

In Confidence

Office of the Minister of Statistics

Chair, Cabinet Government Administration and Expenditure Review Committee

Data and Statistics Legislation: Paper 2 - Official statistics system

Proposal

1. This is paper two in a suite of four papers proposing new data and statistics legislation. It seeks Cabinet agreement to policy proposals for modernising the official statistics system.

Executive Summary

2. Official statistics are relied on to guide government's and New Zealand's most important decisions. A trustworthy official statistics system is an indispensable feature of modern and open societies, economies and democracies.
3. New Zealand's statistical system is a distributed system; Stats NZ is the primary, but not the only, producer of official statistics.
4. The system must be resilient and reliable over time and must have a long-term investment horizon. Otherwise, the value of data and statistical assets can be undermined by short-term changes in resources and practices, or by inconsistent practices. Key decision-making roles and accountabilities therefore need to be continued in statute to ensure the framework is effective and enduring.
5. The system must also support data and statistical practices that promote consistency, coherence and comparability and ensure that high quality statistics are produced. The Government Statistician must have the necessary tools to lead and co-ordinate across the system, and producing agencies, including Stats NZ, must follow statistical best practice when applicable.
6. Internationally agreed fundamental statistical principles of professional independence, which require the Government Statistician to determine how statistics are produced and communicated, and statistical confidentiality should continue to underpin new legislation.
7. Provisions of the Statistics Act 1975 (the Act) will need to be modernised and updated including to reflect best practice requirements (domestic and international), improve the description of the Government Statistician's professional independence, better describe the obligations to provide data on request of the Government Statistician and remove exceptions to statistical confidentiality that are no longer applicable.
8. New data and statistics legislation should also enable government agencies to collect specific data on behalf of the Government Statistician, when those agencies

are best placed to do so but may not otherwise collect the data. The safeguards and protections relating to collection and production of official statistics would apply as if the data was collected by the Government Statistician. If the request for data is mandatory, the Minister's approval will be required.

Background

9. Paper one summarises the previous Cabinet Committee and Cabinet consideration of the review of the Act and the 2018 public consultation on high level proposals in *Towards New Data and Statistics Legislation: Public discussion document*.

Opportunity to modernise and improve the official statistics system

10. A trustworthy official statistics system is an indispensable feature of modern and open societies, economies and democracies and should be supported by a strong legal framework for developing, producing and disseminating official statistics.
11. Official statistics are relied on to guide government's most important decisions, and those made by individuals, families, communities, iwi and Māori organisations, businesses, local government and other organisations. For example, they are used to calculate benefit entitlements, determine electoral boundaries, and set the official cash rate (which influences interest rates). They inform evidence-based policy, resource allocation, service design and delivery.
12. Official statistics also:
 - 12.1. provide insights into the performance of government;
 - 12.2. allow New Zealanders to assess the impact of public policies and actions;
 - 12.3. support an open democracy when people use them to engage with and participate in government;
 - 12.4. provide international comparability in a global environment.
13. Stats NZ is New Zealand's primary data and statistics agency. It is our largest producer of official statistics and is tasked with leading and co-ordinating the official statistics system. Stats NZ is also a trusted steward of integrated data from across government and non-government organisations that it securely holds and makes accessible for research and analysis in the public interest.
14. New Zealand's statistical system is a distributed system; Stats NZ is not the only producer of official statistics. Statistics are produced across government by agencies who have direct subject matter expertise, ability to access the data sources required, and the necessary statistical and analytical capability.
15. In a distributed system the policy objectives of system resilience, sustainability, efficiency and value need two enablers:
 - 15.1. effective prioritisation of focus and investment at an all-of-government level;
 - 15.2. good data and statistical practices, consistent across the system.

16. The system must be resilient and reliable over time and must have a long-term investment horizon. Otherwise, the value of data and statistical assets can be undermined by short-term changes in resources and practices, or by inconsistent practices. Key decision-making roles and accountabilities therefore need to be set in statute to ensure the framework is effective and enduring.¹
17. Current decision-making roles and accountabilities in the Act are insufficient and give rise to uncertainty. For example, there is such a narrow focus on data collection through surveys, that the critical importance of administrative data sources and accountability for ensuring the quality of these sources is almost indiscernible.

