

Personal Information and Privacy Act Policy

1. Introduction and purpose

This Privacy Act and Personal Information Policy (the Policy) covers the responsibilities, behaviours and commitment to the proper handling and management of personal information of the Electoral Commission | Te Kaitiaki Take Kōwhiri (the Commission).

As a public service and trusted community partner, an employer, an exemplar for other nations and their democracies, and stewards of the electoral rolls, the Commission has the responsibility and privilege to uphold kaitiakitanga / guardianship of the significant personal information in our care. Personal information is precious, meaningful and impactful, and should be treated as taonga – a treasured resource. The Commission is committed to the upholding of Ngā Uara / Our Values with respect to the personal information we interact with, and with the people to which it relates.

Privacy and Taumata, Our Values framework

Tūhonotanga | Bringing people together to increase participation in democracy

This Policy encourages participation in democracy by upholding our part in being a trusted partner, by demonstrating we are committed to and able to look after the personal information entrusted to us in the process.

Aratakina | Guiding towards greater understanding

This Policy seeks to inform and guide our people to understand the importance of acting as kaitiaki / guardians of personal information, and provides the knowledge of how we can achieve this.

Uakaha | Being dynamic and energetic in what we do

This Policy shows that the Commission is actively engaged with, and mindful of the information we hold about people, and that we are committed to improvement by supporting each other to learn and grow.

Manaakitanga | Demonstrating generosity, empowering people

This Policy demonstrates that the Commission respects those whose information this Policy covers, and that its people demonstrate and foster leadership by providing a supportive environment in which to do right.

Tika | Doing things right, doing the right things

This Policy explains why our commitment to high standards of care is important, and how we can achieve our goals in an accountable and professional manner.

2. Personal information and Privacy Act

2.1 The Electoral Commission is committed to ensuring personal privacy through:

- proper collection of personal information
- proper storage and security of personal information
- proper use of personal information
- proper, authorised disposal of personal information, and
- ensuring individuals' have effective access to their own personal information, including the ability to correct it.

- 2.2 It is critical to our Vision that New Zealanders trust, value, and take part in Parliamentary elections.
- 2.3 The way we manage personal information is critical to maintaining confidence in the administration of the electoral system, which is one of the Commission's statutory objectives.
- 2.4 The Commission aims to integrate privacy protection into all of its business processes and ensure that all of our people (including staff, managers, and contractors) understand the importance of the lawful and respectful management of personal information.
- 2.5 The Commission will ensure that it has systems in place to meet, and report on its obligations under the Privacy Act 2020 ("Privacy Act") and other legislation.
- 2.6 The Commission will provide an environment where our people are encouraged and supported to identify privacy risks and report breaches and near misses so that they can be managed appropriately, and we can take steps to prevent or mitigate risks.

3. Other legislation

Electoral Act

- 3.1 The Electoral Act 1993 ("Electoral Act") imposes a number of restrictions on the collection, use, correction, and disclosure of personal information. For example, the Electoral Act specifically restricts the use and disclosure of information in the electoral roll. These provisions override the Privacy Act.

Public Records Act

- 3.2 There are rules in the Public Records Act 2005 ("Public Records Act") that impact record keeping, retention and disposal of information held by the Commission.

4. Definitions

Privacy Act

- 4.1 The Privacy Act promotes and protects individual privacy, providing for the collection and dissemination of personal information in accordance with the law. It does this by establishing 13 Information Privacy Principles (IPPs) which outline how personal information can be collected, stored, used, and disclosed. The Privacy Act also requires agencies to appoint a Privacy Officer.
- 4.2 Any request by a person for personal information about themselves held by the Commission, must be managed in accordance with the applicable legislation (i.e., the Privacy Act and the Electoral Act), including when the request is expressed as being made under the Official Information Act 1982.
- 4.3 Under the Privacy Act, the Commission has equal responsibility to protect the personal information in its care, of both its external stakeholders and our people.

Personal information

- 4.4 Personal information is defined as "information about an identifiable individual". Therefore, any information the Commission holds about any individual, whether or not that person is an elector, one of our people, or other stakeholder, is "personal information". The information does not need to be secret or sensitive, or reveal anything of importance or particular impact to be considered personal information. Any information about an identifiable individual is subject to the privacy principles.
- 4.5 Personal information can include the written word, and any knowledge gained or held in an

individual's mind, or gained in a verbal discussion.

