA, so it is likely to be several years before further significant amendments can be made to that Act. It is also unclear whether this Act could be amended in a way that would replicate the flexibility offered by the 'class of parties' provisions for an AISA under the Privacy Act.

Amending the BDMRRA could deliver a significant range of benefits, depending on the extent of change to the BDMRRA. However, amendment to primary legislation is likely to lack flexibility over time, and the time and uncertainty expected to be involved in this approach mean that it is unlikely to be achievable in a reasonable time frame.

Amending the BDMRRA would also create duplication and inefficiency, as the Act already provides for the use of an AISA, and AISA legal provisions are already set out in the Privacy Act 2020.

A **limited AISA** could involve different subsets of the proposed AISA. This would be an improvement on the status quo, in that it could expand the range of organisations that can receive death information, but would reduce the range of parties able to do this. The simplest option would be to exclude the classes of parties, and simply share death



information with core public service agencies. This would deliver on all criteria for the public service, but would fail to address the efficiency, access transparency and privacy protection criteria for a much broader range of organisations and sectors.

The **preferred option** is the proposed 'extended' Death AISA, which includes classes of parties to address the needs of what is considered an appropriate range of agencies within and beyond the public service. This would enable a significantly wider range of organisations to receive death information from DIA. This is discussed further below.

The following table summarises the options analysis:

Criteria	A - Status quo	B - Legislative change	C - 'Limited' AISA	D - 'Extended' AISA
Efficiency – reduce duplication	-	-	+	++
Access – for a variety of organisations	+	++	+	++
Flexibility – for future needs	-	+	+	++
Transparency - easy to understand	-	-	+	++
Achievability – timeframes		-	++	+
Privacy – supports privacy protective sharing	-	++	++	+
<b>TOTAL</b>	1 + 4 -	5 + 3 -	8 +	10 +

Key: ++ meets criteria + partially meets criteria - does not meet criteria

### 3.2 Which of these options is the proposed approach?

The proposed Death AISA would address the evaluation criteria as follows:

- efficiency – it would allow a broad range of organisations to streamline services and avoid taking unwanted or unnecessary actions where a person has died. It would also allow organisations to verify the fact of a death without requiring a death certificate, thus reducing the compliance load on bereaved families and providing efficiencies for customers, who will generally receive any services needed faster and for less cost.
- access – by including provision for classes of parties, the AISA will allow a broad range of organisations to access death information to update their own records.
- flexibility – AISAs provide a reasonable degree of flexibility to change the details of information sharing arrangements as the needs of organisations and their customers change and new technologies emerge over time. For example, most information sharing is currently bulk sharing, but new technologies are expected to allow for specific question and answer ‘real time’ sharing and other, more targeted information provisions. Operational details of information sharing arrangements are specified in documentation signed off at CE level, rather than in the AISA itself or in the Order in Council, and this documentation will be updated as specific modes of information sharing change.
- transparency – by including a range of organisations in a single publicly available agreement, the AISA will make it easier for people to understand how death information will be shared and used, and by which organisations. The AISA will be publicly available on DIA’s website and at the Wellington office.
- achievability – while there were some initial delays to work on the AISA because of the delayed passage of the Privacy Act 2020, it should be possible to have the AISA signed off, supported by an Order in Council and ready for design of operational documentation early in 2022. Because this is the third in a linked set of AISAs, DIA has good experience in creating this type of agreement.
- privacy protection – While all options provide for privacy protection, the greatest gain will be the ability to reduce reliance on bulk sharing of death information, which inevitably includes person information that is not required. It is relatively simple to update operating documentation to permit new operating arrangements for an AISA, such as use of new, more privacy-protective information sharing processes and technologies.

This is the preferred option, as it provides the best opportunity to meet the evaluation criteria and to deliver the benefits indicated by these criteria.

