

New Zealand Police Expert Panel on Emergent Technologies

Terms of Reference

Updated July 2023

Context

1. Aotearoa New Zealand is a multi-cultural society built on the foundation of a bicultural Māori Crown relationship formalised in 1840 through the signing of the Treaty of Waitangi (the Treaty). New Zealand's tradition of policing by consent is based on trust and confidence in the way New Zealand Police delivers its services, and the social licence granted by the community to police in the way that it does. This has remained true throughout various changes to Police's operating environment; as policing by foot, horseback and bicycle (with access to little more than a pair of handcuffs, a whistle and a truncheon) have given way to an ever-increasing range of technology-enabled capabilities. Modern day New Zealand Police staff increasingly encounter emergent technology in their day-to-day work; be it established technologies that allow images to be captured (such as Closed Circuit Television Cameras [CCTV]) and/or matched (such as Automatic Number Plate Recognition [ANPR]), or 'newer tech' which can facilitate use of structured and unstructured data to support decision-making (such as algorithms and artificial intelligence [AI]).
2. While innovation is critical to continuing to improve and deliver better public services, in any dynamic environment of rapid technology advancement, there is a risk technological capability evolves more quickly than the prevailing social, policy and regulatory environments are able to understand, assess and adapt to its potential implications. Adopting technologies that are not perceived to be sufficiently well understood, publicly accepted, or appropriately regulated has the potential to undermine public trust and confidence in the agency deploying them, especially where any negative impacts (such as impingement on privacy or inequitable impacts on certain groups) may be perceived to outweigh public benefits.
3. In the context of Police's social licence, it is important proposed new applications of emergent technology are carefully assessed from a policing and public perspective, well-understood, considered and communicated, to ensure public trust and confidence are not diminished. Establishing an external panel to provide expert scrutiny, review, and advice on emergent technology is a key part of providing assurance within Police, and reassurance to the wider public, that privacy, ethical, and human rights implications have been taken into account before decisions are made to pilot or introduce new technology capabilities.

Role, mandate and operating procedures

4. Appointed by the Commissioner of Police, the New Zealand Police Expert Panel on Emergent Technologies (the Panel) is established to provide external and independent expert scrutiny of, and advice on, Police proposals that involve emergent technology. This includes taking into account the Treaty, the importance of proactive relationships between the Crown and Māori, alongside considering and ensuring an equitable impact on all communities (for example Māori, Pacific and Ethnic communities).
5. The Panel has been convened to bring together experts with a diverse range of skills and experience, to ensure its analysis and advice is robust, objective, and informed by a diversity of views. This includes ensuring proposals are considered from a Te Ao Māori perspective, and recognising the shared interest in ensuring data and technology are used ethically, fairly and responsibly to deliver safer communities for all.
6. The Panel will be professionally curious and work together to build and share knowledge, in particular recognising and respecting the Crown's Treaty partnership with Māori. Panel members will be encouraged to work in a supportive and constructive environment, and to feel able to critique and question ideas in ways that are robust but respectful.
7. In reviewing emergent technology proposals, the Panel should provide independent advice having considered principles similar to those underlying the Government Chief Data Steward's [Data Ethics Advisory Group](#). These include reflecting the principles of the Treaty; working in a constructive, collaborative and open manner; and encouraging the innovative and ethical use of data. The Panel should also be informed by legal principles that frame the work of New Zealand Police, set out in [section 8 of the Policing Act 2008](#).

8. The Panel is an advisory body convened to give independent advice on proposals referred to it by Police, in the form of recommendations and guidance for the consideration of the Commissioner of Police. Proposals referred to the Panel, and advice provided to the Commissioner, will be treated in confidence to ensure that Police is able to assess and reflect on the Panel's advice, and work through any issues identified. However, there is a presumption the Panel's advice on technology-related proposals will be made public; for example, as an adjunct to formal Privacy Impact Assessments (PIAs) which accompany such proposals.
9. Additionally it is acknowledged that the panel members have existing and ongoing valued knowledge and expertise, and are encouraged to proactively share knowledge and advice on current and future issues relating to technology that would benefit Police awareness and consideration of.

Key areas of focus

10. The Panel is expected to review and advise the Commissioner of Police on:
 - 9.1 Proposals for Police to test or trial an emergent technology, or a significant new functionality within an existing technology, which are referred to it for assessment;
 - 9.2 Algorithms used by Police (to ensure privacy, human rights and ethics interests are appropriately safeguarded, and any unintended consequences are identified), in line with the [Algorithm Charter for Aotearoa New Zealand](#), which are referred to it for peer review.
11. The Panel's review work and advice to the Commissioner of Police is expected to consider consistency with the Treaty, proactive partnerships with Māori and implications for Māori, Pacific and Ethnic communities.

Process for receiving and responding to referrals

12. Advice will be sought from the Panel through a formal process by which the Commissioner of Police, or his or her delegate, will make referrals to the Panel. This process will be managed by the Chief Advisor: Technology Assurance, in line with Police's [policy on the trial or adoption of new policing technology](#).
13. Referrals made to the Panel will specify the timeframe within which advice is being sought. In general, it is expected that the Panel will be asked to provide its advice within 4-8 weeks (with longer timeframes possible for more significant proposals or peer reviews of more complex algorithms).
14. The Panel's advice is expected to be conveyed formally to the Commissioner of Police in writing, by way of either letter or brief report. On occasion, it may also be appropriate, by agreement, for the Panel Chair, or a representative member of the Panel, to present the Panel's findings and any recommendations to an internal Police audience (such as the relevant Police governance group).

