

## Official information and privacy policy

*Version 4 of this policy effective from 25 November 2020*

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## Purpose

1. This policy sets out how the Board deals with its obligations under the Official Information and Privacy Acts.

## Legislation and relevant policies

2. The following legislation is relevant to this policy:
  - a. the Plumbers, Gasfitters, and Drainlayers Act 2006
  - b. the Official Information Act 1982
  - c. the Privacy Act 2020
  - d. the Ombudsman Act 1975.
3. The following websites provide guidance that is relevant to this policy:
  - a. [www.ombudsmen.govt.nz](http://www.ombudsmen.govt.nz) (relating to the Ombudsman's jurisdiction under the Official Information Act)
  - b. [www.privacy.org.nz](http://www.privacy.org.nz) (relating to the Privacy Commissioner's jurisdiction under the Privacy Act).
4. This policy must be read in conjunction with the following policies:
  - a. decision-making
  - b. public register
  - c. records and disposal.

## Definitions

5. In this policy:
  - a. **Act** means the Plumbers, Gasfitters, and Drainlayers Act 2006
  - b. **Board** means the Plumbers, Gasfitters and Drainlayers Board
  - c. **official information** has the same meaning as in section 2(1) of the Official Information Act, and, in summary, is any information held by the Board, irrespective of the form the information is in (eg, hard copy, electronic, memory, draft, final version), subject to the exclusions contained in the Official Information Act<sup>1</sup>
  - d. **person** means a natural person
  - e. **personal information** has the same meaning as in section 7(1) of the Privacy Act and, in summary, means information about an identifiable person
  - f. **staff** includes employees, contractors, and agents of the Board
  - g. **significant request for information** is a request for information that does not:
    - i. form part of a staff member's normal duties, or
    - ii. have any risk associated with it (eg, it does not involve health information, information that is considered to be sensitive in any way, or information about misconduct or impropriety).

## Significant requests for information

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<sup>1</sup> This does not apply to correspondence between an ombudsman and the Board under the Ombudsmen Act 1975, or the Privacy Commissioner and the Board under the PA.

6. Only the Chief Executive can make a decision on a significant request for information.

### **Guiding principles**

7. The Board handles and manages all official information it holds in accordance with the requirements of the Official Information Act.
8. Under the principle of availability, the Board releases official information requested unless there is good reason for withholding it. This promotes:
  - a. effective participation
  - b. accountability
  - c. transparency
  - d. proper access
  - e. protection of official information consistent with the public interest and the protection of recognised interests such as personal privacy and confidentiality.
9. The Board handles and manages all personal information it holds in accordance with the requirements of the Privacy Act.
10. In dealing with personal information, the Board:
  - a. acknowledges the importance of personal privacy and seeks to protect the privacy of any person about whom it holds personal information
  - b. treats all personal information it holds lawfully and respectfully
  - c. appropriately recognises privacy and security considerations in all its work processes
  - d. supports people's right to access and seek correction of their personal information
  - e. cooperates fully with the Privacy Commissioner in carrying out his functions under the Privacy Act
  - f. acts responsibly, quickly, appropriately, and transparently where there is a privacy breach
  - g. supports and encourages a culture of caution, awareness and accountability in all dealings with personal information.
11. The Board monitors its handling of personal information.
12. The Board provides ongoing official information and privacy training to staff.

### **Correct legislation applying to information requests**

13. A request to the Board:
  - a. by a person for information held about themselves is dealt with in accordance with the Privacy Act
  - b. by a body corporate for information held about itself is dealt with in accordance with part 4 of the Official Information Act
  - c. in all other circumstances is dealt with in accordance with the Official Information Act.