The AISA will address the problems identified by extending the range of organisations that can have legally sanctioned access to authoritative information about deaths. It will also make it easier to continue to adapt information sharing processes to reflect technology and process improvements and changing customer needs. The AISA offers robust privacy protection, as an information sharing approach that is embedded in privacy legislation. It also offers transparency, as the AISA itself and any reports on the AISA are publicly available.

# Section 4: Impact Analysis (Proposed approach)

## 4.1 Summary table of costs and benefits

The Death AISA will facilitate some efficiencies for parties (both government agencies and other organisations), together with benefits to data integrity, avoidance of reputational risk and protection against fraud. It will also provide their customers benefits such as the avoided risk of receiving unwanted correspondence when a family is grieving, and other benefits where the AISA will allow organisations to reach out with helpful services or payments.

These benefits are not quantifiable at this point, and the timing of their realisation will depend on when parties are able to begin sharing under the AISA and update their databases and processes. Not all parties will be ready and able to begin information sharing immediately, for a range of reasons including their ability to meet the requirements of the AISA around information security.

Fees are expected to be charged to cover DIA’s costs. While the level of fees cannot be determined at this point, they are expected to offer savings for organisations that currently purchase certificates as evidence of death, at the cost of \$33 per certificate. Where a family is no longer required to purchase certificates, they will save the cost and effort of obtaining the certificate, and in many cases will receive benefits such as financial settlements more quickly.

Those organisations that already receive death information under older information sharing agreements pay significantly less than the equivalent cost of \$33 per death certificate. Currently most organisations pay a one-off set-up fee for ongoing services and then a fee for each bulk share of around \$250 for the file share and 15 cents per record contained in the bulk file.

It is not yet possible to determine what level of costs will need to be recovered by fees once newer technologies are in place allowing organisations to receive only targeted records rather than bulk information shares. Fees relating to information sharing services are set on the basis of cost recovery and can be adjusted by DIA as required.

<b>Affected parties</b> <i>(identify)</i>	<b>Comment:</b> nature of cost or benefit (eg, ongoing, one-off), evidence and assumption (eg, compliance rates), risks	<b>Impact</b> <i>\$m present value where appropriate, for monetised impacts; high, medium or low for non-monetised impacts</i>
<b>Additional costs of proposed approach, compared to taking no action</b>		
Regulated parties	There are no added costs for customers of parties to the AISA	Low
Regulators	<p>There is a one-off administrative cost to government to develop the AISA.</p> <p>Costs of any future technology developments to improve services will vary, depending on what information sharing technology each party may already have in place. The AISA does not</p>	<p>Low, met within baselines</p> <p>Low to medium, expected to be met within baselines</p>

	compel technology of process changes or specify when they occur	
Wider government	Costs of any future technology developments to improve services will vary, depending on what information sharing technology each party may already have in place. The AISA does not compel technology of process changes or specify when they occur	Low to medium, expected to be met within baselines
Other parties	Costs of any future technology developments to improve services will vary, depending on what information sharing technology each party may already have in place. The AISA does not compel technology or process changes or specify when they occur	Low to medium
<b>Total Monetised Cost</b>	<i>Not applicable</i>	
<b>Non-monetised costs</b>	<i>Not applicable</i>	

#### Expected benefits of proposed approach, compared to taking no action

Regulated parties	<p>Less need to purchase death certificates. Faster settlement of affairs of deceased, including any insurance or other payments due and land entitlements.</p> <p>Reduced risk of receiving unwanted and distressing communications after death of a loved one.</p>	Medium to high, depending on the nature of the impact
Regulators	<p>Reduced cost and risk associated with unintentionally sending communications to deceased individuals.</p> <p>Improved data integrity as databases are updated on basis of death information.</p> <p>Reduced risk of fraud involving identity information of deceased customers or members.</p> <p>Once initial setup costs are covered, reduced costs of receiving authoritative death information.</p>	Medium to high
Wider government (as members of classes of parties)	<p>Reduced cost and risk associated with unintentionally sending communications to deceased individuals.</p> <p>Improved data integrity as databases are updated on basis of death information.</p> <p>Reduced risk of fraud involving identity information of deceased customers or members.</p> <p>Once initial setup costs are covered, reduced costs of receiving authoritative death information.</p>	High

