

Rt Hon Jacinda Ardern, Prime Minister
Rt Hon Winston Peters, Deputy Prime Minister
Hon Grant Robertson, Minister of Finance
Hon Andrew Little, Minister of Justice
Hon Stuart Nash, Minister of Police
Hon Ron Mark, Minister of Defence

BRIEFING FOR MINISTERS WITH POWER TO ACT			
Priority	<input type="checkbox"/> Urgent <input checked="" type="checkbox"/> Time-Sensitive <input type="checkbox"/> Routine		
	Decisions required for the second firearms Bill		
Title	Strengthening the framework for information sharing and introducing direct data access provisions		
Date	23 August 2019	Ref	BR/19/99

Executive summary

1. This paper seeks final agreement to include information sharing and direct data access (DDA) provisions in the Arms Legislation Bill (the Bill). DDA is technology-enabled information sharing, giving specified agencies the authority to access specified information from the new firearms registry.
2. The Prime Minister, the Deputy Prime Minister, Minister of Finance, Minister of Justice, Minister of Police and Minister of Defence, as Ministers with Power to Act on policy decisions to progress the Arms Legislation Bill (the Bill) considered a paper on 6 August. Following feedback on this paper from Ministers and the Privacy Commissioner, the proposals have been further refined.
3. We seek your agreement to enable in the Bill DDA provisions that specify that the Ministry of Foreign Affairs, New Zealand Customs Service and the Department of Conservation can access specified information in the registry to assist in the administration of the firearms regime.
4. In relation to health practitioners, instead of DDA provisions as previously recommended, we seek your agreement to Police being required to notify the primary health care provider of a licence holder that they hold a licence.
5. The Privacy Commissioner supports this approach. The recommendations in this paper will be noted by the Cabinet Business Committee on 2 September and will be drafted into the Bill if agreed.

Recommendations

Police recommends that Ministers with Power to Act:

- a) **Note** Cabinet delegated authority to Ministers with Power to Act to consider policy decisions to progress the Arms Legislation Bill, including consideration of direct data access (DDA) provisions
- b) **Note** that previous proposals have been refined following feedback from the Privacy Commissioner, who does not support a broader set of specified agencies and specified health practitioners from directly accessing the registry
- c) **Agree** that DDA provisions are included in the Bill for the Ministry of Foreign Affairs and Trade, New Zealand Customs Service and the Department of Conservation enabling access to the registry information needed to fulfil the export, import, and hunting permit duties, powers and functions of those agencies
- d) **Agree** that Police is required by the Bill to notify a licence holder's primary health care provider that a firearms licence is held Yes/No
- e) **Agree** to Police issuing drafting instructions to the Parliamentary Counsel Office
- f) **Note** that the Cabinet Business Committee on 2 September will note the recommendations in this paper.

Andrew Coster

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Andrew Coster
Deputy Commissioner: Strategy and Partnerships

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Strengthening the framework for the safe use and control of firearms: Information sharing arrangements

Purpose

1. This briefing seeks approval from Ministers with Power to Act to the information sharing mechanisms for the firearms regime. In particular, officials have further refined the technology-enabled direct data access (DDA) and information sharing provisions to be drafted in the Arms Legislation Bill including.

Background

2. On 12 June 2019 the Cabinet Social Wellbeing Committee (SWC) approved the drafting of an Arms Amendment Bill (the Bill). Cabinet agreed that, to support the functioning of a technology-enabled registry, information sharing options for the Bill should be further considered. This included mechanisms DDA-type provisions similar to those in the Intelligence and security Act 2017 [SWC-19-MIN-0063].
3. Direct data access (DDA) provisions provide agencies the authority to negotiate access to specified information in specified situations that would otherwise fall outside the Privacy Act. To ensure privacy protections DDA agreements that set out the information that can be accessed, are developed and approved by Ministers after consultation with the Privacy Commissioner.¹
4. Cabinet authorised the Prime Minister, the Deputy Prime Minister, Minister of Finance, Minister of Justice, Minister of Police and Minister of Defence to make policy decisions. Ministers with Power to Act considered a paper dated 6 August 2019 recommending:
 - DDA agreements for specified agencies to specified firearms information for specified purposes; and
 - information sharing and DDA arrangements for certain health practitioners
5. Following concerns raised by the Privacy Commissioner, this paper seeks confirmation of the revised policy settings for DDA provisions, agreed between the Minister of Police and the Privacy Commissioner.

