



22 January 2025

Final Report

Independent Investigation and Assurance Review of Allegations of Misuse of 2023 Census Information

**Statistics NZ –
Tatauranga Aotearoa**

Contents

1.	Scope and Approach	4
2.	Out of scope	4
3.	Approach	5
4.	The Investigator/Reviewer's Role.....	5
5.	Background and Overview of Events	5
5.1.	Census 2023 and Māori engagement.....	5
5.2.	Concern with Māori response rate and engagement with WOCA.....	7
5.3.	Commencement of WOCA involvement in Census collection	8
5.4.	Allegations raised in May 2024 against WOCA.....	12
6.	Context for the 2023 Census Engagement with Māori	13
7.	Census Governance Arrangements and oversight of WOCA engagement	14
7.1.	2023 Census Programme Board.....	14
7.2.	Board Oversight of WOCA Engagement.....	15
8.	Census Management Arrangements	15
9.	Engagement of WOCA and Procurement Processes.....	17
9.1.	WOCA's Engagement.....	17
9.2.	Procurement Process with WOCA.....	18
9.3.	Divergence from Standard Government Procurement Practice	21
9.4.	The Contract.....	23
10.	Census Confidentiality and Data/Privacy Considerations	25
10.1.	The Privacy Expectations of the Parties	25
10.2.	Section 42 Confidentiality Requirements.....	27
10.3.	The Contracted Privacy Impact Assessment and Data Management and Sharing Plans	29
10.4.	Training.....	30
10.5.	The Operation of the Contract in Practice – Information Provision, targeting and collection	32
10.6.	Use of Incentives	35
11.	Whistleblower Allegations Raised in relation to the Manurewa Marae and Manurewa Marae Responses	37
11.1.	Training.....	38
11.2.	Risk of incomplete census forms.....	38
11.3.	Instructions to Return Open Census Envelopes	39
11.4.	Photocopying of Census Forms	40
11.5.	Whistleblower evidence of an attempt to notify Stats NZ	41
11.6.	Collection of Census Access Codes.....	41
11.7.	Retention of Census Forms.....	42
11.8.	Physical Security for Census Forms and Confidential Information.....	43
11.9.	Summary of allegations relating to Manurewa Marae.....	44
12.	Findings and Recommendations	45

12.1.	Findings.....	45
12.2.	Recommendations	54
Appendix 1 – Terms of Reference.....		58
Appendix 2 - Timeline – Key Events		62
Appendix 3 – List of People Interviewed.....		65
Appendix 4 – WOCA Reporting Information		66
Appendix 5 - Winter Wellness Checklist – Manurewa Marae		67

1. Scope and Approach

We were asked to look into and report on the management and operational aspects of the Whānau Ora Commissioning Agency's (WOCA)¹ management of census forms and their handling of census data and personal information. Specifically on the management of census forms and data, we were asked to consider:

1. Whether the contract between Stats NZ and WOCA set out the expectations and obligations in a way that is consistent with the Data and Statistics Act 2022 and the Privacy Act 2020, and what (if any) monitoring mechanisms were established to ensure compliance with these expectations / obligations?
2. Whether the engagement with people and whānau to encourage and support them to complete the census forms was consistent with Stats NZ's expectations of how Whānau Ora would carry out its work under the contract with Stats NZ.
3. Whether the census forms, the data contained within census forms and the personal information provided by individuals and whānau were managed consistent with Stats NZ's expectations and the Data and Statistics Act 2022 and the Privacy Act 2020 requirements.
4. Whether the provision of data by Stats NZ to Whānau Ora, including any access to census data or Stats NZ systems, met the requirements of the Data and Statistics Act 2022, the Privacy Act 2020 and Stats NZ policies.

Additionally, we were asked to make any further recommendations we considered necessary about the above matters. In particular, we should comment on any opportunities we identified to improve Stats NZ's outreach to difficult-to-reach population groups to inform future census work. The Terms of Reference for this Review are attached as Appendix 1.

2. Out of scope

The following matters are out of the scope of this Review;

1. Making any finding that might interfere with or prejudice related investigations by the NZ Police, the Electoral Commission, the Ministry of Social Development, the Office of the Privacy Commissioner or any other relevant agency; noting that material identified as relevant to such related investigations will be shared with the relevant agency as appropriate.
2. Any comment on the performance or competence of any person about the matters in scope of this review, except to the extent this relates directly to the processes and management of census-related forms and data.
3. The fitness for purpose of any Stats NZ policies or processes not directly related to this review or those of any other agency.

¹ Note the Whānau Ora Commissioning Agency is the trading name of Te Pou Matakana Limited.

3. Approach

In carrying out this review, we:

- Reviewed a broad range of materials,
- Interviewed the people listed in Appendix 3, and
- Obtained written responses to questions from key people/organisations, including WOCA and the Manurewa Marae, a WOCA-nominated sub-provider operating as one of eight Te Pae Herenga o Tamaki partners (see comment in Appendix 3).

As noted above, the nature of the allegations raised extends beyond the areas of responsibility of Stats NZ and the Census, touching on issues of privacy and other agency responsibilities under the Protected Disclosures (Protection of Whistleblowers) Act 2022.

Various other inquiries and agencies have investigated these matters in parallel with this review. The Independent Reviewer has acted to protect the independence of this review. At the same time, the Independent Reviewer has maintained appropriate levels of contact with other responsible lead reviewers to ensure that the respective reviews do not cut across their respective areas of jurisdiction while ensuring that each review has access to relevant information and witnesses.

We are grateful for the time and commitment of all the individuals and organisations interviewed during the Review.

4. The Investigator/Reviewer's Role

The Reviewer was Mr Doug Craig, an independent consultant and Director of The RDC Group.

The Reviewer had access to all relevant Stats NZ documentation, relevant staff and management, Census Board members, Census 2023 senior leadership, management and governance staff, and internal corporate staff.²

As noted in the Terms of Reference for the Review (Appendix 1), the Review was initially planned to be conducted over three phases. However, as a matter of practicality, the phases were delivered concurrently, with reporting to the Government Statistician being provided regularly on an in-person meeting basis. The Reviewer was also engaged throughout the investigation/review by a range of other agencies, including NZ Police, the Electoral Commission, and the Office of the Privacy Commissioner.

Due to the increased complexities and interrelationship with other inquiries subsequently initiated, the Review has taken longer to finalise than initially planned.

5. Background and Overview of Events

5.1. Census 2023 and Māori engagement

The Census 2023 was a major information collection exercise undertaken by Statistics NZ ("Stats NZ"). Census information takes a vital snapshot of households, individuals and whānau in Aotearoa. The information collected in a census is used by government agencies,

² Including Legal Services, procurement and staff from the Office of the Chief Executive.

local authorities, businesses, iwi, community organisations, and the public to inform research, policy, and decisions about services in areas like health, education, housing, and transport.

A critical focus area for Census 2023 was improving the response rate for Māori. This followed well-publicised failings in Census 2018, where problems including too few field workers and paper packs led to a low overall turnout, especially for Māori and Pacific peoples. It also followed significant changes to the legislation. Unlike its predecessor (the Statistics Act 1975), the Data and Statistics Act 2022 imposed express obligations upon the Government Statistician to:

- Give effect to the principles of Te Tiriti o Waitangi by recognising Māori interests in the collection of data, and the way it is collected and managed (s 14(a)).
- Before determining the manner of undertaking the census and the data to be collected, the Statistician must engage with Māori-on-Māori interests in data (s 35).
- Maintain capability and capacity to engage with Māori about the collection of data (s 14(b)).
- Foster the capability and capacity of Māori to collect, use and access data (s 14(c)).

Relevantly for this inquiry, the Act stipulates that principles for engaging with Māori in respect of the Census include the consideration of opportunities to partner with Stats NZ.

As part of the preparation for Census 2023, a significant decision needed to be made about the target response rate for Māori. The choice for the Board centred around whether to accept that Māori were a group from whom a lower overall census response rate could be expected (based on previous censuses and experience of the difficulties in reaching Māori). This would mean setting a lower target return rate than the general population. The alternative was to set the target level of return for Māori at the same level as for the general population, accepting that this would be a 'stretch target' and require significant additional focus and attention to drive up the Māori response rate. We were advised that the Board decided on the latter path.

The target response rate for Māori for Census 2023 was set at 90% - the same as for the general population. The response rate for Pacific people was also set at 90%.

Accordingly, building trust and value for Māori through data equity was one of four strategic priorities for the 2023 Census. In preparing for and delivering Census 2023, steps were taken to ensure that Māori had a stronger voice in the design and implementation of the census.

The Census Programme Management Plans also incorporated significant changes in approach to improve response rates for Māori, including early engagement using locally based engagement, which led to work with iwi. The Census collections teams focused on engaging at a community level, and there was an investment in marketing activity to connect with local people and better articulate the value of Census for Iwi Māori.

Prior to April 2023, a number of initiatives taking a partnership approach with Māori had been planned and delivered.³ To this end, Stats NZ had previously entered into collaboration agreements with marae and community groups, including marae which were

³ E.g. Te Whānau Apanui and Te Mana Wakatipu initiatives involving Iwi in the planning and supporting delivery which had elements of incentives and co-delivery of other services, e.g. delivery of food to isolated communities along with census forms.

WOCA delivery partners. For example, in February 2023, it entered into a collaboration agreement with Manurewa Marae to support the Census response. That agreement specified that Manurewa Marae would undertake supporting activities and events such as Assisted Completion Events (ACE), whereby people could gather and get help completing their Census forms. For such ACEs, census staff were available at the events and took on the responsibility of collecting the census forms (or providing assistance with completing the forms online).

Despite the awareness of the challenge and the planning to increase the Māori response rate, Census 2023 faced some significant challenges. Cyclone Gabrielle, the residual impacts of Auckland's flooding event and post-COVID-19 attitudes towards the government impacted the Census collection results for Māori and Pacific people across Auckland.

5.2. Concern with Māori response rate and engagement with WOCA

Concerns about the Māori response rate grew through February 2023, and the challenges in this area were apparently discussed with the WOCA Chief Executive by a Stats NZ staff member (the Director, Te Ao Māori Census Team) at the Te Matatini festival in Auckland in late February. On 1 March 2023, a WOCA representative emailed the same Stats NZ Director concerned, referencing Whānau Ora's experience in successfully engaging the Whānau Ora network of local providers throughout the COVID-19 response and noting that Whānau Ora was *'...very keen to deploy our considerable resources to help more Māori complete the Census'*. The Director, Te Ao Māori Team, contacted WOCA staff on 14, 15, and 21 March 2023 to explore ways WOCA might assist Stats NZ in lifting the Māori response rate.

A timeline of relevant events relating to the engagement of WOCA is in Appendix 2.

On 24 March 2023, the Census raised a 'level 3' (its highest level) incident in relation to low estimated return rates for Māori. Māori estimated response rates at that stage were around 55% - 20% lower than the national average. Significant changes were needed if the response rate for Māori was to get anywhere close to the 90% target set for Māori (along with the population as a whole)⁴.

The time available to intervene and make substantive changes was limited. Census Day had already passed on 7 March 2023, and the Census was well into the 20-week collection period from 13 February to 30 June 2023. On 30 March 2023, the Director, Te Ao Māori Census Team requested further details from WOCA about their proposal. WOCA responded on 4 April, setting out a business case proposal to increase the number of Māori completing the 2023 Census. The proposal suggested a target of 10,000 Māori households across Tāmaki Makaurau, with a total contract for services cost of \$5 million, incorporating a \$100 kai package for whānau for each household to be visited and a target of 50,000 additional census responses (household and individual), through a minimum of 10,000 household contacts with whānau.

Given the context of weather events impacting large parts of New Zealand and many communities, central agencies were also actively interested in how the Census was progressing. The Public Service Commission was in close contact with Stats NZ, maintaining an overview of progress, risks, and issues.

⁴ Noting that we were advised that the 90% target was always regarded as a stretch and in some sense 'aspirational'. It was also considered appropriate that it be the same target as the general population for equity reasons.

In March or early April 2023, the Government Statistician and Chief Executive of Stats NZ (CE) raised concerns about the low Māori response rate with the Public Service Commissioner. Around that time, the Public Service Commissioner sought regular updates on response rates (for the general, Māori and Pacific populations) and assurances that all reasonable measures were being taken. In this context, the Public Service Commissioner was actively encouraging initiatives and the support of other public service agencies for the Census. The Commission suggested the CE consider whether the Whānau Ora model might be one option worth exploring. Following this discussion, the Chief Executive of Te Puni Kōkiri (TPK) phoned the CE to raise the possibility of the Census using Whānau Ora to help drive an increase in Māori returns similar to how Whānau Ora had supported COVID-19 vaccinations during the pandemic.⁵

Subsequently, there was a brief discussion between the TPK Chief Executive and the CE about WOCA's performance in delivering on government contracts, with the TPK Chief Executive confirming that he was unaware of any non-delivery or contract performance issues.

Following these discussions, a meeting was held online on 14 April 2023 between the CE, the TPK Chief Executive and the WOCA Chief Executive⁶ to discuss the potential to contract support from WOCA to increase Māori census returns⁷. This discussion revolved around the potential for WOCA to mobilise its network and conduct an 'outreach' to 10,000 households, as it had proposed in the 4 April 2023 email.

These arrangements were agreed to in principle, and on 15 April, the CE sent the WOCA Chief Executive an email of comfort outlining the intention of Stats NZ to agree with WOCA for WOCA to contract eight sub-contractors to deliver the services to help lift the Census response rates for Māori in Auckland (in particular south and west Auckland). Under the contract, WOCA would subcontract the work to Te Whānau o Waipareira 'as the backbone' of the Whānau Ora collective based in Tāmaki Makaurau - Te Pae Herenga o Tāmaki (TPHoT). The reason for the CE sending the email was to provide a level of certainty to allow WOCA to commence contractual discussions with their sub-contractors and for operational planning to begin.

For Stats NZ, the lead team for this engagement with WOCA was the Te Ao Māori Census Team. The role of this team was to provide leadership, stewardship and support to implement Census strategic initiatives to ensure outcomes for iwi Māori in the 2023 Census. They were a small team led by an experienced manager; however, they had not previously been directly engaged in the operational delivery of census collections. The manager of the Team reported to the Senior Responsible Officer (SRO), as did the Census Operations National Manager.

5.3. Commencement of WOCA involvement in Census collection

Work then immediately commenced to draft an urgent contract for services between Stats NZ and WOCA, with the lead for Stats NZ being taken by a principal adviser from the Te Ao Māori team, supported by advice from procurement, legal, privacy and later data advisers. A

⁵ Note, neither Chief Executive appears to have known that discussions were occurring between a Stats NZ staff member and WOCA at this point.

⁶ Note the Chief Executive of WOCA is also the Chief Executive of the Waipareira Trust. Note too, each Chief Executive had an adviser attend the call with them.

⁷ The TPK Chief Executive advised that his role extended to brokering the introduction between the CE and the CE TPK and he did not play a role in agreeing to the terms of the contract.

contract was prepared and signed on 29 April 2023. The contract was executed by the CE and the Chair of WOCA.

The contract for service entered into with WOCA on 29 April was substantively different from previous Census 2023 iwi partnership and community engagement agreements entered into by Stats NZ, in that it provided for the sub-contractors and their staff to directly support people in filling out census forms and also be involved in collecting completed census forms completed at events or during household visits. This difference reflected the high level of concern with the rate of Māori participation in the Census seen to date against the targets Stats NZ was striving to achieve.

The contract with WOCA expressly allowed for the use of incentives to be paid to those households completing the Census. While this represented a change from Stats NZ's usual practice with the Census and other statistical surveys (where incentives were generally not used), it was not without precedent in Census 2023.⁸

We note that shortly before the contract with WOCA was signed⁹, the Census Programme Board (which provided governance over the Census as a whole) considered a paper titled '*Incentivising responses from people that are hard to reach*' and approved the use of supermarket vouchers of up to \$40 each to be used by Census collectors. This paper also noted that Census was partnering with Whānau Ora (and another provider focused on Pacific Island communities), who would offer supermarket vouchers up to \$100 in value. Approval was not sought from the Census Programme Board for this, as it was stated: '*The decision (to provide an incentive payment) was a decision of the partner, based on their understanding of the community.*'

On the morning of 24 April 2023, an email from the TPHoT Operations Lead to the eight WOCA sub-providers identified that;

"The contract with Census and Stats NZ is being finalised by COB.

Partner contracts drafted and will be executed upon receipt of head agreement.

\$1M worth of vouchers already purchased -will be provided along with the contract.

10,000 total targets across the collective.

Workshops will be provided throughout this week and next.

Operating model: Street by Street Campaign, targeted approach and info will be provided with a contract.

Assumption for first week targets: Internal kaimahi, kaumatua roopu and rangatahi.."

Later that morning, a follow-up email was sent that said,

Apologies - action note was missed.

Census Data Matching.

If you would like us to complete data matching against the addresses, can you please send us your registers of client data (one consolidated file).

⁸ In Census 2023 incentives had been used, including the provision of Warriors tickets at community events.

⁹ Meeting of the Board on 19 April 2023.

Where possible, please provide the below;

- *NHI*
- *First Name*
- *Last Name*
- *Date of Birth*
- *Gender*
- *Ethnicity*
- *Address - Street Number*
- *Address - Street Name*
- *Address - Suburb*
- *Address - City*
- *Address - Post Code*
- *Phone number(s)*

Subsequently, the Chief Executive of the Manurewa Marae sent the following email to Manurewa Marae staff confirming these arrangements.

Kia ora Koutou,

As per my update at Karakia this morning. We have been contracted via Te Whānau O Waipareira Te Pae Herenga O Tamaki Whānau Ora Collective to support with improving the numbers for Census as the current data is at 62% across the motu. Just like we did when we worked through COVID and the pandemic we are tasked with this mahi.

What does this look like:

- 1. The Operating model will be confirmed later this afternoon.*
- 2. Household data for our area will be sent through to us. Also, we will send through all our registered whānau data to check off so we don't visit or contact these homes. See data set below we need from your client database for checking census data roll.*
- 3. This will be a more target approach with door knocking required.*
- 4. Teams will be redeployed where appropriate.*
- 5. We are able to provide \$100 Kai voucher per household.*

As part of this mahi we will support the Whānau Ora with election enrolments to check to see if whānau are:

- 1. enrolled on the electoral roll*
- 2. Enrolled on the Māori roll or*
- 3. Make the switch to the Māori roll.*

This mahi will be completed together.

Please korero with your teams to see if anyone would like to work etc. hours, e.g. weekends, as this will be a 7-day operation, we have 60 days to meet our targets.