Complementary roles should endure but with modernisation

18. The Act assigns complementary roles for the Minister of Statistics and the Government Statistician that underpin the effective operation of the system. These roles need to be continued and, in some instances, strengthened, to ensure direction and oversight by the Minister and leadership and co-ordination by the Government Statistician. The assignment of these roles is supported by international expectations for national statistical systems² and by domestic government and public service expectations.
19. The Minister should continue to:
 - 19.1. specify data and statistical priorities, agree statistical work programmes (including multi-year programmes), and confirm government commitments;
 - 19.2. direct that statistics on particular economic, social or environmental phenomena be produced or stop being produced by the Government Statistician.
20. The Government Statistician should continue to:
 - 20.1. co-ordinate and ensure best practice within the statistics system, so that:
 - i. good data and statistical practices ensure sustainable, reliable and relevant statistics continue to be produced;
 - ii. data and statistical assets are maintained, developed, and invested in, in accordance with system priorities, taking into account the primary purposes of collection;
 - 20.2. produce (develop, compile, analyse, abstract and publish, with or without comments) statistics;

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Statutory responsibilities here refer only to those in the Statistics Act 1975, and not the general responsibilities Ministers and Chief Executives have under the State Sector Act 1998 and the Public Finance Act 1989.

²

For example, the *United Nations Handbook of Statistical Organization*, which acknowledges the need for this relationship between the chief statistician and an elected politician.

- 20.3. partner with other national or international statistics offices or agencies to deliver globally comparable data and statistics;
- 20.4. examine and comment on interpretation (use and misuse) of any published statistics;
- 20.5. provide advice to the Minister on statistical policy matters.

Professional independence of the Government Statistician

21. It is an internationally agreed fundamental principle of official statistics that they should be, and be seen to be, produced independently and free from any pressures or interference from political or other external influence. The exercise of professional independence by the Government Statistician is paramount, ensuring the integrity, reliability and trustworthiness of statistics produced.
22. Professional independence requires the Government Statistician to decide on the development, production, dissemination and communication of statistics, including the selection of data sources, concepts, definitions, methods, and classifications to be used, and the timing and content of dissemination and communication of the statistics.
23. I am not proposing any change to the existing policy that the professional independence of the Government Statistician is preserved by legislation. However, I propose that the expression of that professional independence be modernised as set out in the preceding paragraph.
24. This will address concerns raised over the course of the review of the Act that professional independence is not well understood nor adequately described in the Act. This can easily lead to wrongly-held assumptions that Stats NZ is an independent agency or that the Government Statistician's independence is wider than it actually is.
25. I also propose modernising provisions relating to internationally agreed fundamental statistical principles of impartiality and objectivity, so that statistics must be developed, produced, disseminated and communicated in a neutral, reliable, and unbiased manner according to professional standards and statistical best practice. This includes that all users must be given equal and simultaneous access to official statistics.

The role of the Minister of Statistics in deciding what statistics are needed

26. Professional independence is about ensuring the Government Statistician is responsible for the 'how' of statistical production, guided by best practice and internationally agreed standards, while considering the needs of users and the impact on respondents.
27. It is the role of the responsible Minister to ensure that the statistical priorities of the government are met, that is, ensuring the 'what' of statistical production. While in practice, the Minister and the Government Statistician agree on the statistics that

Stats NZ produces, it is important that the Act is transparent about the Minister's role in ensuring that the government's statistical priorities are met.

28. I propose that new data and statistics legislation will, as the Act currently does, provide that the responsible Minister may direct the Government Statistician to start or stop producing statistics. To ensure continued transparency, any direction of the responsible Minister to start or stop production of statistics may be published without comment by the Government Statistician.

Approval of surveys

29. The Act not only provides for the Minister of Statistics to direct or approve production of statistics by Stats NZ, it also requires the written approval of the Minister before any other government agency can start, stop, or substantially alter an existing survey.
30. The Act also includes a power for the Minister to waive or relax this requirement in full or in part. A general waiver was approved by the Minister of Statistics in 1993, and subsequently amended in 1998, with the practical effect being that only Stats NZ seeks approval of the Minister for surveys.
31. The intended policy outcome appears to have been to enable the responsible Minister to manage the burden on respondents by reducing duplication of data requests, and to balance the government's investment in statistical production. This was particularly relevant in the 1970s as the use of social surveys was increasing, shifting away from the almost sole reliance on administrative data.
32. I have considered whether the requirement for government agencies to seek the approval of the Minister before starting, stopping or making a substantial alteration to an existing survey is necessary to achieve the policy outcomes intended and have concluded that it is not.
33. In part, this is because the power to waive the requirement was exercised many administrations ago. More significantly though, the policy objectives of reducing respondent burden and balancing government investment will be achieved through leadership and co-ordination of the official statistics system, improved access to and sharing of data for statistical purposes, and the requirement to follow statistical best practice.
34. I intend to continue the requirement for approval in relation to the Government Statistician's mandatory requests for data (currently understood as a survey power). This provides appropriate oversight of the use of a coercive power exercised by the Government Statistician on behalf of the government.

