



# Privacy Policy

## Purpose

The personal information held by the Ministry of Business Innovation and Employment (MBIE) must be managed consistently with our privacy obligations while enabling MBIE to make the best use of the information we hold. This Policy explains how MBIE complies with the requirements of the Privacy Act 1993 (PA) in relation to the collection, storage, use and disclosure of personal information that is collected and held by MBIE.

## Scope

This Policy applies to all MBIE staff, whether permanent or temporary, including contractors and authorised third parties.

It covers all personal information collected and held by MBIE. Personal information is widely defined in the PA to include any information about an identifiable individual (natural person). It covers information in written, electronic or any other form. This means it covers all categories of information and documents including draft documents, emails, letters and meeting notes.

MBIE undertakes a broad range of functions and is responsible for administering approximately 149 Acts and their related enactments. As a result MBIE holds a large volume of personal information. This includes information about each of our employees and customers as well as individuals we contract with and regulate.

## Policy statements

### 1. Information privacy principles

The collection, storage, use and disclosure of personal information is governed by the PA. In particular, it sets out 12 information privacy principles which are summarised below. MBIE must comply with these principles. Many of the principles have exceptions to them, therefore it is important to read the principles in the context of the [Privacy Act](#).

- **Principle 1:** MBIE should only collect personal information if it is necessary for a lawful purpose connected with a function or activity of MBIE.
- **Principle 2:** MBIE should, in most cases, only collect personal information directly from the individual concerned, or their formally appointed representative.
- **Principle 3:** When it collects the information MBIE should ensure the individual knows it is being collected, the purpose of collection and who will see it.
- **Principle 4:** MBIE should collect information by lawful means and in a fair and non-intrusive manner.

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- **Principle 5:** MBIE should hold the personal information safely and securely.
- **Principle 6:** Individuals are entitled to request access to personal information that is held about them.
- **Principle 7:** Individuals can request that the information held about them be corrected.
- **Principle 8:** MBIE should take reasonable steps to ensure that the personal information is up to date, accurate, relevant and not misleading before using it.
- **Principle 9:** MBIE should not keep the information for longer than needed for the purposes for which it was collected (subject to the Public Records Act 2005 and MBIE's Records Management Policy).
- **Principle 10:** MBIE should not, in most cases, use personal information obtained in connection with one purpose for another purpose.
- **Principle 11:** Personal information held by MBIE should not be disclosed to another person or organisation, unless it is believed on reasonable grounds that the disclosure is the purpose for which the information was obtained, or a directly related purpose.
- **Principle 12:** MBIE must not assign a unique identifier to an individual unless it is necessary to carry out its functions (a unique identifier is a code assigned to a person so they can be identified eg, IRD number, passport number).

## 2. Requests for personal information

Any individual, including an employee, may make a request to MBIE to have access to any personal information held about them by MBIE. MBIE should deal with each request on a case by case basis in accordance with the PA and the Official Information Act 1982.

MBIE should give an individual access to his or her personal information provided it is readily retrievable and no good reason (as set out in the PA) exists to refuse access. Examples of a good reason include that withholding the information is necessary to protect the security or defence of New Zealand, avoid prejudice to the maintenance of the law, or where the disclosure would breach legal professional privilege.

MBIE should respond without undue delay and in accordance with the PA, will decide whether or not to grant a request within 20 working days of receiving it. Reasons should be given for any refusal.

If access is refused, that individual may make a complaint to the Privacy Commissioner and ultimately bring proceedings before the Human Rights Review Tribunal.

MBIE's [Privacy Act request procedure](#) should be followed by all staff involved in actioning requests for personal information.

## 3. Correction of personal information

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Any individual, including an employee, may make a request to MBIE to correct the personal information held about him or her.

There will be cases when the need for a correction is clear, such as an incorrect name or birth date and the individual can clearly prove the information is incorrect. However, there will be cases where MBIE and the individual will have a different view about what the correct position is. MBIE should examine the matter closely when considering whether the information should be corrected.

Where MBIE concludes that inaccurate information should be corrected, MBIE should advise the individual and then take whatever action is reasonable in the circumstances to correct the information. This includes, if reasonably practicable, sending the revised, corrected information to any recipients who had previously seen the inaccurate information.

Where MBIE concludes that the information should not be corrected, the individual should be advised of MBIE's decision. The individual can request that MBIE attach a statement of the request for correction to the record. This is so that anyone reading the record subsequently will be able to see it.

MBIE's [Personal Information Request Procedure](#) contains information on the correction of information and should be followed by staff involved in actioning these requests.

#### 4. Complaints

Where any member of staff becomes aware of a complaint made by an individual to MBIE or to the Office of the Privacy Commissioner, MBIE's privacy officer should be notified.

Every person has the right to make a complaint to the Office of the Privacy Commissioner alleging that any action is or appears to be an interference with his or her privacy. The Privacy Commissioner recommends that a complainant first attempt to resolve the matter with a relevant agency.

#### 5. Privacy events

All privacy events (actual or near misses) discovered by staff should be notified to his or her immediate manager. Managers are responsible for managing the response to the privacy event in accordance with the [MBIE Privacy Event Guidelines](#).