I will send another message to our kaimahi Leads Nga Mihi,

The eight TPHoT partner members, delivering services pursuant to WOCA's sub-contract with Waipareira, began collection activity shortly after the contract was signed. Work under the contract commenced in the first week of May 2023, although we were told by WOCA

that full census delivery did not commence until the week of 15 May 2023 (although Manurewa Marae advised it reached out to whānau from the time it first received census forms on 5 May). Collection activity involved a combination of events and door-to-door collections. To identify 'non-responding' households, Stats NZ provided WOCA with a daily updated file of addresses in the Auckland region identified as having not completed or only partially completed Census forms. WOCA, in return, provided Stats NZ with daily progress reports on '*whānau engaged, and households visited*'.

The contract with WOCA required work to commence in May and conclude by 30 June 2023. The immediate commencement following signing meant that key establishment activities identified under the contract were progressing at the same time that collections activity was starting to ramp up.

These key establishment activities and requirements included:

- Agreeing on a data management plan and data sharing agreement.
- Confirming processes around data sharing between all TPHoT partners undertaking data collection activities.
- Completing a Privacy Impact Assessment with Stats NZ and undertaking all necessary steps to ensure private information is kept secure and disposed of fully and safely at the end of the collections process.
- Ensuring everyone conducting the census work for WOCA who might see or hear census response information completed a Confidentiality Certificate approved or provided by Stats NZ under the Data and Statistics Act 2022 (Act).

Most of these key establishment activities and requirements were not completed as set out in the contract with WOCA for reasons discussed further below.

As WOCA commenced work under the contract, various concerns were raised within Stats NZ around using incentives, the approach to information sharing and confidentiality, and training for people undertaking census work for WOCA, which are also discussed below.

As work began, Census Operations management and staff offered to Te Ao Māori Census Team all existing collateral and material used by the 2023 Census to support TPHoT's efforts, including by providing census staff, assisting with training, and providing materials such as operating procedures and process maps. WOCA advised us that these offers were not extended to them.

Census Operations management also enquired whether the Auckland-based operations staff contracts should be extended (as these were fixed term and expiring shortly after the commencement of the contract with WOCA). Census Operations management told us that they were verbally advised by the Te Ao Māori Census Team that WOCA had a pre-existing operational plan and that they were going to use this.

Despite these issues, delivery of work by WOCA partners pursuant to the contract ramped up and was delivered at pace throughout the contract term. By 13 July 2023, the engagement was deemed a success, with Stats NZ providing the Minister of Statistics with the following as part of a suggested response to a Parliamentary Question:

Regarding achieved outcomes, I am advised that as of 4 May, just before WOCA field activities began, Auckland North had an estimated individual return rate for the Māori descent population of 82.0%, with Auckland South at 64.7%. WOCA exceeded their

target of reaching 10,000 non-responding and partially responding dwellings across Auckland, which contributed to an increase in return rates from Māori. As of 30 June, the estimated individual return rate for the Māori descent population in Auckland North was 87.3%, and Auckland South was 70.3%.

A 'final insights report' provided by TPHoT to Stats NZ for the period 1 May – 30 June 2023 recorded that the work undertaken by WOCA partners had resulted in 10,119 dwelling forms completed and 29,426 individual forms, with a total of 11,801 households visited, 67 census support events held, with 7,121 phone call engagements and 14,807 text message engagements.

The outcome sought, which was specified in the contract for services with WOCA, was:

Within the Auckland region, approximately 50,000 completed individual forms from Māori residing in the Auckland region who have not yet completed their 2023 Census will be collected by visiting approximately 10,000 dwellings during May and June 2023.

As noted in the note of 13 July 2023 from Stats NZ to the Minister of Statistics, however, Stats NZ was unable to confirm the number of additional census returns received directly due to WOCA's activities, as other collection and promotion activities were ongoing throughout this time (including Stats NZ's nationwide campaigns). People could still voluntarily complete their census forms and send them to Stats NZ. However, the reporting from WOCA on households visited and individual forms completed, together with the material improvement in returns from Māori in the Auckland region, did indicate a significant positive impact on increased numbers of Census returns from Māori as a result of the work done by the WOCA partners.

5.4. Allegations raised in May 2024 against WOCA

In May 2024 and subsequently, allegations were made relating to work done pursuant to the contract for services between Stats NZ and WOCA, including:

- Confidential Census forms were photocopied and retained by the Manurewa Marae (one of WOCA's partners).
- Confidential Census information was also collected and passed to Waiperara. This confidential information was allegedly later used by Te Pati Māori's Takutai Tarsh Kemp (also CEO of Manurewa Marae) in the election campaign.
- An employee of MSD, seconded to the marae, attempted to raise concerns about the retention of confidential census information with Stats NZ during the collection period by phone, but there was no follow-up on this.
- Incentives (\$100 supermarket vouchers) were provided to people to induce them to complete forms and given to people for completing a change of electoral roll forms.

Other allegations were raised around activities that were not Stats NZ or Census related but which were said to have been facilitated by the Census collection work. For example, alongside the Census forms completion and collection (and the payment of incentives for Census completion), Māori were also encouraged to complete an enrolment form to switch from the General to Māori electoral roll in the Tāmaki Makaurau electorate.

Following the emergence of these allegations, the CE determined that it was necessary to undertake an independent review to determine relevant facts and make any necessary

recommendations to ensure that appropriate steps are taken to address any issues or concerns identified.

6. Context for the 2023 Census Engagement with Māori

As above, the 2018 Census collection response rates generally, and for Māori and Pacific people, in particular, were unacceptably low. In July 2019, Stats NZ acknowledged that the collection response rate for Māori from the 2018 Census was about 68% and about 65% for Pacific people. Stats NZ noted that the 2018 Census had not worked as well as had been planned for Māori and Pacific communities and apologised for this, noting that Stats NZ would do everything possible to ensure that response rates would be much higher in Census 2023.¹⁰

The Independent Review of the 2018 Census noted that efforts made by Stats NZ for that Census had succeeded in raising awareness of the Census among Māori and Pacific peoples, but this did not translate into improved participation. This was due to other problems with the Census collection that year, including too great a focus on a digital-first approach and a lack of paper Census forms.

Resultantly, there was a significant focus on making improvements in the areas of Māori and Pacific people's participation in the 2023 Census. This was recognised in the 'Gateway Review' summary of interviews in the lead-up to Census 2023 (December 2022 Gateway):

Interviewees recognised the importance of Census 2023 to iwi Māori as it affects the number of Māori electorates and informs decisions on national, regional, and community services and infrastructure. Schools, housing, hospitals, GP services, superannuation and roads are just a few examples. There was recognition that poor-quality data are more pronounced for Māori and Pacific peoples because of their smaller population share.

Taking into account the changes in the legislation, recommendations from the Independent Review of the 2018 Census and recommendations from the Gateway reviews, Stats NZ resolved to focus the 2023 Census collection model on communities that have not been well served in the past – particularly, Māori and Pacific people. In seeking to improve responsiveness to Māori, several changes and initiatives were put in place by Stats NZ for the 2023 Census, including:

- Establishing a Mana Ōrite agreement between Stats NZ and the Data Iwi Leaders Group, providing a foundation for the partnership for 2023 Census data dissemination (particularly pertaining to iwi affiliation and Māori descent data).
- Establishing an Iwi-led collections pilot (Te Mana Whakatipu) to test the effectiveness of locally led collections.
- Establishing a Te Ao Māori team within the Census programme to help build awareness and capability.
- A focus on recruiting collectors from the local community who reflect the community (whether Māori, Pacific, or others).
- Increased investment in marketing tailored to Māori communities.

¹⁰ <https://www.stats.govt.nz/methods/2018-census-collection-response-rates-unacceptably-low/>

Despite these steps, as described above, concern grew within Stats NZ as Māori return rates lagged well behind expectations throughout February 2023, resulting in the contract for services urgently being entered into with WOCA to assist. In describing the “ad hoc” involvement of WOCA, the Statutory Review of New Zealand’s 2023 census noted:

WOCA leveraged their own database and channels with significant face-to-face contact, using approaches that had been successful with other services they provide to their communities. Ultimately, they got returns from 29,426 individuals, representing approximately 10,000 households. Efforts were impeded by inaccuracies in the address frame, delays in getting training and forms, and negative sentiment post-COVID-19. WOCA also reported that the final reminder letter from Stats NZ threatening fines for non-response was also unhelpful.¹¹

The overall Māori response rate improved in the 2023 Census, with a 76.7% response rate (compared to 73.4% in 2018). While this was an improvement, the response rate fell well short of the 90% target set by Stats NZ. We were told that the Census 2023 Board had debated the target considerably and in the end endorsed a target that matched that of other ethnicity groups for equity reasons, notwithstanding it was known that it would be a stretch to achieve this target.

The 2023 Census Statutory review noted that Stats NZ increased its focus and made genuine and significant efforts to develop its relationships and collaboration with Māori but that further work was required to better meet the expectations of Māori. It recommended a number of key areas for focus, including potential changes in governance, considering how to build in early involvement of Māori in the census model design and processes, and looking at the collaborative design of contingency plans to activate if problems with return rates emerge.

7. Census Governance Arrangements and oversight of WOCA engagement

7.1. 2023 Census Programme Board

Following lessons learned from the 2018 Census and recommendations regarding improvements to governance arrangements, for the 2023 Census, a dedicated governance body was established.

The 2023 Census Programme Board (Board) was the primary governance and oversight body for the Census Programme. It functioned according to clear terms of reference and comprised the CE, the SRO, several Stats NZ Executive Leadership Team (ELT) members and three independent members.

From November 2020, the Board was chaired by one of the independent members, and collectively, the three independent members brought significant relevant expertise, including from Māori/Iwi perspectives.

¹¹ <https://www.stats.govt.nz/reports/report-of-the-statutory-review-of-new-zealands-2023-census/> page 27

The Board met regularly, and the CE regularly attended. Reporting to the Board was extensive, covering all aspects of the programme. The Board would also routinely conduct 'deep dives' into particular areas of relevance. The Statutory Review of the 2023 census found that *'[t]he quality of governance was a material step up from the 2018 Census.'*

7.2. Board Oversight of WOCA Engagement

From a governance perspective, while we saw evidence that the Board was well informed of significant proposed procurements within the Census programme, there appears to have been no specific discussion or consideration of the WOCA procurement.

The Board discussed and agreed to raise the level 3 incident for low estimated return rates for Māori on 24 March 2023. A number of potential responses to understand and respond to the incident were discussed, but this discussion did not specifically include the procurement of a Māori outreach provider such as WOCA.

The Board Chair was copied on the CE's email of comfort to WOCA on 15 April. The Chair told us that she recalled a discussion at the Board about the possibility of a contract with WOCA and that the Board's view was that the arrangements with WOCA needed to be consistent with the approach taken by Stats NZ under Te Mana Whakatipu and other arrangements Stats NZ had entered into with other Māori organisations.

Any such Board-level discussion appears to have gone unrecorded. This is significant, as the contract for services materially differed from the collaboration agreements entered under Te Mana Whakatipu and Whānau Apanui initiatives.

The Board Chair told us that she could not recall any follow-up discussions on the conclusion of negotiations with WOCA, nor could she recall follow-up discussions on the progress of the engagement with WOCA. She commented that the Board could track progress with iwi engagement in other areas but could not see how WOCA was progressing or delivering.

This is consistent with our review of the relevant Board minutes, which do not appear to record any discussion of the WOCA engagement or the performance of the contract. In particular, there was no Board level discussion of how Stats NZ might most effectively and safely engage with this new way of working with a major provider and how it might identify and manage the risks that might be associated with this engagement.

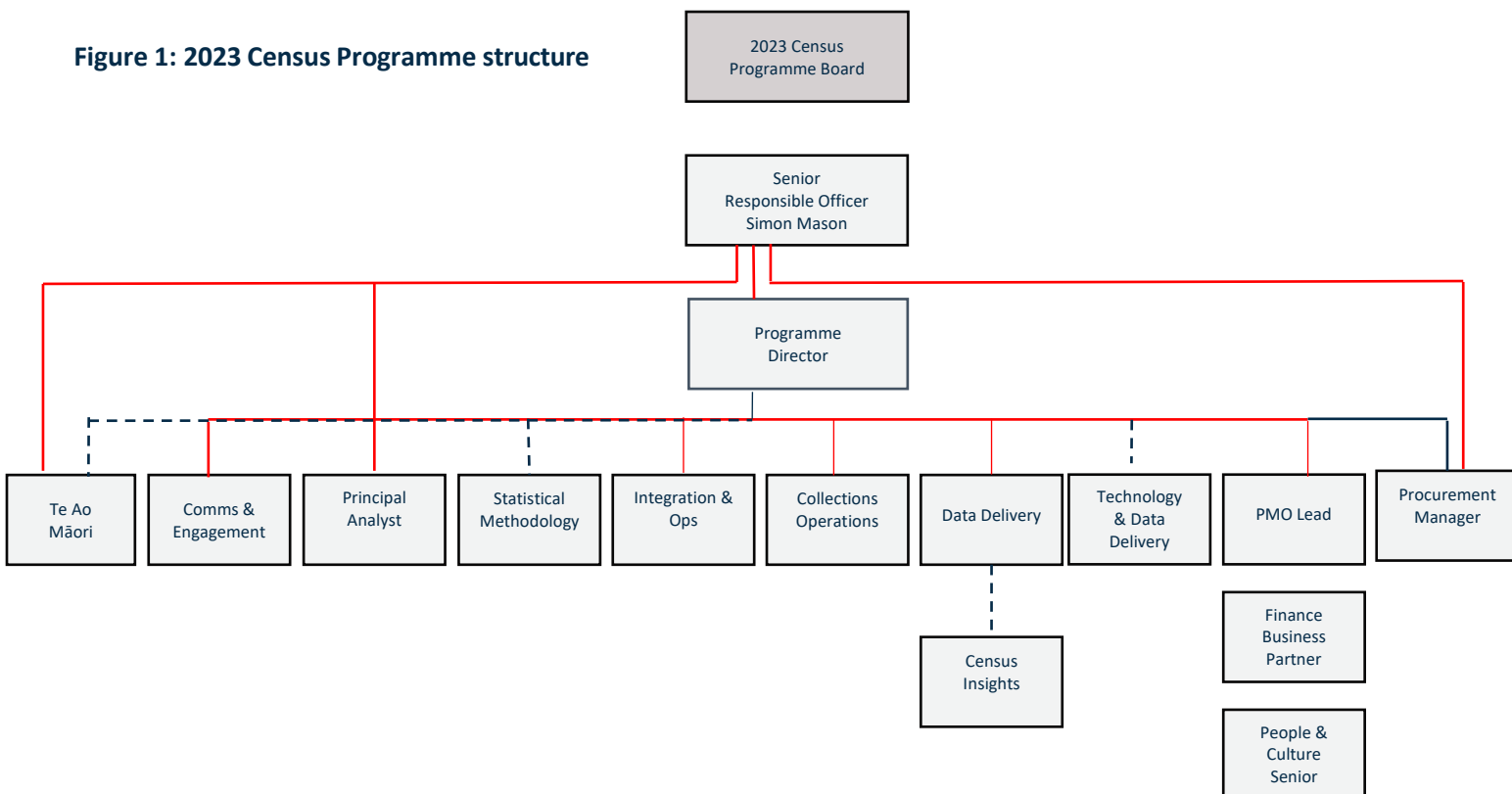
This apparent gap in governance oversight can be best explained by the significant urgency in which Stats NZ found itself, a lack of viable alternative options, and an authorising environment positively disposed towards the perceived opportunity WOCA presented.

8. Census Management Arrangements

Just as the Census as a major programme of work had its own governance body, the Census 2023 management structure reflected the requirements of delivering a large and complex programme. The Census Programme was led by the full-time SRO, a Stats NZ's ELT member.

The programme structure evolved throughout the programme. The structure during the collection phase is shown in Figure 1.

Figure 1: 2023 Census Programme structure



A Programme Director with significant experience in large complex programme delivery was appointed in September 2020. All Census Programme functions were reported to the Programme Director.

The Programme Director introduced best practice project management disciplines and reporting processes. These were a material step up from those previously in place and took considerable effort and time to implement. An external maturity review in September 2021 assessed the maturity of the Census Programme Management Office as 'foundational'. After changes in leadership and a lift in capability, a second review in May 2022 noted a 'seismic' shift in maturity (most areas rated at a 'mature' level).

As noted in the Report of the Statutory Review of the 2023 Census:

"The Programme Director chaired the Programme Leadership Team, which comprised the leadership of all relevant functions. This group was accountable to the Board for the successful delivery of the programme with responsibility for day-to-day operations and issue resolution.

Within the Census Programme, the Collection Operations function established the Operational Leadership Team (OLT). Collection operations were responsible for census data collection, including all processes that supported field operations (for example, recruitment, onboarding, training, and scheduling of 3,600 field staff, and workforce health and safety), and enablement (paper, mailouts, assist, non-response follow-up).

Effective performance required strong, active management and integration with other parts of the Census Programme. The OLT adopted the CIMS (Coordinated Incident Management System) methodology, providing a robust operational management framework, including incident response.

When operations were at their peak, there was a daily and weekly cadence of meetings and reporting focused on required actions. As with the programme management disciplines, the rigour of the CIMS approach was a material step up for the programme team. The more "command and control" approach resulted in tensions. However, the nature of collection operations requires a strong structure and intensity to succeed. A key aspect of the management process for the 2023 Census was the greater use of operational data for management. Daily dashboards displaying the national and regional situations (weather warnings, COVID-19 status, media, and events) and details of field staff numbers, forms received, enablement, and incidents were available online. They were utilised to plan active responses to issues.

The increased level of discipline in programme and operational management approaches provided a strong base for the recording and management of risks and issues. At an operational level the CIMS methodology drove incident reporting on matters affecting collection and field operations.

A review of the risk and issues registers indicates they were thorough and compliant with best practice."

9. Engagement of WOCA and Procurement Processes

9.1. WOCA's Engagement

As noted in section 6 above, the need to obtain an adequate census response rate from Māori was a central concern in preparations for the 2023 census.

Multiple changes had been made to how the Census was governed and delivered to ensure that the failures of the 2018 Census were not repeated and a much-improved census return rate for Māori was achieved. The changes were intended to help meet the expectations of Māori and to ensure that good, comprehensive census data was obtained to support effective public policy decision-making and service delivery.

Cyclone Gabrielle created significant challenges for Census 2023, and its impact required that census collection be suspended in affected parts of the country. A task force (Te Ahu Kauawhi) was established to allow for a pause and staggered re-start of census collection in the Tairāwhiti and Hawke's Bay regions.