Leadership and co-ordination

35. Stats NZ undertakes much of the collection and production of statistics; however, many important statistics are produced by other agencies.
36. Thirteen government agencies produce 45 of the 131 Tier 1 statistics (official statistics prioritised by Cabinet on a multi-year basis). For example, the Ministry for

Primary Industries publishes statistics on commercial fish catch and forestry production, and the Reserve Bank of New Zealand publishes statistics on foreign exchange rates and interest rates.

37. While the Government Statistician and Stats NZ have leadership and co-ordination responsibilities for the system under the Act, its primary system focus is a framework under which the Government Statistician and the Minister of Statistics can be informed of statistical surveys being planned, changed or undertaken by departments. The Act recognises the need but does not adequately provide for co-ordination and management of the official statistics system across government.
38. Further, while administrative data (data already collected during the normal course of activity) is a foundational and critical data source for official statistics,³ there are limited mechanisms in the Act for ensuring its quality and continuity of supply. This is unsurprising, given that government departments in the early 1970s managed their administrative records and registers in a technological environment far different than what we experience today.
39. While using administrative data is efficient, lessens the burden on respondents, and is often more accurate and timelier than survey data, it does have limitations.
 - 39.1. Administrative data practices and changes may have unintended consequences for the ability to produce reliable and sustainable official statistics, especially when change is unexpected.
 - 39.2. There may also be coverage gaps, missing or low quality data where specific data is not important for administrative purposes, poor data collection and coding practices, and lack of transparency or traceability and documentation.
40. There have, over time, been ad hoc changes across the statute book designed to ensure the privacy and confidentiality of administrative data provided to government. These are well-intentioned and designed both to promote trust and confidence in government use of data, and to ensure the government has the data it needs to deliver particular services, including regulatory and compliance.
41. However, there are instances where the data protections have unintentionally or unnecessarily limited the Government Statistician from accessing administrative data to produce the statistics New Zealand relies on. One such example, is the Electoral Act. The electoral roll is an administrative record and data source for which there could be significant benefits in improving access for the Government Statistician.
42. I propose that Stats NZ works with affected agencies to identify and agree which barriers to the use of administrative data by Stats NZ should be addressed. I will

3

For example, the Ministry of Health uses administrative data to produce statistics on causes of death, infant mortality, cancer registrations and hospital discharges and the Ministry of Justice does so to produce statistics on criminal convictions and sentencing, and child and youth prosecutions. Stats NZ produces statistics on births and deaths using administrative data from registrations through Births, Deaths and Marriages, Department of Internal Affairs.

report back to the Committee on the outcome of this work and seek necessary agreement to proposed changes prior to introduction of the Bill.

A system focus ...

43. New legislation needs a better system focus that provides more clearly for co-ordination and management of New Zealand's most important statistics across government.
44. One way to do this is to provide for a multi-year, cross-government statistical work programme that drives prioritisation of statistical work across the system by identifying the most important official statistics and those under development or consideration. This is currently done via a Cabinet-agreed and mandated process, referred to as the 'Tier 1 statistics process'. The Tier 1 process was established in 2004 to address weak and fragmented co-ordination and management of the official statistics system.⁴
45. I propose that the Bill incorporate aspects of the current Cabinet-agreed Tier 1 process by providing:
 - 45.1. for a regular 5-yearly, cross-government statistical work programme that identifies and prioritises key data and statistics (for example, those that are essential to government decision-making; of high public interest; need to meet public expectations of impartiality and statistical quality; require long term continuity of the data to provide international comparability or meet international statistical obligations), as well as those that should be considered or developed for the future;
 - 45.2. that the Government Statistician is responsible for leading the development of, and advising the Minister (and Cabinet) on, the statistical work programme;
 - 45.3. that the statistical work programme will be developed in consultation with government agencies, local government, iwi and Māori organisations, interest groups and users of key data and statistical assets more generally..