Other parties (iwi and Māori organisations; registered charities and companies, Information intermediaries)	<p>Reduced cost and risk associated with unintentionally sending communications to deceased individuals.</p> <p>Improved data integrity as databases are updated on basis of death information.</p> <p>Reduced risk of fraud involving identity information of deceased customers or members.</p> <p>Once initial setup costs are covered, reduced costs of receiving authoritative death information.</p> <p>Organisations that offer ‘death check’ services based on other information will have the option of using DIA’s death information to enhance the quality of their services.</p>	Medium to high (Iwi needs vary)
<b>Total Monetised Benefit</b>	Not applicable	
<b>Non-monetised benefits</b>	Not quantifiable, but considerable, particularly for members of classes of parties that do not have any current access to authoritative death information.	Expected to be high, but depends on rate at which organisations join classes of parties and begin receiving and using death information

#### 4.2 What other impacts is this approach likely to have?

For iwi and Māori organisations, the information shared may be used to assist with confirming or reaffirming whakapapa relationships linked to a person who has died. This is expected to have further benefits for the data quality of iwi registers and for providing input to matters such as land succession and winding up affairs where a member has been receiving benefits or financial services.

## Section 5: Stakeholder views

### 5.1 What do stakeholders think about the problem and the proposed solution?

#### Agency consultation

The agencies that are parties to the AISA were consulted throughout the development of the AISA and associated documentation, and the documents reflect their views. The following agencies were consulted about the draft Cabinet paper and accompanying documentation (the draft AISA, the Privacy Impact Assessment and the Public Discussion Document): the Ministry of Justice, the Treasury, Statistics New Zealand, New Zealand Trade and Enterprise, Te Arawhiti, Te Puni Kōkiri, the Public Service Commission, the Office of the Privacy Commissioner and the New Zealand Security Intelligence Service.

Te Arawhiti provided some useful guidance around discussion of Treaty of Waitangi impacts and invited DIA to discuss its plan for engagement with Māori. This was subsequently done, and Te Arawhiti endorsed the proposed approach, which was implemented as planned.

Te Puni Kōkiri expressed strong support, particularly for the proposal to include iwi and other Māori organisations. The Public Service Commission considered that the recommendations were customer-focused and that privacy risks and mitigations had been identified and assessed. Other agencies either offered no comment or stated that they were comfortable with the proposal.

#### Early consultation around classes of parties

Some early informal discussions were held with potential members of the proposed classes of parties to test the design concepts and the likely need for the proposed classes.

Discussions were also held with the Mortality Review Committees to ensure that areas of the AISA relevant to them would meet their very specific needs, to enable them to fulfil their function of identifying contributing factors to certain types of deaths and thus to assist with prevention.

#### Privacy Commissioner

In accordance with s150 of the Privacy Act 2020, DIA consulted with the Privacy Commissioner on the draft Agreement and associated documents. The Privacy Commissioner expressed support for DIA's approach and provided the following comment on the previous Cabinet paper (March 2021):

*The Privacy Commissioner is supportive of the policy intent for public consultation on this AISA. The Commissioner looks forward to continuing to work with officials as the AISA develops.*

Following public consultation, the Privacy Commissioner raised some further drafting issues and proposals to strengthen certain aspects of the AISA, particularly in relation to intermediaries and their sharing of death information with their clients. As a result, changes were made to the AISA that do not affect the policy intent but add to legal clarity. We will continue to keep the Privacy Commissioner informed about the

outcomes of consultation and progress with the AISA, through regular meetings and more formal communications as needed.