Despite this disruption, increased engagement and field collector support, focusing on good internet collection while ensuring sufficient paper census forms were available, meant that the overall return rate for the 2023 Census on Census Day was much improved over the 2018 Census.

However, the response rates for Māori were below expectations and remained concerningly low in the days immediately following Census Day on 7 March 2023. Concerns about this had started building ahead of Census Day, as evidenced by a 1 March 2023 email between the Director of Stats NZ's Te Ao Māori Team and a WOCA executive about how a Whānau Ora approach might be able to help.

At this time, the Director, Te Ao Māori Team, supported by his team, was advising the Census OLT and the Board on the key matters relevant to the issue of low response rates from Māori.

The time available to intervene and make substantive changes was limited. Census Day had already passed on 7 March 2023, and the Census was well into the 20-week collection period from 13 February to 30 June 2023. Following a request from the Director, Te Ao Māori Team, on 4 April, WOCA provided Stats NZ with a business case proposal to increase the number of Māori completing the 2023 Census. The proposal suggested a target of 10,000 Māori households across Tāmaki, incorporating a \$100 kai package for whānau of each household to achieve up to 50,000 additional Census returns.

This proposal, in turn, led to a meeting on 14 April 2023 between the CE, the Chief Executive of TPK, and the Chief Executive of WOCA, which was followed on 15 April 2023 by the CE's email to the Chief Executive of WOCA confirming 'in principle' agreement to WOCA's proposal and noting that a contract needed to follow.

Drafting of an urgent contract for services between Stats NZ and WOCA commenced immediately. A contract was prepared and signed on 29 April 2023.

9.2. Procurement Process with WOCA

The procurement of \$5 million of census collection services from WOCA was a significant-scale procurement involving a new contract and arrangements for Stats NZ. This is notwithstanding the fact that the overall Census Programme was budgeted at some \$135 million.

The decision to have the procurement and contracting work led out of the Te Ao Māori team appears to have been made as the Director, Te Ao Māori, was the designated lead on responding to the level 3 incident of lagging Māori and Pacific people's response rates and also because the Director, Te Ao Māori was involved in the initial discussions with WOCA.

The CE told us that he knew the work relating to WOCA was being led out of the Te Ao Māori team. However, he expected broader Census leadership support and capability would connect to the Te Ao Māori Team and work to ensure that policy, process and legal requirements were met. He was assured by the SRO that this was in place, both at the start of the contracting process and through regular verbal updates during execution of the contract. However, this support did not happen as completely or robustly as was needed.

The Te Ao Māori team was a small team designed to help build awareness and knowledge of, and bring the capability to engage with Māori effectively. It was a support unit designed to help the wider Census teams to connect and engage with Māori, and it had not previously led any major procurement or contracting work. It did not have specific capability and experience in procurement, contracting, contract management process, or privacy expertise.

Ordinarily, the use of census staff to support the completion and collection of census forms was important to ensure that only Stats NZ staff with proper training and who had signed confidentiality certificates under the Act had access to sensitive census information and were responsible for handling census forms. Although Stats NZ had previously used third party services, including to manage recruitment and remuneration of temporary field staff for the census, we are not aware of another contract relating to such a range of core Stats NZ functions, including provision of training to census collectors, and oversight of data collection and handling.

Given the nature and scale of the contract proposed with WOCA, Stats NZ needed to step through a number of requirements to ensure that this procurement of services complied with the relevant Government Procurement Rules (Rules). The time available to procure the services was also very short (10,000 households and 50,000 forms returned over May and June) and meant WOCA partners needed to start work as soon as possible. Resultantly, normal procurement processes would need to be truncated, or exemptions to normal procurement practices would need to be applied.

Furthermore, this contract represented a new approach for Stats NZ, raising significant issues such as how Stats NZ information identifying non-responding households could be provided safely to WOCA to facilitate collection, how to protect census information confidentiality and integrity and how to ensure effective and timely training was delivered to WOCA collectors. We note, however, that WOCA and its partners were not new to or unfamiliar with contracting with the Government or in handling personal and sensitive information. WOCA previously held a number of government contracts and was contracted by the Government to help boost vaccination rates as part of the COVID-19 response.

The combination of these factors meant that a complex and novel procurement and contracting engagement had to be undertaken under considerable time pressure. There were risks inherent in effectively contracting out part of the sensitive and confidential census collection's function, with the risks being amplified by the very short timeframes.

Stats NZ needed to ensure that all its governance and specialist support capabilities were wrapped around the WOCA procurement, contracting, and contract management phases to ensure policy and legal requirements were met and risks identified and managed, including the identification, recording and management of conflicts of interests. In particular, it was critical that the Te Ao Māori team was directly supported with this capability and that it was not left to deliver aspects of the engagement with WOCA that were beyond its capabilities, experience and capacity to manage.

Equally important was the need for existing orthodox governance, leadership and management arrangements to swing in behind the decision of the CE to ensure that in giving effect to his decision, Stats NZ utilised the appropriate capabilities, including those relating to procurement, legal, privacy, decision making, governance and risk management practices. The CE advises he was assured by the SRO that this organisational support was in place and operating as intended. Despite this, there appear to have been problems with how the organisation responded, the level of governance oversight, and the adequacy of support and advice, which impacted not only the procurement of the WOCA services but also decisions relating to the transfer of data to WOCA. The provision of this support appears to have been the intention at the outset, as on 17 April 2023 (the Monday following the meeting between the CE and WOCA senior management on 14 April), the Director, Te Ao Māori team sent an internal email to various managers within Census and the wider department (including legal and procurement) attaching the email of comfort of 15 April sent by the CE of Stats NZ and stating that one of his key Te Ao Māori team people would be leading work to get an agreement signed off by the end of the month, further stating:

"I have wrapped a small operational team around [the staff member] to assist. However, [they] may be calling on some of your team or you to provide advice or support."

There was precedent for the Te Ao Māori team leading on work of this nature – the team had been leading the Te Mana Whakatipu community-led collections pilot. This pilot was

delivered through the leadership of the Te Ao Māori team, supported by the rest of the census operations teams and processes, the same model as intended for the WOCA contract. However, as described above, this pilot involved community-supported approaches where census completion was facilitated, and the staff trained in the same way as Census employees so that the actual help with completing and collecting census forms was undertaken by trained staff. The engagement with WOCA was significantly different, despite the purpose and objectives being the same.

The CE saw the SRO as having overarching responsibility for delivery of the procurement, and contract management processes with WOCA, while being aware that this work was being led out of Te Ao Māori team. He knew that the Te Ao Māori team did not have specialist procurement and contracting expertise and capacity. Still, he expected the Census (and broader Stats NZ) machinery to wrap around and support the work. He advises that he received assurances from the SRO that this wrap-around support was in place, both at the start of the contract, and during regular verbal updates over the operation of the contract.

Complicating matters and adding to the confusion was that there appeared to be different understandings about the nature of the engagement between Stats NZ and WOCA, including whether the engagement with WOCA was like a 'high trust' partnership or a standard procurement. The SRO advised us at the interview that, in his view, Census 2023 was right to take a different approach to procurement arrangements with WOCA as a 'high trust' partner in contrast to other commercial suppliers. He advised that:

"We had good contract arrangements for suppliers but different arrangements for partners."

He also said that he saw WOCA as a partner. He told us that:

"We were struggling to get to a contract reflecting Māori world view vs commercial world view – the contract was more about getting better outcomes for Māori, as I recall".

In an interview with a Te Ao Māori team staff member to whom much of the procurement, contracting and contract management work fell, we were told that the work started very suddenly. *"–a meeting happened, and I got an email."* Reflecting afterwards, this staff member noted that the team standing up the Te Mana Whakatipu pilot *"had around 18 months to deliver what we had to set up in two weeks."*

The novel nature of this contract, its value and scale, its potential risks, the abbreviated time frames involved, and the fact that this was being led by a group within Stats NZ that did not typically engage in commercial contracting all heightened the risks involved. It amplified the indications that this was a procurement and data exchange process that necessitated urgent support and attention from the wider organisation if the objectives were to be successfully met.

Unfortunately, this focus and wrap-around support does not appear to have occurred, and necessary steps were not taken despite the regular assurances provided to the CE that this support was in place.

9.3. Divergence from Standard Government Procurement Practice

A key requirement under the Rules is that the procurement must be openly advertised on the Government Electronic Tenders Service (GETS).

Exemptions are available from open advertising if the situation is an emergency or if only one supplier can realistically provide the required services. An emergency is defined by the Ministry of Business, Innovation and Employment's (MBIE) Quick Guide to Emergency Procurement. In that definition, it is noted that *'lulregent situations that are created by an agency, such as lack of advance planning, do not constitute an emergency.'* Similarly, an assessment to approach only one supplier for the necessary services is subject to stringent requirements, for example, that only one supplier has *'essential, highly specialised expertise, technology, qualifications or skills'* (p 29 of the Rules).

Where an agency exempts a procurement from open advertising under Rule 14.9, it is required under the Rules to obtain evidence of the facts and circumstances to verify the reasons for the exemption and to document the rationale, with the rationale being endorsed by a senior manager. There is also a requirement for agencies exempting contracts from advertising to publish a Contract Award Notice on GETS (Rule 14.8).

If an agency elects to use a direct source process (with one known supplier) as Stats NZ did with WOCA, this does not mean that it can proceed to contract that supplier instantly. Stats NZ was obliged to request a formal proposal from the supplier, evaluate it, assess its public value, and undertake due diligence before negotiating a contract. The Rules state: *'you must not simply approach one supplier and award a contract without proper evaluation of capacity, capability, risk, public value and due diligence.'*

A proposal was sought from WOCA when the Director, Te Ao Māori emailed WOCA on 30 March 2023. WOCA responded on 4 April 2023 with a 2-page email setting out a high-level proposal.

It is at least arguable that the email proposal provided by WOCA constituted a 'formal proposal' in terms of the Rules (although it was very broad in outline and lacked the detail that could reasonably be expected to be sought by Stats NZ for a contract of this size). However, Stats NZ's approach to WOCA at the end of March indicates that at this stage, Stats NZ was already proceeding down a direct source process with WOCA without advertising the procurement on GETS. Given this, Stats NZ was obliged under the Rules and by its procurement policies to:

- Obtain evidence of the facts and circumstances to verify the reasons for the exemption to advertising on GETS and to document the rationale, with the rationale being endorsed by a senior manager. This was not done.
- To publish a Contract Award Notice advising of the decision to contract WOCA on GETS (Rule 14.8). This was not done.
- To properly evaluate capacity, capability, risk, public value and due diligence before awarding the contract. This does not appear to have been done, or if it was done, it was not clearly documented.

In addition to the above requirements, Stats NZ's procurement and contract policies required consideration of the need for a conflict of interest register (and mitigation/management steps for any conflicts) that may arise from the engagement. A contract of this size also requires a contract management plan to be prepared. No conflict-

of-interest register was created, nor was any contract management plan put in place for this contract.

Specialist procurement and legal advisers drafted the contract and advised on the data-sharing agreement and Privacy Impact Assessment. However, the Te Ao Māori team continued to take the lead on all aspects of the contract and engagement with WOCA and, to some extent, operated outside the hitherto established management, leadership and governance models.

This led to some frustrations in other parts of the Census, especially with the census collections team, who were of the view that they had much value that could have been (and should have been) used to help advance the success of the engagement of WOCA.

Te Ao Māori team staff members had been involved in supporting the engagements with iwi in relation to the Te Mana Whakatipu and Te Whānau-ā-Apanui pilot work. However, we understand this work involved community grants and payments under quite different conditions from those applying for the procurement of services under the WOCA contract.

One reason that advice may not have been as readily and more comprehensively forthcoming may have been a perception that the key decision had already been made when the CE agreed to the proposal in the meeting with the WOCA Chief Executive and TPK Chief Executive, as confirmed by his email of comfort to WOCA on 15 April 2023. As one person from the collections operations team observed:

"When someone up the chain decided something was a good idea, all our processes went out the door."

It should be noted that there is ample reason to believe that Stats NZ had good justification to make an exception to the normal procurement requirements on the grounds of an emergency situation. Furthermore, there is a rationale to consider that the exemption for circumstances where only one supplier can supply the services applied. Effective delivery of services that could create a significant uptick in Māori census returns in the Auckland region required an established Māori provider of scale and mana, with reach across all of Auckland, access to a distributed network of community organisations, access to a large workforce and the ability to deliver training quickly – among other things.

It was suggested to us that WOCA was likely to be the only provider that could meet the immediate capability and capacity requirements and that their selection introduced efficiencies in leveraging off the existing Whānau Ora contract between TPK and WOCA. Further, WOCA was the existing holder of multiple contracts with other government agencies, and the advice of the TPK Chief Executive to the CE was that there were no 'delivery' issues as far as the TPK Chief Executive was aware.

While we accept that good arguments can be raised for applying exceptions to the procurement rules requiring advertising, this did not relieve Stats NZ from the obligation to record at least the rationale and reasoning for the decisions taken.

More significantly, the proposed approach of people employed or engaged by WOCA undertaking census collection activities warranted a close look and evaluation of WOCA's capacity, capability, operational plan and risk management approach. This ought to have been done as part of Stats NZ's due diligence before finalising the arrangements with WOCA. Such an evaluation would have placed Stats NZ in an informed position to identify

and mitigate risks and ensure that the contract was managed to support good risk management.

Unfortunately, there does not appear to have been any comprehensive and documented evaluation of capability, risk, and due diligence. What evaluations did occur appear to have been fragmented and ad hoc.

9.4. The Contract

The contract between Stats NZ and WOCA was signed on 29 April 2023, with work under the contract starting in early May.

The key elements of the contract closely matched what was outlined by WOCA in its original proposal to Stats NZ on 4 April 2023. The 'outcome sought' under the contract was:

Within the Auckland region, approximately 50,000 completed individual forms from Māori residing in the Auckland region who have not yet completed their 2023 Census will be collected by visiting approximately 10,000 dwellings during May and June 2023.

The contract also set out how the Whānau Ora collective would be mobilised to achieve this, consistent with how WOCA had outlined the involvement of partner members as sub-contractors. Under the contract, WOCA sub-contracted the mahi to Waipareira as the backbone of TPHoT, with eight TPHoT partners, including Manurewa Marae, delivering services under the contract.

Key aspects of the services to be provided by WOCA under the contract included:

- Delivery of a programme of activities to increase Māori completion rates in the 2023 Census, specifically by engaging with whānau to enable the completion of individual forms and dwelling forms.
- Using the Whānau Ora model, which meant that in practice, TPHoT partners under the contract would deliver both the Whānau Ora (family wellbeing support) activity and the census activity concurrently.
- Development of services over four phases, including:
 - establishment activities (such as agreeing a Data Sharing agreement with Stats NZ),
 - delivery management work (such as the delivery of workforce training),
 - operational delivery (such as a door-to-door campaign to encourage completion of Census forms and assist as necessary, and
 - a wrap-up phase.
- Provision for a whānau contribution to encourage whānau to participate in the Census, which could include using grocery vouchers. Under the contract, it was anticipated that up to \$1 million could be invested in such contributions or incentives.
- Key deliverables of:
 - a Data Sharing Agreement and a Privacy Impact Assessment (to be signed by both parties by 26 April 2023),
 - a Census Collections Approach Model (by 5 May 2023), and

- analysis and intelligence reporting on delivery (with daily, weekly and monthly reporting to the end of June 2023).
- Specific requirements on WOCA around the handling of personal information and confidential information including safe and respectful storage and handling, disposal, and ensuring that all personnel and other persons assisting with the Services who may observe, hear or see census response information complete a Confidentiality Certificate (approved and provided by Stats NZ under the Act).

Payment milestones comprised a fixed fee on execution of the contract, and two payments linked to reporting milestones; one for the target of engagements with 5,000 non-responding and/or partial responding dwellings by 1 June 2023, and the second for engagements with an additional 5,000 dwellings by 1 June 2023. The 1 June 2023 date is erroneous with the context clearly showing these additional households were to be engaged with by 1 July 2023. Milestone 2 also required a report on insights and learnings to be delivered by 31 July 2023.

The form of the contract was 'GMC Form 1 Crown for SERVICES (3rd Edition), a standard format for NZ government contracts for services. Changes to Schedule 2 of that standard form contract included specifying that the relationship between WOCA (as the supplier) and Stats NZ (as the buyer) would be guided by principles acknowledging that collaboration would involve a relationship built on trust and confidence, serving the interests of whānau Māori. Consistent with its obligations under the Data and Statistics Act, the principles providing the base for collaboration were rangatiratanga, whānaungatanga, kotahitanga, whānau-centred and whakawhaiti.

Overall, the contract between Stats NZ and WOCA was a standard contract for services, with modifications allowing for the Whānau Ora approach, specifically providing for WOCA partners to deliver both Whānau Ora support and Census activity concurrently.

That multiple engagements might potentially happen while a household was being visited by WOCA staff and contractors gave rise to potential complications around personal and confidential information. Providing detailed and highly personal information to complete a Census form could pose risks or confusion around whether information was also being sought for other whānau ora services during the same household engagement.

This placed significant pressure on data integrity, privacy and security safeguards, processes and training, as discussed below.

The other key issue at the core of the contract between Stats NZ and WOCA was how to evaluate performance and value for money. As noted, Stats NZ could not directly trace Census returns to WOCA activity under the contract (and to do so may have required sharing of unique identifiers, which would have raised further privacy risks, discussed in more detail below). While the 'outcome sought' under the contract was the return of an additional 50,000 personal Census forms, achieving this was not a specific requirement of the contract, which only specified that up to 10,000 households needed to be 'engaged with'. WOCA's deliverables under the contract were essentially process and reporting milestones, with payments being tied to reporting requirements for the specified number of contacts with whānau.

Another key section of the contract was section 14A - *Data and Statistics Act 2022 and Information Handling*. This section provided;

14A.1 The Supplier must ensure that all personnel and any other persons assisting with the Services who may observe, hear or see census response information provided by individuals or households complete a Confidentiality Certificate (approved and/or provided by the Buyer under the Data and Statistics Act 2022).

14A.2 The Supplier must ensure that all protocols set by the Buyer regarding the safe and respectful handling, storage and transport of census responses and related information (e.g. relating to linking to dwellings) are followed.

14A.3 All information made available to the Supplier by or on behalf of the Buyer relating to the completion of the census by individuals or at the household level (including completion information linked to addresses) is deemed to be both Confidential Information and Personal Information for the purposes of this Agreement.

