

Code of Practice – Reasons for Approval

(Information Act 2002, s.73)

	Department of Corporate and Digital Development (DCDD) Department of Children and Families (DCF) Department of Health Department of Corrections Department of Housing, Local Government and Community Development Department of Education and Training Attorney-General's Department Northern Territory Police (the Participating Agencies)
Subject:	Approval of draft Code of Practice for the use of data matching technology in the 360VoC Project
Date of Decision:	5 November 2024

Background

1. DCF is the primary proponent of a new inter-agency information sharing system known as the 360° View of the Child (**360VoC Solution**). The 360VoC Solution is intended to be instrumental in implementation of amendments to the *Care and Protection of Children Act 2007* (the **CPC Act**) which provide for Data Access Agreements (**DAAs**) that allow specified data sets of information about a vulnerable child and about those with a close connection to the child to be provided to DCF by various public sector organisations. DCDD as NTG Digital Services Manager has developed the 360VoC Solution as a technological solution that will facilitate automated data transfer from those agencies to DCF in line with DAAs.
2. A number of Participating Agencies are now party to DAAs for the transfer of information to DCF. Due to machinery of government changes, processes for DAA approval in respect of two new agencies are under way and expected to be completed by the end of 2024. The DAAs authorise the automated transfer of key information detailed in schedules to each DAA. However, it is acknowledged that, in many cases, review of this key information is likely to point to a need for further enquiries, that may be pursued with Participating Agencies, under other legislative authority.

3. In order to function effectively, and to protect the privacy of individuals, the Participating Agencies have sought to implement a system of data matching to ensure that information that is transferred is limited to information about the right people. In other words, they wish to take all reasonable steps to ensure that the information that is transferred relates to the people they are seeking information about, and not someone who happens to share a similar name or other identifying feature.
4. To do this, they have developed a technical solution, through use of master data management (**MDM**) technology, that will data match identities without human access or intervention. This is anticipated to match or discount identities in most cases without human intervention. However, for this to work, it is necessary for the MDM to have access to identity data on relevant systems (**Agency Identity Data**) for everyone on the system. This is not limited to children on DCF databases or their close connections. It will extend to everyone on the relevant databases. However, it will be limited to identity data and will not be included in the 360VoC Solution or, except in the limited circumstances discussed below, be accessible to DCF staff.
5. There will be a proportion of cases where the MDM throws up an inconclusive result, where there is doubt about whether the person on a relevant system of an agency is the same person as the one identified on the DCF system. In such cases, there may be a need for staff from DCF and the relevant Agency to access Agency Identity Data in order to liaise and either discount the person or confirm they are the same person, before any information is transferred to the 360VoC Solution.
6. While the Participating Agencies are confident the transfer of substantive information is authorised under the CPC Act, there is a concern that the collection and use of the Agency Identity Data for the purposes of the MDM would be contrary to the Information Privacy Principles (**IPPs**) under the *Information Act 2002* (the **IA**).
7. The proponents have therefore developed and submitted to me a draft Code of Practice (**attached**) to facilitate and govern this data matching process. The draft Code includes considerable detail which I accept and rely on but have not necessarily repeated in these reasons for decision.

Relevant provisions

8. The *Information Act* provides a process for approval of a draft Code of Practice that may:

- (a) *specify:*
 - (i) *the manner in which the organisation is to apply one or more [Information Privacy Principles] IPPs; or*
 - (ii) *the manner in which the organisation is to comply with one or more IPPs;*
or
- (b) *apply in relation to:*
 - (i) *specified personal information or a specified class of personal information;*
or
 - (ii) *a specified activity or a specified class of activities; or*
- (c) *modify an IPP, but only if:*
 - (i) *the organisation is not otherwise capable of complying with the IPP; and*
 - (ii) *the draft code modifies the IPP only to the extent necessary to enable the organisation to comply with the IPP; and*
 - (iii) *the draft code gives effect as nearly as possible to the objects of the IPP.¹*

9. The IA further provides that the matters a draft code may provide for include but are not limited to the following:

- (a) *the control of data matching and data linkage for the purpose of producing or verifying personal information;*
- (b) *how a public register is to be kept so as to comply with the IPPs to the extent that it is reasonably practicable to do so given the requirements imposed by or under an Act for keeping the register and making it available for public inspection;*
- (c) *the review of the draft code by the organisation, including the review procedure;*
- (d) *when the draft code is to cease to have effect.²*

¹ IA, s 72(2).