## **Requests for official or personal information**

14. A person or a body corporate may request information held by the Board under the Official Information Act.
15. A person about whom the Board holds personal information may request access to that information under the Privacy Act.
16. The Board accepts oral and written requests for information it holds and requests do not have to expressly refer to the Official Information Act or Privacy Act.
17. The Board asks for clarification of any request for information that is not clear or precise.
18. The Board requires reasons where any person making a request for information wishes their request to be treated as urgent.
19. When making a decision on how to prioritise an urgent request, the Board takes account of:
  - a. the reasons given for the urgency
  - b. the volume of information involved
  - c. the nature of the information requested and how it is held
  - d. how the information will be released
  - e. whether the Board must consult with any other party or parties before making a decision on the request
  - f. whether according priority to an urgent request would unreasonably interfere with the Board's other business.
20. The Board provides reasonable assistance to any person making a request for information, including such things as:
  - a. assisting a requester to clarify a request
  - b. transferring requests
  - c. directing the requester to the correct agency where the Board does not hold the information requested
  - d. offering options before declining a request where appropriate.
21. The Board transfers any request, or part of a request, it receives for official or personal information that it does not hold but which it believes is held by another agency.
22. Where the Board transfers part of a request, it will respond to any part of the request that relates to information it holds in the usual way.

## **Responding to information requests**

23. The Board complies with all timeframes in the Official Information Act or Privacy Act for dealing with requests for information.

24. The Board may extend the time for dealing with a request for information where:
  - a. large amounts of information are involved
  - b. the Board must search through a large quantity of information to respond to the request
  - c. the Board must consult with other parties before responding to the request.
25. Where the Board does extend time for responding to a request, it notifies the requestor in writing of that extension.
26. Where possible, the Board makes information available in the manner preferred by the party making the request.
27. Where the Board is concerned about the effect of releasing information but is not going to withhold it, it may:
  - a. release the information with a disclaimer
  - b. release the information subject to an explanation
  - c. impose a condition that the information is not published unless the explanation is included.
28. The Board ensures, as far as is reasonable, that the process used to release information cannot result in the unintended disclosure of information not intended to be disclosed.

#### **Charging for information**

29. Where the Board charges for providing information, it does so at the following rates, in accordance with the Ministry of Justice *Charging Guidelines for Official Information Act 1982 Requests*:
  - a. \$38.00 per half hour or part thereof, for the aggregate amount of staff time exceeding one hour spent in responding to the request
  - b. 20 cents per page of photocopying (A4) after the first 20 pages (no charge for the first 20 pages), and
  - c. any other actual costs incurred in responding to the request.
30. Where the Board proposes charging for providing information, it advises the requestor of their right to make a complaint about the charge or the amount of the charge to the Ombudsman or the Privacy Commissioner.
31. The Chief Executive may waive or partially waive any charges for providing official information.

#### **Withholding information requested under Official Information Act**

32. The Board only withholds information on grounds permitted under the Official Information Act.
33. A proper process is followed when considering whether it is necessary to withhold information that has been requested.

34. When determining the public interest in relation to a request under the Official Information Act, the Board has regard to the following types of considerations:
  - a. enabling more effective participation in the Board's business
  - b. promoting the accountability of the Board
  - c. promoting understanding of the Board's role
  - d. enhancing respect for the law
  - e. promoting good governance in New Zealand.
32. Legal advice is sought before any information is withheld.
33. Where a decision to withhold information is made, the reasons for withholding are recorded.
35. The Board withholds as little information as is necessary to satisfy the reason for withholding.
36. Where the Board withholds information or refuses a request for information, it advises the party making the request of:
  - a. the ground or grounds on which the information is withheld or the request is refused
  - b. the reasons for the withholding or refusal
  - c. their right to make a complaint to the Ombudsman.
37. The Board cooperates fully with any inquiry or investigation by the Ombudsman.

#### **Board use of personal information**

38. The Board only collects, stores, uses, and discloses personal information in accordance with the Information Privacy Principles in the Privacy Act.
39. The Board only retains personal information that is necessary for it to carry out its functions.
40. Board staff only access personal information that is required by them to perform their roles.
41. Personal information is handled sensitively and appropriately by the staff when in use, and is stored securely when not in use.
42. Personal information is only transferred or removed from the Board's offices when absolutely necessary and only the minimum amount of information needed is transferred or removed.
43. Appropriate security precautions must be taken in handling personal information that is transferred or removed from, or used outside the Board's offices.
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45. Any remote access to personal information must be performed:
  - a. lawfully

- b. appropriately
  - c. in a safe and secure manner, taking into account the location from which the information is being accessed.
46. Where personal information is accessed remotely on a device, the staff member ensures there are appropriate security settings on that device.
  47. The Board allows any person to access personal information it holds about them where that information is readily available.
  48. The Board corrects errors in personal information it holds about a person at their request, or attaches a statement to the personal information from that person of any correction sought but not made.