... with the necessary tools

46. New legislation also needs to ensure that the Government Statistician has the necessary tools to lead and co-ordinate across the system, produce necessary statistics, and advise on, and give effect to, the data and statistical priorities agreed by the Minister. I am therefore proposing that:
 - 46.1. agencies should continue to provide information when requested by the Government Statistician about the development, production, dissemination and communication of statistics by that agency;

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- 46.2. agencies should continue to raise any substantive concerns with the Government Statistician regarding the quality, production, or timeliness of the statistics they produce with the Government Statistician;
 - 46.3. agencies should continue to advise the Government Statistician about their data holdings if the data is being, or is proposed to be, used as a data source for official statistics;⁵
 - 46.4. agencies should consult with the Government Statistician before making changes to their data or statistical collections and/or the systems that collect or hold data, if those changes could impact on the data used for statistical production or the statistics produced.
- 47. UN-endorsed and internationally recognised best practice is that, where the chief statistician is also the chief coordinator of the statistical system, they should have the authority to commit the system to certain standards and quality characteristics.
 - 48. Under the Act, the Government Statistician has duties to define, lay down and promote observance of statistical best practice (standard concepts, procedures, definitions, and classifications), but there is no corresponding obligation on agencies to follow these. This has necessitated other mechanisms, such as Cabinet directions,⁶ being used to address the gap and ensure coherency and consistency.
 - 49. I am proposing to continue the requirement for the Government Statistician to define, lay down and promote observance of statistical best practice (including via guidance, tools, methodologies and standards) but with an additional requirement that agencies must follow these when applicable.⁷

Collecting the data needed for official statistics

Removing reliance on surveys for mandatory data requests

- 50. While administrative data can provide a significant amount of information, surveying continues to be an important way to fill information gaps and validate the quality of other data sources.
 - 50.1. For example, Stats NZ uses both administrative data and its household economic survey to produce child poverty statistics. While administrative data provides more accurate income data than that provided by respondents, it

⁵

⁵ The current requirement applies only to 'documents' which are being used or may be used as sources of official statistics (as would have been the case in the predominantly paper world of the 1970s).

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⁶ Review of the Official Statistical System Stage 2, POL Min (04) 2/7 confirmed by CAB Min (04) 6/4.

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⁷ This proposal extends the current Cabinet mandated standards, protocols and policies set by the Government Statistician for the production of Tier 1 statistics and moves it into law.

cannot be used to improve the robustness of income after housing costs or the material hardship measure due to data gaps.

51. Requiring individuals, households, businesses and other organisations to complete surveys when requested helps ensure that official statistics meet the high standard of quality, reliability and integrity needed by decision-makers and to ensure public trust and confidence. If respondents are not required to comply with data requests, then the statistics produced may not accurately represent New Zealand or New Zealanders and would, among other things, limit the ability of government to develop and measure the impact of public policy.
52. The Government Statistician should, therefore, continue to have the power to make mandatory requests of any person in a position to provide the data needed for official statistics.
53. However, the paper-based focus of the current Act⁸ means there is uncertainty about whether a mandatory data request can be made other than via a traditional survey instrument. For example, while the Act is clear that the Government Statistician can require information from any person in a position to provide it, there is no sanction for failing to comply with a request if not made via a survey.
54. Making it clear that the obligation to provide data applies whenever a mandatory request is made (not just when the request is in the form of a survey instrument) would address this and enable requests for data to be made in a manner which best fits the data source.
55. Under this proposal:
 - 55.1. the form of the Government Statistician's request for data will be appropriate to the data source, accessible to the respondent group and must include sufficient notice of the obligation of the respondent, the information requested, and any other directions of the Government Statistician that would otherwise accompany a survey;
 - 55.2. the Government Statistician will continue to have the ability to make a response (or part thereof) voluntary where:
 - it would be inappropriate to compel answers due to the nature of the information requested (eg, respondents not being required to answer a question about religious affiliation); or
 - the statistical validity of information collected will not be unduly compromised.

Government agencies can be authorised to collect specific data for official statistics

56. When government agencies collect data, it is appropriate that the primary purpose for such data collection is so that they can undertake their functions. However, in some situations an agency may be best placed to collect specific data needed by the

8

Including electronic replication of paper-based forms.

