

## **Application for Grant of Authorisation**

*(Information Act, s.81)*

<b>Applicant:</b>	Northern Territory Police Fire and Emergency Services (NTPFES)
<b>Subject:</b>	SupportLink and mandatory reporting referrals to the Department of Children and Families
<b>Date of Decision:</b>	24 February 2016

### **Decision and Reasons for Decision**

1. I have decided to grant a further authorisation under s 81 of the *Information Act* to allow the Northern Territory Police Fire and Emergency Services ('NTPFES') to depart from Information Privacy Principle 2 in order to use the systems provided by Supportlink to refer mandatory reporting matters concerning risks to vulnerable children to the Department of Children and Families ('DCF').
2. An authorisation was previously granted in relation to this type of breach of the Information Privacy Principles ('IPPs') from 25 January 2016 to 25 February 2016 while stakeholder consultation could be undertaken as to the appropriateness of a longer term breach.

#### ***Stakeholder Consultation***

3. Three organisations were provided with information about the proposal and given the opportunity to comment: DCF, the Northern Territory Legal Aid Commission ('NTLAC'), and the North Australian Aboriginal Justice Agency ('NAAJA'). Both DCF and NAAJA responded to indicate they had no submissions they wished to make. Submissions were received from NTLAC.
4. NTLAC objected to the proposed grant on the basis that:

*We do not believe that the stated purpose provides a basis to exempt NTPFES from the IPPs. It is our view that, unless there is the consent of the person concerned,*

*mandatory child abuse notifications should be made directly by police to the Department of Children and Families rather than via Supportlink.*

5. In response to specific questions raised in the stakeholder consultation documentation, NTLAC provided the following further information:
  1. *We are not aware of any privacy breache[s] that have occurred as a result of Supportlink.*
  2. *We believe that Supportlink is of benefit to the community and individuals.*
6. NTLAC is itself a SupportLink partner and noted that it 'places a high value on the role of the agency in the NT.'

#### **Consideration of Relevant Factors**

7. In my decision in relation to the previous, short-term grant, I set out my consideration of relevant factors. Much of that information is now set out again below for convenience, with the addition of considering the responses obtained through stakeholder consultation.
8. Police members are required by legislation to refer mandatory reports, such as child abuse notifications to DCF. NTPFES have been making such referrals from some time, however historically these referrals were made by members in a more manual fashion and involved the composition of an email and determining correct contact details. Since 2013 those referrals have been made through SupportLink, an external service provider which maintains an electronic system which links the NTPFES to a range of organisations who provide early intervention and support services in relation to vulnerable youth, domestic violence, substance abuse, and sexual abuse.
9. SupportLink is used by NTPFES to put members of the community in touch with relevant services with their consent. SupportLink removes the need for individual members to identify and manually contact all the relevant services. Use of SupportLink by consent is not a breach of the IPPs.
10. However, mandatory referrals are by their nature not consensual. While the legislation requires DCF to be contacted, it does not authorise NTPFES to use SupportLink to do so. It therefore appears to technically be a breach of IPP 2 to use SupportLink for this purpose. I am advised that as soon as NTPFES received legal advice to this effect, they ceased use of SupportLink and required members to make manual referrals instead.
11. NTPFES has expressed concern that the number of referrals being made manually is significantly lower than the number made when SupportLink is available, and have requested that a Grant of Authorisation be made for an interim period while consultation is carried out.

12. In support of this request, the NTPFES has submitted that the risks to the privacy of individuals is low because:

- referrals via SupportLink have been used for a couple of years and no privacy breaches have been reported;
- SupportLink itself is the only additional third party that will be able to see the mandatory referral information (besides NTPFES and DCF);
- SupportLink is a well-established organisation that provides similar services in Queensland, the ACT, and Victoria;
- SupportLink has in place substantial security mechanisms (hardware is located in secure Australian locations, electronic data has software protections, communications between locations are encrypted, and detailed audit logs are kept and regular successful external audits have been conducted);
- SupportLink's contract with the NTG requires it to comply with the provisions of the *Information Act (NT)*;

13. Further, NTPFES has submitted that the benefits of SupportLink include:

- the ability to analyse and report on the number of referrals;
- the ability to effectively follow-up on whether action has been taken in relation to referrals;
- increased efficacy of the mandatory reporting system, and the consequent benefits for children and families at risk; and
- more accurate data is obtained about the mandatory reporting system, allowing for more effective policy responses to related issues.

14. The responses received from stakeholders did not include any information which added or detracted from the known risks of the proposal, except to say that the stakeholders were invited to comment on any known privacy breaches involving SupportLink, and I assume that any known breaches would have been brought to my attention. The absence of any known privacy breaches is consistent with other evidence that supports a view that SupportLink has measures in place to handle even very sensitive information appropriately.

