

Te Kāhui
Whaihanga
New Zealand
Institute of
Architects



COVID-19 Info

COVID-19 – Community contact tracing and privacy concerns

On Monday 20 April 2020 at 4pm, the Prime Minister made an announcement that New Zealand will be coming out of Alert Level 4 Lockdown on Monday 27 April at 11:59pm. The lowering of the alert level means the types of businesses who can open their doors moves from businesses that are deemed 'essential' to those that are considered 'safe'.

As construction sector businesses (**Practices**) start preparations to return to work, several important health and safety measures will need to be taken to help keep employees safe from COVID-19. In New Zealand, so far, the majority of COVID-19 cases have come from overseas and once a case has been identified, the Ministry of Health (**MOH**) and District Health Boards (**DHB**) use community tracking to identify those people who may have been exposed to COVID-19 through a process called contact tracing.

Under Alert Level 3, New Zealanders are being asked to keep a daily record of their movements, including who they have come into contact with. As part of health and safety responsibilities as a PCBU, Practices will also need to demonstrate the ability to effectively trace anyone who has been in contact with its employees and workplace. This not only includes knowing where your staff have been and who they have come into contact with, but also who from outside your workplace has come into contact with your employees (e.g. couriers, cleaners and security for example).

The need to record this data raises privacy issues for Practices, including, storing and disposing of the information. Practices will need to prepare for this in advance of entering Alert Level 3 as the timeframe for providing this information to the MOH, should it be needed, will be rapid. Practices need to prepare, either for themselves, or to arrange protocols on what information a Practice can share with other businesses as they prepare for Alert Level 3.

In summary, a Practice should consider the following:

- **Create a contact register.**
Refer to '[Contact Register](#)' for a discussion on the type of information that is required to be collected.
- **Review and update the Practice's privacy policy.**
Refer to '[Collection](#)' for a discussion on the risks associated with collecting personal data.
- **How will the information collected be used?**
Refer to '[Use of Information](#)' for a discussion on the on the risks associated with using a person's data.
- **When to dispose of the contact information.**
Refer to '[Retention and Disposal](#)' for a discussion on how to keep a person's personal data safe, and when should the data be disposed of.

Outlined below is a discussion about the above key issues that arises from contact tracing which Practices need to consider:

Contact Register

The **MOH has issued guidelines** for hospitality establishments which are a helpful guide for Practices to understand what type of personal information is required to be provided by anyone who comes into contact with a Practice's employees. The MOH suggests the following information will be required to be provided:

- a. Date
- b. Time of visit
- c. Full name
- d. Address
- e. Phone number
- f. Email address

The contact registers are an important tool for helping the MOH and the DHB trace those people who may have come into contact with a person who has COVID-19. Practices must also continue to comply with the requirements of the Privacy Act 1993 in the collection and use of this information.

Collection

The purpose of collecting the information is to provide it to the MOH or DHB for community contact tracing. This should be made clear to clients, colleagues and staff, and a Practice should ensure the information is recorded and stored in a way which is easily and readily accessible at short notice. Contact tracing requires health officials to be able to quickly tell who an individual has come into close contact with, within a specified time frame. Practices should consider the following:

- a. A Practice must ensure clients, colleagues, suppliers and staff are aware that a Practice is collecting their information in a register, why a Practice is doing this and what will happen to their information once collected. The Privacy Commissioner suggests the following statement is to be used when collecting any information:
 - i. *This information is being collected to assist in the management of the COVID-19 pandemic. It will be given to the Ministry of Health and/or the District Health Board on request in the event that it is required for contact tracing purposes. We will not use it for any other purpose, and will destroy it after four weeks. It will be kept here at [name of practice/business]. You have a right to access and correct any information we hold about you.*
- b. When collecting the information, whether manually or electronically, a Practice must ensure it limits the exposure of an individual's information to anyone other than the MOH or DHB. If collection is via a paper register, Practices should take reasonable steps to ensure the information of other people on the register is not disclosed.
- c. Practices may consider storing the information by date, location, or other ways, to make it simple and straightforward to access. Upon request by a health official, you may need to provide multiple days' worth of records.

Use of Information

A Practice is likely to be requiring clients, colleagues, suppliers and others to provide information they wouldn't normally have to provide. This should be done in a careful way, and this isn't an appropriate occasion to be building a Practice's customer contact database.

It is not illegal to collect potential clients contact details for the purpose of future contact in relation to a Practices business. But, if a Practice decides to do so:

- a. This must be made expressly clear at the time of collection.
- b. It must be clear to potential clients that they don't need sign up to a mailing list as part of providing contact tracing information.
- c. Give customers the clear ability to opt out or make it an express opt-in requirement.

A Practice will also need to collect information about staff movements. Make sure your Practice maintains an open dialogue about this, acts in good faith, ensures access to any such information is tightly controlled, and the Practice follows appropriate workplace relations, practices and policies. Each employee should be asked to keep a diary of any daily movements outside their "bubble" and the Practice premises, including transport, to ensure the contact record is complete if required. Likewise any health concerns of the employee, or a person in their bubble, should be discussed "at distance" with their employer before coming to work, to ensure the safety of other people in the Practice's workspace, and ensure the record is complete if required by the MOH.

Retention and Disposal

A Practice needs to ensure the information collected is kept only for as long is reasonably necessary for the purposes of collection. Public health guidelines suggest that after four weeks, the Practice securely disposes of the information.

A Practice should not be tempted to keep hold of the information for future use (unless the practice has an express agreement to do so).

Whether the Practice is collating the information physically or electronically, the Practice must make sure the information is stored securely. Files must be locked away, with limited access and a means to record who has accessed the information and when. At the same time, ensure the information is readily available to give to health officials if required.