5. Responsibilities

- 5.1 This Policy is for, and applies to, all of our people including Commission staff, the Electoral Commission Board, contractors, and any other stakeholders interacting with the personal information in the care of the Commission.

Managers

- 5.2 Managers are responsible for ensuring that their teams and the people they manage understand their responsibilities under the Privacy Act and other legislation in relation to the collection, use and release of personal information. Managers must also understand and comply with the Privacy Act, other applicable legislation, the Code of Conduct, and this policy.
- 5.3 Any suppliers, service providers or other parties engaged by the Commission to carry out work that involves personal information, are also required to afford the same care to personal information as employees of the Commission. Managers responsible for overseeing such work, are required to ensure third-parties are aware of their responsibilities, both to the Commission and in upholding the Privacy Act.
- 5.4 Managers should ensure that anyone joining the organisation has undertaken the privacy learning module as part of their induction. Each team should also identify any additional specific learning needs within their own teams because of the work they are doing.
- 5.5 Managers are responsible for knowing what personal information is involved with the work of their teams, where to find and how to access it, and be familiar with individuals' rights to access and correct personal information (IPPs 6 and 7).
- 5.6 Managers should promote the reporting of privacy incidents, concerns, and areas for improvement in the Commission's privacy reporting tool. Managers and team leaders should be informed about any incidents or other items to be reported into the tool, and manage any actions required of them as an outcome of investigation.
- 5.7 Each team should identify a privacy champion who can work with the Privacy Officer to be a contact point for having input into privacy resources and to assist with privacy questions or concerns.

Our people

- 5.8 All of our people are responsible for understanding and abiding by the Privacy Act, other applicable legislation, the Code of Conduct, and this policy.
- 5.9 Our people have a duty to report privacy breaches, risks and near misses in accordance with this policy. Reporting is to consist of notifying their team leader or manager, and ensuring an incident is logged in the privacy reporting tool.
- 5.10 Our people must only access personal information about themselves or others for legitimate purposes. Any other use may breach legislative requirements and is likely to be considered to be serious misconduct.

Privacy Officer

- 5.11 The Commission's Privacy Officer is the Senior Advisor Privacy. The Privacy Officer's role is to:
- provide guidance and input into training on the privacy principles and processes
 - oversee the management of requests for access to, or correction of, personal information
 - review requests made under the Official Information Act, where the request also has privacy implications
 - oversee the management of complaints about possible breaches of privacy
 - consider privacy protections in contracts with suppliers
 - advise managers on how to ensure the Commission's business practices comply with

- privacy requirements
- advise managers on the privacy impacts of any changes to the Commission's business practices
- monitor and report to the Board, on compliance with the Privacy Act and other legislation that regulates management of personal information
- liaise with the Office of the Privacy Commissioner in relation to privacy issues
- ensure notifiable privacy breaches are reported to the Office of the Privacy Commissioner.

6. Privacy Impacts of business practices

- 6.1 The Commission will ensure that systems are in place to require that the privacy impacts of business practices and any proposed changes are considered as an integral part of the development of business processes.
- 6.2 All of the Commission's project planning and initiation documents (e.g., project plan, business case and memo templates) will include a requirement to address the potential privacy impacts of any new proposal.
- 6.3 Any significant proposal involving collecting, manipulating, disclosing, or releasing personal information will require a privacy impact assessment to be undertaken by the responsible manager and the Privacy Officer in consultation with the Office of the Privacy Commissioner.
- 6.4 The Commission will undertake a privacy risk assessment and analysis which will form the basis for items in the Commission's risk management framework and will be regularly reviewed by the Senior Management Team and Board.
- 6.5 Privacy and confidentiality will be addressed in all Commission contracts with suppliers, and in any memos seeking approval for procurement activities.
- 6.6 The Commission is committed to the continual improvement of privacy practices. The Commission will measure overall progress toward improvement by completing annual self-assessments using the Government Chief Privacy Officer's 'Privacy Maturity Assessment Framework' (PMAF).