14A.4 Unless otherwise instructed by the Buyer in writing, the Supplier must securely dispose of all Personal Information and Confidential Information once it is no longer required for the purposes of the provision of the Services (where the information is to be destroyed, it must be destroyed in a manner that ensures it can no longer be recovered or reconstructed, including, where instructed by the Buyer from time to time, wiping such information from any Supplier systems or equipment). Before such disposal, the Supplier must consult the Buyer and, if requested, provide copies of such information to the Buyer before copies held by the Supplier are destroyed.

14A.5 The Supplier warrants that it will fulfil its obligations set out in clauses 13, 14, and 14A in relation to both the information specified in 14A.3 and any census responses provided by individuals or households (which are information which is Confidential Information and Personal Information).

As we discuss further below, for various reasons, these requirements do not appear to have been fulfilled.

10. Census Confidentiality and Data/Privacy Considerations

10.1. The Privacy Expectations of the Parties

The census is fundamentally about the collection of information to produce an accurate snapshot of the people and dwellings in New Zealand. This snapshot is enormously valuable for policy development, service delivery design, and decision-making across central and local government and to Māori organisations, iwi and other population groups.

The information collected is personal and sometimes highly sensitive. People do not have an option whether to provide answers to the Census questions or not. They are legally obliged to complete a census return under the Act and can be fined for failing to do so. In certain 'emergency' situations, Stats NZ allowed the completion of just the first 15 questions of the individual census form. However, this was intended to occur in exceptional circumstances when the alternative might be a nil response. While this partial completion was not Stats NZ's preferred outcome, Stats NZ also advised that questions 1-15 deliver the majority of value derived from the Census.

Due to the importance of obtaining as complete and accurate information as possible and the fact that people do not have a choice around providing personal information to the census, the public must have confidence that the information they provide will be protected

and not shared or used for unauthorised purposes, or inadvertently able to be seen by people who should not have access to census returns. There is no exception to this for 'administrative convenience or efficiency'.

The key obligations for Stats NZ concerning confidentiality and privacy are set out in their 'About the Census' FAQ, which responds to the question, 'How will my information be protected?' Stats NZ confirms:

If you can't mail the forms back, you hand them to a census collector, sealed in the envelope provided.

All staff, including census collectors, sign a confidentiality certificate before they begin working for Stats NZ. This is a lifetime obligation, meaning they must keep your information safe. If they did disclose any information, they can be prosecuted.

The information you provide will be kept confidential by Stats NZ and is protected by the Data and Statistics Act 2022 and the Privacy Act 2020.

The information you provide will be held securely. Paper forms will be processed and kept in a secure storage facility. Online forms are encrypted to prevent unauthorised access.

To help ensure your privacy and maintain the confidentiality of your information, we advise you not to share your access code outside your household.

In response to the question, 'Can other organisations (e.g. government agencies) use my census form information to find out where I live or make decisions about me?' Stats NZ advises:

No – Stats NZ does not share personal information with anyone or any organisation, including Work and Income, the Police, Kainga Ora, Immigration NZ, or Inland Revenue.

Organisations cannot access personal information about you or update the personal information they hold about you, such as your address, using census information.

Accordingly, the undertakings made publicly by Stats NZ around confidentiality, privacy and security of personal information reflect the organisation's crucial role as custodian of the census and steward of the personal information entrusted to it during the census collection process. Central responsibilities include holding personal information securely, not disclosing it to anyone else, and ensuring that staff with access to census information sign certificates binding them to a legal obligation to keep information safe for life.

However, the broader context of why WOCA was engaged by Stats NZ, with the active encouragement of the Public Service Commission and TPK, also needs to be considered. While the agreements contemplated the transfer of address information from Stats NZ to WOCA and that this is indeed the only information transferred by Stats NZ to WOCA, it is equally clear that this would occur in the context of the whānau ora commissioning model, with WOCA:

"...leveraging their existing range of whānau ora services... to deliver a programme of activities to increase Māori completion rates of the 2023 Census."¹²

¹² See section C of the Contract for Services between Stats NZ and WOCA.

The programme of services was described in the Contract to include ‘...delivering a range of communications, social media campaigns, community events, call centre communications and in-person door-to-door visits.’

As WOCA has said to us,

*“Statistics NZ sought the assistance of WOCA to boost those return rates on an urgent basis. This was based on WOCA’s ability to reach whānau through its network of providers and to deliver urgent programmes at the necessary scale. Initial contact from Statistics NZ staff made it clear that one of the advantages it saw from seeking WOCA’s assistance **was that WOCA had contact information for its existing clients, which it could use to contact whānau directly about completing the census (as WOCA had done with vaccinations during COVID-19)** (Emphasis added).”*

The draft Privacy Impact Assessment also notes:

“Stats NZ will share with WOCA unit-level dwelling data of non-response and partial responding dwellings only (refer to Appendix 4). This will be used by WOCA to combine with their own datasets to identify Māori in those households. This information will then be used to inform which areas their teams will need to visit or hold community events near. While unit-level dwelling/address details are not immediately identifiable, these are still considered personal information, and Stats NZ would not readily give out addresses to the public or other organisations without an agreement in place.”

The Contract required that the parties work together in Phase 1 (Establishment Activities (including Approach and Model) to complete certain matters, including;

“Working with Stats NZ to determine and implement processes needed for the completion and successful submission of completed Census Form (sic) (e.g. processes getting names and addresses and Access Codes, and returning completed forms).”

10.2. Section 42 Confidentiality Requirements

Maintaining the security and confidentiality of the information collected in the Census is critical. Any lapses in security or breaches of confidentiality could undermine trust and confidence in the Census and undermine its integrity or perceptions of its integrity. This requirement is reflected in the Act, which requires any employee of Stats NZ to complete a certificate of confidentiality under the Act before they commence their duties.

The obligation to complete a certificate of confidentiality extends to anyone who collects data for the Census if the CE requires this. As noted above, through its contract, the CE required WOCA, the staff of its sub-providers, and contractors to complete a confidentiality certificate.

Progress on the completion of confidentiality certificates was one of a number of items being tracked by OLT reporting on progress against the contract requirements. The OLT reporting was updated to show that confidentiality certificates (as well as training for WOCA kaimahi) had been completed, and this confirmation was conveyed by a Te Ao Māori team member in a report to OLT on 7 June 2023. This was also conveyed verbally to the CE by the SRO, relying on this reporting of certificates of confidentiality.

We were advised that this report was incorrect and unverified. In fact, no confidentiality certificates were completed by any of the people required to do so under the contract. In

our interview with the Te Ao Māori team member who was responsible for delivering this report, we were advised that the reporting that certificates had been completed was simply a mistake. The status update was intended only to report that copies of training materials had been received from WOCA, but another team member had prepared the report and that this had not been properly checked.

The material we have reviewed shows that WOCA was never provided with a clear direction nor asked in follow up communications from Stats NZ to provide further information about the issue of confidentiality certificates. No form of certificate was ever provided to WOCA. WOCA's evidence to us on this point was that through hui and correspondence, Stats NZ became aware that:

Whānau Ora kaimahi were already well-trained in privacy and confidentiality matters due to the nature of the work they undertake on a day-to-day basis, which is often concerned with highly sensitive personal information.

WOCA further advised that because of this, Stats NZ did not require specific confidentiality and privacy training, or signed certificates of confidentiality under s 42 of the Act. WOCA further noted:

Indeed, Statistics NZ never provided WOCA or Waipareira with a form of a certificate under s 42 or any indication of what content would be required for such a certificate. It is for this reason that certificates were not completed.

A review of correspondence between Stats NZ and WOCA from late April to June confirms that Stats NZ did not provide WOCA with details of the form or content of the s 42 confidentiality certificates. So, while the contract was clear about the requirement for confidentiality certificates to be completed, Stats NZ's failure to clearly engage with WOCA on this requirement, led WOCA to believe that these were no longer a requirement. Follow-ups from Stats NZ to WOCA were ambiguous, with communications suggesting that what was needed was some kind of certification or proof of relevant training delivered (as opposed to a confidentiality certificate under the Act). For example, one request from Stats NZ to WOCA on 11 May 2023 stated that Stats NZ was:

... [Just following up on the documentation regarding the Certification of Kaimahi working with confidential information (this is for our Privacy Impact Assessment). We descoped this from the Census training as Kaimahi have already undertaken this due to their usual BAU 😊 I just need some documents for this, too, please?

While the issue of relevant training is discussed further below, it is relevant to note here that it is highly unlikely that any degree of previous training delivered by WOCA would have sufficed to relieve them of the need to ensure that all kaimahi signed appropriate certificates of confidentiality. Such certificates are a final safeguard under the Act, and serve to ensure that people who sign them are fully aware of the obligations that are thereby imposed. As noted, they are also a device that provides the Government Statistician (the CE) with an additional layer of assurance before providing a third party with official statistics or data.

Stats NZ never made this clear to WOCA. This should have been made clear, and completion of confidentiality certificates by all kaimahi who would be engaged in Census mahi should have been a priority (alongside appropriate training) for both Stats NZ and WOCA to address in the few days between signing the contract on 29 April and collection activities starting in the first week of May 2023.

10.3. The Contracted Privacy Impact Assessment and Data Management and Sharing Plans

Besides the requirement for WOCA partner staff and contractors to complete confidentiality certificates, the contract contained a number of other provisions pertaining to confidentiality, privacy, and the secure handling and disposal of confidential and personal information. Phase 1 of the contract services envisaged a Data Management Plan and a Data Sharing agreement being agreed between the parties, along with a Privacy Impact Assessment of the risk. Ensuring that arrangements for the security and safe disposal of people's private information should have been a primary consideration.

The contract further specified a 'deliverable due date' for the Data Management Plan and the Privacy Impact Assessment that required them to be signed by 26 April 2023 (in other words, prior to the actual contract signing date). The 'acceptance criteria' for these deliverables include:

'Any actions required to protect the private information of Māori are completed by the date agreed with Stats NZ.'

This links to a provision under the contract whereby WOCA was obliged to ensure that all protocols set by Stats NZ regarding the appropriate handling, storage and transport of census responses and related information were followed (cl. 14A.2).

It had been identified within Stats NZ by mid-April 2023 that the novel approach of allowing an external party (WOCA) to undertake actual hands-on Census assistance and collection raised risks around confidentiality and privacy that merited additional focus.

The construction of the contract accordingly provides for work to be done between Stats NZ and WOCA to agree on a Data Management Plan, a Data Sharing agreement, and a Privacy Impact Assessment. A high-level Data Sharing Agreement was put in place between Stats NZ and WOCA, drafted by WOCA (at Stats NZ's request) and signed by both parties on 27 April 2023. No Data Management Plan was created, and importantly, a Privacy Impact Assessment document was started by Stats NZ but was never completed. Responsibility for completing the Privacy Impact Assessment was left to a Stats NZ staff member struggling to advance a wide range of operational deliverables under the contract throughout this period.

Since the Contract required these documents to be signed by 26 April 2023 and Stats NZ anticipated that the Privacy Impact Assessment would inform further steps to protect privacy and confidentiality in the engagement with WOCA, the failure to advance these artefacts as agreed created risks which went unmitigated and unmanaged. While various information was sought by Stats NZ from WOCA to assist with the completion of the Privacy Impact Assessment (including a previous privacy impact assessment completed by the Ministry of Health in respect of COVID-19 vaccination work contracted to WOCA and evidence of privacy training delivery, discussed below), ultimately, the Privacy Impact Assessment document was left incomplete and in an early draft state.

The draft Privacy Impact Assessment does not identify any risks under any of the Information Privacy Principles set out in the Privacy Act. This, together with commentary in the draft that WOCA would not store or retain any Census data, suggests that the level of thinking about privacy risks reflected in the draft was very basic. For example, there is no discussion in the draft about the potential access to private and confidential information that WOCA kaimahi would have in assisting people in completing their census forms.

Given that the Privacy Impact Assessment was never completed, Stats NZ never obtained a clear, overall view of privacy risks and impacts inherent in the contract with WOCA that such an assessment would have provided.

No additional requirements or protocols to address privacy or data integrity were created by Stats NZ and provided to WOCA to comply with as was envisaged by the contract. WOCA stated to the Reviewer that its kaimahi are familiar with and had an inherent respect for privacy as a core value of how Whānau Ora operates. It noted that existing policies and processes to protect privacy were extensively discussed with Stats NZ at the contract's commencement.

While it is acknowledged that WOCA may have had existing policies, processes and training in place to safeguard information and privacy in relation to its existing activities, WOCA and its partners had not previously delivered census support of the sort envisaged by this contract. The contract required them to work through and complete a Privacy Impact Assessment with Stats NZ and ensure their staff completed certificates of confidentiality. Unfortunately, these things were not done.

10.4. Training

Alongside confidentiality certificates, the Privacy Impact Assessment and the ability to set protocols to ensure compliance with the Act and protect confidentiality and privacy, the contract also contained requirements concerning the development and delivery of training. Comprehensive and effective training of all individuals entrusted with directly supporting people to complete confidential census forms and collecting those forms would be a requirement for ensuring that census collection requirements (including privacy/confidentiality requirements) were met.

10.4.1 *Relevant provisions in contract*

'Phase 1' of the contract provided for developing a workforce training plan, including *field and event training development* as a key establishment activity, to be undertaken by WOCA and delivered by 5 May 2023. 'Phase 2' included a requirement that WOCA deliver this training. Stats NZ did not insist on or require that its own trainers were involved in the delivery of the training.

The contract schema accordingly set out a framework whereby WOCA would establish its operational management team and complete an operational delivery plan in conjunction with TPHoT partners and Stats NZ. A key establishment activity as part of this operational management and delivery was a workforce training plan. WOCA would then deliver on that plan to ensure that staff had adequate training before undertaking the census mahi under the contract.

10.4.2 *Training undertaken*

There was significant discussion between Stats NZ and WOCA around training needs and support between 27 April 2023 and 3 May 2023. Over this time, Stats NZ provided WOCA with training material, including a confidentiality/privacy FAQ document as a resource. It also put WOCA in contact with a Stats NZ Training manager.

WOCA proposed a 'train the trainers' approach whereby Stats NZ would support the training of seven WOCA staff in a meeting at WOCA's offices on 3 May 2023. Stats NZ agreed to this

approach, with two Stats NZ trainers attending that training session. The WOCA trainers then proceeded to provide training to Waipareira 'super users' on subsequent dates, including full-day training sessions on 4 and 5 May. WOCA advised us that a Stats NZ representative observed the training session on 4 May. Stats NZ does not appear to have kept any record of their attendance at these training sessions or the training materials utilised.

Although we are unable to make firm findings about the training conducted at these sessions given the absence of records, we note that Manurewa Marae, whose "leads" for census mahi attended one of the full-day training sessions led by WOCA advised us that the WOCA "super-user" training focused on ensuring proper use of the data collection tool and meeting the Winter Wellness goals for WOCA. The Marae also noted that they received materials 'later on' from WOCA for training. We have been unable to verify when this later material was provided (the secure folder through which it was provided has since been closed), although we record that WOCA advised us it was circulated to all TPHoT partners on 8 May 2023. WOCA provided Stats NZ with requested copies of training materials on around 7 June 2023 – when most collections work had already been completed.

We were told that some individual providers had training requirements of their own, in addition to the WOCA training. The Marae further noted that it also required anyone participating in the 'Census mahi' to complete an online Privacy 101 module, available on the website of the Office of the Privacy Commissioner and that it had already begun upskilling staff in privacy as a part of accreditation for work it was doing for the Ministry of Social Development.

Manurewa Marae's statements to us suggest that there was not a high level of emphasis on confidentiality and privacy in the initial "super-user" training undertaken by WOCA, and we note that the WOCA training materials ultimately provided to Stats NZ on 7 June 2023 did not contain any new confidentiality content. Those WOCA training materials simply reproduced Stats NZ's general statements in the FAQs provided by Stats NZ on 27 April 2023. There is evidence that census collection practices at Manurewa Marae were not always consistent with the requirements in those FAQs, as discussed further below.

10.4.3 Monitoring of WOCA's compliance with training requirements

There appears to have been a breakdown in the process envisaged under the contract to develop effective training materials, establish a workforce training plan, and deliver on that plan. While information was provided by Stats NZ to WOCA to assist WOCA in creating training materials at the outset, this was generic information for Stats NZ collectors. It was not specifically tailored to reflect the circumstances and operating model of WOCA (other than some minor edits and terminology changes).

Emails between Stats NZ and WOCA through May 2023 indicate that Stats NZ was seeking documentation to evidence the delivery of training to all kaimahi engaged in census work. However, no such documentation appears to have been provided. The absence of training records means we are unable to verify whether or not all kaimahi received training. This is concerning, given the difference in evidence between Manurewa Marae and whistleblowers we spoke to.

While both WOCA and Manurewa Marae advised us that all relevant staff were given training, this was contradicted by the whistleblowers we spoke to who were engaged in census collection work at the Marae. They told us that while some training was delivered to

some kaimahi, they did not receive any training. They advised us that this was not of any great concern because they had already been engaging with whānau on the Marae to support census community engagement events, and they were well trained in 'privacy' through the work they did for other government agencies, such as the Ministry of Health and Ministry of Social Development.

When Stats NZ received detailed training materials from WOCA on 7 June 2023, much of the census collection activity was already complete. The training materials essentially reproduced general FAQs about privacy and confidentiality from the material originally provided to WOCA by Stats NZ. Stats NZ, at this stage, appears to have lacked a detailed understanding of WOCA's operating model and instructions to kaimahi, so it could not see where the training material and operational activity conflicted, if at all. There also appears to have been no close examination by Stats NZ of the non-reproduced training material provided by WOCA, and problematic aspects of that material were not identified at the time.

While Stats NZ asked for documentation concerning training delivery, the requests were unclear. In the end, no documentation detailing and confirming the delivery of training (as opposed to the training materials themselves) was provided by WOCA to Stats NZ. While WOCA and Manurewa Marae state that all relevant staff were trained, there is doubt cast on this from statements provided by whistleblowers who were engaged in census collection. We note that WOCA's explanation in relation to confidentiality certificates was that staff were already well-trained:

"Whānau Ora kaimahi were already well-trained in privacy and confidentiality matters due to the nature of the work they undertake on a day-to-day basis. This is because privacy and confidentiality are core components of Whānau Ora kaupapa."

"For those reasons, Statistics NZ agreed at an early stage that detailed privacy and confidentiality training ordinarily required for census contractors was not required for kaimahi. In addition, Statistics NZ did not require individual kaimahi to provide signed certificates of confidentiality for the purpose of s 42 of the Data and Statistics Act 2022."