Government Statistician to produce official statistics, but not necessarily needed to perform their own functions. For example:

- 56.1. The New Zealand Passenger Arrival Card (arrival card) collects information to administer laws relating to, for example, customs, immigration, biosecurity, border security, police and health. Stats NZ produces statistics including balance of payments, migration and Gross Domestic Product (GDP) using arrival card information from people living in New Zealand (for example, how long they have been away, which country they will mostly live in for next 12 months) and people not living in New Zealand (for example, how long they intend to stay in New Zealand, which countries they last lived in for 12 months or more).
- 56.2. If these questions were removed from the arrivals card, key economic statistics may be irreversibly compromised. While Stats NZ could conceivably design a separate survey for the same purpose, the administrative inefficiency and potential disruption for arriving passengers would be prohibitive.
57. While Stats NZ works effectively with other agencies to agree data collection to meet administrative and statistical requirements, agencies are increasingly cautious about collecting data to meet an identified statistical need if it is not also needed to deliver an agency function. This may become more pronounced as agencies prepare for implementation of the changes set out in the Privacy Bill currently being considered by Parliament.⁹
58. Making it clear that agencies may collect data on behalf of the Government Statistician will help ensure data is collected efficiently and effectively, not only for Stats NZ and other government agencies, but also for respondents (who may otherwise be required to provide information to several agencies).
59. I am proposing that where the Government Statistician and the Chief Executive of another agency agree (having taken into account relevant considerations such as the impact on the agency, whether the data collection is sustainable over time, and the impact on people or organisations who are asked to provide the data) that the agency will collect data on behalf of the Government Statistician:
 - 59.1. the new legislation should provide the necessary legal authority for that agency to collect the data agreed on behalf of the Government Statistician;
 - 59.2. the approval of the Minister of Statistics would be necessary where the request was mandatory for respondents (in line with requests directly from the Government Statistician);

9

An amendment to Information Privacy Principle 1 (Purpose for collection of personal information) will emphasise that agencies may not require an individual's identifying information if it is not lawfully required for the specified data collection purpose. Despite both section 7 of the Privacy Act and clause 22(2) of the Privacy Bill making it clear that an agency would not be in breach of this principle if the action taken is authorised or required by or under law, there remains a risk that critical data may cease to be collected.

- 59.3. the safeguards and protections relating to collection and production of official statistics would apply.

Modernising the Census

60. The periodic enumeration of population and dwellings (the Census) provides a point in time record of the demographic, cultural, social, economic, and other characteristics of all people in New Zealand, their families and households, communities and housing. The Census allows us to tell the story of social and economic change over time.
61. It provides critically important data about the priorities the government needs to invest in. Central and local government, iwi and Māori organisations, community groups and businesses use Census data for resource allocation, investment planning, policy development and monitoring, service planning and design, academic research, and market research.
62. The Census is also constitutionally significant. Census data is used to set electoral boundaries and to determine the number of general and Māori electoral seats (alongside results from the Māori electoral option) under the Electoral Act 1993.
63. Because of the constitutional significance of the Census, the importance of population statistics, and the obligation on everyone in New Zealand to participate, new legislation should continue to require:
- 63.1. the Government Statistician to undertake the Census every 5 years;
- 63.2. the public to be given sufficient notice of when the Census will be taken and of their obligations to respond.
64. It is important that the Government Statistician can continue to exercise professional independence and effectively respond to changes in Census data needs and methodology. Consultation with users of statistics is required as a matter of course for any data collection, but in recognition of the Census's importance, I am proposing that new legislation include specific consultation requirements.
65. This approach is consistent with the views of most submitters on the 2018 discussion document that public consultation should be required to ensure the Census reflects contemporary issues and meets the needs of Māori and other stakeholders.
66. I also consider there is merit in requiring regular review of the Census so that issues arising from its conduct and any resulting data gaps can be more readily addressed in preparing for the following Census. Reviews following the 2018 Census have demonstrated the value of such a process.
67. I therefore propose that Census provisions be bolstered by adding requirements for the Government Statistician to:
- 67.1. consult with iwi and Māori organisations, government agencies, local government, interest groups(including representatives of disabled people's

organisations), and the public more generally, before making decisions on the content and conduct of the Census;

67.2. conduct a review following each Census and provide the report to the Minister of Statistics.

68. The remainder of the data collection provisions relating to the Census can be modernised to remove unnecessary detail and align with general provisions for collecting data to produce statistics.¹⁰

Statistical confidentiality

69. Statistical confidentiality is a fundamental principle of official statistics and means that individual data referring to natural or legal persons are only used for statistical purposes and accessed only by those authorised under the law to do so. The resulting analysis may only be published or disclosed if direct or indirect identification is highly unlikely.

69.1. Statistical purposes includes the use of individual data for developing, producing, disseminating and communicating statistics through describing, estimating, or analysing characteristics of groups without identifying the individuals or organisations that comprise those groups.

69.2. Statistical purposes does not include using individual data for service delivery, regulatory compliance, law enforcement or other purposes that directly affects the rights and interests of identifiable individuals or organisations.