² IA, s 72(3).

10. The Information Commissioner may approve a draft code if satisfied that:
- (a) *the draft code substantially complies with the objects of this Act in relation to the personal information to which it applies; and*
 - (b) *the public sector organisation will be able to comply with the draft code; and*
 - (c) *the draft code is not contrary to the public interest.*³
11. Each public sector organisation must comply with an approved code of practice. If there is inconsistency between an IPP and a code of practice, to the extent of the inconsistency, the IPP does not apply and the organisation must comply with the code of practice.⁴
12. As the draft Code acknowledges, it is important to note that any code of practice can only be effective in respect of departures from IPPs in the IA. Different organisations may well have other legal obligations that limit use or disclosure of information. It is a matter for them to determine and address the extent of any such limitations.

Context

13. The applicants have previously advised that:
- a. The 360VoC Solution is in response to the key findings and recommendations from the 2016-17 *Royal Commission into the Protection and Detention of Children in the Northern Territory* (the **Royal Commission**). The Royal Commission identified the sharing and reporting of information relating to vulnerable children and youth as a critical and urgent area for improvement, with a number of recommendations specifically addressed to data and information sharing.
 - b. The current process for information-sharing is a manual one, which is both labour-intensive and time-intensive, and means that DCF caseworkers do not have accurate, complete and up-to-date information about children and youth in vulnerable circumstances.
 - c. Different government agencies are managed independently and utilise different rules, standards and practices for collecting and maintaining data and there is no

³ IA, s 73(2).

⁴ IA, s 79.

single, centralised system for recording information about vulnerable children, making it extremely challenging to identify a single person across multiple systems.

- d. In order to address these issues, DCF has identified comprehensive information sharing and reporting requirements for child protection, youth justice and adoptions.
 - e. With the assistance of DCDD, the aim is to provide a technical solution, to assist case workers and other key internal stakeholders to protect the safety and wellbeing of children through timely access to information about them.
 - f. The design of the 360VoC Solution will allow DCDD to facilitate automated inter-agency data-sharing to DCF from the other organisations. The proposed design is for the following purposes:
 - (i) to match a single person across the organisations multiple systems and DCF's existing database to:
 - (A) a particular child or young person who has been identified by DCF as being vulnerable and/or at risk; or
 - (B) linked or related people to the child (e.g. the child's household members, and immediate family members or other family members as understood by reference to Aboriginal kinship systems) (**Close Connections**);
 - (ii) to enable DCF to receive automated notifications when specific forms of data are uploaded into an originating agency's system, about incidents or events involving a child or their close connection; and
 - (iii) to establish a single repository for information about the safety, health and wellbeing of each child (the **360VoC Data Hub**).
14. A draft Code of Practice was made available for public consultation at the same time as draft DAAs. A number of issues were raised by stakeholders regarding the draft DAAs but I am not aware of any specific issues raised in respect of the draft Code. The attached draft has subsequently been provided to me with minor alterations to accommodate machinery of government changes.

15. DCF has briefed me on the issues raised and its responses. Issues which I regard as having particular significance are around ensuring adequate levels of training and audit. Assurances were provided in that regard.
16. Other issues such as Indigenous data sovereignty and governance were recognised as important areas that DCF, and the NTG as a whole, will need to address in the future.
17. A further issue raised was the considerable extent of information that would be disclosed in the 360VoC Data Hub, not only in relation to children but also in relation to their close connections. In recognition of that feedback, the scope of DAAs was narrowed slightly but the extent of information that will be disclosed remains substantial.

