



Te Kawa Mataaho

Public Service Commission

22 September 2023

9(2)(a) privacy

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Official Information Request

Our Ref: 2023-0197

I refer to your official information request received on 2 September 2023 where you have asked:

- *does psc have internal policies and processes about ipp6 privacy act requests it receives so that ipp6 requests are handled in accordance with privacy act 2020 and judicial authority by high court and hrrt decisions about ipp6 cases.*
- *does the internal psc policies explain what is personal information for the purposes of ipp6 requests, that is the actions of psc resulting with engaging with citizens are personal information about the requester. this has been established by several judicial decisions.*
- *does the internal ipp6 guide refer to relevant judicial decisions*
- *copies of all relevant documents in hard copy form, posted to 9(2)(a) privacy*
- *i also request a hard copy of this e-mail in the same psc envelope to my post mail address.*
- *is there psc written guidance about acknowledging receipt of oi act requests, if so a hard copy 9(2)(a) privacy*
- *the names of the people who currently hold the following positions in psc, that is, manager for executive and ministerial services and deputy commissioner for integrity ethics and standards and psc chief legal officer. this 3rd io request is a simple request and must be replied to as soon as reasonably practicable under the oi act. the high court as ruled that public servants can not hide behind anonymity, because knowing who made a decision or took another action is part of natural justice.*

Our Response

Please find enclosed Te Kawa Mataaho Public Service Commission's (the Commission) privacy policy which is publicly available here on the Commission's website [here](#).

The rules for how an organisation must respond to a request for personal information are set out in [Part 4, Subpart 1 of the Privacy Act 2020](#).

Please refer to Section 7 of the Privacy Act 2020 for the definition of what is considered private information. It states:

personal information—

(a) means information about an identifiable individual; and

(b) includes information relating to a death that is maintained by the Registrar-General under the [Births, Deaths, Marriages, and Relationships Registration Act 2021](#) or any former Act (as defined in [Schedule 1](#) of that Act).

Please find enclosed a copy of the Commission's Official Information Act Policy which sets down the principles and processes that we follow when considering all requests for official information. This information is also publicly available on the Commission's website at the following link: [Official Information Act Requests - Te Kawa Mataaho Public Service Commission](#)

Please find listed in the table below the names of the people who hold the Manager for Ministerial and Executive Services, Deputy Commissioner – Integrity, Ethics and Standards and Chief Legal Officer roles at the Commission.

Name	Position Title
Nicky Dirks	Manager, Ministerial and Executive Services
Hugo Vitalis	Deputy Commissioner, Integrity, Ethics and Standards
Fran Hook	Chief Legal Officer

If you wish to discuss this decision with us, please feel free to contact Ministerial.Services@publicservice.govt.nz.

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to make a complaint is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

Please note that we intend to publish this letter (with your personal details removed) and enclosed documents on the Te Kawa Mataaho Public Service Commission's website.

Yours sincerely



Nicky Dirks
Manager – Ministerial and Executive Services
Te Kawa Mataaho Public Service Commission



Privacy

Version	3.0 (2020)	Contact	Privacy Officer
Policy Owner	Chief Legal Officer	Approved	November 2020 to have effect 1 December 2020
SharePoint	Legal and Legislation	Due for Revision	December 2023

Definition

The Privacy Act 2020 (the Act) controls how agencies collect, use, disclose, store and give access to personal information.

Personal information is information about identifiable, living people.

Scope and Responsibilities

This policy covers all of the Public Service Commission (the Commission), including all current employees (fixed term, full time and secondments) and contractors.

The Commission holds personal information about its employees, chief executives and developing leaders. The Commission is trusted with this information and is committed to the protection and management of this data, fulfilling its obligations under the Act.

Information can only be accessed in accordance with the “need to know” principle. Managers in relevant Commission groups, the Leadership Team (LT) and Human Resources (People Team) are responsible for maintaining and handling this information appropriately.

This policy also covers any other personal information that the Commission collects for statistical or research purposes.