7. Information privacy principles

Collecting information

- 7.1 Whenever personal information is collected, our people should ensure that:
 - It is collected for a lawful purpose connected with a required function of the Commission, and that collection is necessary for that purpose
 - It is collected directly from the individual concerned or alternatively from a third party with the consent of the individual
 - Individuals from whom the information is collected are informed that the information is being collected and by whom (provide contact details), the purpose of collection, whether collection is authorised by law (the consequences of complying or not) and the individual's right to access and correct the information¹
 - It is collected in an open, lawful, and fair way.

Storing personal information

- 7.2 Our people should ensure that they secure and store personal information against being viewed, accessed, or used by unauthorised individuals or for an unauthorised purpose.

¹ Reasonable steps must be taken to inform individuals - this can be either directly, or by referring individuals to readily accessible documentation that would ensure they are aware of the relevant information (eg, by directing people to the Commission's online privacy statement).

- 7.3 When designing business processes, careful consideration will be given to ensuring how access to personal information will be controlled and whether audit processes should be put in place to ensure that all access is legitimate.

Requests for personal information from individuals

- 7.4 All individuals (both our people and any other person) may request access to any personal information held by the Commission about themselves and the correction of any information held.
- 7.5 The Commission is required to investigate and respond as soon as reasonably practicable and no later than 20 working days after the request is received.

Requests for personal information about other people

- 7.6 From time to time the Commission may be requested to release information to someone about a third person (whether they are one of our people or not). It may be necessary to consider such requests under:
- the Official Information Act 1982 alone; or
 - the Privacy Act alone;
 - both Acts; or
 - other legislation, for example the Electoral Act.
- 7.7 As a general rule, the first step will be to consider whether the matter is regulated under statute, such as the Electoral Act.
- 7.8 If not, and the information is already publicly available in the form requested, the information may be released (for example, the Commission publishes the names of Electoral Officials and their position titles around electoral events). If the information is not available in the public arena the information should not be released without consulting the Privacy Officer and, if relevant, the individual concerned.

Refusing requests for personal information

- 7.9 Where the Commission refuses a request for personal information, either in whole or in part, the Commission must advise the person requesting the information of the reason for the refusal and give the person information about their right to seek a review of the decision by the Privacy Commissioner. The Commission's Privacy Officer must be consulted before refusing a request, or part of a request, for personal information.
- 7.10 Where evaluative material has been gathered from an external source in confidence, for example, information obtained in a reference check, it may be withheld by the Commission. Requests for information of this nature should be discussed with the Privacy Officer and the Manager, People and Culture.

Correcting personal information held by the Commission

- 7.11 An individual who considers that personal information about them held by the Commission is incorrect may request the Commission to correct the information. If the Commission does not agree to the correction, the person's request must be attached to, and read with, the information the Commission holds. If the information is only held in electronic format, the original electronic file and the file containing the person's request must be named in a way that readers would identify the need to read the two files together.
- 7.12 The Commission is required to investigate and respond as soon as reasonably practicable and no later than 20 working days after the request is received.

Retaining personal information

7.13 The Commission will not keep personal information for longer than is required for the purposes for which the information was obtained. In particular:

- recruitment and selection information in SnapHire will be kept for 7 years and destroyed once all conditions have been met and the information is no longer administratively required²
- IRD/Payroll information is required by law to be kept for 7 years³
- employee personal files (including their recruitment information) will be kept for the length of employment and then retained for a further 7 years⁴
- the Electoral Act contains a process requiring the destruction of electoral information 6 months after an election.

7.14 Information needs to be deleted according to an agency's document destruction schedules and the Public Records Act. The Electoral Commission currently does not have an authorised agency retention and disposal schedule. Pending further work to put a schedule in place, retention and disposal of personal information should be reviewed after each election, by-election, and referendum in consultation with the Privacy Officer and Senior Advisor Information Management. Policies on the retention or disposal of information on all Commission databases should be considered on a regular basis.

Using personal information

7.15 Personal information can only be used for the purpose stated when collecting the information. Before our people use personal information, they should ensure that the information is accurate and up-to-date.

7.16 Where it is proposed that the information be used for a different purpose, our people must first obtain the consent of the individual to the new use.

7.17 The Commission must not assign a unique identifier (for example a number) to an individual's personal information unless it is necessary for the Commission to carry out one of its functions.