### **Public consultation**

A wide range of stakeholders was consulted during the public consultation process for the Death AISA, which began on 19 April 2021 and closed on 11 June 2021. In addition to a media statement and publication of consultation material on DIA's website, consultation materials were emailed to:

- All iwi chairs and a number of key iwi organisations;
- Chief executives of all local authorities
- Stakeholder groups nominated by the parties to the AISA
- Existing recipients of death information from DIA / the Registrar-General
- Organisations that have expressed an interest in receiving death information, but have been unable to do so because of legal settings
- Information intermediary companies
- A range of other parties likely to have some interest in DIA's information sharing and/or privacy activities.

Articles about the Death AISA were published in newsletters relating to charities, companies and local authorities, as well as the Privacy Commissioner's newsletter, which has very broad circulation.

### **Iwi consultation**

In addition to the inclusion of iwi and Māori organisations in the mailout of the general public consultation material, a bilingual information sheet was also provided, to give high level information about the AISA and to address some issues known to be of specific interest to Māori.

Iwi consultation also included hui with a small number of iwi that have close working relationships with DIA or post-settlement Letters of Commitment that specify an interest in any changes proposed by the Registrar-General. These were Ngāi Tahu, Tātau Tātau o Te Wairoa and Ngāi Tūhoe. Offers of a hui were made to a slightly wider group, but not all iwi were available to meet at this time, for a variety of reasons.

Hui with iwi showed a good level of support for the AISA and interest in participating. All of the iwi were interested in using the death information to improve the data quality of their iwi registers and, as a consequence, their service to members.

### **Written Submissions**

Twenty written submissions were received in response to the public consultation document. Of these, fourteen were fully in support of the AISA, two were opposed, and the remainder offered suggestions, mainly about the implementation stage. One further submission supported the AISA and sought to participate, but largely focussed on suggesting a commercially-owned alternative owned by the submitter.

Submissions were received from:

- Individuals (5)
- Local authorities (4)

- Intermediaries (4)
- Iwi and Māori organisations (3)
- Financial services providers (2)
- One Crown Entity
- The Privacy Foundation

Strong support for the AISA was expressed by local authorities, iwi organisations, financial services providers and some individuals. One local authority expressed concern about paying for information from government, and asked to be exempted from fees.

Intermediaries supported the AISA and were keen to participate, but also raised a range of suggestions about how the AISA should be implemented. Some of these provide useful considerations for the implementation stage, but some may need to be facilitated through future changes to legislation (e.g. adding further information to the birth register).

The opposing submissions came from one individual and from the Privacy Foundation. The submission from an individual was extremely brief, citing the possibility of impeding 'private rights in the public sector' but giving no further details. The Privacy Foundation submission was also relatively brief (one page), and focussed on three concerns:

- A discomfort with multi-party AISAs, preferring the option of amending primary legislation;
- A concern that there could be potential impacts on human rights as a result of including a purpose relating to maintenance of the law; and
- A perceived lack of exploration by DIA of the cultural significance of death to Māori

These concerns were considered, but have not resulted in any change to the Death AISA. DIA has already successfully developed one multi-party AISA that is functioning as intended, and has addressed the (lack of) feasibility of amending primary legislation in the options analysis. While the Privacy Foundation was concerned about the 'maintenance of law' purpose, many other submitters welcomed the gains in data integrity and fraud protection that the Death AISA will provide. One submitter wanted to make it compulsory for all financial services providers to use this death information to ensure better protection against fraudulent use of assets of those who have died. DIA has worked closely with members of its kaumātua advisory council, Te Atamira, in considering the cultural settings for the Death AISA. Māori response to the proposal, both in hui and in written submissions, was strongly supportive of the AISA as proposed.

### **One proposed change to the AISA**

One submission, received from a credit union, questioned the exclusion of Credit Unions from the AISA and set out the case for their need for the death information, which closely parallels the needs of other financial services providers. DIA has considered this submission and has amended the class of parties for companies to include Credit Unions and also Friendly Societies, which are established under the same legislation as Credit Unions. The original omission of these types of organisations from the AISA did not have any policy intent, but was simply an oversight.