In the event of a privacy breach – First of all... don't panic.

While the Commission is committed to meeting its obligations under the Privacy Act, we understand that sometimes mistakes happen. In the event of a privacy breach, please contact your manager and the Commission's Privacy Officer. Even if you are not sure if you have breached the Act, you should discuss the next steps with your manager and the Privacy Officer.

By communicating breaches early, it is easier to mitigate the impact. If further action is required, the Privacy Officer will mitigate the impact from the breach and record the appropriate information in the privacy breach register. By following a systematic process in accordance to their training, they will then work with you and your manager to reduce the likelihood of any further breaches occurring.

If the Commission has a privacy breach that that is a notifiable privacy breach under the Act, the Commission will notify the Office of the Privacy Commissioner and affected individuals as soon as practicable. The Privacy Officer can advise you as to which privacy breaches are notifiable.

Responsibilities

All employees are responsible for protecting personal information entrusted to the Commission.

LT is responsible for ensuring the Commission has appropriate policies and processes to safeguard the personal information entrusted to the Commission.

LT is responsible for creating and nurturing a respectful privacy culture at the Commission.

LT is responsible for assuring the Chief Executive that each Business Unit complies with departmental policies and processes to safeguard the personal information entrusted to the Commission.

The Chief Legal Officer owns this Policy and with the Privacy Officer is responsible for monitoring the Commission's compliance with the Privacy Act and for advising LT about any risks to the Commission's ability to protect and manage the personal information it holds.

Principles

The Commission's management and protection of personal information will be guided by the following principles:

- All personal information we hold will be managed and used in accordance with the Act
- the Commission will promote a culture in which personal information is protected and respected
- Individuals will be confident that the Commission is a trusted guardian of their personal information.

Our commitment to privacy will be shown by:

- Only collecting personal information which is necessary to undertake our functions
- Being transparent and open about what personal information is being collected
- Giving individuals the opportunity to make an informed choice about the personal information they provide, or how much personal information they provide
- Ensuring all individuals have the right to access personal information we hold about them and the right to seek correction if that information is wrong
- Establishing a clear and lawful purpose for collecting personal information, and only using and disclosing personal information in accordance with that purpose
- Taking reasonable steps to make sure that personal information is accurate before we use it
- Protecting personal information from loss, misuse, and unauthorised access
- Responding quickly and appropriately if a privacy breach occurs or is suspected.

To achieve this, the Commission will:

- Implement best practice end-to-end privacy management processes. We will do this by:
 - Embedding privacy by design principles into service design so that privacy protection is at the forefront of any systems and business processes that contain personal information
 - Undertaking a brief privacy analysis and, if necessary, a privacy impact assessment for new business process development where personal information is involved
 - Testing and reviewing our current systems and processes to actively identify risks to privacy and apply treatments when risks are identified
 - Following the relevant protocols and guidance under the Commission's Information Strategy. In particular, the use of the Confidentiality Guidelines when releasing any statistical information that contains personal or confidential information.
- Ensure our staff are confident and knowledgeable in their approach to managing personal information. We will do this by:
 - Providing resources and training on privacy practices
 - Developing and publishing guidance on how privacy is managed at the Commission
 - Using our privacy communication strategy to focus and raise awareness of privacy with our staff
- Regularly assess the state of our privacy health. We will do this by:
 - Reviewing and refreshing our privacy programme to continually lift our performance as measured against the Government Chief Privacy Officer annual privacy self- assessment report

- Monitoring how we manage privacy requests, complaints and breach responses and implementing changes to our processes if deficiencies are identified
- Provide effective leadership on privacy across the Commission. We will do this by:
 - Empowering our departmental Privacy Officer to undertake effective monitoring and oversight of our compliance with the requirements of the Act
 - Equipping our managers with privacy skills and knowledge so they can ‘walk the talk’ on privacy
- Ensure that members of the public understand how privacy is managed at the Commission. We will do this by:
 - Publishing our privacy policy on the Commission website to ensure the public understand the Commission’s commitment to privacy
 - Ensuring that all our websites contain accurate privacy notices and information about how individuals can access information held by the Commission.