[MBIE's Security and Privacy Event Reporting form](#) should be completed as soon as possible. This will be received by MBIE's privacy officer who is able to advise further on the management of the privacy event if required.

Where notification of affected individuals is being considered, the assistance of MBIE's privacy officer should be sought.

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MBIE's privacy officer will make a decision about whether to notify the Privacy Commissioner.

All privacy events should be reported so that MBIE can examine what happened and identify what steps need to be taken to minimise the likelihood of similar, future events.

## **6. Third party arrangements**

Where MBIE enters into arrangements with third parties that involve the use or management of MBIE's personal information, appropriate provisions should be included to protect that personal information.

Where MBIE holds personal information on behalf of another agency there may be specific contractual or statutory requirements that MBIE must also comply with.

The requirements for third party arrangements need to be considered on a case by case basis and assistance sought from MBIE's privacy officer where necessary.

## **7. Information sharing**

The PA provides for the authorisation and oversight of Approved Information Sharing Agreements.

MBIE may also share information both internally and externally where it is permitted by other means. For example, MBIE may disclose information to other agencies where there is an express legislative authority or requirement to do so. MBIE may also disclose personal information to other agencies where it believes on reasonable grounds that it falls within one of the exceptions to principle 11 of the PA.

MBIE may also share information within MBIE in certain circumstances. Personal information collected for one purpose should not be used for any other purpose unless one of a number of exceptions in principle 10 of the PA applies. For example, the information can be used by another part of MBIE if the use is one of the purposes for which the information was collected, the use is directly related to that purpose or one of the other exceptions in principle 10 applies.

Information sharing arrangements need to be considered on a case by case basis and assistance should be sought from MBIE's privacy officer for any proposals which may involve the sharing of personal information, both internally and externally.

## **8. Information matching**

MBIE undertakes authorised information matching programmes with government agencies. Information matching can only be undertaken where it has been authorised by statute and complies with the requirements set out in the PA.

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Agencies involved in information matching must sign information matching agreements which set out procedures to be followed and controls on the security of the personal information involved. The Privacy Commissioner reviews the setting up of MBIE's programmes and monitors their operation.

Assistance should be sought from MBIE's privacy officer for any proposals which may involve information matching.

## 9. New proposals

All new proposals or significant changes to existing processes should be evaluated to consider what impacts there are on privacy. MBIE's privacy officer can assist in this process and provide guidance on what may need to be considered. For example, in the case of a proposal involving the collection, use or disclosure of a large volume of personal information, it may be necessary to undertake a detailed privacy impact assessment. [[Link to guidance on Privacy Impact Assessments](#)].

## Definition of terms

- A **privacy event** includes a privacy breach or a near miss. A privacy breach occurs when there is an unauthorised access, collection, use or disclosure of personal information. A near miss is where an action could have resulted in a breach but ultimately the breach does not occur.
- **Approved information sharing agreements** are a mechanism in the Privacy Act to enable personal information to be shared between (or within) organisations for the purpose of delivering public services. These agreements are approved by Order in Council.
- **Information matching** is the comparison of personal information held in one set of records with personal information in another set of records for the purpose of producing or verifying information about an individual.

## Related procedures

- MBIE Privacy Act request procedure
- MBIE Privacy Event Guidelines
- MBIE Security and Privacy Event Reporting Form
- Privacy Impact Assessment Guidance
- Web Privacy Statement Guidance
- Employee Personal Information Guidelines
- Work Related Injury Claims – Claims Summary Procedure

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## Relevant legislation

- Privacy Act 1993
- Official Information Act 1982
- Public Records Act 2005

## Other related documents

- MBIE Code of Conduct
- MBIE Security Policy
- Records Management Policy
- Retention and Disposal Schedules
- General Disposal Authority 6 – Common Corporate Service Public Records
- General Disposal Authority 7 – Facilitative, Transitory and Short Term Value Records
- ICT Acceptable Use Policy
- Risk Management Policy
- Information Privacy Principles

## Key accountabilities and responsibilities

**The Deputy Chief Executive – Corporate Services** is responsible for maintaining overall responsibility within the Senior Leadership Team for the successful development of a privacy culture within MBIE and in conjunction with MBIE's privacy officer, is the relationship manager between MBIE and the Privacy Commissioner.

**The Security and Privacy Committee** is MBIE's governance group for privacy and security. It provides governance and oversight of the overall security and privacy programmes.

**The Privacy Officer** is MBIE's Chief Legal Advisor. The privacy officer is responsible for providing advice and assistance on all privacy matters and is responsible for implementing MBIE's privacy programme.

**All MBIE managers** are responsible for ensuring their staff comply with this Policy and the PA.

**All MBIE staff** are responsible for collecting, storing, using and disclosing personal information in accordance with this policy and the PA.

**The Privacy Commissioner** is the regulator under the PA. The Privacy Commissioner's Office undertakes a range of functions including investigating complaints about privacy breaches, running education programmes and monitoring proposed legislation.

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## Monitoring

Monitoring and reviewing this policy is the responsibility of MBIE's privacy officer. The first review will be undertaken 12 months after its approval and thereafter every two years, or earlier in response to changes in business or legislative requirements.

## Policy Owner

This policy is the responsibility of MBIE's privacy officer.

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