70. Any exception to statistical confidentiality must be clearly expressed in the relevant statistical law. Unless an exception applies, the Act requires data to be either de-identified¹¹ or confidentialised¹² (with access to de-identified data being only for statistical, research or analytic purposes and publication permitted only once confidentialisation has occurred).

Some changes are needed to exceptions

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The Government Statistician takes into account the purpose and nature of the collection, the required outputs and methodology, the potential burden on respondents, and statistical best practice (for example, the United Nations Principles and Recommendations for Population and Housing Censuses).

11

De-identification removes information to reduce the risk of spontaneous recognition (that is, the likelihood that the person, place, or organisation may be identified without any effort). It typically includes, but is not limited to, removing names, day of birth or death, addresses, and unique personal and business identifiers (eg, IRD numbers, NHI/national health index numbers, or driver licence numbers).

12

Confidentialisation goes further than de-identification and involves applying statistical techniques to group, mask, or scramble data so the identity and/or location of identifiable subjects are not apparent and are very difficult to ascertain.

71. It is appropriate for some exceptions to statistical confidentiality to be retained, but modernised. These exceptions include where:
 - 71.1. the person or business owner has consented;
 - 71.2. the information is already publicly available;
 - 71.3. it is non-sensitive business information;
 - 71.4. the information is related to external trade.
72. I have considered whether the exception allowing disclosure of information provided by local authorities should continue in its current form. I am satisfied that if drafted today, the exception would apply to details about any public service agency (not just local authorities), unless another enactment prevents that disclosure. This aligns with expectations about transparency for public institutions and provides further data to improve decision-making, increase innovation and deliver better public services.
73. I am satisfied that there is no need to continue the exception relating to disclosing particulars of individual fire, accident and life insurance offices. Information that was previously intended to be disclosable under this exception is now mostly provided to the Reserve Bank and not to Stats NZ, or is already covered by other exceptions.
74. As it is no longer used, there is also no need to continue the exception that permits the Government Statistician to disclose identifying information to the New Zealand Meat Producers Board.
75. I am proposing that a new exception is added to permit disclosure of address data (data about an address not about the individual occupants, if any, of that address). Address data serves a broader purpose than the delivery of post, parcels and services – it locates dwellings, businesses, farms, forests, and community facilities to a specific place.
76. For example, Stats NZ's Statistical Location Register (SLR) is a combination of addresses and their geographic points, based on data sourced from Land Information New Zealand, NZ Post, the Census, the Business Register, and building consents. The SLR does not include the names or other details of people living at any address.
77. While the SLR could be used to link social, economic, and environmental data and help inform policies contributing to New Zealand achieving its sustainable development goals, the Government Statistician cannot currently disclose data from the register. This is because some of the data is provided directly by respondents to statistical surveys.
78. Stats NZ will work with Parliamentary Counsel Office to ensure that, in drafting the new exception for address data, the statistical confidentiality required for people living at any address is maintained.

Consultation

79. Officials have consulted with the Accident Compensation Corporation, Te Arawhiti, the Ministry of Business, Innovation and Employment, the Department of Conservation, the Department of Corrections, the Crown Law Office, the New Zealand Customs Service, the Ministry of Education, the Electoral Commission, the Ministry for the Environment, the Ministry of Foreign Affairs and Trade, the Government Communications Security Bureau, the Ministry of Health, the Ministry of Housing and Urban Development, the Inland Revenue Department, the Department of Internal Affairs, the Ministry of Justice, Land Information New Zealand, the National Cyber Security Centre, the Office for Disability Issues, Oranga Tamariki, the Ministry for Pacific Peoples, the Ministry for Primary Industries, the New Zealand Police, Te Puni Kōkiri, the Reserve Bank, the Ministry of Social Development, the Social Investment Agency, the State Services Commission, the Treasury and the Ministry for Women. Officials have also consulted with the Office of the Privacy Commissioner. The Department of the Prime Minister and Cabinet has been informed.

Financial Implications

80. The proposals set out in this package are fiscally neutral at a system/all of government level and are expected to result in an unquantified net fiscal benefit to the Crown over time as the system becomes more reliable and efficient.
81. At some future point there may be additional costs for an individual agency associated with the proposal to authorise government agencies to collect data on behalf of the system that they otherwise would not collect (as discussed in Paper 2). These costs are expected to be marginal and would normally be met within agency baselines. Stats NZ is committed to working with affected agencies to mitigate the impact of these costs if they were to be significant for the agency. Further, any decision about another government agency being authorised to collect data would be made following discussion and appropriate processes, including to address non-marginal costs.
82. Costs associated with Stats NZ implementing updated legislative requirements and operating the modernised obligations and sanctions regime will be met within the agency's baseline.