### **Refusing access to and correction of personal information under Privacy Act**

49. The Board only refuses access to and correction of personal information on grounds permitted under the Privacy Act.
50. A proper process is followed when considering whether to refuse to grant a person access to and/or correction of their personal information.
51. If possible, instead of refusing a person access to their personal information, the Board may:
  - a. impose conditions on their use of the information
  - b. impose conditions on their disclosure of the information
  - c. grant the person access to the information with selected parts deleted or altered.
52. Where the Board refuses a person access to or correction of their information, places any conditions on it, or makes any deletions or alterations to it, it advises the person:
  - a. the ground or grounds on which the request is refused (if applicable)
  - b. the reasons for the refusal (if applicable) or for imposing conditions, deletions or alterations
  - c. their right to make a complaint to the Privacy Commissioner.
53. Where possible, the Board gives a person requesting access to their personal information access in the manner they have requested or, where that is not possible, in an alternative manner agreed with them.
54. The Board takes appropriate steps to assure itself of the identity of the person making a request for access to their personal information before giving them access and ensuring that the information is then received by them only.
55. The Board cooperates fully with any inquiry or investigation by the Privacy Commissioner.

### **Privacy breach**

56. A privacy breach has the meaning given to it in section 112 of the Privacy Act.
57. As soon as the Board becomes aware of a privacy breach or potential privacy breach, it:
  - a. acts immediately to contain the breach
  - b. ensures the Privacy Officer is advised of the breach
  - c. conducts a preliminary investigation of the breach
  - d. determines whether it is a notifiable privacy breach under the Privacy Act.
58. Where the Board determines the breach is a notifiable privacy breach under the Privacy Act, it notifies the Privacy Commissioner of the breach as soon as practicable and takes all appropriate steps to manage the privacy breach to minimise any risk of harm or serious harm to any affected individuals.
59. Where the Board determines the breach is not a notifiable privacy breach under the Privacy Act, it considers the risks arising from the breach and considers what steps are necessary and appropriate to minimise any risk to any affected individual.
60. The Board reviews all privacy breaches (including near misses), and makes any changes required to its policies, practices, or procedures to minimise the risk of future breaches.
61. The Board has regard to the guidance of the Privacy Commissioner on the Privacy Commissioner's website in dealing with privacy breaches and privacy matters generally.

### **Privacy Officer**

62. The Chief Executive appoints a member of staff as the Board's Privacy Officer.
63. The Privacy Officer must have the skills, experience, and seniority necessary to properly perform the role. The Privacy Officer is usually the General Counsel or a senior lawyer in the organisation.
64. The Privacy Officer is responsible for:
  - a. providing the Board and staff with sound advice and assistance in dealing with all privacy and information security matters
  - b. monitoring the Board's public register, including ensuring that the online register complies with both the Act and the Privacy Act
  - c. drafting and/or reviewing any policies relating to, or impacting on, privacy matters and information security, including reviewing those of contractors or agents used by the Board
  - d. managing or conducting privacy impact assessments
  - e. managing or conducting any privacy or information security audits, reviews or projects
  - f. ensuring any complaint that may relate to, or involve breaches of privacy is dealt with efficiently, effectively, and in accordance with any statutory timeframes

- g. ensuring all requests for access to, or correction of personal information are dealt with in accordance with the law and in a reasonable timeframe
  - h. reporting on privacy or information security matters as required
  - i. providing ongoing training on privacy and information handling within the Board.
65. The Privacy Officer ensures appropriate external legal advice is obtained where a privacy breach has occurred or is alleged if required.
66. The Privacy Officer reports any privacy breaches or potential privacy breaches to the Chief Executive.<sup>2</sup>

### **Register of plumbers, gasfitters and drainlayers**

67. Under the Act the Board is required to keep a register of registered practitioners that is available to the public.
68. The Board does not make personal information about practitioners available on the register unless required to do so under the Act.

### **Registration numbers**

69. All registered plumbers, gasfitters, and drainlayers are assigned a registration number.
70. A registration number is a unique identifier and is assigned by the Board to enable it to carry out its functions.
71. Registration numbers are assigned for internal Board purposes only and are not publicly available.

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<sup>2</sup> This in addition to the reporting of any such breaches required as part of the Board's legislative compliance scheme.