Principles of the Privacy Act

There are thirteen principles at the heart of the Privacy Act, arranged into eight categories. These principles outline how information is collected and used, detailing people rights to gain access to that information, or to correct it.

These principles govern the collection of personal information. This includes the reasons why personal information may be collected, where it may be collected from, and how it is collected.

Category description Principles (with links to guidance)

Category description	Principles (with links to guidance)
These principles govern the collection of personal information. This includes the reasons why personal information may be collected, where it may be collected from, and how it is collected.	Principle One: Purpose for Collection Principle Two: Source of Information Principle Three: What to tell an individual Principle Four: Manner of collection
This principle governs the way personal information is stored. It is designed to protect personal information from unauthorised use or disclosure.	Principle Five: Storage and Security
This principle gives individuals the right to access information about themselves.	Principle Six: Access
This principle gives individuals the right to correct information about themselves.	Principle Seven: Correction
These principles place restrictions on how people and organisations can use or disclose personal information. These include ensuring information is accurate and up-to-date, and that it isn’t improperly disclosed.	Principles Eight: Accuracy Principle Nine: Retention Principle Ten: Use Principle Eleven: Disclosure
This principle governs how information can be shared overseas.	Principle Twelve
This final principle governs how “unique identifiers” – such as Internal Revenue Department (IRD) numbers, bank client numbers, driver’s licenses and passport numbers – can be used.	Principle Thirteen: Unique identifiers

For more information on the Privacy Act, please refer to the [Office of the Privacy Commissioner website](#).



Official Information Policy

Version	1	Contact	Manager, Ministerial and Executive Services
Policy Owner	Ministerial and Executive Services Team	Approved	26 July 2022
SharePoint	Ministerial Services	Due for Revision	26 July 2024

Scope and Fit

This Official Information Policy describes how Te Kawa Mataaho Public Service Commission's (the Commission) will ensure it complies with the Official Information Act 1982 (OIA) and meets the spirit of the Act by promoting initiatives to increase the availability of official information to the people of New Zealand.

This policy sets down the principles and processes to be followed when considering all requests for official information, including media information requests.

Definitions

Official information means any information held by a department or organisation or its employees, as defined by [section 2 of the OIA](#).

It includes:

- Documents, reports, memoranda, letters, texts and emails.
- Non-written information, such as digital, video or tape recordings.
- Manuals which set out internal rules, principles, policies or guidelines for decision making.
- Information which is known to an agency but may not be written down.

Key Principles

The guiding principle of the Act is that information should be made available unless there are good reasons under the Act to withhold it. In handling requests for official information, the Commission needs to:

- Deal with requests for official information carefully, conscientiously, and in accordance with the law.
- Recognise a request may be made in any form and communicated by any means (including orally) and does not need to refer to the Act.
- Reach a decision and/or take appropriate actions on all requests as soon as practicable, and always within statutory time frames.
- Assist requesters, directing them to publicly available information, clarifying their requests, and transferring requests to relevant agencies where appropriate within statutory time frames.
- Co-operate fully with any investigation by the Office of the Ombudsman into a review of a decision under the Act.

The Commission will also:

- Inform or consult with third parties about requests for official information that concern them where appropriate, and consider any feedback provided.

- Inform and consult relevant Minister(s) of requests for official information it receives (see working with Ministers' offices section later in this guidance);
- Proactively release responses to requests for official information to make information more available;
- Review and monitor its performance in responding to requests.

