

# TERMS OF REFERENCE FOR MULTI-STAKEHOLDER GROUP

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**These Terms of Reference have been prepared to support the activities of the Multi-Stakeholder Group. They are required to be read alongside the contract for services with individual members.**

**Where there is any inconsistency between the contract for services and these terms of reference, the terms of the contract for service will prevail.**

## Introduction

1. Disinformation is not a new issue, but the way that people around the world access and consume information has changed radically in the digital era. In Aotearoa there is growing concern about the effects of disinformation, but there is also awareness that intervention against disinformation can create privacy and human rights risks.
2. Disinformation is part of a broader digital resilience challenge for liberal democracies around the world, as they struggle to navigate the negative effects of disruptive digital technologies while preserving their openness and fundamental freedoms. There is a spectrum of online harms, of which most disinformation is legal and fits within definitions of protected or political speech.
3. Many of the underlying contributors to the spread of disinformation in New Zealand are long term and intergenerational. For example, economic inequality, distrust of government and its institutions, and the legacy of colonisation have all been identified as contributing factors. Enduring solutions to these underlying issues therefore reach beyond the immediate scope of this work, into the education, social development, and health portfolios.
4. Against this background, the government is taking a practical approach to disinformation that balances a range of considerations. This approach includes promoting all of society leadership through a Multi-Stakeholder Group (MSG). The work of the MSG is intended as a practical, foundational step to improve awareness and understanding of the problem and to propose a blueprint for a longer-term response.
5. Recognising the MSG and this longer-term response will take time to develop, and funding to implement, in December 2022 Cabinet approved funding for a range of interim initiatives to maintain and build capability outside government to better understand and respond to disinformation. DPMC is undertaking two further, parallel workstreams to progress these interim initiatives: commissioning publicly available insights reports to build a transparent and empirical foundation about the problem; and partnering with civil society to establish a timebound fund to enhance community capacity and capability outside of government. These workstreams are being implemented separately from the work of the MSG, but their outputs will help to both to inform the MSG's work and lift New Zealand's capability to support a more enduring response as identified by the MSG.
6. For the purposes of this document:

- **Disinformation** is false or modified information knowingly and deliberately shared to cause harm or achieve a broader aim.
- **Misinformation** is information that is false or misleading, though not created or shared with the direct intention of causing harm.

This document is primarily focused on disinformation but acknowledges that the relevant issues may cover a wider spectrum of false and misleading information as appropriate.

## Role of the Multi-Stakeholder Group (MSG)

7. The MSG is being convened to promote better all of society understanding of and resilience to disinformation. The task for the MSG is to determine what practices and structures, if any, for understanding and responding to disinformation would be effective and acceptable in Aotearoa. Transparency, lawfulness, and human rights protections will be important tests for its proposal, which will be subject to public scrutiny.
8. DPMC will convene, fund, and support the MSG to enable it to complete its report. It is intended that the MSG's recommendation report/proposal is an independent report which reflects a civil society view. The MSG has considerable discretion over how it chooses to undertake its activities, including the guiding questions it chooses to ask and answer in its report. However, to ensure the MSG can operate efficiently and produce a report that address relevant questions, these Terms of Reference have been drafted by DPMC to provide direction and structure. These Terms of Reference will be provided to members in draft ahead of the MSG's first meeting and, subject to any amendments proposed by members, these Terms of Reference are then intended to be confirmed and finalised.

## Guiding questions

9. The MSG has been established, in principle, to analyse, discuss, and answer the following guiding questions, to the extent possible in the time and resourcing available. The following set of questions is intended to help direct, support and structure the MSG's work. It is not intended to constrain the MSG's work which may develop beyond this structure.
  - a. Should activities be undertaken to better understand disinformation in New Zealand?
  - b. Should activities be undertaken to respond to disinformation in New Zealand?
  - c. If activities to understand and respond to disinformation should occur, what should be the nature of these activities?
  - d. If such activities should occur, are current efforts fit for purpose, such that the need is already met?

- e. Conversely, if current efforts are not fit for purpose, what else is needed to enable best practice in New Zealand?
  - f. What design features and constraints are needed for any entity or entities performing these activities? What relationships with government and other stakeholder groups are needed? How can transparency, legitimacy, and human rights protections be maintained? How can public trust and confidence be strengthened?
  - g. Is there a case for establishment of a non-government entity or equivalent leadership function that can form the basis of an enduring and effective society-led effort to strengthen New Zealand's resilience to disinformation?
  - h. What does a high-level road map for implementation of the proposal look like? What is needed in terms of the resourcing required to fund the proposal and what are potential sources of funding?
10. For the avoidance of doubt, while the MSG has been established to focus primarily on activities and structures within society (outside of government), it is not constrained from commenting on government activities where appropriate.
11. The MSG's primary focus is on solutions that will work in Aotearoa's unique context. In doing so, the MSG may wish to consider disinformation monitoring activities and partnerships in other like-minded jurisdictions, including best practice methods and techniques, institutional arrangements, and practices that maintain and build public trust and confidence in civil society-led efforts.
12. It is anticipated that the primary methods for investigating and answering the guiding questions will be reviewing publicly available written materials and discussion among the MSG.