Disclosing personal information

7.18 Before a manager releases personal information, the manager must be satisfied that one or more of the following apply:

- the person who has requested it is authorised to receive this information
- the disclosure is in connection with, or directly related to, one of the purposes for which the information was obtained
- disclosure is necessary to uphold or enforce the law, protect the tax base, or assist court or tribunal proceedings
- disclosure is necessary to prevent or lessen a serious threat to the health or safety of people
- the information is to be used in a form in which the individual concerned is not identified
- the information is publicly available, and disclosure would not be unreasonable or unfair.

7.19 For example, where a manager is asked to provide a personal reference for an employee, they should ensure that the permission of the individual concerned has been obtained. For the Commission's policy on providing references, please refer to the Recruitment, Selection and Appointment policy and procedures.

² GDA6 3.3.2 and SnapHire Privacy Impact Assessment

³ GDA6 3.4.3

⁴ GDA6 3.1.3

7.20 We disclose information under a range of statutory requirements, for example provision of electoral roll information to Councils, Courts, research organisations and parties. We are required to make the information available, but we should consider what messaging we include when the information is made available to ensure that it is stored securely and used lawfully.

7.21 There are strict controls in the Electoral Act about who can access roll data and in what form the information can be provided. There are particularly restrictive rules on the provision of roll data in electronic form which also means that our people should not use an electronic search to provide information about an elector to another person.

8. Information matching programmes and other statutory arrangements

8.1 Information matching programmes must be authorised under statute (and implemented through bespoke information matching agreements) and must also comply with the Information Matching Programme Impact Assessment (IMPIA) requirements of the Privacy Act.

8.2 Sections 263A and 263B of the Electoral Act provide for such information matching programmes. The Commission may request, from time to time, specified information from the databases of the Ministry of Business, Innovation and Employment (immigration status), Ministry of Social Development (students and beneficiaries), Registrar of Motor Vehicles (motor vehicle registrations), NZ Transport Agency (driver licences), and the Department of Internal Affairs (new citizens as well as new and renewed Passport applicants) for the purposes of identifying people who may be qualified to apply to register as an elector but who have not yet registered or who need to update their enrolment details.

8.3 Other statutory provisions authorise the Commission to receive or provide information to specified agencies in respect of deaths (Registrar of Births, Deaths, and Marriages), prisoners (Department of Corrections), and jury service (Ministry of Justice). These are not Information Matching Programmes for the purposes of the Privacy Act.

8.4 The Commission has information matching agreements (MOUs) in place with the above agencies. Requests for information obtained under an information matching agreement must be managed in accordance with the terms of the MOU as well as this policy and the applicable statutory provisions.

9. Policy status and approval

Version	June 2024 version in 2022 policy template
Approval authority	Board
Approval date	19 June 2024 (<i>updated Privacy Officer post title 19 June 2025</i>)
Policy owner	Manager, Legal and Policy
Revision cycle	3 yearly
Next review	TBC

Example response to a person in New Zealand requesting to be removed from the electoral roll

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The rules for enrolling and voting at parliamentary elections are provided for in the Electoral Act 1993 (the Act) enacted by Parliament. The right to enrol and vote in parliamentary elections and referendums is a fundamental right in our democratic system. New Zealand citizens and permanent residents are eligible to enrol provided they are over 18 and have lived continuously in New Zealand for a period of one year or more at some point (section 74 of the Act).

Section 82 of the Act makes it compulsory for eligible persons to be enrolled. There are very limited circumstances where a registered elector can be disqualified from registering as an elector and removed from the roll, for example:

- New Zealand citizens who have not been in New Zealand within the last three years
- Permanent residents of New Zealand who have not been in New Zealand within the last 12 months
- Persons sentenced to a term of imprisonment.

In your letter it is not clear that you meet any of the above circumstances. At this point the Electoral Commission cannot remove you from the electoral roll for the reasons you have given.

While it is compulsory to enrol in New Zealand it is not compulsory to vote at electoral events.

However, if you are concerned about your safety and privacy, there are provisions for electors to be included on the Unpublished roll. You can find more information on our website [vote.nz](https://www.vote.nz).

If you support legislative change, we recommend you discuss the matter with your local Member of Parliament as it is Parliament's prerogative to make and amend laws like the Electoral Act.

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