Membership and meeting procedures

15. The Panel will comprise an independent Chair and up to five other independent members.
16. The Commissioner of Police (or his or her delegate) will appoint the Chair of the Panel, and will appoint the other members in consultation with the Chair. Panel members will collectively have expertise in privacy, ethics and human rights matters; data and technology; Te Ao Māori and an understanding of Māori data sovereignty issues; and public policy. Knowledge of policing and the criminal justice process is desirable, but not essential. Diversity (for example, in terms of gender, ethnicity and geographic base) is valued in selecting panellists, with members to be drawn from both within Aotearoa New Zealand as well as overseas.
17. With the approval of the Commissioner (or his or her delegate), the Chair of the Panel may co-opt one additional member on an *ad hoc* basis to ensure access to appropriate expertise and experience to consider a specific referral received from Police, for the duration of that referral. Any *ad hoc* member co-opted will be subject to the same acceptance conditions as full members of the Panel.

18. Panel members will be appointed for a multi-year term (for example, three years), on terms specified in the Panel member's letter of engagement, and may be re-appointed for a further period. Members are eligible to be remunerated in line with the [Cabinet Fees Framework](#).

Resignation and temporary or permanent cessation of membership

18. Actual or perceived conflicts of interest may arise during the conduct of public roles. Any such conflicts are frequently manageable, using protocols described elsewhere in these *Terms of Reference* (paragraph 29). Nevertheless, it is acknowledged that circumstances - including personal, professional and cultural conflicts of interest - may arise that mean a Panel member wishes to step down either temporarily or permanently. The Commissioner of Police may also form reasonable concerns about an actual or perceived conflict of interest and/or the ability of a Panel member to effectively discharge their responsibilities. In either scenario, the parties will endeavour to resolve such concerns through respectful dialogue and discussion. If concerns are not able to be resolved to the mutual satisfaction of the parties, either the Panel member or the Commissioner (or his or her delegate) may terminate the appointment. This will be done in writing and in a mana-enhancing way. In any situation where the Chair decides to, or is required to, temporarily step aside, the Commissioner (or his or her delegate) will appoint one of the other Panel members as Acting Chair.

Frequency and mode of meetings

19. The Panel will meet as and when required to consider referrals and formulate its advice. Such meetings are usually expected to be remotely conducted, with members video-conferencing or teleconferencing to participate. Meetings will ordinarily be expected to take between one and three hours.

Quorum

20. Members are expected to attend all Panel meetings. A quorum for any Panel meeting is four members.

Engagement between meetings

21. Where there is an appropriate match of Panel members' skills and availability, the Commissioner may request that individual members also provide an external perspective on other Police governance fora (for example, engaging with the Police's Assurance and Risk Committee, or the Police Leadership Forum).
22. It is also expected the Chair and Chief Advisor: Technology Assurance will engage semi-regularly outside of Panel meetings, to support the functioning of the Panel's work. This will include feedback on how the Panel's advice has been taken on board by Police, and confirming the process and timeframes for publishing the Panel advice. In this regard, Police shall have regard to, although not be bound by, the Panel's advice. If the advice has been adopted, Police undertakes to provide feedback on how it has been taken into account. If the advice has not been adopted, Police undertakes to provide reasons. This will help in knowledge building for both Police and the Panel in developing a working relationship.

Agenda and distribution of meeting papers, and access to relevant information

23. Meeting agendas will be developed ahead-of-time by the Chair, with secretariat support either provided directly or facilitated by Police's Assurance Group. Once the agenda is confirmed, meeting papers will be assembled and distributed to Panel members in advance of Panel meetings.
24. Panel members will receive relevant information and background briefing material from Police to assist them to successfully fulfil their roles on the Panel, and may request an oral presentation or briefing from a member of Police in order to inform its deliberations.

Decision-making and visibility of the Panel's work

25. It is expected Panel advice will be arrived at by consensus. If agreement cannot be reached, dissenting opinion(s) from the majority view may be recorded in the final written advice generated by the Panel.

26. Given the nature of the Panel, it is not anticipated that formal minuting of Panel meetings will be required. In the spirit of openness and transparency which is reflected in the Official Information Act 1982, however, the presumption is the Panel's advice will be made public by Police after it has been received and considered (for example, by being appended to the formal PIAs which accompany emergent technology proposals).
27. Panel members will also have a short biographic note placed on Police's website (www.police.govt.nz), so any interested members of public - or others - can readily access information on the Panel's membership.

Supporting arrangements

Confidentiality and management of any conflicts of interest

28. Panel members have a responsibility to treat all proposals referred to them and associated information with due confidentiality. This includes matters tabled and/or discussed at Panel meetings and advice provided to Police in response to referrals.
29. Panel members are responsible for declaring their interests, whether pecuniary or otherwise, as they relate to the Panel role. Interests will be declared on an annual basis, with updates as required at the start of each meeting. Where a conflict of interest exists, or may be reasonably perceived to exist, the Chair will rule whether the member who is disclosing the interest:
 - 29.1 may participate in the discussion;
 - 29.2 may remain in the meeting, but not participate in the discussion; or
 - 29.3 must leave the meeting, so as to be removed from considering the item under discussion.

Review of *Terms of Reference*

30. Police's Executive Leadership Team will review these *Terms of Reference*, at least once every 12-18 months, as part of wider governance reviews.