

Te Mana Raraunga Statement on Social Licence

May 2017

The Government asserts that data is a national strategic asset and wants Aotearoa New Zealand to be a world leader in the trusted use of shared data. This includes data about iwi, about Māori, and about our resources.

The Data Futures Partnership (the Partnership) is an independent group funded by Government to lead the development of a high-trust data system. The Partnership has been engaging with thousands of New Zealanders to understand their views on Social Licence and how their data should be used and shared, with a specific focus on:

- sharing personal health data;
- the internet of things;
- social investment.

Social licence is an informal process that has no legal basis, and can be lost as circumstances change. The Partnership has been tasked by the Government to develop guidelines on social licence which public and private organisations can use to develop a social licence for data use. It is intended that these guidelines will:

... set out the ways in which those working with data can build confidence by using data safely and in a way that will be of benefit to individuals and the wider public. Our guidelines, which we hope to draft by the end of 2016, will seek to address people's key concerns and set out steps organisations should take to use data in a way that is understood and trusted by individuals.¹

Te Mana Raraunga sees the need for a clear distinction to be made between individual and collective acceptance of data use and sharing. In the context of the Partnership's work, we view **Social licence** as the ability of an organisation to use and share data in a legitimate and acceptable way, based on the trust that **individuals** have. We view **Cultural licence** as the ability of an organisation to use and share data in a legitimate and acceptable way, based on the trust that **iwi and Māori Treaty partners** have.

We are concerned that the Partnership's approach to social licence is conflating individual and community acceptability of data use and sharing. There are many instances where individual-level data can be aggregated to identify population groups or collectives such as iwi or Māori entities. In this context the individual's barometer of trust in relation to their own personal data is an insufficient indicator of the group's level of comfort with the use of data about them. While an individual's acceptance can inform social licence, group acceptance through mandated structures is a more appropriate barometer of trust for data that can be aggregated to represent a group. This is particularly important for any Māori collective (e.g., whānau, hapū, iwi) that has an interest in aggregated data sets. We note that the difference between individual and collective consent is already a recognised

¹ <http://datafutures.co.nz/assets/Uploads/DFP-Engagement-doc-FINAL.pdf>

component in the ethical consideration of health and social research in Aotearoa New Zealand.

The ability to share linked individual-level data with group identifiers is already informing approaches to Social Investment, and has both risks and benefits. It makes sense that the public consultation on social licence has used a risk/value matrix to gauge where individuals think the boundaries should be set. However a key issue that has been overlooked is the relative distribution of the collective risks and benefits for iwi/Māori. In the context of research, the experience of Iwi/Māori is that the benefits accrue to society and the risks of the research are carried by our communities. Kaupapa Māori research and other collaborative approaches address this concern by providing meaningful opportunities for Iwi/Māori to participate in the development of projects to ensure that the benefits to their communities are clear, equitable and tangible.

For Aotearoa New Zealand to become a world leader in the trusted use of shared data, it also needs to become a world leader in the trusted use of Indigenous (Māori) data. This is a significant opportunity and challenge for the Partnership and the Government.

As the Māori Data Sovereignty Network, Te Mana Raraunga is committed to protecting and securing Māori rights and interests in data. Our view is that the proposed Guidelines for Social Licence should acknowledge the importance of Cultural Licence, the distinctive rights and interests of iwi/Māori as Treaty Partners, and Iwi/Māori aspirations to derive equitable benefits from data as a counterbalance to the significant collective risks. For Iwi/Māori to derive clear and equitable value from data use the guidelines would need to make provision for '**data for governance**' (access to data for iwi/Māori decision making), and '**governance of data**' (involvement in decisions about data access and use).

Te Mana Raraunga would support the drafting of appropriate text for inclusion in the guidelines and are open to engaging in a conversation about the development of more substantive guidance around Cultural Licence.

Contact on behalf of TMR:

Professor Tahu Kukutai
Associate Professor Maui Hudson
te.mana.raraunga@gmail.com