### Final output

13. The final output of the MSG is a written recommendation report/proposal addressing the guiding questions, and any other matters as agreed between DPMC and the MSG. The final proposal will be submitted to the DPMC, who will put the proposal forward for consideration by decision makers in government, including relevant officials and Ministers. The proposal will be proactively released to the public at the earliest opportunity.
14. It will be a decision for a future government as to what action it takes in response to the recommendation report/proposal, including further public consultation and any funding decisions.
15. DPMC is likely to provide its own advice alongside the MSG's proposal to support government decision making.

## Out of scope

16. The following initiatives have their own processes either underway or pending and are outside the scope of the MSG's work:
- Regulatory issues that fall within the scope of the Safer Online Services and Media Platforms review – Department of Internal Affairs
  - Social Cohesion Strategic Framework – Ministry of Social Development
  - New Zealand's Countering Terrorism and Violent Extremism Strategy – DPMC
  - National Action Plan on Racism – Ministry of Justice
  - Hate speech legislation – Ministry of Justice
  - Recommendations of the Royal Commission of Inquiry (RCOI) into the terrorist attack on Christchurch masjidain – DPMC
  - Christchurch Call – DPMC.
17. While the above areas are excluded from the scope of the proposals DPMC is asking the MSG to advise on, the MSG may require flexibility to consider and comment upon the interface of disinformation with these issues as required.

## Appointment of members and Co-chairs

18. All members, including the Co-Chairs, will be appointed by DPMC, and will operate as an advisory group to DPMC. There will be up to ten members, with two co-chairs. Any additional appointments will be at DPMC's discretion, having consulted with the co-chairs.
19. Members of the MSG are appointed for their experience and expertise. They are appointed in their individual capacity, not as representatives of an institution, organisation or representative of a group or community. Whilst members may engage with various organisations, groups, and communities in the course of the work, their advice to the MSG work programme is not as a "representative" of those groups or communities.
20. Members who are not able to attend a meeting of the MSG cannot delegate attendance and responsibilities to any other person.
21. The initial membership of the MSG is set out in **Annex A**.
22. The co-chairs are appointed for their leadership and expertise. They will work together to lead the MSG's work, facilitate inclusive discussion to enable the MSG to agree on advice by consensus, and to manage disagreements and differences of view in a constructive and respectful manner.
23. The Co-Chairs, supported by the Secretariat, are responsible for setting meeting dates and agendas and the effective and efficient conduct of meetings.
24. A member may resign at any time by providing the Co-Chairs with one month's written notice. Members may be removed by DPMC in accordance with the terms and conditions of the individual member's contracts.

## Secretariat

25. DPMC will provide Secretariat support to the MSG. This Secretariat will support the MSG and ensure members are provided with the resources and information they need to be effective, including papers and reading material for meetings, and support for travel to meetings where required. The Secretariat will provide analytical and research services in support of the MSG's work as required within available resourcing. The Secretariat will also provide support to enable the MSG to engage with other Government agencies, if required.
26. The Secretariat will provide advice to MSG to support the members to comply with and meet their obligations relating to privacy, security, and other legislative requirements. This includes but is not limited to the requirements of the Official Information Act 1982, the Privacy Act 2020, and the Public Records Act 2005.

## Meetings

27. The MSG will begin meeting in July 2023. It is anticipated the group meet twice per month from July to December 2023 (12 half-day meetings in total), at which time a written final report containing recommendations and/or a proposal will have been submitted.
28. A quorum for meetings of two less than total Group members, including at least one Co-Chair, is required for decision-making purposes. The Co-Chairs will determine the meeting processes.
29. Any proposal to extend the work of the Group may be raised by the Co-Chairs, on behalf of the Group, with the Secretariat, and would be subject to agreement DPMC.

## Disestablishment of the Group

30. The Group will be operational until 31 December 2023 unless otherwise extended.

## Safety and transparency

31. Members will be required to work consistently with all privacy, security, and legal requirements, including but not limited to the requirements of the Official Information Act 1982, the Privacy Act 2020, and the Public Records Act 2005.

## Official Information Act

32. All information held or produced by the MSG, including that held or produced by government agencies for the MSG, is subject to the Official Information Act 1982. The Secretariat is responsible for responding in a lawful manner to any Official

Information Act requests the MSG may receive. In doing so it will coordinate with Co-Chair(s).

### Code of Conduct

33. All members will comply with the Code of Conduct attached to this Terms of Reference. This is to ensure MSG operates in an open and respectful manner and in accordance with the law.

### Media Protocols

34. Only the MSG Co-Chairs shall make public and media statements on behalf of the MSG. All media requests received shall be referred to the Co-Chairs for their consideration of a response.
35. This requirement does not prevent members expressing personal views in public or the media at any time, if these are not presented as the views of MSG. All members should advise the Co-Chairs and the Secretariat when they are making media statements on matters that pertain to the MSG. Further information on media protocols is provided in the Code of Conduct attached to this Terms of Reference

### Conflict resolution

36. Members will refer any matters of significant importance or concern, including any conflict or issue they consider may affect the performance or integrity of the MSG, to the Co-Chairs for their consideration. The Co-Chairs will discuss any such issues with the Secretariat.
37. If there are matters that cannot be resolved by the Co-Chairs or Secretariat, the Co-Chairs may ask members to vote on a resolution, with a majority vote among members being determinative and binding.
38. Any breach of the Code of Conduct will be reported to the Co-Chairs. The Co-Chairs, in consultation with the Secretariat, will determine an appropriate response.