10.5. The Operation of the Contract in Practice – Information Provision, targeting and collection

On or around 5 May 2023, WOCA and its partners gradually commenced outreach to whānau under the contract. As per the terms of the contract, the census mahi included WOCA and partner kaimahi conducting a door-to-door campaign to encourage and assist whānau in completing census forms, combining this work with other Whānau Ora work such as family wellbeing support (including the 'winter wellness' campaign work).

Central to the operation of the door-to-door campaign was the provision of data by Stats NZ to WOCA that identified households that had not completed census forms or had only submitted partial census forms.

Allegations have been raised publicly that Stats NZ provided WOCA with direct access to Stats NZ systems, raising a number of data security and integrity concerns. Even some internal Stats NZ staff seem concerned that this might be the case, given the speed with which WOCA appeared to be able to update its own data and reporting.

However, the necessary household data was not provided by Stats NZ to WOCA through any direct-access authority. Instead, Stats NZ provided WOCA with a daily-

updated Excel 'dumb file' that contained address and location data for households identified as non-responding or partially responding for the census.

The first Excel file was provided to WOCA by Stats NZ on 28 April 2023. Files provided thereafter provided an updated picture of which households were showing as providing census returns and which remained.

The details of what was to be contained in the Excel file from Stats NZ appear to have been the subject of an early misunderstanding between the parties. WOCA told us they had entered into the contract on the understanding that Stats NZ would provide the addresses of 10,000 *Māori households* for WOCA and partner kaimahi to focus on. Instead, WOCA advised that:

Statistics NZ provided almost 70,000 addresses with no information on whether they were Māori households or not and incomplete associated census information.

For its part, Stats NZ did not hold any ethnic or identifiable personal information through which it could have provided WOCA with information about exclusively *Māori households*, even if it had wanted to. The Information Sharing Agreement between Stats NZ and WOCA did not specify that only Māori household address information would be supplied by Stats NZ. However, the intent of the engagement of WOCA and the contract was clearly to drive up the response of Māori to Census 2023.

The expressed intent was for WOCA to '*increase these rates by leveraging their existing range of Whānau Ora services*' and given this context, it is understandable that WOCA would assume that they could expect data focused on Māori whānau.

One of the ways in which WOCA appeared to consider that it might leverage existing services was through identifying current clients. Ahead of the contract commencing on 24 April 2023, WOCA contacted its partners and asked if they would like their existing clients matched with the addresses (to be) provided by Stats NZ. The purpose of the matching was to narrow the addresses to be supplied by Stats NZ to those likely to have whānau Māori in residence (and we acknowledge WOCA's position that it would have been impracticable and inefficient to have worked solely from the list of 70,000 addresses provided by Stats NZ). The information requested by WOCA from partners to undertake this matching included an extensive list of personal information.

WOCA advised us that the information sought by WOCA from partners for the purposes of matching was not census information, as it was information already held by its partners for Whānau Ora purposes, and that it had been collected with the consent of whānau being engaged. While it is evident that the information sought was not itself census information (it had been collected before the census work started) we note that the purpose of the matching was clearly to target and support the census mahi. It is not clear how whānau would have been able to provide informed consent to enable the sharing of their information to match with census data and we have not seen any information that would suggest that *Whānau Ora purposes* extends to using personal information for census collection purposes.

Stats NZ advised us that it had not anticipated that WOCA would undertake such a matching exercise to focus its collection activity on Māori households. Stats NZ considered that the disparity in response from Māori compared with the general population overall meant that outreach by WOCA to any non-responding household on the Excel list provided

was likely to lift the overall response for Māori. So, additional work to specifically identify Māori households by WOCA was unnecessary.

It appears there may have been some differences within expectations within Stats NZ on data matching as the contract was developed; we have seen some email correspondence between WOCA and the Director, Te Ao Māori Team, raising the prospect of using WOCA data as early as March 2023 (albeit noting there may be viability issues with data sharing). It is also evident that at least some staff within Stats became aware that WOCA and its partners intended to undertake information matching against the address information provided by Stats NZ to WOCA. For instance, the draft Privacy Impact Assessment worked on by Stats NZ, recorded the following in response to the question, "Are you merging existing databases or datasets or creating new ones?":

Yes. Stats NZ unit level information from the 2023 Census operational frame will be combined with WOCA's databases outlining Māori dwellings so that they can target areas with heavier Māori populations (as the objective is to focus on Māori responses).

Because the Privacy Impact Assessment was not completed, no consideration of the privacy implications of the matching processes to be undertaken by WOCA was worked through, and it appears that Stats NZ never fully understood what this matching entailed.

Another issue that arose early in the operational phase related to data and records management. Early in negotiations, WOCA advised that they understood that Stats NZ would be able to provide electronic devices (tablets) that would allow kaimahi to input directly into Stats NZ's databases to both complete census forms for whānau and to track the progress and interactions with whānau by kamahi. However, it became evident early on that this was problematic and would not happen.

This led WOCA to develop its own approach and systems to track the work of the kaimahi undertaking the census work and undertake reporting. WOCA asked kaimahi to collect a specific set of data (WOCA reporting information). The data required in the WOCA reporting information and how it was recorded evolved over the term of the census collection contract. A version of the WOCA reporting information, as it was recorded in WOCA training materials, is attached (see Appendix 4). The WOCA reporting information was collected in various ways throughout the period. Some TPHoT partners captured information on paper forms which was then inputted into a spreadsheet online. WOCA developed an online reporting tool and an associated QR code so kaimahi could access and enter information into the WOCA reporting database. WOCA advised us this tool was available from mid-May 2023.

WOCA advised us that the WOCA reporting information was collected to track census contract service delivery, voucher provision and information about whānau for future Whānau Ora follow-up assistance. They also advised that, in part, the detail required reflected issues with the information provided by Stats NZ, including lags in updating address details for responding households. WOCA further told us that much of the WOCA reporting information related to other mahi being carried out by kaimahi that was '*wholly unconnected with the census contract*' (such as winter wellness, voting enrolment, the Māori electoral option and other Whānau Ora services).

WOCA advised us that it was transparent from the outset with Stats NZ about its collection of the WOCA reporting information, whereas Stats NZ told us they did not receive any detail about this until they received the WOCA Training Material on 7 June 2023. Regardless, Stats

NZ knew that WOCA was proposing to undertake census collection activity as part of a broader programme of Whānau Ora work, notably the winter wellness programme.

Indeed, the contract specifically referenced this fact, noting that Stats NZ would only be paying for the work of kaimahi directly involved with census collection activities. It would have been reasonably apparent to Stats NZ from the outset that some form of information capture for reporting and administration purposes would need to occur at WOCA's end. This should have underlined the importance of understanding the detail of this and for this to be incorporated into the Privacy Impact Assessment ahead of collections work commencing and data being gathered.

WOCA managed the distribution of target whānau addresses to WOCA partners. WOCA would receive the updated Excel address file daily from Stats NZ, using the Stats NZ secure file transfer protocol (FTP) service. We were advised by WOCA that on the WOCA side, access to the information was limited to a few authorised users with strict password protection and information security protocols. After matching with data provided by each TPHoT partner, the respective partners were provided with 'curated lists' of addresses that the approved staff at each partner could access from a WOCA secure folder reserved for census mahi. Each partner was given access to only their list, which they could download to provide target address lists for their kaimahi to visit.

At first, the curated lists for each TPHoT partner linked non-responsive address details to addresses of existing clients of the partner. Later, as the work progressed, the curated list included addresses identified as being within the partner's region.

The TPHoT partners, in turn, provided WOCA with updates on the WOCA reporting information through various means (discussed further below). WOCA would aggregate partner reports into weekly update reports (with de-identified data) for Stats NZ.

In terms of how census forms should be completed, WOCA advised that its preference was to use online forms (in line with Stats NZ's preference) while acknowledging that for various reasons, some whānau preferred to complete a paper form. WOCA advised that its process with respect to paper forms was to ensure that they were placed in a sealed envelope in the presence of whānau and delivered as soon as possible to the specified post boxes that Stats NZ had identified for them as suitable for census purposes (these boxes were collected regularly by NZ Post).

We were advised that for Waipareira, the lead provider for TPHoT, the policy was to complete census mahi by 4 pm each day to ensure that posted forms could be posted the same day. We were advised that there might have been a limited number of occasions when completed forms missed the daily delivery cutoff and were posted the next day.

We discuss evidence from whistleblowers who were involved in census collections at Manurewa Marae below, which indicates that the practice for kaimahi at that marae around sealing and posting census forms may have been significantly different from the policy described at Waipareira.

10.6. Use of Incentives

As noted, the contract with WOCA provided for the provisions of incentives to be offered to those completing the census. Under the contract, this was described as a 'whānau contribution' to encourage and support whānau to participate in the census. The contract

stated that this *'could include the use of grocery vouchers'*, and it was anticipated that up to \$1 million may be invested in this part of the programme¹³. The contract did not specify any eligibility criteria for receipt of such incentives.¹⁴

The contract further noted that WOCA would be accountable for all processes related to implementing the eligibility criteria for receiving vouchers and auditable record-keeping about vouchers.

At this stage, the concept of offering incentives to encourage the completion of census forms was relatively untested within Stats NZ and was not without controversy. Completing the census is a legal obligation, and a review of documentation indicates that some felt it was problematic to offer an incentive to complete a legal obligation (particularly as many individuals and whānau had already met their obligations without receiving an incentive). Potential risks and benefits around offering incentives were canvassed in the 19 April 2023 Board paper referred to above titled *'Incentivising responses from people that are hard to reach'*.

Several issues that had previously underpinned Stats NZ's reluctance to offer incentives for census returns were set out in the 19 April paper, including the possibility that incentives could generate duplication of census forms (as people who had already completed a form completed another to gain the incentive), risks to the safety of staff holding incentives, and fairness/perception issues. One key issue around incentives was raised in the paper, which had a Q&A section that asked, *'What do you say to people who think they'll wait for a handout next census before completing their census forms?'* The answer provided was that *'we may not need to offer them. The environment for the next census may be completely different, and we may deliver the census differently'*.

The Q&A section of the paper also described a number of 'guardrails' around the use of incentives. In light of that thinking, the Board approved the use of supermarket vouchers valued at up to \$40 each to be used by Census collectors. This applied only to Stats NZ's census collectors. The paper did mention that the Census was partnering with WOCA, offering supermarket vouchers up to \$100 in value. Approval was not sought from the Board for this, as it was stated to be *'the decision of the partner, based on their understanding of the community.'*

The ability to offer a \$100 supermarket voucher was central to WOCA's initial proposal. The Whistleblowers we spoke to who had undertaken census work at Manurewa Marae spoke of how important the vouchers were in helping them gain access to households who had not yet engaged with the Census. They also acknowledged how vouchers could provide some welcome relief for struggling families, at a time where the cost of living was impacting a large number of whānau.

In the case of Manurewa Marae at least, a decision was made to go further and offer incentives to the Marae kaimahi undertaking census collection and the responding households. The Manurewa Marae advised us that they were already going to pay kaimahi for their work carrying out 'Winter Wellness' visits to whānau. The addition of census mahi to this programme meant that the Marae felt it was necessary and appropriate to compensate the kaimahi for this extra work. Under this incentivised approach, the Marae

¹³ Noting the target of engagement with 10,000 households, this equates to \$100 per household.

¹⁴ WOCA told us that they did develop eligibility criteria: whānau were eligible for a voucher if they completed the census dwelling form.

paid their kaimahi an extra \$100 for every dwelling they assisted in completing census forms.

This was not envisaged under the contract with WOCA (and, by extension, the engagement with Manurewa Marae), nor was it prohibited. This approach was not discussed with Stats NZ, and Stats NZ advised us that they would not have approved it if they had been asked or notified about this proposed approach. WOCA advised us that they were not aware of Manurewa Marae's approach either, and neither they nor we are aware of this approach being adopted by any of the other Whānau Ora partners.

The April 2023 Board paper also identified some risks with providing incentives, including the risk of duplication of census forms, where people complete another Census form to access the incentive. Stats NZ do not appear to have engaged with WOCA or the Manurewa Marae to understand how incentives would be managed and there does not appear to have been any discussion with WOCA about managing the risks of duplication. For its part, WOCA advised us it was aware of the risk of duplication on the basis of vouchers, and that was one of the key reasons it required reporting on voucher distribution. We note that Stats NZ also advised that duplicates were not exceptional, as some households would have different members completing 'household' forms without realising this had already been completed. We further note that WOCA did not have access to Stats NZ systems and was operating off addresses provided to it by Stats NZ of 'non-completing' households.

As is discussed further below, an analysis of census forms said to be located at Manurewa Marae indicate that some were duplicates of census forms already received by Stats NZ. Others were not.

Any duplication of census forms is undesirable, although, as noted Stats NZ did have standard checking for duplication in place to identify and, if necessary, remove any duplicates to address the risk duplicates posed to the Census's data quality.

We consider there were further risks to the 'incentivised approach' adopted to compensate kaimahi by Manurewa Marae. Firstly, taking such an approach required the Marae to confirm eligibility for the incentive payments, which had the potential to involve additional information checking and form verification. Secondly, such an approach could drive kaimahi to focus their efforts on maximising incentive payments for both whānau and themselves rather than what was needed to meet the intent of the contract and Census 2023 requirements. These issues are discussed in more detail below.

11. Whistleblower Allegations Raised in relation to the Manurewa Marae and Manurewa Marae Responses

Manurewa Marae was one of the largest WOCA partners engaged in Census collection and support work, having a target household allocation from WOCA of 1,800 households.

Many of the concerns and allegations raised in relation to Stats NZ's engagement of WOCA relate specifically to the data and operational processes of Manurewa Marae, as these have been raised by whistleblowers who Manurewa Marae engaged during the weeks that it engaged in census work.

We discuss these particular concerns in this section. In doing so, we note that the issues covered under this part cannot be taken as reflective of processes or concerns for all of the WOCA partners engaged in this work – it is evident that there were differences in detail in

how the census work was operationalised across the eight partners (it is unclear as to how many, if any, of the other partners incentivised kaimahi with \$100 bonuses in the way that Manurewa Marae did, for example, and we have not received any evidence showing that other partners did so).

We further note that we have taken care not to identify the whistleblowers whom we had the opportunity to interview. While we have seen insinuations about the credibility or motivation of the whistleblowers made public, we note that we found them credible witnesses and that many of the operational details they set out for us were subsequently corroborated by documentary evidence.¹⁵

11.1. Training

While not an allegation explicitly raised by the whistleblowers initially, we asked them whether they had received training, given that they were acting in roles where Stats NZ's expectations and WOCA's requirements would have meant that they must be trained. They advised us that they did not receive training, although they were aware that others at Manurewa Marae did receive training.

This suggests that while training occurred at Manurewa Marae, it did not cover all of the Kaimahi who should have received it.

11.2. Risk of incomplete census forms

The various objectives for each household visit are illustrated in a "winter wellness checklist" provided by Manurewa Marae, which reflects one evolution of the items expected to be checked off by Kaimahi for each household visit (and signed for by a householder acknowledging receipt of the supermarket voucher). The winter wellness checklist is in Appendix 5. The 'purple forms' referred to in this checklist are paper Individual Census Forms. The instruction to complete questions 1 – 15 reflects WOCA training material stating that questions 1-15 were all required for the Individual Census forms.

WOCA advised us that Stats had informed them questions 1-15 were the "minimum data" required for reporting requirements. As we have noted above, Stats NZ allowed completion of only the first 15 questions in exceptional circumstances. But we have not seen any instructions from Stats NZ to indicate that TPHoT collectors should be aiming for anything less than a fully completed Individual census form (which contains 54 questions, most of which were what Stats NZ expected to be completed (except alternative questions), whenever this was possible).

While Stats NZ advises that they are unable to determine how many individual census forms are likely to have only been completed partially, they believe that, owing to the training instructions, many individual census forms will have only been partially completed.

While this does not fully meet Stats NZ's expectations, we were advised that the data from the first fifteen questions still holds significant statistical value. Stats NZ considers these first fifteen questions to be "priority variables", i.e. the most important variables, including, for example; age, gender and sex, usual residence, Māori descent, ethnicity, and iwi affiliation. They further advised that;

¹⁵ These allegations are the subject of independent Police and employment investigations. Nothing in this report is intended to prejudice these investigations or the investigations in relation to Manurewa Marae.

"The information in the first 15 questions provides key 'linking' details – enabling us to link the census response to the available administrative data on the individual with confidence"

There is no indication that Stats NZ raised complaints or concerns with WOCA about partially completed forms being received at the time.

11.3. Instructions to Return Open Census Envelopes

The Whistleblowers told us that while initially they were encouraging whānau to complete the Census online, early on they were instructed by Manurewa Marae management to use paper forms rather than to assist whānau to complete an online form. They also told us they were instructed to put paper census forms in the supplied envelope and to ensure they were left open. They said that this was necessary so the information about whānau could be collected to verify that forms were checked against kaimahi's entitlement to a voucher.

Leaving census forms in an open envelope is completely contrary to Stats NZ policy and confidentiality processes, which require paper census forms to be sealed in front of the individual and placed immediately in the nearest post box. Stats NZ had gone to the extent of providing a list of geo-coded post boxes to WOCA for this purpose.

WOCA also confirmed their understanding of the requirements for handling paper census forms. The WOCA training material, however, stated that:

'all sealed envelopes need to be placed in the nearest post box once you have done your quality control against your Whānau Ora engagement records'

Although we note that WOCA has advised quality control was done only of "Whānau Ora engagement records" and WOCA did not direct kaimahi to copy or check responses on census forms themselves, the excerpt from the training material suggests that forms would not be sealed straightaway.

The need to check census form completion and capture information correctly by Manurewa Marae was described by Whistleblowers as the reason why they were instructed to return a bundle of forms to the Marae for each household. In addition to the Dwelling and Individual Census forms, they also completed the Winter Wellness Campaign Checklist (Appendix 5) and returned any electoral roll enrolment or roll change forms. They advised that they needed to keep all of the relevant forms for a household together in an unsealed envelope so that the forms could be checked and the relevant information could be copied into an Excel spreadsheet to capture the 'WOCA reporting information' (see Appendix 4).¹⁶ This would also allow for checking that the necessary steps had been completed to qualify the kaimahi for the bonus payment.

Manurewa Marae says, for its part, that it captured only the WOCA reporting Information, first in a spreadsheet and as the campaign developed, in both the Marae's winter wellness checklist and the data collection tool set up by Waipareira. Because of these separate data collection methods, there was no need to pull information from paper census forms themselves. Manurewa Marae says that it would only *note the number of forms coming in for internal recording processes*.

