

Privacy Act Part 1 – Your Privacy Rights

Your Privacy Rights

Personal information is any information that is about you or could identify you. Your name is the most basic example, but that's just the beginning.

Other examples include your address, your contact details, your employment or medical records, bank details, a picture of your face, your NHI number, or sometimes even your opinions on social media. All sorts of things can contain personal information, including notes, emails, recordings, photos and scans, whether they are in hard copy or digital.

The Privacy Act 2020 rules how organisations, government departments and businesses can collect, store, use and share your information. It ensures that:

- you know when and why your information is being collected
- your information is used and shared appropriately
- your information is kept safe and secure
- you can access the information an organisation holds about you

Almost all organisations and businesses must follow the Privacy Act. This includes hospitals, government departments, clubs, schools, churches, shops and more. In most cases, the Privacy Act does not apply to domestic affairs. This changes when the collection, use, or disclosure of personal information involved is highly offensive.

The Privacy Act has thirteen principles that businesses and organisations must follow when collecting, using, and storing your personal information. The principles are designed to ensure your personal information is protected and respected.

You can find out more about the privacy principles in the “Privacy Act Part 2 – Introduction to the Information Privacy Principles” NZSL video on our website

Your right to know

Under the Privacy Act, you can ask any organisation or business for information they hold about you and to correct it if it's wrong. This right extends to small and large businesses, government departments, schools, sports clubs, charities, and community groups.

Asking for your information

You can request your information via email, letter, phone, or in person. You can also use the AboutMe tool on the Privacy Commissioner's website to ask for your personal information from any organisation, business, or government agency in New Zealand. Keep a record of what you asked for, when you asked, and who you asked for it from.

They must respond to your request for information within 20 working days. Any organisation or business may, in limited circumstances, extend the 20 working day timeframe, but they must tell you why and when they will give you the information. They can withhold information about you in limited circumstances, but they must tell you why.

You can make an urgent request, but you must explain why it is urgent. Even then, the organisation or business can refuse the request for urgency. If it does, it must give reasons why. They may transfer your request for information if they aren't the right place to help you. If they do this, they must inform you within 10 working days.

If they don't respond, contact their privacy officer. If the privacy officer can't resolve the issue, you can make a complaint to the Privacy Commissioner.

Correcting your information

An organisation or business needs to ensure the information they hold about you is accurate. If you think information held about you is wrong (for instance, if they listed an incorrect date of birth), you can ask them to correct it.

If you make a request to an agency about accessing or correcting your personal information, they must respond to that within 20 working days. Any agency may, in limited circumstances, extend the 20-working day timeframe, but they must tell you why, and let you know when they'll give you the information.

If they decline to correct the information, they must explain why and attach a statement of correction from you if you ask them to. A statement of correction should be brief and clear to ensure it can be understood in context.

If an organisation or business refuses to correct your information or attach your statement of correction, you can complain to the Office of the Privacy Commissioner.

Resolving Privacy Issues

If you have a privacy issue, the first step is to contact the business or organisation directly to try and work it out. Most businesses and organisations will want to help you resolve your issue quickly, before it goes to the office of the Privacy Commissioner. You need to make reasonable efforts to resolve your issue directly with the business or organisation before you can complain to the Privacy Commissioner.

If you have made a request to access or correct your information, the business or organisation has 20 working days to respond.

If the business or organisation hasn't responded after 20 working days, please contact them directly to ask about the status of your request.

Complaining to the Privacy Commissioner

If an agency does not respond to your request within the time frame, or you are not happy with their response, or if you haven't been able to work out the privacy issue with the business or organisation yourself, then you may be able to make a complaint to the Office of the Privacy Commissioner.

You can contact the Privacy Commissioner by using their online complaint form, by emailing them, or by telephone on their free phone number.

Once the Privacy Commissioner has received your complaint, they will decide whether it is a matter they can assist you with. They will base that decision on the information you provide, so it's helpful to set out a short explanation for what your key concern is and include only relevant documents.

What the Privacy Commissioner can't do

The Privacy Commissioner's role is to decide if there's been a breach of the Privacy Act and help both the groups come to a decision. They can't force organisations to pay you money, issue fines, make anyone accept a settlement offer, or force anyone to accept their findings.

One person complaining on behalf of many

When lots of people are affected by one privacy breach, the Privacy Act allows for one person to make a complaint to the Privacy Commissioner on behalf of many people (as a class). When this happens, the Privacy Commissioner can begin an investigation themselves.

Giving someone authority to act on your behalf

If you want someone to act on your behalf (like an advocate, a family member, or lawyer) you will need to complete a form that tells the Privacy Commissioner that in writing.

You can find the form to do this on the Privacy Commissioners website:

www.privacy.org.nz/your-rights/making-a-complaint-to-the-privacy-commissioner

You can get further information and assistance from the Office of the Privacy Commissioner. They will try to accommodate any accessibility needs you have when contacting them in accordance with the Human Rights Act 1993.

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Please do not act in reliance on any information or statement contained in this legal education resource, without first consulting an appropriate legal professional, who will be able to advise you around your specific circumstances"