Legislative Implications

83. Legislation is required to implement the proposals set out in this paper and the accompanying three papers, including replacing the Statistics Act with a new Data and Statistics Act.

84. 9(2)(f)(iv)
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85. Should Cabinet agree to the proposals in this suite of papers, I anticipate being ready to introduce a new Bill to the House in the second half of 2020 with the aim of legislation passing in 2021.

Impact Analysis

86. A Quality Assurance Panel with representatives from the Ministry of Justice, the Regulatory Quality Team at the Treasury, and Stats NZ has reviewed the 'New data and statistics legislation' Regulatory Impact Assessment (RIA) produced by Stats NZ in February 2020. The Panel considers that the RIA meets the Quality Assurance criteria.

Human Rights

87. The proposals in this paper are consistent with the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993.

Gender Implications

88. Improving the quality of, and access to, statistics and the data used for statistical purposes and for research and analysis, will contribute to monitoring the effectiveness of existing policies and other interventions, identifying emerging trends, and providing information on the progress towards better outcomes for women, transgender and intersex populations.

Disability Perspective

89. As better access to quality disability data is a priority in the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), the New Zealand Disability Strategy 2016-2026, and Disability Action Plan 2019-2023, it is important for the disability sector that modernisation of data and statistics legislation creates the opportunity to progress access to quality disability data.

Publicity

90. I will make an announcement on the contents of the Data and Statistics Bill when the Bill is introduced. A commentary on the Bill will be released at this time.

Proactive Release

91. I propose that this Cabinet paper be released proactively on Stats NZ's website. The release will be subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

92. The Minister of Statistics recommends that the Committee:

Complementary roles should endure but with modernisation

1. **Note** that the Minister will continue to:

- 1.1. specify the government's data and statistical priorities, agree statistical work programmes, and confirm government commitments
- 1.2. direct that statistics on particular economic, social or environmental phenomena be produced or stop being produced by the Government Statistician;
2. **Note** that the Government Statistician will continue to:
 - 2.1. co-ordinate and ensure best practice within the statistics system;
 - 2.2. produce (develop, compile, analyse, abstract and publish) statistics;
 - 2.3. partner with other national or international statistics offices or agencies to deliver globally comparable data and statistics;
 - 2.4. examine and comment on the interpretation of any published statistics;
 - 2.5. provide advice to the Minister on statistical policy matters;

Professional independence

3. **Note** that internationally agreed fundamental statistical principles require that legislation preserve, and ensure that the Government Statistician has, professional independence to decide on the development, production, dissemination and communication of statistics, including the selection of data sources, concepts, definitions, methods, and classifications to be used, and the timing and content of dissemination and communication of the statistics;
4. **Note** that the professional independence of the Government Statistician will continue but the expression of it in legislation will be modernised along the lines set out in paragraph 3, above, to ensure it is adequately described and better understood;
5. **Agree** that, in line with the internationally agreed fundamental statistical principles of impartiality and objectivity, the modernisation of the expression of professional independence in legislation include that statistics must be developed, produced, disseminated and communicated in a neutral, reliable, and unbiased manner according to professional standards and statistical best practice, which includes that all users must be given equal and simultaneous access to official statistics;

Approval of surveys

6. **Agree** that the Minister no longer be required to approve the starting, stopping or substantial alteration to surveys by other government agencies producing statistics;
7. **Note** that the Minister will continue to be required to approve the Government Statistician's mandatory requests for data (currently understood as a survey power);

Leadership and co-ordination

8. **Note** that the Act does not adequately acknowledge the role and responsibilities of other government agencies in collecting data for, and producing, official statistics

including Tier 1 statistics (official statistics prioritised by Cabinet on a multi-year basis) or adequately provide for co-ordination and management of the official statistics system across government;