¹⁶ The WOCA Reporting information changed modestly over the course of the contract work so would not always have aligned to the Appendix 4 fields.

We consider it more likely than not that unsealed envelopes were returned to Manurewa Marae. The Marae itself accepts that unsealed envelopes were returned in the final weeks of the contract (discussed in more detail below).

The allegations concerning the use of open census forms for the purposes of reporting to WOCA show that further inquiry into the practicalities of delivery may have been needed when the contract was being put in place to proactively manage the risks of intermingling when kaimahi were completing multiple data collection activities in one visit.

11.4. Photocopying of Census Forms

A related allegation detailed by the Whistleblowers was that census forms had been photocopied at Manurewa Marae. They advised that this happened primarily in the early phases of the census collection process. In the initial phase, they did not have the Winter Wellness Campaign Checklist to capture information. So, the decision was made to photocopy the census forms to capture the information. The Whistleblowers also advised that the photocopying of census forms supported the checking and verification processes that the Marae was developing to support the administration and confirmation of incentive payments.

The Whistleblowers described this as an extensive and time-consuming operation, which ultimately was not sustainable.

Eventually, the Marae Winter Wellness Campaign Checklist was made available and WOCA introduced an online reporting tool and associated QR code, allowing for WOCA reporting information to be entered into the WOCA database directly by kaimahi using their own or supplied devices. According to the Whistleblowers, this reduced the need for time-intensive photocopying of census forms.

The Manurewa Marae contests these allegations, saying that no census forms were copied (to its knowledge).

On balance, we find it more likely than not that some photocopying of census forms occurred, particularly in the early phases of collection. The evidence from the Marae was that reporting processes became more sophisticated over the course of the contract. It seems plausible to us that during the phase where an excel spreadsheet was used as the primary data collection tool (prior to Manurewa Marae developing its own physical Winter Wellness checklist and WOCA circulating its QR code), kaimahi may have found it more convenient to input information into that spreadsheet after the fact, rather than while completing visits with whānau.

This factor, together with the desirability of cross-checking details to operate the voucher and bonus systems, likely made photocopying an expedient way to capture information. While we note the advice of the Marae that incentive payments were calculated using the Marae's Winter Wellness forms, not census forms themselves (and we accept that this may have been the process used by them as systems developed), we also note the Winter Wellness checklist forms were not available at the very start of the Marae's Census mahi.

On this basis, we think it is more likely than not that, at least on some occasions, the information entered into WOCA's database from Manurewa Marae (whether entered through the QR code or by means of the earlier Excel spreadsheet entry process) was derived directly from census forms, rather than (as asserted by WOCA and the Manurewa

Marae) always having been obtained separately by kaimahi, as information provided by individuals on an informed basis as information for Whānau Ora purposes. The information collection and transfer processes appear to have become too intertwined for this to have been the case in every instance.

Photocopying census forms was contrary to Stats NZ policy and requirements. The training material provided by Stats NZ to WOCA on 18 May 2023 stated that census forms were never to be photocopied for any reason.

11.5. Whistleblower evidence of an attempt to notify Stats NZ

We also spoke to a whistleblower who was employed by the Ministry of Social Development and who was working at Manurewa Marae during the collection period. That Whistleblower described discovering that marae workers were photocopying census forms and their attempt to alert Stats NZ about this. They told us that during the collection period, they called Stats NZ on an 0800 number to explain their concerns, but they said the *"call didn't go well. The person on the end of the line didn't know what to do"*.

For its part, Stats NZ has undertaken a full and extensive review of call logs and records (including searching against the likely numbers used to make the call, which were provided by the Whistleblower) to identify the call and what, if anything, was done in response to it. Despite an extensive search by Stats NZ and Spark, no record of this call has been found.

If this call was made in the way the Whistleblower described it to us, we consider it probable that the call would have been made to one of Stats NZ's phone numbers rather than the dedicated 0800 Census line. If that occurred, it may have been unclear to the operator receiving the call what needed to be done in response and how to escalate the complaint. While we consider that the Whistleblower is genuine in their belief about making a call to complain about the misuse of census forms, given the lack of a record of a call being received by Stats NZ and no record of any action being taken in response to such a complaint, we are unable to make any specific finding regarding this call.

11.6. Collection of Census Access Codes

Part of the information captured by Manurewa Marae kaimahi included census form numbers. Manurewa Marae advised that the kaimahi would record the paper census form number if a paper census form were completed. If whānau opted to complete the Census online, kaimahi would record the completion code appearing when all questions had been answered.

The census codes were confidential information – a collection FAQ document provided by Stats NZ to WOCA on 27 April 2023 noted that *'[t]o help ensure your privacy and maintain the confidentiality of your information, we advise not sharing your access code outside your household.'* The online census completion code collection by Manurewa Marae had significant census confidentiality implications, as someone holding that code could access address information, the names of individuals associated with that address, and which of those people had submitted census forms.

For this reason, Census collectors working for Stats NZ are instructed not to collect completion codes. Stats NZ said they were unaware that Manurewa Marae was recording these codes. Census codes were (unsurprisingly) not a reporting metric in the contract between Stats NZ and WOCA. It is not clear whether Stats NZ were generally aware of how

WOCA was generating the reporting metrics it reported on to Stats NZ, including the numbers of forms completed, and breakdown of online/postal completions. It is also not clear that Stats NZ provided any guidance on its existing practice for tracking census completion rates while maintaining the confidentiality of the census information.

11.7. Retention of Census Forms

Perhaps the largest discrepancy between the evidence provided by the Whistleblowers and that provided by Manurewa Marae relates to the issue of retention of Census forms. Manurewa Marae states that census forms were, in most cases, completed and would be posted to Stats NZ at the end of each day (after having been counted). It says this was required to ensure it was meeting its targets under the sub-contract, and avoid causing a discrepancy between reporting data submitted to WOCA and forms provided to Stats NZ.

The exception to this, according to the Marae, came late in the collection phase when, on 19 June 2023, WOCA reminded Manurewa Marae that Stats NZ would only be accepting online completions from that day. Accordingly, Manurewa Marae advised that from that date, if their kaimahi received hard copy Census forms from whānau, then they would bring the Census forms back to the Marae 'as usual' and they would enter the paper census form information into the Stats NZ online Census link. Then, instead of posting the hard copy census forms, they would be placed in a secure destruction bin 'after completing verification'. WOCA advised us they were not aware this practice was occurring.

This continued until the final census form entry deadline at 5 pm on Friday, 30 June 2023. This required Manurewa Marae staff to:

'shift boxes of archive documents into a locked room at the end of the day on Friday 30 June 2023 along with some completed Census forms which were yet to be internally processed and placed in the secure destruction bin.'

Notably, this statement demonstrates that for at least this phase of collection, Manurewa Marae kaimahi did not seal census forms in front of the individuals who completed them and instead returned the forms unsealed to the Marae and double-handled them by entering the confidential information into the Census link. This was contrary to Stats NZ policies and did not comply with WOCA's advised approach and training instructions, which stated, *'you cannot fill out a form online for whānau'*.

It is also very much at odds with evidence provided by the Whistleblowers, who advised that, far from having census forms counted and posted to Stats NZ at the end of each day, they observed open census forms being stored insecurely for many weeks.

Other evidence relating to the retention of census forms was provided by the records of a Stats NZ staff member raising concerns about finding boxes of completed Census forms at Manurewa Marae after the contract period concluded. This was noted in a meeting between that staff member's manager who was the then Regional Manager Community Engagement for Census and the Stats NZ Privacy Officer on 6 July 2023. This, in turn, was raised with the Director, Te Ao Māori Team, and an internal email from 7 July 2023 records a conversation that the Director had with a WOCA manager noting that that manager:

'...reckons there will be forms they input on the computer that need to be destroyed. He said to me he sent clear instructions yesterday to all WOCA parties to destroy any forms.'

The WOCA manager concerned does not recall this conversation and has confirmed his understanding was that Manurewa Marae should not have retained any census forms after the date on which the last paper forms were going to be accepted by Stats NZ, i.e. 19 June 2023. He advised that the reference to forms which required input into the computer would most likely relate to a belief that the forms at issue were paper forms to record the WOCA reporting information (such as the Winter Wellness Campaign Checklists).

There appears to have been no further follow up by Stats NZ in relation to this significant report of concern about the boxes of completed Census forms. No formal incident process was initiated and it seems that WOCA's comment that they would send out instructions to destroy forms was taken as a sufficient response to the concerns.

Further evidence about census form retention is provided by another Whistleblower, who obtained 33 completed original paper census dwelling forms and 39 original individual forms from a Manurewa Marae employee who was said to have found the forms as part of a large volume of completed forms stored at Manurewa Marae in May or June 2024. Analysis indicates that the forms were from locations consistent with areas potentially collected from by Manurewa Marae kaimahi and that around two-thirds of the individual census forms were completed only up to Question 15 of the form.

Again, while there is insufficient evidence to be definitive about the level of retention of Census forms by Manurewa Marae, we think it is more likely than not that, at least to some extent (and particularly for forms collected after 19 June 2023), Census forms were retained beyond what was allowable under Stats NZ policy. According to statements provided by the Marae itself, after 19 June 2023, paper census forms were routinely retained in an open envelope and the contents were transferred by marae staff into the Census online link. The Whistleblower evidence raises the probability of significant volumes of census forms being held on the Marae as late as June 2024.

Given what Stats NZ knew about the possibility of forms being held on the Marae in June 2023, we consider there was an important and pressing need for Stats NZ to do more to determine whether its expectations were being met. More should have been done to provide positive assurance that matters were as they should have been.

11.8. Physical Security for Census Forms and Confidential Information

Associated with concerns raised around the retention of census forms were concerns about the forms' conditions and physical security. Whistleblowers advised us that census forms were kept in large volumes in unsealed envelopes in areas accessible to significant numbers of people. They allege that these forms were not locked away or stored securely. We note that the Whistleblowers provided a number of photographs supporting their allegations that census forms were not stored securely.

For its part, Manurewa Marae describes a process where census forms were placed in return trays during the day. It advised that census forms were sent out to Stats NZ at the

end of each day, and on the rare occasion that census forms were not able to be sent (for example, at the end of June 2023, as described above), forms were locked away.

Representatives of the Manurewa Marae provided an image of census forms in trays (said to show the return trays), which appear to be accessible to all kaimahi and were not in a locked room. We accept that it is not possible to tell whether these forms were simply placed in these trays for the day, or were stored in the location in which the photo was taken for a longer period. Indeed, the assertion of the whistleblower that they obtained a number of forms from the Marae in May/June 2023 would tend to support the allegation that census forms were not always securely held, even to the extent that forms were in trays only during the course of a day.

11.9. Summary of allegations relating to Manurewa Marae

Overall, the allegations set out by the Whistleblowers describe processes for census collection, handling, copying, retention and security at Manurewa Marae that are inconsistent with the expectations around confidentiality and privacy that would normally apply to confidential census forms.

The Marae denies many of the allegations. We do acknowledge that there were some improvements over time, including the creation of the Marae's Winter Wellness form and WOCA's QR code to better delineate between WOCA collected information and census information. However, census handling at the Marae did not meet the expected standards. If Stats NZ and WOCA had completed the contemplated 'detailed operational planning, privacy, programme delivery plan and workforce training plan', which were all agreed requirements of the contract, there may have been a clearer structure in place to manage census information from the start and some of these deficiencies could have been avoided.

The capture of personal information in the Winter Wellness Campaign Checklist by Manurewa Marae highlights the opportunities for confusion and mingling of information for different purposes. The Manurewa Marae noted that this checklist did not capture all of the WOCA reporting information they were expected to provide to WOCA (for example, the date of birth and gender were required by WOCA but were not captured in the checklist). The marae states that kaimahi wrote this information by hand on the side of the checklist. We note that if this step was missed, the census form would provide another way to access and record this information.

The evidence from the Whistleblowers also highlights the challenges of keeping the various activities and purposes for information collection distinct and ensuring that people understood what purposes they were providing information for, what they were consenting to and how their personal information would be used and stored. As described above, the WOCA reporting information largely involved collecting information wholly unconnected with the census contract and mainly involved other Whānau Ora activities such as Winter Wellness, voting enrolment, the Māori electoral option and other services. WOCA states that this information was kept entirely separate from census information and that the whānau engaged with understood this and consented to it.

The evidence provided to us by the Whistleblowers about how they engaged with whānau highlights the very real practical challenges in keeping the different information collection purposes distinct. It is possible that some whānau understood that they just needed to provide their information and sign the forms to qualify for the \$100 supermarket voucher.

The notification by a Stats NZ staff member regarding concerns about census forms being found at the Marae was not sufficiently responded to or investigated in detail at the time. Given the nature of the alert, it should probably have been treated as a formal incident report. It appears that the advice by WOCA that partners would be instructed to destroy forms was regarded as an adequate response. A robust and formal response to these concerns might have put Stats NZ in a position to better identify and respond to problems at a much earlier stage.

All of this underlines the critical importance of comprehensively doing what the contract specified, including completing joint operational planning process, undertaking a Privacy Impact Assessment process, identifying key risks and processes to protect confidentiality at the outset, ensuring comprehensive training was delivered to everyone involved, and ensuring confidentiality certificates were completed by everyone who had contact with census information before work commenced. As discussed above, most of these were requirements of the contract which were not met or only partially met. Most were not responded to appropriately by Stats NZ or WOCA.

The need to manage these processes was critical for Stats NZ to give effect to its responsibilities in relation to data integrity, confidentiality and privacy. At a minimum, it needed to act to ensure that its published commitments in its own Census FAQs addressing these points were met.

12. Findings and Recommendations

12.1. Findings

We make the following findings against the specific matters we were asked to report against in our Terms of Reference:

12.1.1 **9.1¹⁷** *The contract between Stats NZ and Whānau Ora – did it set out the expectations and obligations in a way that is consistent with the Data and Statistics Act 2022 and the Privacy Act 2020? What, if any, monitoring mechanisms were established to ensure compliance with these expectations / obligations?*

At the beginning of April 2023, Stats NZ and the Census Board were well aware that rates of return of Census for Māori were well behind projected rates and were unlikely to meet the targets set.

The CE was being encouraged to consider any and all options to improve responses to low rates of return for Māori and Pacific people in Auckland. In particular, it was recommended to the CE that he actively consider the assistance that WOCA may be able to provide, given their involvement with the COVID-19 vaccination drive. This suggestion was made by both the Public Service Commission and the TPK Chief Executive.

Separately, the Director, Te Ao Māori Census team, had been in discussions with a senior Waipareira representative about a potential proposal from WOCA to provide services to collect Census forms from whānau across Tāmaki Makaurau.

¹⁷ Note we use the numbering from the Terms of Reference for ease of cross-reference.

The TPK Chief Executive brokered a discussion with the Chief Executive of Waipareira, his adviser, the CE and the Director, Te Ao Māori team. The TPK Chief Executive also attended this meeting with his adviser.

As a result of this meeting, the CE agreed to the proposal that WOCA would engage with whānau and deliver increased Census returns of up to 50,000 through 10,000 household contacts. This meeting was held on 14 April 2023, with the CE providing WOCA with an email of comfort agreeing to the terms in principle on the 15th of April.

Negotiation and agreement to the contract occurred over the following two weeks, with the final contract being signed by both parties on 29 April 2023. Legal, procurement and privacy staff were all involved in finalising the contract, privacy impact assessment and data sharing agreement. The Te Ao Māori team took the lead and responsibility for negotiations, contract drafting, liaising with WOCA over the operations establishment phase and other matters required by the contract.

Once prepared, the contract was executed by the Chair of WOCA. It was then emailed to the CE by the Director, Te Ao Māori on Friday evening and executed by the CE on Saturday, 29 April 2023. The CE advised that he was provided verbal assurance by the SRO that all relevant matters had been considered and that the contract was in order for the CE's execution. The CE duly executed the contract based on this assurance.

As noted, there were inherent risks in effectively contracting out part of the sensitive and confidential Census 2023 collection. While the Census had teamed up with partners previously to engage communities and support the return of Census forms, trained Census staff had been responsible for the direct assistance and collection of Census forms. What was proposed with the WOCA contract was an entirely new model. The risks of this were amplified by the very short timeframes needed to establish a robust, fit-for-purpose delivery plan, risk management arrangements and oversight/assurance arrangements.

Further, WOCA was not proposing direct oversight of the workers by Stats NZ managers. Stats NZ did not have the capacity to do so as they were winding down the other parts of Census collection operations and reducing program management capacity. This was despite the offer from the operations team to extend the contracts of some census collectors in the Auckland region.

On the face of it, the contract provided many of the requirements necessary to safeguard the integrity of the Census and protect the information and privacy of respondent households and individuals. There were requirements to;

- Develop and complete an operational delivery plan in conjunction with Stats NZ. This included the development of services over four phases, including establishment activities (such as a Data Sharing agreement), delivery management work (such as the delivery of workforce training), operational delivery (such as a door-to-door campaign to encourage completion of Census forms and assist as necessary), and a wrap-up phase.
- Deliver a Data Sharing Agreement and a Privacy Impact Assessment (by 26 April 2023); a Census Collections Approach Model (by 5 May 2023); and analysis and intelligence reporting on delivery (with daily, weekly and monthly reporting to the

end of June 2023).

- Follow general requirements on WOCA around the handling of personal information and confidential information. This included safe and respectful storage, handling, and disposal of census information (with additional, more detailed requirements provided for following completion of the Privacy Impact Assessment analysis).
- Ensure all personnel and other persons assisting with the services who may observe, hear or see census response information completed a Confidentiality Certificate, approved and/or provided by Stats NZ under the Data and Statistics Act 2022.
- Specific requirements relating to reporting metrics, including daily and weekly reporting by WOCA to Stats NZ.

The contract also identified that other 'whānau ora services' would be delivered alongside the census collection services, with the cost of other whānau ora services being borne by the funder of these services.

The contract also specifically provided that a 'whānau contribution' could be paid to whānau to encourage and support whānau to participate in the census. Up to \$1 million of the contract price could be spent on the whānau contribution, which equates to \$100 per household (assuming 10,000 household contacts).

While these specific contractual obligations were sensible and covered many of the high-level requirements needed to address privacy and confidentiality expectations and obligations, these obligations needed to be carried out and adequately monitored to be effective. As discussed below, this did not happen in many instances.

We have also found that some of these deficiencies can be linked to failure to follow the required process in procuring WOCA's services. Stats NZ did not advertise this procurement on GETS nor document the rationale for not doing so at the time. Significantly, it did not appear to undertake any considered process to properly evaluate capability, risk, public value and due diligence before awarding the contract (or if it did so, this was not documented).