15. In considering the risks of using SupportLink, I note that the alternative process of using email is not risk-free. Similarly to SupportLink, technical servicing of the NTG email system must be performed by IT staff, which may include a range of government employees and contract service providers. I am not convinced that an organisation like SupportLink, which has a business model built around treating highly sensitive information securely and has no known breaches, is a greater risk than the default NTG model. In some ways, there may be less risk of a breach given that the interstate-based technical staff of SupportLink are less likely to have an interest in the information in question than local NT persons who may know the persons involved. This is not to suggest that NTG staff or their contract service providers are engaged in breaches, but simply to point out that the alternative system also inherently carries its own privacy risks.

16. It should be noted that the Grant of Authorisation now being made will not absolve SupportLink from responsibility in the event of a privacy breach due to their inappropriate handling of the personal information in question. If a SupportLink staff member treats the information inappropriately, or if SupportLink fails to maintain adequate security of the information, that may result in breaches of IPP 2 or IPP 4. When handling personal information on behalf of the NTPFES, SupportLink is deemed to be part of the NTPFES. Clause 2.36 of the Conditions of Contract between NTPFES and SupportLink shifts liability for breaches of the IPPs to SupportLink in accordance with section 149 of the *Information Act*, and provides fairly comprehensive stipulations aimed at ensuring compliance with the IPPs.
17. Under section 81 of the *Information Act*, I have the authority to authorise the collection and use of personal information in a manner that would otherwise contravene IPP 2 (use and disclosure). I may only grant this authorisation if I am satisfied that:
- the public interest in collecting or using the information outweighs to a substantial degree the interference with the privacy of persons that might result from collecting, using or disclosing the information; and
  - the benefit to persons of collecting, using or disclosing the information outweighs the interference with the privacy of those persons that might result from collecting, using or disclosing the information.
18. Based on the information now before me, I am satisfied of both limbs of this test.
19. I have made a Grant of Authorisation for a term of 2 years, subject to the terms and conditions set out in that Grant. NTPFES should contact this Office several months prior to the Grant expiring if they wish to seek a further Grant in similar terms.

## Grant of Authorisation – No. 2 of 2016

I grant an authorisation under section 81 of the *Information Act* in the following terms:

<b>Organisation</b>	Northern Territory Police Fire and Emergency Services ('NTPFES')
<b>Authorisation</b>	To depart from IPP 2 by using and disclosing personal information for the purposes of providing mandatory reports of child abuse to the Department of Children and Families via the external third party provider SupportLink by use of the electronic 'Child Abuse Report Form'.
<b>Terms and Conditions</b>	<ol style="list-style-type: none"> <li>1. NTPFES will maintain a register of any alleged or proven privacy breaches of the IPPs by SupportLink which come to its attention during the period of this Grant.</li> <li>2. NTPFES will make three reports to the Information Commissioner on the effectiveness and impact of the authorisation. The reports will include the number of referrals made to date using the authorisation, and a summary of the contents of the register specified in condition 1. These reports will concern: <ol style="list-style-type: none"> <li>i. the period 24 February 2016 to 24 February 2017, and be provided to the Information Commissioner by 30 March 2017.</li> <li>ii. the period 24 February 2017 to 24 February 2019, and be provided to the Information Commissioner by 30 March 2019.</li> <li>iii. the period 24 February 2016 to 31 December 2020 and be provided to the Information Commissioner by 31 January 2021.</li> </ol> </li> <li>3. This Grant will continue to apply in the event that the Department of Children and Families ('DCF') or NTPFES is re-named, re-structured, or amalgamated with another Department.</li> <li>4. This Grant will cease to apply immediately if any legislative amendments commence which revoke or modify the statutory provisions concerning mandatory reporting of child abuse.</li> <li>5. This Grant will cease to apply immediately if clause 2.36 of the contract between NTPFES and SupportLink is modified or removed and is not replaced by a clause in identical terms.</li> <li>6. This Grant only applies to use of SupportLink and not to any other contract service provider.</li> <li>7. This Grant does not authorise SupportLink to provide access to the data it receives through the Child Abuse Report Form to any persons or organisations other than DCF, NTPFES, or to its own employees and subcontractors beyond what is reasonably necessary for technical maintenance of the data and its security.</li> </ol>

<b>Length of authorisation</b>	Until 25 February 2021, or earlier termination by the Information Commissioner.
<b>Date</b>	24 February 2016

**NOTE:** This authorisation only extends to departures from IPP 2 as stated above. The organisation remains bound by the IPPs in all other respects. The authorisation does not allow departure from any other restrictions or requirements that bind the organisation.



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**Brenda Monaghan**  
**Information Commissioner**  
**Northern Territory**