## Annex A: Membership of the Multi Stakeholder Group

| Name             | Role     | Expertise   | Term  |
|------------------|----------|---|---|
| Andrew Cushen    | Co-Chair | A consultant with experience across strategy, policy, and public affairs. He has a background in telecommunications and the internet, and brings to the Group perspectives on building effective and sustainable community initiatives.   | From date of establishment until 28 February 2024 |
| Robyn Kamira     | Co-Chair | (Te Rarawa, Te Aupōuri, Tai Tokerau whānui) The founder of Māori-owned technology company Pāua Interface Ltd, delivering professional advice to Māori, government and NGO clients on data and digital projects, including those in security-related areas. She has a background in research, specifically Te Ao Māori, and brings perspectives on technologies, data, and Māori.  | From date of establishment until 28 February 2024 |
| Brent Carey      | Member   | (Te Āti Awa) A lawyer with areas of interest in tech, privacy, public law, and the internet. He has a background in working for integrity and self-regulatory bodies in both New Zealand and Australia, and brings perspectives on malinformation, trust and safety, compliance, and enforcement and internet governance.   | From date of establishment until 31 December 2023 |
| Dr Mona Krewel   | Member   | A Senior Lecturer in the School of History, Philosophy, Political Science and International Relations and the Director of the Internet, Social Media, and Politics Research Lab (ISPRL) at Te Herenga Waka Victoria University of Wellington. She has a background in political communication research, and her work focusses on social media effects on voting behaviour, and online dis- and misinformation. She brings expertise on the use of fake news, half-truths, and conspiracy theories in election campaigns to the group. | From date of establishment until 31 December 2023 |
| Vivien Maidaborn | Member   | A CEO with experience in civil society, and multi stakeholder processes and decision making. She has a background in digital equity, social change and the uses of online resources and information in forming social movements. Vivien brings to the Group perspectives on use of mis- and disinformation to undermine vulnerable community's right to participation, and protection.  | From date of establishment until 31 December 2023 |

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| Jeremy Rees     | Member | An editor and journalist, who is currently Acting Head of News and Executive Editor at Radio New Zealand. He is a former member of the Media Freedom Committee and has an interest in freedom of expression issues.  | From date of establishment until 31 December 2023 |
| Paul Rishworth  | Member | A barrister at Britomart Chambers, Auckland, specialising in human rights law. His background includes research and teaching in public law at The University of Auckland Law School since 1987. He will bring a legal perspective to the group's work.   | From date of establishment until 31 December 2023 |
| Dr Chris Wilson | Member | A Senior Lecturer in Politics and International Relations at the University of Auckland. He researches and teaches political violence of various forms, on how and why individuals and groups radicalise - including to violent action - and on how societies polarise and descend into violent conflict. He will bring his insights on these topics to the group, including how and why disinformation can proliferate and facilitate distrust, hate, intergroup tension, and violence. | From date of establishment until 31 December 2023 |

## Annex B: Code of Conduct

### Purpose

- 1 The Code of Conduct sets out expectations for the general conduct for the Multi Stakeholder Group members (MSG).

### General expectations

- 2 It is expected all MSG members, including the Co-Chairs, will:
  - a. work in an inclusive manner where diverse voices of all MSG members are listened to and heard equally in an environment of trust and respect, within which all members can safely share their views;
  - b. take collective responsibility for the actions and decisions of the MSG to the greatest extent possible, while accommodating respectful disagreement and debate;
  - c. act in accordance with agreed processes and protocols
  - d. attend all scheduled meetings and undertake any required pre-meeting reading to ensure they can engage fully at each meeting;
  - e. work transparently and consistent with all privacy, security and legal requirements, including but not limited to the requirements of the Official Information Act 1982 and the Privacy Act 2020;
  - f. maintain and safeguard the confidentiality of information submitted to them or obtained in carrying out their role;
  - g. disclose any real, potential, or perceived conflicts of interest as they arise to the Secretariat and agree to the appropriate management of these conflicts, in the manner determined by the Secretariat; and
  - h. only claim for legitimate expenses they may incur.

### Responses to media queries

- 3 The Co-Chairs will provide any comment to media which is sought from the group as a whole.
- 4 Where a journalist or media outlet seeks the views of an individual member, or another group the member may belong to, the member will make clear that any views presented by them represent their personal views or those of the other group they may represent, and not those of the MSG.

### Personal views

- 5 Members are free to express a personal view in public or in the media at any time. When doing so they must observe the following:
  - a. comments must make clear that they represent a personal view and must not state or imply that they represent the views of MSG the Co-Chairs should be informed of any media engagement that covers the MSG
  - b. The Co-Chairs should be informed of any media engagement that covers the MSG