DDA agreements for specified agencies

6. Police considered the inclusion of a range of agencies for DDA arrangements, the purposes for sharing and the type of information to be shared. The two scenarios in which data access would be useful are to assist in:
 - the administration of the firearms regime; and
 - managing risks to health and safety for public service agencies with front-facing roles.

¹ We envisage any DDA agreements developed will also be consulted with the new firearms advisory group that will be established by the Bill.

DDA for administrative purposes

7. We seek your approval for the following agencies to access the firearms registry to help them fulfil administrative functions under the firearms regime:
 - Ministry of Foreign Affairs and Trade (MFAT), which manages firearms exports and has functions and duties under the Arms Trade Treaty. Access to the registry will enable MFAT to administer the firearms export permitting system to ensure that firearms are lawfully exported and that firearms that are due for export left New Zealand for the destination country;
 - New Zealand Customs Services (Customs) has responsibilities in the importation of firearms. Customs deals with large numbers of firearms importations. Access to the registry will support Customs' ability to confirm the lawfulness of firearms shipments; and
 - Department of Conservation (DOC) issues 58,000 hunting permits on the public conservation land per annum, many of which are short-term international hunting visitors. Access to the registry will enable DOC to confirm that firearms licences are valid and are endorsed for the type of firearms to be used.
8. Police considered the merits of provision in the Bill for DDA arrangements to help address staff risks for public service agencies. Such a DDA would include access to a name and date of birth, and/or address information for agencies with front-facing roles. Access may be appropriate in situations in which there are risks to the health and safety of staff.
9. Public facing agencies were supportive of the proposal. However, the Privacy Commissioner raised concerns. If there are significant health and safety risks to staff, then access to firearms information would not provide agencies with the full suite of risk indicators that might be present in any situation. In addition, the Privacy Commissioner raised a concern, as have firearms licence holders, that enabling too many people to be able to access information about the location of firearms raises the safety risks for licence holders.

Recommendation: DDA provisions are included in the Bill for MFAT, Customs and DOC enabling access to the registry information needed to fulfil the export, import, and hunting permit duties and functions of those agencies.

Information flows and DDA arrangements for certain health practitioners

10. The Bill places an obligation on firearms licence holders to advise Police of any significant physical or mental health issues that may impact on their safe use of firearms. This obligation will be at the licence application stage and ongoing, for the duration of a licence.
11. In addition, as agreed, the Bill also provides that health practitioners have a responsibility to 'consider notifying' Police if they have concerns that the person

they are attending poses a risk of harm to themselves or others. The Bill will indemnify health practitioners against civil or practitioner liability in the case that they make a notification.

12. If health practitioners are to have a more active role in protecting their patients and others from firearms harm, they will need to know whether a presenting person possesses or may have access to firearms. The options for seeking this information are:
 - from the person themselves if this is appropriate in the circumstance,
 - accessing specified information directly from the registry via DDA access, or
 - for Police to notify the relevant health practitioner that a person is a licence holder.
13. Following consultation with the Privacy Commissioner we seek approval for the Bill to require licence applicants to give Police the name of their regular primary health care provider (in most cases, a general practitioner) at the time of application. Upon issue of a licence, Police will notify the relevant primary health care provider that their patient has a firearms licence. Licence holders will need to update Police if their primary health care provider changes.
14. The outcome of this policy is that licence holders will have the primary responsibility to advise Police of a change in health status. However, a primary healthcare provider will also know if a person is a licence holder and can then independently exercise their discretion to notify Police of concerns.

Recommendation: provision is made in the Bill to require Police to notify a licence holder's primary health care provider that a firearms licence is held (instead of enabling primary care providers' access to the registry through a DDA mechanism).

Consultation

15. This paper was consulted with the Office of the Privacy Commissioner, the Ministry of Health, the Ministry of Foreign Affairs and Trade, the New Zealand Customs Service and the Department of Conservation. These agencies support the proposals.

Next steps

16. If Ministers agree, Police will issue revised drafting instructions to Parliamentary Counsel.
17. The paper to the Cabinet Business Committee will confirm the recommendations in this paper on 2 September 2019.

Minister's comments and signature

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Rt Hon Jacinda Ardern

Prime Minister

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Hon Grant Robertson

Minister of Finance

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Hon Stuart Nash

Minister of Police

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Deputy Prime Minister

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