Approach to Requests

With regard to the Commission's management of official information requests, the Commission will:

- comply with the requirements and observe the spirit of the OIA;
- demonstrate integrity, honesty and sound judgement in the management of official information requests and proactive releases;
- exercise due diligence and assess the potential effect of reactively or proactively releasing official information including considerations relevant to personal privacy;
- support increased proactive release in line with the OIA's purpose of progressively increasing the availability of official information to the people of New Zealand, including the publication of appropriate OIA responses;
- take account of the particular needs of the requestor and release official information in accessible and usable forms wherever possible;
- consult or notify other relevant stakeholders before releasing official information;
- drive a culture of continuous improvement in official information practice that empowers staff to learn, enhance performance, and innovate to best meet the needs of the New Zealand public;
- provide information about the importance of the Act to employees, and specific training to employees with responsibility for the Act.

Working with Requestors

It is the duty of every agency subject to the Act to provide reasonable assistance to requesters. The Commission does this by directing everyone to publicly available information and clarifying and transferring requests to other agencies where appropriate. It will also publish information on its website to guide requesters in making requests to the Commission.

The Commission will promptly acknowledge receipt of a request and communicate its decision whether or not to grant a request for official information as soon as reasonably practicable, and in no later than 20 working days (unless extended).

The Commission will clearly communicate with requesters when rescoping or clarifying a request, and any decisions to extend the timeline or transfer requests to another agency. The Commission will advise requesters of their right to ask the Ombudsman to review any decisions made in handling a request.

Working with Ministers' Offices

The Cabinet Manual states that as a general rule, agencies should inform Ministers promptly about matters of significance within their responsibilities, particularly where these matters may be controversial or may become the subject of public debate.

The Cabinet Manual advises chief executives to exercise judgement about how and when to inform a Minister about any matter for which the chief executive has statutory responsibility and to ensure that the independence of the chief executive's decision-making process is maintained.

Informing the Minister's office about requests to the Commission - Under the 'no surprises' principle, the Commission will notify relevant Minister's office of requests for official information it receives that involve matters that may be controversial or may become the subject of public debate. The Commission will also advise the Minister

if it intends to release any information that is particularly sensitive or potentially controversial. A notification for this purpose is not the same as consultation and should not unduly delay the release of information.

Consulting a Minister on a request to the Commission - The Commission will consult the relevant Minister if the request relates to the Minister's functions or Cabinet material, because such material relates to their activities as a Minister. In instances involving the Minister's functions or Cabinet material, it may be appropriate to transfer the request to the Minister.

The Commission will be clear it is consulting rather than providing the request for the Minister's information, and enough time will be given for the Minister's office to raise any concerns about the proposed decision. The Commission will have regard to any feedback, but the decision on how to respond to the request will be made by the Commission in accordance with the Act.

Publication of OIA Responses

Publication of **OIA responses** by the Commission will occur within a month of the response being given to the requestor but no sooner than one day after, to provide the requestor time to consider the response.

The Commission will publish the responses to OIA requests that are appropriate for wider publication.

The Commission will advise requesters of official information that our response to them may be published on our website. Before publication, any personal details that would reveal the identity of the requestor are removed.

OIA Reporting

Every six months, [or as additionally required by the Public Service Commissioner](#), the Commission will provide comprehensive information on the number of OIA requests received, and the number of complaints notified by an Ombudsman. We will also advise how we met the timeliness requirements of the OIA and additional timeliness performance information.

Application

This policy covers all full-time staff, part-time staff, permanent and fixed term, and staff on secondment with the Commission.

Further Information

Related Legislation

- [Official Information Act 1982](#)
- [Ombudsman Act 1975](#)

Related Guidance

- [Cabinet Manual](#)
- [Office of the Ombudsmen OIA Guides](#)
- [Standards of Integrity & Conduct for the State Services](#)
- [OIA guidance for agencies](#)
- [Minister and Agency Official Information Requests - agency guidance](#)
- [Maintaining Confidentiality of Government Information](#)
- [Proactive release of official information – agency guidance](#)
- [Names and contact details of public sector employees](#)
- [Ministry of Justice Charging Guidelines for OIA Requests](#)

Contacts

For help with:

- processing and handling issues – contact the Ministerial and Executive Services team
- OIA record keeping – contact the Ministerial and Executive Services team
- interpreting the OIA - contact the Legal Services Group.