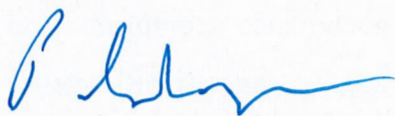
Consideration

18. It is important to note that the scope of the draft Code only extends to data matching aspects, not the entirety of the 360VoC Solution. However, the aims of the 360VoC Solution are relevant when considering the justification for the draft Code.
19. Bearing that in mind, I consider that the draft Code falls within the scope of sections 72(2) and (3) of the IA and am satisfied as to the factors set out in section 73(2).
20. Turning first to consideration of the public interest, the information sharing objects underlying the DAAs are clearly supported by specific amendments to the CPC Act, which have been debated and passed by the Legislative Assembly. As far as I am aware, that debate did not traverse the specific means by which the new provisions would be implemented. However, it is not surprising that organisations would seek to utilise technology to streamline processes, given the importance of, and often urgent need for, information sharing. Even so, the technology must ultimately be designed to meet the legal and procedural requirements and the policy objectives endorsed by the Legislative Assembly, rather than dictating them.
21. The project is a substantial one relating to information sharing between organisations that has an objective clearly endorsed by Parliament. It involves significant intrusion into the lives of children and their close connections. The level of this intrusion should not be downplayed. It is a level of intrusion that should be subject to careful monitoring and ongoing review to ensure it is justified by positive outcomes. However, bearing in mind the importance of the statutory objective, and urging close attention to continuing

assessment of the intrusion, risks and benefits on the Participating Agencies, I acknowledge there is a significant public interest in facilitating the 360VoC Solution.

22. Weighing against the public interest in facilitating the 360VoC Solution in this manner is the proposed use of personal information of individual Territorians, including Agency Identity Data of Territorians who have had no contact with DCF, and are included solely because they have had some dealings with one of the Participating Agencies. The envisaged use of this identifying information for data matching is nevertheless strictly limited, as is the number of people who may have access to it.
23. Individuals who have personal information held by a particular organisation would not ordinarily expect it to be shared with other organisations without their consent or without a compelling reason. However, in this case, the use of their Agency Identity Data will have a protective effect on their other personal information because it will be used to discount people who are not identified as matches, so that their information is not erroneously transferred to DCF.
24. There are also considerable protective measures built into the draft Code and the DAAs, for example, in terms of education, audit, governance, complaint and review mechanisms, to safeguard confidentiality and privacy in respect of both Agency Identity Data and other information relating to children and their close connections.
25. There is always a risk that information held by government will be accessed by malicious outsiders through cyber security breaches. However, all of the identifying information in question is already held by government and so already subject to that risk. The potential for such breaches is carefully guarded against and use of the identifying information for this purpose does not materially increase that risk.
26. Given the limited scope of the Agency Identity Data in question, the parliamentary endorsement of information sharing in this regard, the clear public interest intent in facilitating protection of vulnerable children, the protective effect of the data matching on the other personal information of people not covered by the DAAs, and the other protective measures incorporated in the draft Code and DAAs, I am satisfied the draft Code is not contrary to the public interest and substantially complies with the objects of the IA in relation to the personal information to which it applies.

27. There has been considerable interaction between the various Participating Agencies and between them and my Office over an extended period in relation to the project as a whole and the drafting of the Code. The proponents have also obtained legal advice and assistance in relation to various issues, including drafting of the Code. I am satisfied that the Participating Agencies will be able to comply with the Code.
28. I am further satisfied that the draft Code modifies the IPPs only to the extent necessary to enable the Participating Agencies to carry out their legislated functions and that it gives effect as nearly as possible to the objects of the IA and the relevant IPPs. I consider the Code is not contrary to the public interest.
29. I have therefore decided to approve the Code (in the form attached). The approval is solely for the purposes of the 360VoC Solution. It does not extend to use for any other purpose. It will apply to each of the Participating Agencies, although it will only have relevance to the extent that a DAA is in force in respect of the particular agency. I will take steps to publish notice of approval in the *Gazette*.



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Peter Shoyer

Information Commissioner