Te Aka Matua o te Ture
Law Commission

He ara whakaaunoa | Review of automated decision-making by government

Terms of reference

Te Aka Matua o te Ture | Law Commission will consider the appropriate legal framework for automated decision-making (ADM) by government.

What is automated decision-making?

For the purposes of this review, ADM includes both fully automated decisions and the use of automated systems to support, inform or recommend decisions by humans.

We use the term 'decision' broadly to include actions, omissions and other exercises of public powers or functions.

Automated systems include rules-based algorithms that apply predetermined rules or formulas through to machine learning systems that identify patterns, make predictions, generate outputs or take autonomous actions. These systems may include current and emerging technologies, such as generative AI and agentic AI, where they are used in connection with administrative decision-making.

This definition of ADM is intended to describe the range of technologies and uses that the Commission will examine as part of the review. It does not imply that all such uses should be subject to the same legal requirements or safeguards. The review will consider whether different approaches are appropriate for different types of systems or decisions.

Purposes of the review

The purposes of the review are to:

- Support lawful use of ADM by government, including by:
    - clarifying the application of the law; and
    - promoting a coherent and consistent approach to identifying and managing legal risk.
- Promote public trust and confidence in government use of ADM.

- Encourage the fair, effective and efficient exercise of public powers and delivery of public services.

Scope of the review

The review will include consideration of:

- whether, and in what circumstances, legislative authority for ADM by government is required or desirable;
- the most appropriate mechanism for providing any legislative authority, including the implications for both new and existing empowering provisions;
- the risks associated with ADM, including risks relating to bias, discrimination, error, privacy, security, transparency, accountability and reviewability;
- whether a legal framework specific to ADM by government is desirable and, if so, what form it should take;
- how existing laws, including but not limited to the principles of administrative law, human rights law, the Privacy Act 2020 and Official Information Act 1982, apply to ADM by government;
- whether legislative amendment, guidance or other measures are required to address uncertainty, inconsistency or gaps in existing laws;
- whether additional safeguards are needed to meet the purposes of the review outlined above;
- the scope of application of any recommended legislation or guidance, including:
    - whether and to what extent it should apply to automated systems that support, inform, recommend or otherwise contribute to human decision-making (in addition to systems that make final decisions); and
    - which public sector bodies and types of decisions it should apply to.
- Te Tiriti, te ao Māori and matters of particular concern to Māori, including whether specific measures are needed to address impacts on Māori and issues relating to Māori data governance and sovereignty;
- whether, and to what extent, alignment with overseas approaches may be appropriate.

The review will not advise on the legality of, or provide detailed rules for, particular uses of ADM. The review may recommend some exceptions to general rules where appropriate (for example, for public safety or national security purposes).

The review will not examine the regulation of artificial intelligence generally, including broader questions of national digital infrastructure, technological sovereignty and data

governance, except to the extent those matters are relevant to the legal framework for ADM by government.

Timing and process

The review will include public consultation.

We intend to report to the Minister of Justice with our recommendations by mid-2028.