9. **Note** that, while the Act recognises administrative data as a foundational data source for official statistics, it has limited mechanisms for ensuring the quality or continuity of supply of administrative data;
10. **Note** that I will report back to the Committee with proposals for removing ad hoc and unnecessary legislative barriers that limit the Government Statistician's access to administrative data needed to produce the statistics New Zealand relies upon;
11. **Agree** that, to provide a better system focus, the legislation require the Government Statistician to lead the development of, and advise the Minister on, a regular 5-year cross-government statistical work programme that drives prioritisation of statistical work across the system by identifying and prioritising key data and statistics and those under development or consideration, in consultation with government agencies, local government, iwi and Māori organisations, interest groups and users of key data and statistical assets more generally
12. **Agree** that, to ensure the Government Statistician has the necessary tools to lead and co-ordinate across the official statistics system, and to advise on, and give effect to, the government's data and statistical priorities, government agencies must:
 - 12.1. continue to provide information when requested by the Government Statistician about the development, production, dissemination and communication of statistics by that agency;
 - 12.2. continue to raise any substantive concerns with the Government Statistician regarding the quality, production, or timeliness of the statistics they produce with the Government Statistician;
 - 12.3. continue to advise the Government Statistician about their data holdings, if the data is being, or is proposed to be, used as a data source for official statistics;
 - 12.4. consult with the Government Statistician before making changes to their data or statistical collections and/or the systems that collect or hold data, if those changes could impact on the data used for statistical production or the statistics produced;
13. **Note** that under the Act the Government Statistician has duties to define, lay down and promote observance of statistical best practice (standard concepts, procedures, definitions, and classifications) but there is no corresponding obligation on government agencies to follow these;
14. **Agree** that agencies be required to follow statistical best practice, including those practices defined, laid down or promoted by the Government Statistician;

Removing reliance on surveys for mandatory data requests

15. **Note** that the Government Statistician will continue to have the power to make mandatory (as well as voluntary) requests of any person in a position to provide the data needed for official statistics unless the Government Statistician makes the obligation to respond voluntary where:
 - 15.1. it would be inappropriate to compel answers due to the nature of the information requested (eg, religious affiliation); or
 - 15.2. the statistical validity of information collected will not be unduly compromised;
16. **Note** that the Act's paper-based focus means there is uncertainty about whether the Government Statistician can make a mandatory data request other than via a traditional survey instrument;
17. **Agree** to clarify that the obligation to provide information applies whenever a mandatory data request is made (not just when in the form of a survey) and with comparable requirements to a survey (eg, sufficient notice of the obligation of the respondent, accessibility for the respondent group, the information requested and any other directions of the Government Statistician that would otherwise accompany a survey);

Government agencies can be authorised to collect specific data for official statistics

18. **Agree** to provide statutory authority for other government agencies to collect data on behalf of the Government Statistician for statistical purposes;
19. **Agree** that the Government Statistician will determine whether a request for data for statistical purposes from that government agency on behalf of the Government Statistician will be voluntary or mandatory for respondents and, if mandatory, the approval of the Minister of Statistics will be required as if it were a mandatory request by the Government Statistician;
20. **Note** that the data collected would be treated as if collected by Stats NZ, and the safeguards and protections relating to the collection and production of official statistics would apply as if the agency was Stats NZ;

Modernising the Census

21. **Agree** that the new legislation will continue to require that:
 - 21.1. the Government Statistician undertake the Census every 5 years;
 - 21.2. the public be given sufficient notice of when the Census will be taken and their obligations to respond;
22. **Agree** that the Census provisions will require the Government Statistician to:
 - 22.1. consult with iwi and Māori organisations, government agencies, local government, interest groups (including representatives of disabled people's

organisations), and the public more generally, before making decisions on the content and conduct of the Census;

22.2. conduct a review following each Census and report the results of the review to the Minister of Statistics;

23. **Agree** that the remainder of the data collection provisions relating to the Census be modernised to remove unnecessary detail and align with general provisions for collecting and producing official statistics;

Statistical confidentiality

24. **Note** that statistical confidentiality (individual data referring to natural or legal persons are to be used only for statistical purposes and accessed only by those authorised under the law to do so, and the resulting analysis may be published or disclosed only if direct or indirect identification is highly unlikely) is an internationally agreed fundamental principle of official statistics and any exception must be clearly expressed in the relevant statistical law;

25. **Note** that statistical purposes:

25.1. includes the use of individual data for developing, producing, disseminating and communicating statistics through describing, estimating, or analysing characteristics of groups without identifying the individuals or organisations that comprise those groups;

25.2. does not include using individual data for service delivery, regulatory compliance, law enforcement or other purposes that directly affects the rights and interests of identifiable individuals or organisations;

26. **Agree** that the current exception for information supplied by a local authority be continued but extended to include details about any public service agency, unless another enactment prevents that disclosure;

27. **Agree** that the exceptions for particulars about individual fire, accident, and life insurance offices, and for certain specified information to be provided to the New Zealand Meat Producers Board, are no longer required;

28. **Agree** that the Government Statistician may disclose address data (information about an address not about the individual occupants, if any, of that address).

Authorised for lodgement

Hon James Shaw
Minister of Statistics

Date:

Proactively released