

15 November 2022

AS Van Wey
fyi-request-20883-a09e332f@requests.fyi.org.nz

Tēnā koe AS

Your Official Information Act request, reference: HNZ00005636

Thank you for your email on 17 October 2022 asking for information which has been considered under the Official Information Act 1982 (the Act).

As you may be aware a new government agency, Health New Zealand (Health NZ), was established on 1 July 2022 pursuant to the Pae Ora (Healthy Futures) Act 2022 (the Act). As such, the functions previously under the former District Health Boards have transferred to Te Whatu Ora Health New Zealand. As the matters you have raised now fall under the functions of Te Whatu Ora, our agency will respond to your request.

On 11 November 2022 we provided you with an initial response to your request for information. You will find responses to the remaining parts of your request below.

Te Whatu Ora Policies on communications which comply with HISO 10029(2015).

You requested:

The Health NZ Policies on communications which comply with HISO 10029(2015), or the equivalent if updated, sections 8 and 12 and the Crimes Act 1961.

For clarity, under section 216A-B of the Crimes Act 1961, it is unlawful for an individual to intercept personal communications without the consent of the sender or the intended recipient. In the health sector, the sender would be a patient and the intended recipient would be a specific department or individual (e.g., named physician). Alternatively, the sender would be a physician, or employee who has restricted access to medical information (e.g., clinical records team, nurse, or scheduler in accordance with HISO 10064) and the intended recipient would be the patient or their legal gradian.

Te Whatu Ora is not aware of any policy that specifically addresses this part of the Crimes Act 1961. The Privacy Policy covers the collection of personal information, including that Te Whatu Ora will only collect personal information in a way that is lawful, fair, open and transparent. A copy of the privacy policy has been included in this response as Document One. This document is being released to you in full.

Please note, the districts are still under their own policies. They have their own privacy policy which covers information collection. A copy of the districts privacy policy has been included as Document Two. This document is being released to you in full.

Interception of private information.

You requested:

the policy, which allows the agency (e.g. DHB or now referred to as Te Whatu Ora Health NZ) to intercept private, protected, confidential communications without the consent of the

sender (e.g., patient) or the intended recipient (e.g., physician or other specified individual or department).

Te Whatu Ora collects information in line with the Privacy Act 2020 and Health Information Privacy Code. Te Whatu Ora does not intercept private communications between a sender and their intended recipient.

Audit log policies.

You requested:

Policies regarding provision of audit logs and what must be included in such audit logs (such as name of the individual and the purpose of the access), in accordance with HISO 10064 and the Health Information Privacy Code, when requested by the patient.

The Privacy Act 2020 and Health Information Privacy Code give individuals the right to access their personal information (which can include audit logs, where available), and this is covered in our privacy policy.

Access to medical information without patient consent.

You requested:

Access to medical information without the consent of the patient (or their legal representative) by individuals not directly engaged in their care. What access is permitted for employees who are not physicians or nurses directly involved in the care and treatment of a patient? For instance, are people in Clinical Records, or other secondary purpose departments, permitted to read through the patients health information? Especially to the extent that they memorize the names of the patient's spouse or children who have different surnames (emergency contacts), or become authorities on the patients health information or behavior?

Te Whatu Ora staff members are only permitted to access clinical records or other personal information for work related purposes. Instances of inappropriate access will be considered a breach of privacy and of the code of conduct. A copy of the code of conduct has been included as Document Three. This document is being provided to you in full.

Access of private information to respond to Official Information Act requests.

You asked for:

The policy which permits health agency employees to access personal health information to verify the individual is a NZ resident or citizen in order to respond to an OIA request."

Eligibility criteria for making a request for official information is provided for under Section 12 of the Act. Te Whatu Ora may ask questions to determine whether the requestor is eligible to make a request. This may include checking of identification such as a passport or New Zealand driver's licence. If a requestor is not eligible to make a request, Te Whatu Ora may consider the request, however, they are not required to respond under the Act.

How to get in contact

I trust the information provided is of assistance. Should you have any concerns with this response, I would encourage you to raise these with Te Whatu Ora at: hnzoia@health.govt.nz.

If you are not happy with this response, you have the right to make a complaint to the Ombudsman. Information about how to do this is available at www.ombudsman.parliament.nz or by phoning 0800 802 602.

As this information may be of interest to other members of the public, Health NZ may proactively release a copy of this response on Health NZ's website. All requester data, including your name and contact details, will be removed prior to release. The released response will be made available on our website.

Nāku iti noa, nā

Sasha Wood

Sasha Wood
**Interim Lead OIA & Proactive Release
Government Partnership and Risk**

Appendix 1: Documents for release

#	Date	Title	Decision on release
1	N/A	Te Whatu Ora Privacy Policy	Released in full
2		National Privacy Policy	
3		Te Whatu Ora Code of Conduct	