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Dear Ministers

**Continuing concerns about use of data collected through the Check In CBR app**

Further to our letter of 10 March 2021, we are writing to follow-up our serious concerns about the potential for Check In CBR data to be lawfully accessed for purposes other than contact tracing. In that letter we drew attention to Federal legislation that limits the use of the *COVIDSafe* app data to contract tracing under the *Privacy Amendments (Public Health Contact information) Act 2020*.

As you would be aware, the Western Australian Government has also last week introduced urgent legislation to ensure that access to data collected through the *SafeWA* app is restricted to contacting tracing.<sup>1</sup> This legislation responds to recent reports of the Western Australia Police Force having lawfully accessed their jurisdiction's check in app data for use in two criminal investigations, despite public assurances that such data would only be used for contact tracing. The Victorian and Queensland Governments have similarly recently acknowledged that data gathered by their respective check in apps might also be lawfully accessed for purposes other than contact tracing (eg by police with a court-issued warrant).

We understand that, in response to these reports, the ACT Chief Digital Officer has assured the public that Check In CBR data is only used for contact tracing, which reflects assurances made by government when the app was first introduced in September 2020. Although we appreciate that Check In CBR data is, in practice, stored with ACT Health and deleted after 28 days, the lack of equivalent legislative rules preserves scope for that data to be lawfully accessed by ACT Policing or by court order (eg subpoena) before it is deleted. In this regard, we have previously advised that both the *Information Privacy Act 2014* and the ACT Health Privacy Policy, which is linked to by the Check In CBR app, explicitly provide that any personal information collected by government can be accessed for other purposes as required or authorised by law or court or tribunal orders. As this is contrary to the assurances that have been provided to the public, we are concerned that this may erode public trust in use of the app.

We therefore respectfully ask that the government give urgent consideration to introducing amendments to rectify this anomaly as a priority. We would be happy to discuss these matters with you further.

Yours sincerely

Dr Helen Watchirs OAM  
President and Human Rights Commissioner

Karen Toohey  
Discrimination, Health Services, and Disability and  
Community Services Commissioner

<sup>1</sup> [Protection of Information \(Entry Registration Information Relating to COVID-19 and Other Infectious Diseases\) Bill 2021](#)