

## **Personal Information and Privacy**

### **(Privacy Act and Official Information Act)**

Personal information is any information about an identified (or identifiable) individual.

Schools collect and hold all sorts of personal information about students and their whānau, and about staff and board members.

The Privacy Act sets out rules about collecting, storing, using, and disposing of personal information, along with rules about allowing people to access and correct information about themselves.

The Official Information Act sets out rules about disclosing personal information to other people, which override the usual rules about this in the Privacy Act.

This is a general and basic guide to those rules, with links to the relevant parts of the Acts, and to more detailed guidance from the Privacy Commissioner and the Ombudsmen

### **Collecting Personal Information**

[Information Privacy Principles 1-4](#) , [Guidance](#)

Only collect personal information if you actually need it.

You should generally collect personal information directly from the person themselves.

You should generally tell the person you are collecting personal information, why you are collecting it, where it will be stored, and you should advise them of their rights.

You should only ever collect personal information in ways that are lawful, fair and not unreasonably intrusive – especially when you are collecting information from students.

### **Storing Personal Information**

[Information Privacy Principle 5](#) , [Guidance](#)

You must take reasonable steps to keep personal information safe and secure.

### **Using Personal Information**

[Information Privacy Principles 8 and 10](#) , [Guidance](#)

Before using any personal information, you should take reasonable steps to ensure it is accurate, up to date, complete and relevant.

You should generally only use personal information for the purpose it was collected.

You can use personal information for another purpose *if* it is related to the original purpose, or the person gives you permission, or it is necessary for law enforcement, or to protect someone or the public.

### **Disposing Of Personal Information**

[Information Privacy Principle 9](#) , [Guidance](#)

Only keep personal information for as long as you actually need it.

Reminder – take reasonable steps to dispose of personal information safely and securely.

### **Access To Personal Information**

[Information Privacy Principle 6](#) , [Subpart 1 of Part 4 \(ss 39-57\) Privacy Act](#) , [Guidance](#)

You should generally give people access to their personal information if they ask you to.

You should keep personal information in ways that make it easy for you to give access.

You should respond to any access request within 20 working days.

In some circumstances you can decline to give people access to personal information about them, especially if it could affect their mental health, or put somebody else in danger, or if it would breach someone else's privacy interests.

### **Correcting Personal Information**

[Information Privacy Principle 7](#) , [Subpart 2 of Part 4 \(ss58-65\) Privacy Act](#) , [Guidance](#)

People can ask you to correct personal information you hold about them.

You should respond to any correction requests within 20 working days.

If you do not correct the information, you should attach any statement provided by the person to the information you hold.

### **Disclosing Personal Information**

[Sections 5 and 9 Official Information Act](#) , [Guidance](#) , [Information Privacy Principle 11](#)

All personal information held by schools is official information.

If someone asks your school for personal information about someone else, you must weigh up the "privacy interest" in that personal information against the "public interest" in its release.

Consider factors such as who the information relates to, the sensitivity of the information, the circumstances in which it was obtained, the purposes for which you collected it, reasonable expectations about its confidentiality, and the potential consequences and fairness of disclosure.

You should generally ask the person whether they consent to you releasing the information about them.

You should respond to official information requests within 20 working days.

It is complex and tricky to decide whether clear privacy interests in sensitive personal information are nonetheless outweighed by "public interest" factors – **seek advice**.

### **Complaints**

[Part 5 \(ss 68-111\) Privacy Act](#) , [Guidance](#)

People can complain to the Privacy Commissioner if you refuse to give them access to personal information about themselves, or refuse to correct personal information about them, or if you cause harm to them by breaching any other Information Privacy Principle.

The Commissioner may choose to investigate – an investigation may lead to facilitation or mediation, or to proceedings in the Human Rights Review Tribunal against the school.

Remedies for an interference with someone's privacy can include declaration, orders to do or stop doing something, and damages.

### **Notifiable Privacy Breaches**

[Subpart 1 of Part 6 \(ss112-122\) Privacy Act](#) , [Guidance](#)

You must self-report to the Privacy Commissioner (and advise the person) if there is any unauthorised or accidental sharing, exposure or damage to any personal information, that is likely to cause serious harm to the person that information is about.

### **Privacy Officer**

[Section 201 Privacy Act](#) , [Guidance](#)

Every school must have a privacy officer – to ensure the school is fully compliant with the Privacy Act, to deal with access and correction requests, complaints, and with interactions with the Privacy Commissioner.

[More guidance and resources here](#)