Such a process may have identified key risks, mitigation strategies and resourcing commitments going forward. We are aware that if an exemption to these government procurement requirements had been sought, it would no doubt have been justified and given. Had this been done, documenting the reasons for not complying with the procurement requirements may have identified several critical risks which could have been explicitly managed and mitigated.

In relation to monitoring and reporting arrangements, we make the following findings;

- There was minimal 'on the ground' monitoring by Stats NZ to ensure compliance with the contractual requirements and appropriate use and handling of census information by WOCA sub-providers.
- Pursuant to the contract, Stats NZ and WOCA agreed that WOCA would develop training materials and deliver workforce training to the sub-provider staff. However,

there was no insistence by Stats NZ that WOCA provide a formal workforce training plan (as required under the contract). There are indications that training materials were provided by WOCA to partners after collection operations had commenced.

- Effective training on confidentiality and privacy requirements was a critical aspect of this contract. All Whānau Ora staff and all partner kaimahi involved in Census collection should have been fully trained before commencing that work. While Stats NZ agreed to a 'train the trainer' process whereby Stats NZ would provide training to WOCA trainers who would roll out training to kaimahi, there is no clear record of what training was delivered (Stats NZ only formally received copies of training materials used by WOCA after most collection activities had been completed).
- WOCA's position on training on privacy and confidentiality was that detailed training was unnecessary as the workers were experienced in complying with privacy and confidentiality requirements through their ongoing whānau ora work. WOCA considered that this position was agreed by Stats NZ based on correspondence and interactions with staff. However this aspect was never given the attention it should have at a senior level within Stats NZ. Some whistle-blowers from the Manurewa Marae said they never received any training.
- Monitoring arrangements were weak, with Stats NZ receiving daily, weekly and final reporting numbers from WOCA without the ability to gain separate assurance or validation. As noted above, there was no mechanism to separately validate the numbers of additional census returns, with the returns of Census forms being received by Stats NZ being the agreed measure of the impact of the contract. We note, however, that Stats NZ were able to track the overall return rates from the Auckland area and that there was a significant uplift in returns from across Auckland during the period in which the WOCA engagement initiative was active. As a result, the overall response rates for Māori, in particular, improved against previous projections.
- A decision had already been taken that the success or otherwise of the engagement would be judged against the number of additional census returns between the start of the contract and the conclusion of the Census on 30 June 2023. Stats NZ advised their Minister in June 2023 that as a result of the engagement, WOCA exceeded their target of reaching 10,000 non-responding and partially responding dwellings across Auckland, contributing to a significant increase in return rates for Māori (an estimated increase for Māori in Auckland South from 64.7% to 70.3% over the contract period, for example).
- While required under the contract, confidentiality certificates were not signed, nor did Stats NZ provide any form of them to WOCA for this purpose. WOCA believed that Stats NZ did not require such certificates after Stats NZ came to understand more about the amount of training and experience their people had with privacy from prior engagements. This belief held by WOCA appears to have arisen from a misunderstanding, as Stats NZ staff confused confidentiality certificates with certification of *training* of kaimahi engaged in Census work. Subsequent internal reporting on progress on the contract incorrectly advised that confidentiality certificates were completed when they had not been.

- Professional experts within Stats NZ responsible for a range of advisory functions, including procurement, legal, privacy and support services, were engaged by the Te Ao Māori team, who were leading the contract negotiation and management with WOCA. However, their advice appears to have been provided somewhat narrowly, with questions from the Te Ao Māori team being responded to in a limited way, with little follow-up or consideration of the overall risks involved. Members of those advisory teams indicated they were not currently resourced to a level which would allow for routine follow ups and that tracking, or actively addressing, recommendations from reports or advice is not an institutional norm in Stats NZ.

We accept that these limitations made it more difficult for internal advisors. However, we would have thought that internal advisors could and should have been more proactive, for example, ensuring that the Whānau Ora operating model was well understood, that the Privacy Impact Assessment was completed and that confidentiality certificates had been returned, all before the first transfer of Stats NZ census data to WOCA occurred.

- The Board was aware that WOCA would be engaged because of the 'critical event' context and the criticality of achieving a better rate of return for Māori from the Census. However, it appears that the SRO/Board was less active in their oversight monitoring and assurance of this contract and the impact of census returns, appearing to defer to the CE's decision. This is at odds with the active oversight and reporting to the Board by the SRO that had been occurring up to this point.

Against this background, the efforts to establish the contract and meet its requirements fell well short of what Stats NZ would normally have been expected to achieve. Whilst the efforts of the Te Ao Māori team were well-intentioned and reflected their strong relationship with WOCA, they were working under extreme time pressure and lacked the experience, capacity and capability to effectively carry out many of the necessary tasks to ensure that the CE's decision and expectations that had been confirmed to him were appropriately given effect to and that the risks inherent in this untested approach were worked through.

The SRO, Board and other senior managers appeared more passive than they hitherto had been, which was odd in the face of what was clearly a mismatch between the resources and capabilities needed and what the Te Ao Māori team could bring to bear.

The CE acted on the ongoing assurances he received from the SRO, including that the necessary wrap-around support was in place. He advised that he would have been very concerned had he known the Te Ao Māori team were leading the operational engagement with WOCA without comprehensive wrap-around support and advisory services proactively advising on a range of issues, including risk management. While the CE was aware that the Te Ao Māori team were playing a lead role in the operational engagement with WOCA, he expected, on the basis of assurances given, that people with leadership responsibilities and technical capabilities would be actively supporting this work and exercising the same accountabilities that had been in place for the duration of the Census to that point. The CE had been informed, and therefore reasonably expected that existing arrangements for the management oversight, decision making and risk management of the Census programme would continue in effect for the delivery of the contract with WOCA. The CE was, therefore, unaware that the arrangements needed to give effect to his decisions were not being

appropriately implemented. The SRO, in particular, appears to have taken the view that responsibility for this had shifted to the Director, Te Ao Māori, with the Director believing that he was only managing a relationship with WOCA as a provider.

There was little follow-up reporting or assurance to ensure that key contract management and risk activities were undertaken in relation to the contract. Of the reporting that did take place, in at least one instance the reporting was wrong (e.g. the report that confidentiality certificates had been completed).

As a result, the assurances the CE received from the SRO during the formation and execution of the arrangement were not proven to be valid, with Governance and senior leaders taking a 'hands off' approach to what should have been ongoing responsibilities and accountabilities, again noting the context in which this work was occurring.

As previously noted, the SRO's explanation for this was that procurement arrangements with WOCA needed to reflect a 'high trust' partner model in contrast to arrangements with other commercial suppliers.

12.1.2 9.2 *Was the way in which Whānau Ora engaged with people and whānau to encourage and support them to complete the census forms (a) consistent with the expectations set out in the contract and (b) consistent with the Data and Statistics Act 2022 and the Privacy Act 2020?*

The provision of incentives by WOCA sub-providers to households completing the Census was consistent with the contract. The contract did not provide for incentive payments to whānau ora workers. However, it did not prevent these types of payments from being paid out of the general contract price. Only the Manurewa Marae appear to have paid additional incentives to its workers. It says it did so to reflect the extra work involved, over and above the other whānau ora work they were carrying out.

Because the Auckland Regional Collections Operations team was winding down and the offer of assistance from the Operations Team to Te Ao Māori team had been declined, the opportunity to pass on field intelligence from the Stats NZ operations team to WOCA was missed. This is significant because the operations team and collectors had been working with many sub-providers in the same communities, and Stats NZ was now asking WOCA to target them. Notwithstanding WOCA's experience with these communities, there was a missed opportunity for census-specific information sharing.

Insofar as data matching was concerned, an email from WOCA to all sub-providers advised that they should provide information from their databases for the purpose of 'data matching' against the addresses to be supplied by Stats NZ. WOCA says this was necessary because Stats NZ failed to provide sufficient information with the address information to allow WOCA sub-providers to identify whānau Māori households (and Stats NZ advised that it was never envisaged that anything other than address information would be provided to WOCA, which is borne out by the material we reviewed). This data matching exercise appears to have been commonly understood by Stats NZ and WOCA, at the very least, by the time the draft privacy assessment was being prepared.

Regarding data collection, it was clear from the outset that WOCA intended to undertake the census collections exercise while capturing a range of other personal information from households and individuals. WOCA has confirmed that a Microsoft form linked by a QR code

was created to enable field staff to collect a range of personal information about households and individuals. Still, it says this was ancillary to the census collection and consistent with the whānau ora model. The Manurewa Marae also says that other personal information was being collected alongside the census information as part of the Winter Wellness campaign, which was occurring in line with its stated privacy policies.

Whatever the motivations were for collecting a range of personal information alongside supporting whānau engagement with the Census, it is not disputed that personal information was collected using various mechanisms, including (at least at Manurewa Marae) using a hardcopy form and a QR code-enabled Microsoft form.

12.13 9.3 *Whether the census forms, the data contained within census forms and the personal information provided by individuals and whānau collected, managed, shared and disposed of in a manner consistent with the Data and Statistics Act 2022 and the Privacy Act 2020?*

It is clear that the collection of other personal information occurred alongside the census collection work carried out by WOCA sub-providers.

As part of the early attempts to collect household data in the first weeks of the contract, we found that some census forms were photocopied at Manurewa Marae. Later, this practice disappeared, as information was recorded using the QR code provided by WOCA.

As subsequently alleged, an MSD worker working at the Manurewa Marae tried to alert Stats NZ that census forms were being photocopied. Stats NZ and Spark NZ undertook a full review of call logs and records (including searching against the likely numbers used to make the call), and no record of this call has been found. We consider it probable that, if made, the call would have been made to one of Stats NZ's phone numbers rather than the dedicated 0800 Census line. This is likely why it was unclear to the operator receiving the call what needed to be done in response and how to escalate the complaint. While we consider that the Whistleblower is genuine in their evidence that they made a call to complain about the misuse of census forms, given the lack of a record of a call being received by Stats NZ and no record of any action being taken in response to such a complaint, we are unable to make any specific finding regarding this call. We cannot make any further comments or findings in relation to it.

A complaint was received by the Electoral Commission and the Police regarding the conduct of the general election, including campaigning, activities at polling places, and treating. The complaint also included an allegation about census forms being 'misused'. In relation to the complaint received by the Electoral Commission and Police about census forms being 'misused', while this may seem straightforward, we note that the Electoral Commission did not initially pass on the complaint it received on 11 October, instead advising the complainant to contact Stats NZ directly. When the Chief Electoral Officer met with the CE on 24 November 2023, he did not provide the Chief Executive with a copy of the complaint except to say that the allegation concerned the misuse of census data and that he had advised the complainant to contact Stats NZ directly. While the CE asked the SRO to follow up to see if a complaint matching the general details provided by the Electoral Commission had been received, no additional information appears to have been sought by Stats NZ from the Electoral Commission. No relevant complaint could be located, and it was decided that Stats NZ maintain an active watching brief to see if the complainant would make contact as the Chief Electoral Officer had advised them to do. These actions were not

recorded, and there does not appear to have been any proactive communication between Stats NZ and Manurewa Marae regarding this complaint. It is clear that the Manurewa Marae workers were required to return completed census forms to the marae for checking. Forms were put in trays and able to be viewed by other people, including the marae staff who were doing the checks.

In July 2023, Te Ao Māori Team began to receive notifications that completed forms were being kept at Manurewa Marae after the end of the Census collection on 30 June 2023. The Marae says this was because some forms had yet to be processed online before they were disposed of securely. The Marae advised that it is not aware of completed census forms on the Marae after the first week of July 2023. An analysis of forms allegedly found at the Marae as late as June 2024 discloses that some forms appear to be genuine individual and household census forms. Some of these forms appear in the census database, some do not, and some appear to be returns completed sometime after previous returns have been submitted for the same household (i.e. duplicates).

Notwithstanding both the training material provided by Stats NZ to WOCA and WOCA's branded training material that largely reflects the Stats NZ material, the Marae advised its staff to keep the census envelopes open and bring these back to the marae. This is inconsistent with Stats NZ requirements, the Data and Statistics Act 2022, and may raise issues of non-compliance with the Privacy Act 2020 (although we note this is ultimately a matter for the Privacy Commissioner).

A photo provided by the Manurewa Marae shows census forms sitting in trays in what appears to be an open area of the marae. Workers and supervisory staff, other than the staff who assisted whānau in completing the forms, could view these forms. This creates significant risks to the reputation and integrity of the census collection, albeit in the context of a relatively small number of forms (approximately 1800 versus 4.5 million census returns received by Stats NZ).

On this basis, we believe that the management of census information, including personal information and census forms collected by the Manurewa Marae, was not undertaken in a manner that was consistent with the Data and Statistics Act 2022 and raises issues about the management of personal information in accordance with the Privacy Act's Information Privacy Principles (IPP), in particular IPP5 and IPP 10. Nor was it consistent with the contract between Stats NZ and WOCA.

Other than it being necessary to process paper forms, we have not been able to establish why the Marae kept completed forms after the census contract period. For their part, the Marae asserted that all forms were appropriately and securely disposed of.

12.14 9.4 *Whether the provision of data by Stats NZ to Whānau Ora, including any access to census data, or Stats NZ systems met the requirements of the Data and Statistics Act 2022, the Privacy Act 2020 and Stats NZ policies.*

The data provided by Stats NZ to WOCA was provided in the format of a 'dumb excel file', which only allowed WOCA to extract the information in the file for distribution to its sub-providers. This Excel file was updated and re-sent frequently. Stats NZ did not provide WOCA with access to census data held or to Stats NZ systems.

The address data provided in Excel file format by Stats NZ covered location information about households with no census response, and the reporting data from WOCA required by Stats NZ appears to be similar, including data about address or location, census responses completed and number of occupants.

WOCA, in its response to our questions about its collection and management of personal information from whānau who completed the census, said that it had been its understanding that Stats NZ would be providing it with a list of only whānau Māori households.

Stats NZ did not hold ethnicity data for non-responding households, so it would have been unable to provide this even if it had made this commitment. However, it was clear that the intent of providing anonymised address data by Stats NZ to WOCA was to enable WOCA to achieve an increased response rate to the Census by Māori. The proposal from WOCA, the contract, the data sharing agreement and the draft Privacy Impact Assessment all referenced that WOCA would be using the data to identify and target Māori households and individuals by using additional information that WOCA had about whānau across its catchment.

In preparing to receive a large volume of address and location data from Stats NZ, WOCA undertook a data matching exercise to narrow down the large volume of addresses provided to focus on Māori whānau. The information sharing agreement was silent on the personal information, if any, that WOCA or its sub-providers would be collecting or whether the data provided by Stats NZ would be subject to matching with information held by WOCA. The Privacy Impact Assessment process commenced by Stats NZ could have been expected to have surfaced such issues and set out privacy protective measures. However, this process was never completed.

While the information matching exercise undertaken by WOCA to identify Māori households was not explicitly provided for in either the contract or the information sharing agreement, it was consistent with the overall objective of the contract to improve Māori census completion rates in the 2023 Census, especially in the Auckland region. To achieve that objective, Stats NZ knew or ought to have known that WOCA would undertake information matching with the address data supplied.

The Data and Statistics Act 2022 imposes a duty of care on Stats NZ to protect people's interests and data, applying appropriate standards of privacy, confidentiality and security. The Act generally prohibits disclosure of data in a form that could reasonably be expected to identify any individual (s 39). While the location/address information provided by Stats NZ to WOCA did not identify individuals, given the outreach and matching activity undertaken by WOCA, this data could *reasonably be expected* to identify at least some individuals as non-responders to the census.

Accordingly, the Act imposed a duty of care on Stats NZ when it prepared to provide the non-responding address information to WOCA. Stats NZ needed to assure itself how the information provided to WOCA would be used, to understand fully any information matching processes that might be applied to it, and to put in place safeguards to protect people's privacy (such as ensuring that confidentiality certificates were completed by everyone who had access to the address data or who were provided with matched addresses), so that it was fulfilling its duty to take steps to ensure that those processes would not result in unforeseen disclosures of data. The contract contained a number of

provisions reflecting this duty of care, including the requirement for completion of a Privacy Impact Assessment and for confidentiality certificates to be signed. However, as we have identified, these requirements were never met for various reasons.

On that basis, we find that Stats NZ did not provide and manage the provision of data to WOCA in a manner consistent with Stats NZ systems and policies and that met the requirements of the Data and Statistics Act 2022. We also have concerns as to whether Stats NZ adequately ensured that the storage and use of personal information was consistent with the Privacy Act 2020.

12.2. Recommendations

In view of the findings, we make the following recommendations;

R1 When outsourcing Stats NZ functions, Stats NZ should maintain contract management/delivery oversight and assurance activities relative to the size and risks associated with the contract. Stats NZ should ensure it maintains active oversight and assurance to ensure these are delivered in accordance with relevant statutory and other Stats NZ requirements.

Stats NZ should have required WOCA to agree that Stats NZ would deliver the training to its workers. Workers should be required to sign Confidentiality Certificates before any census collection work is undertaken as part of that process. Had Stats NZ agreed with its operations team's offer to extend the contracts of temporary census staff, sufficient capacity and capability would have been available to carry out this task. It would also have allowed Stats NZ to assure itself that all sub-provider staff would have received the same level of training.

Stats NZ should maintain oversight of third-party operations and compliance with the contract, especially if it is a new supplier. Auckland-based Operations staff could have undertaken this role, many of whom already had relationships with the sub-providers.

R2 Stats NZ should take proactive steps to ensure it is meeting its Te Tiriti obligations under the Data and Statistics Act 2022, to avoid the need for initiatives developed under time pressure.

We noted above that the Act imposes express duties on the Government Statistician to engage with Māori in respect of the census, and consider Māori interests in the collection of data.

This contract was entered into, and contract work carried out, in a matter of a few months following a Level 3 incident being raised regarding poor Māori response to the census. The time pressure likely contributed to some of the issues we have identified (including having insufficient time to prepare a more robust training and operational plan).

R3 Stats NZ should ensure that all internal controls, management oversight and project/programme governance arrangements are maintained and operated prudently, regardless of any contract's approval level.

Stats NZ should ensure that arrangements to provide leadership, governance, risk management, and assurance continue to be used and that accountabilities are discharged, particularly in the face of external challenges, changes to context, or other impacts.

Finance and governance training of management and staff should reinforce the need for staff to adhere to organisational processes, delegations, governance, and organisational decision-making practices, regardless of the perception that more senior-level approval has already been provided.

Units with operational responsibility should not defer to specialist advisers without the express agreement of the SRO or CE.