## Section 6: Implementation and operation

### 6.1 How will the new arrangements be given effect?

The legal arrangements underpinning the sharing of death information are the AISA itself, which will be signed by the signing authorities of named parties to the AISA, and the Order in Council that will be approved by Executive Council.

Once these arrangements are in place, any party to the AISA can approach DIA when they are ready to begin receiving information under the AISA. If they already receive information, they may wish to transition from an older sharing agreement to the AISA. An organisation wishing to join a class of parties will need to approach DIA and the Registrar-General for approval to join a class before exploring actually receiving information.

At that point the party will develop operating documentation, using a template provided by DIA, to outline exactly what information fields they need, including the business reason for each requirement, and the proposed details of how information will be shared, managed and kept safe. This documentation is reviewed by the Office of the Privacy Commissioner and signed off at Chief Executive DIA and Registrar-General level.

DIA anticipates that organisations will transition to or activate new information sharing agreements in a prioritised sequence over some time. Priorities and timing will be negotiated to make sure any urgent needs are addressed as soon as possible.

Initially, most of the information sharing will continue to be based on bulk information sharing. As DIA gradually introduces new technology supporting both births, deaths and marriages processes and information sharing, we intend to promote a move away from bulk information sharing and towards more verification-based 'real time' information sharing.

Ongoing information sharing services are a function of DIA's Information Partnerships – Te Manu Aute team in the Te Pou Manawa group of Service Delivery and Operations – Kāwai ki te Iwi branch. This team already has experience of setting up information sharing arrangements under previously completed AISAs.

## Section 7: Monitoring, evaluation and review

### 7.1 How will the impact of the new arrangements be monitored?

As required by the Privacy Act 2020 s154, DIA, as lead agency for the AISA, will report on the Death AISA annually or less frequently. OPC will specify the frequency of reporting.

The normal expectation is that DIA will report on the operation of the AISA in its published annual report under the Public Finance Act 1989. The report is expected to cover the rate of uptake of the AISA, the level of information sharing under the AISA, and handling of adverse actions affecting individuals whose information is shared.

Parties to the AISA (including members of classes of parties) will be required to report annually to DIA on their use of the AISA, including number of adverse actions (e.g. closing accounts) as a result of the information shared under the AISA. Every party to the AISA must conduct regular internal audits of the operation of the AISA.

### 7.2 When and how will the new arrangements be reviewed?

The Privacy Commissioner may review the operation of any AISA at any time, on the Commissioner's own initiative (Privacy Act 2020 s158). However, no such review may be conducted before the end of 12 months after the Order in Council (OIC) approving the AISA is made.

The Commissioner must provide a report on any such review to the relevant Minister if any major concerns are identified, and may recommend that the AISA should be amended, or that the OIC should be revoked. The types of circumstances that might prompt a major review of an AISA could include:

- an AISA operating in an unusual or unexpected way (not foreseen by the Commissioner of the parties when the agreement was entered into);
- an AISA failing to facilitate the provision of public services intended;
- an AISA unreasonably impinging on the privacy of individuals
- an AISA operating in such a way that the costs of sharing information under the AISA outweigh the benefits.

In these circumstances the Minister is required to present the Commissioner's report and then the Government's response to the House of Representatives.

In the normal course of events, amendments can be made to an AISA at any time by the lead agency (DIA) if new needs emerge or the AISA needs to be updated (Privacy Act 2020 s157). Significant amendments must be notified to the Minister and the Privacy Commissioner, and the OIC must be amended through appropriate processes. Minor amendments (e.g. change of name of a party, fee updates etc) do not need to be notified in this way, and do not amend the OIC.

Stakeholders may raise concerns about the AISA and its operations with DIA at any time. The first opportunity is the public consultation conducted at the drafting stage of an AISA. The AISA and reporting on the AISA are always publicly available.