Culturally, Stats NZ should work towards a culture where staff are encouraged to speak up or escalate when they believe there are genuine concerns with decisions made or how work is planned to be carried out. This should be seen as an extension of a 'continuous improvement' approach to Stats NZ's operation.

R4 In outsourcing any Stats NZ statutory authority/accountability or collection operation, risk assessments should include an assessment of the potential reputational risk to suppliers and contract oversight arrangements should reflect these risks too.

Future decisions to outsource any aspect of Stats NZ's statutory responsibilities, including collection activities, should be informed by prudent decision-making, including appropriate risk assessments, which should account for the potential risk to Stats NZ and suppliers' reputations. This risk assessment should consider the broad context in which Stats NZ and the provider operate, including the social, economic, and political environments.

R5 Stats NZ should ensure that corporate units with capabilities relevant to programmes/projects like the Census are formally made part of the programme and their responsibilities made clear.

Procurement and Legal should be specially advised that they have a responsibility to ensure the programme/project is conducted in accordance with normal business rules and risks are escalated in the normal way.

The program leads and governance members should be advised of these arrangements and seek assurance that these capabilities have been appropriately engaged and advice provided as part of prudent decision-making practices.

R6 Future procurement processes should follow good practice guidelines.

Notwithstanding the initial contract approval level, Stats NZ should follow its normal processes for developing and executing contracts.

Stats NZ should ensure senior management is aware of and trained to understand these requirements.

Corporate advisers such as procurement and legal should be reminded that they can and should escalate any matter where they consider Stats NZ policies, procedures, or good practices are not being observed or risks are not being appropriately managed.

R7 Stats NZ should ensure that, when providing data or sensitive information to third parties, it takes proactive steps to ensure it is aware of how this information will be used, stored and disposed of. This should include ensuring that certificates of confidentiality are completed by receiving parties before the provision of data by Stats NZ that is subject to the Data and Statistics Act 2020. Where appropriate, positive assurance, including physical inspection, should occur.

While the provision of data by Stats NZ in this case was conveyed by an appropriate mechanism, Stats NZ should ensure it takes a more engaged and proactive approach in understanding how its information is going to be used. This should include understanding how information is being matched with other data, how it will be stored and, if required, how it is to be destroyed at the end of a process, including positive proof that this has occurred. Where appropriate, this should require the ability to inspect systems and undertake necessary checks to provide positive assurance that all requirements have been met.

R8 Future Census operations should maintain a central log of all complaints and issues raised about the conduct of the Census, with actions recorded against complaints and routine reporting on these to senior management and governance.

Maintaining oversight of any complaints or issues raised with the Census is important to ensure management and governance have full oversight of risks and issues that may impact the actual and perceived integrity of the delivery of the Census. Maintaining a centralised log of complaints and issues, along with their resolution, will help improve oversight and governance of the Census, allow for more efficient reporting on these throughout the Census operational delivery phase and enhance the ability of Stats NZ to take a continuous improvement approach to the delivery of future Census.

R9 Given our findings and recommendations, we recommend that Stats NZ refer this Report to the Office of the Privacy Commissioner for consideration of what, if any, further investigation or engagement may be warranted.

We have found that poor management and oversight by Stats NZ of this contract may have contributed to inadequate personal information collection and management practices in the course of work carried out under the contract between Stats NZ and WOCA, which has given rise to privacy concerns. We have also found that some aspects of the collection and management of census forms and the collection of personal information raise issues of genuine concern.

We have found that there have been failures in compliance with the requirements under the Data and Statistics Act 2022 in terms of Stats NZ's disclosure of and oversight of how confidential and personal information would be managed and how Census forms would be handled. We also consider our findings raise the potential that Stats NZ has not complied with the Privacy Act 2020. In particular, we have concerns that there may have been breaches of IPP 5 (relating to the storage and security of personal information) and IPP 10 (which places limits on the use of personal information for different purposes than it was collected for).

The interaction between the expectations around confidential and personal information imposed by these Acts can be complex. Further lessons on best practice could likely be derived from an assessment by the Office of the Privacy Commissioner, applying a specific privacy lens. We note that it is entirely up to the Privacy Commissioner whether any follow-up action is taken following Stats NZ referring this report to the Commissioner.

Appendix 1 – Terms of Reference

Terms of Reference for an Independent Investigation and Assurance Review of Allegations of Misuse of 2023 Census Information.

Dated: 7 June 2024

Appointment

1. As the Government Statistician and Chief Executive of Stats NZ, I appoint you, Doug Craig of the RDC Group Ltd to review matters relating to the alleged misuse of census forms and census data as described in the Background and Context section of these Terms of Reference.
2. These Terms of Reference also set out the matters in scope, out of scope and the questions I would like you to address, as well as the process to be followed in carrying out this Review.

Background and Context

3. Stats NZ partnered with the Whānau Ora Commissioning Agency to lift low 2023 Census response rates from Māori in Auckland. The collection operations with non-responding and partial responding Māori households were led by the Whānau Ora Commissioning Agency using Te Pae Herenga o Tāmaki ('Whānau Ora'). Manurewa Marae ('the Marae') is part of Te Pae Herenga o Tāmaki collective.
4. Information collected via census forms or through any Stats NZ survey is protected by the Data and Statistics Act 2022 and the Privacy Act 2020. Inappropriate or unauthorised use of census forms or the data contained in them can amount to an offence under these Acts.
5. Allegations have been made that confidential information collected during the filling out of census forms was photocopied and retained by the Marae, and that data was entered into an online database and sent to the Waipareira Trust. It is alleged this information was later used in the 2023 election campaign run by Te Pati Māori's Takutai Tarsh Kemp, who was also the Marae's Chief Executive Officer at that time.
6. As part of the approach to encourage greater levels of participation of Māori in Auckland incentives were given to people to complete the 2023 Census. Stats NZ was aware of the use of incentives and considered that if used appropriately the use of incentives was consistent with the purpose of funding provided to Whānau Ora.

7. Stats NZ has subsequently been made aware of allegations that incentives were also provided in order to encourage Māori to change from the general roll to the Māori roll.
8. Stats NZ understands that a complaint has been made to the New Zealand Police, which the New Zealand Police are assessing.

Matters in scope

9. You are asked to look into and report on the management and operational aspects of Whānau Ora's management of census forms and handling of census data and personal information. In that context you are to consider, in relation to the management of census forms and data:
 - 9.1 The contract between Stats NZ and Whānau Ora – did it set out the expectations and obligations in a way that is consistent with the Data and Statistics Act 2022 and the Privacy Act 2020? What, if any, monitoring mechanisms were established to ensure compliance with these expectations / obligations?
 - 9.2 Was the way in which Whānau Ora engaged with people and whānau to encourage and support them to complete the census forms (a) consistent with the expectations set out in the contract and (b) consistent with the Data and Statistics Act 2022 and the Privacy Act 2020?
 - 9.3 Whether the census forms, the data contained within census forms and the personal information provided by individuals and whānau was collected, managed, shared and disposed of in a manner consistent with the Data and Statistics Act 2022 and the Privacy Act 2020;
 - 9.4 Whether the provision of data by Stats NZ to Whānau Ora, including any access to census data, or Stats NZ systems met the requirements of the Data and Statistics Act 2022, the Privacy Act 2020 and Stats NZ policies.
10. You should make any further recommendations you consider necessary in relation to the above matters and in particular you may comment on any opportunities you identify to improve how Stats NZ undertakes its outreach work targeting difficult to reach population groups for the purposes of carrying out its future census work.

Matters out of scope

11. The following are out of the scope of this Review:
 - 11.1 Making any finding that might interfere with or prejudice related investigations by the NZ Police, the Electoral Commission, the Ministry of Social Development,

the Office of the Privacy Commissioner or any other relevant agency; noting that material identified as relevant to such related investigations will be shared with the relevant agency as appropriate.

- 11.2 Any comment on the performance or competence of any person in relation to the matters in scope of this review, except to the extent this relates directly to the processes and management of census related forms and data;
- 11.3 The fitness for purpose of any Stats NZ policies or processes not directly related to this review, or those of any other agency.

Process and Logistics

12. While this investigation and review will be carried out by you acting independently and using your own judgement as to a proper and appropriate process, I consider that this can probably be best achieved across three phases of work.
 - 12.1 **Phase 1.** A review of all relevant and related information, documentation, and records held by Stats NZ and other relevant agencies is needed. Interviews with relevant Stats NZ staff and other individuals you consider may have information relevant to the investigation/review. Following this phase, consider whether further examination of specific instances where census forms and data may not have been processed and managed in accordance with Stats NZ's and statutory requirements is necessary.
 - 12.2 **Phase 2.** If you determine that there appears to have been breaches of Stats NZ's and statutory requirements, investigate and report on these instances and the extent to which material non-compliance has occurred. In the event that you consider non-compliance to have occurred, report to Stats NZ on the extent to which you believe non-compliance to have occurred with a recommendation for further investigation/action to occur, including whether any instances warrant referral to another agency for follow up action.
 - 12.3 **Phase 3.** Following completion of Phase 2, consider and make any relevant recommendations for improvements to how Stats NZ manages this aspect of its census operations that inform our work to strengthen our processes.
13. Stats NZ staff will provide all relevant documents and information to assist you. Other assistance or logistical support will also be provided. Your key contact for the purposes of the investigation/review is the Deputy Chief Executive and Chief of Staff, Office of the Chief Executive.

Report and Timing

14. At the conclusion of each phase of the investigation/review you will submit a draft report to me on the matters set out in these terms of reference.
15. Feedback on your report will be provided within a week of receipt, with you considering feedback and finalising your report by the end of the following week.
16. It is anticipated that this investigation and review can be completed no later than 31 July 2024.

Conflict of Interest

17. I record that, through the contract we have entered into, that you have specifically declared that you do not have any conflict of interest that would disqualify you from undertaking this investigation. I note your obligation to notify me of any conflict of interest is an ongoing one.

Terms of Reference Approved



Mark Sowden
Government Statistician and Chief Executive
Stats NZ | Tatauranga Aotearoa

Dated: 7 June 2024

Appendix 2 - Timeline – Key Events

7/8 February 2023

The initial Community Counts Agreement and Field Operation Collaboration Agreements between Stats NZ and Manurewa Marae were signed. These agreements allowed Manurewa Marae to support census collection through social media promotion, use of the Marae as an Assisted Completion Location (ACL) and provide Marae navigators as 'Walk along Workers' beside Stats NZ census collectors.

24 March 2023

Level 3 incident raised within Stats NZ: An Incident was raised concerning the low estimated return rates for Māori. Te Ao Māori team was tasked with the response to this incident.

4 April 2023

WOCA provides Stats NZ with a **Business Case proposal** for increasing Māori Census completion with Waipareira as the 'backbone lead' and TPHoT as a provider network to engage 10,000 households.

14 April 2023

Meeting with WOCA and Stats NZ executives, the Chief Executives of WOCA, Stats NZ and TPK meet to discuss the proposal. An email of comfort was sent by the Stats NZ Chief Executive to WOCA confirming the in-principle agreement to the proposal on 15 April 2023.

19 April 2023

Census Programme Board meeting considers a late paper on 'incentivising responses from people that are hard to reach'. The Board approved the use of vouchers for up to \$40 per completion to be used at events and noted that vouchers of up to \$100 were to be used by WOCA.

27 April 2023

An information sharing agreement was signed between Stats NZ and WOCA.

28 April 2023

The first transfer of Stats NZ address data to WOCA. **WOCA signs** a Contract for Services between Stats NZ and WOCA (with partner members), covering services to help lift response rates for Māori in Auckland with a term from 1 May 2023 to 15 July 2023.

29 April 2023

Stats NZ Chief Executive signs Contract for Services with WOCA.

3 May 2023

'Train the Trainer' sessions held at WOCA premises to undertake initial training for outreach and activity to deliver services under the contract, with the first "Super-User" training sessions led by WOCA occurring over the next two days. Home visits commence soon after.

11 May 2023

WOCA advised by Stats NZ that **certificates of confidentiality** have been "**descope**d from the Census training."

6 June 2023

WOCA provides **copies of training materials** to Stats NZ. These materials contain information about the collection of 'reporting information' and electoral roll activity and reference only completing questions 1 – 15 of census forms.

16 and 19 June 2023

WOCA advises partners (including Manurewa Marae) that Stats NZ would only accept online census completions from this date. Manurewa Marae collects paper census forms and enters them online.

30 June 2023

Final day for census collections. Manurewa Marae is entering census forms online until the 5 pm cut-off.

6 July 2023

The Stats NZ Privacy Officer notes a discussion with the Stats NZ Regional Manager Community Engagement Lead where **concerns about census forms held at Manurewa Marae were raised**. A phone call to the WOCA manager the following day advised that 'clear instructions' had been sent to destroy all forms.

12 July 2023

Final reporting on census collection by WOCA.

24 November 2023

A meeting between the Chief Executives of Stats NZ and the Electoral Commission. The Electoral Commission Chief Executive notes that they had received an allegation that Manurewa Marae may have misused census data and advised the complainant to raise this with Stats NZ. The Stats NZ Chief Executive checks whether any complaint was received and advises that there were none.

30 May 2024

Media Report – media reporting on concerns around multiple issues in relation to a query (Andrea Vance) to the Electoral Commission raising allegations from former Manurewa Marae staff relating to the Census and the General Election, including:

- inducements (staff paid according to forms completed),
- encouragement to switch to the general roll in Tāmaki Makaurau,
- confidential information (Census Forms) was photocopied and retained by the Marae, passed to Waipareira Trust through Jotforms,
- that this information was later used in the election campaign run by Te Pati Māori's Takutai Tarsh Kemp, who was also the marae's CEO, and
- that community events to encourage completion of the Census were paid for using Community Connection (MSD) funding.

The enquiry was emailed to Stats NZ media enquiries and Kate Satterthwaite on 30 May.

Appendix 3 – List of People Interviewed

Mark Sowden	Chief Executive, Stats NZ
Jenn Bestwick	Chair of the 2023 Census Programme Board
Simon Mason	Previously DCE Census and Collection Operations. Census 2023 Senior Responsible Officer
Karl Le Quesne	Chief Executive, Electoral Commission
Brendan Anstiss	Director 2023 Census Collection & Data Delivery
Atawhai Tibble	Previously Director Te Ao Māori team Te Ao Māori Team- Principal Advisor - Transformation
Les Greeff	Former Director of the Census 2023 Programme Field Collection Manager- 2023 Census Collection & Data Delivery Former National Manager - 2023 Census Collection & Data Delivery Former Regional Manager Community Engagement Lead – 2023 Census Stats NZ Commercial Adviser Involved in the IQA Governance review with WOCA
Allan Halse	Director, CultureShift NZ Ltd Manurewa Marae Workers MSD 'Whistle-blower'

Note: By agreement, written responses to a range of relevant questions posed by Mike Heron KC to the lawyers representing WOCA and the lawyers representing the Manurewa Marae were shared with the Reviewer for the purposes of this Review. These were also taken into account in considering matters of fact, findings and recommendations.

Appendix 4 – WOCA Reporting Information

Engagement with dwellings

Interim reporting tool until data collection app is developed

- Minimum data requirements to report weekly to Stats NZ
- 23 data fields identified using Microsoft forms
- The form has conditional logic based on your first yes/no answer:
 - Yes – drops down into collecting engagement info
 - No – drops down to reasons for enagement happening

Important to note:

- You only need to complete One form per household
- You only need to collect for one person for this household a.k.a the key contact.



TE PAE HERENGA O TĀMAKI

Data Fields – Engagement with households

Data collection fields	Data entry format and option
Date of engagement	Date: dd/mm/yyyy
Kaimahi Name	Free text
Wellness check done	Drop down: Yes, No
Address	Free text
Key contact_Full name	Free text
Key contact_Ethnicity	Drop down: Māori, Pacific, Asian, European, Other
Key contact_Date of Birth	Date: dd/mm/yyyy
Key contact_Gender	Drop down: Male, Female, Binary
No of individuals_age band (0-17)	Whole number: equal to or greater than 0
No of individuals_age band (18-64)	Whole number: equal to or greater than 0
No of individuals_age band (65+)	Whole number: equal to or greater than 0
Census_no. of Dwelling Forms (DF) complete	Whole number: 0,1
Census_no. of Individuals Forms (IF) complete	Whole number: equal to or greater than 0
Census_no. of vouchers given	Whole number: 0,1
Key Contact_Contact number	Free text
Electoral_Enrolled to Vote	Drop down: Yes, No, Unsure
Electoral_what electoral role?	Drop down: General, Māori, Unsure
Electoral_switch roll form completed	Drop down: Yes, No
Electoral_needs help to switch roll	Drop down: Yes, No
Referral to TWOW service	Drop down: Yes, No
Enter here: what KW services are required?	Free text
Engagement outcome	Drop down: census done, census not done, come back another time, declined to engage, no one home, unsafe to enter
OPTIONAL ENTRY_Free text for any other comments	Free text

Appendix 5 - Winter Wellness Checklist – Manurewa Marae

Winter Wellness Campaign **Staff Name**

Winter Wellness Pack discussed

Name

Address.....

Phone#.....

Census Discussed

Orange forms: All questions completed

Purple forms Q:1-15 completed & signed (for every individual over 18yrs)

Census Number

Enrolled to vote Y N (select one)

General or Maori role Y N (select one)

Make the switch form (if applicable) Y N (select one)

Forms checked by kaimahi to ensure all required fields are completed

Referral to Marae services:

Clinic

MMR

Flu vaccination

Social Services

Food bank

Covid

Voucher provided to household

Voucher #

I have received the \$100 voucher for our household

Name..... Date.....

Signed

COMMENTS

Internal Check: Validated Date: Kaimahi CE NK TP

Winter Wellness Pack - additional questions

Ethnicity

Iwi

Dwelling Type

I am in a : Rental Own home Board Social Other

Total # whanau in dwelling

Age breakdown:

Pepi - 0-4 yrs	<input type="text"/>
Tamariki - 5-12 yrs	<input type="text"/>
Rangatahi - 13-21 yrs	<input type="text"/>
Pakeke - 22-64 yrs	<input type="text"/>
Kaumatua - 65+	<input type="text"/>

Household Income Bracket

\$0-\$14,000	<input type="text"/>
\$14,001-\$48,000	<input type="text"/>
\$48,001-\$70,000	<input type="text"/>
\$70,001-\$180,000	<input type="text"/>
\$180,001+	<input type="text"/>
Prefer not to say	<input type="text"/>

Were you impacted by the recent adverse weather (flooding, cyclone) in any way?

Yes	<input type="text"/>
No	<input type="text"/>

Winter Wellness Pack given

Whare Pack
How many?

Tinana Pack
How many?