

# NZLS Information Handling Policy

This document outlines the policies and procedures of the New Zealand Law Society in relation to the collection, use, retention and disclosure of personal information by the Law Society.

## Privacy Policy

- This policy is not intended as a substitute for legal advice.
- A Community Law Centre, Citizen's Advice Bureau or lawyer may also provide advice on privacy.
- Full information about personal privacy rights is available on the Privacy Commissioner's website at [www.privacy.org.nz](http://www.privacy.org.nz)

## What is personal information?

- 'Personal information' means information about an identifiable individual. (Privacy Act 2020 (Privacy Act), s 7)

## Information Privacy Principles (IPPs)

- Section 22 of the Privacy Act establishes the IPPs. These set out privacy rights and obligations.
- A summary of the IPPs is reproduced at the end of this policy.

## Introduction

This document sets out the New Zealand Law Society's (NZLS) policies and procedures for the collection, use, retention and disclosure of personal information. It is intended to be a resource for NZLS staff and a source of information for members of the public and the legal profession.

## Privacy framework – objectives

NZLS is committed to ensuring that it handles personal information following best practice and in a way that respects the privacy rights of individuals. To achieve this NZLS has established a privacy policy framework.

The objectives of NZLS's privacy policy framework may be summarised as:

- a) Maintaining a positive "privacy culture" in which NZLS staff, contractors and appointees are supported and encouraged to adopt good privacy practices;

b) Building trust and confidence with members of the public and the legal profession by:

- ensuring there are clear purposes for collecting personal information;
- good data collection processes;
- transparency in handling personal information;
- risk avoidance – avoiding the potential for security or data breaches;
- meeting access and correction requests;
- ensuring accuracy of personal information;
- proper use and disclosure of personal information; and
- respect for people as individuals rather than “personal identification numbers”.

c) Ensuring legal compliance.

## Privacy Act – rights and obligations

- NZLS’s information handling policy is informed by its obligations under the Privacy Act and the Lawyers and Conveyancers Act 2006 (LCA).
- NZLS is not subject to the provisions of the Official Information Act 1982.
- Parts of the LCA and its associated regulations set out how NZLS handles personal information.
- Section 24 of the Privacy Act provides that where other legislation allows or requires personal information to be used in a specific way, this will override the general provisions of the Privacy Act. Section 24 also provides that other statutes which prohibit or restrict the availability of personal information take precedence over the IPPs.

NZLS has a number of functions established under the LCA. These include regulating the legal profession, monitoring and enforcing the provisions of the LCA and its regulations, and representing its lawyer members.

To carry out these functions, NZLS is made up of different parts. Each part collects and uses personal information about lawyers and members of the public for different purposes.

The following general guidelines apply to each separate part of NZLS.

## Collection of personal information

Information is collected for purposes associated with the function of the particular part of NZLS collecting it. Those purposes will be consistent with the provisions of the LCA (e.g. the Lawyers Complaints Service collects information relevant to complaints).

The person providing their personal information to NZLS will be advised about:

- the purpose for collection and how the information will be used;
- the law under which the information is collected;
- who the information will be disclosed to and held by;
- the person’s right to access their personal information and their right to ask to have the information corrected; and
- the consequences of not providing the information.

This information is contained in the privacy notice (Privacy, copyright and disclaimer) accessible on NZLS’s webpage and on the forms which are used to collect information.

Information must generally be collected by NZLS directly from the person concerned. There are some exceptions to this, including but not limited to circumstances where:

- the information is publicly available or the person consents to the collection of information from someone else;
- it is necessary to collect information from someone else to avoid prejudice to the maintenance of the law (including the prevention, detection, investigation, prosecution and punishment of offences) or for the conduct of proceedings before any court or tribunal;
- collecting information from the individual concerned would prejudice the purposes of collection;
- it is not reasonably practicable to collect information from the person concerned; or
- collection from someone else is required or permitted by law.

## Use and disclosure of personal information

Generally, personal information may only be used by NZLS for the purposes for which it is collected.

Before using personal information steps must be taken to ensure that the information is accurate, up to date and complete.

Personal information must, in general, not be used by NZLS for a different purpose or disclosed to anyone other than the person concerned. There are some permitted exceptions to this. For example, NZLS may use personal information for a purpose other than that for which the information was collected if the information is used in a form in which the individual concerned is not identified or if it is necessary:

- to avoid prejudicing the maintenance of the law (including preventing, detecting, investigating, prosecuting, or punishing offences);
- for the conduct of proceedings before a court or tribunal; or
- to protect public health, public safety, or the life or health of a person.

In addition, information may be used for a different purpose where the purpose for which the information is to be used is directly related to the purpose in connection with which the information was obtained.

The grounds listed above also apply to the disclosure of personal information to third parties.

Under the LCA there are also limited situations where information about complaints or trust account inspections may be disclosed to certain agencies or people including members of the police or Serious Fraud Office who are performing their duties.

If a person requests their own personal information from NZLS there are limited grounds for withholding that information (see below Requests for personal information).

Information collected by one part of NZLS for a particular purpose will not be shared with another part of NZLS for a different purpose unless permitted by law. Any part of NZLS that is considering internally sharing personal information with another part will consult the NZLS Privacy Officer.

## Storage and security of personal information

NZLS has an obligation to securely store the personal information it collects and creates. As part of this, NZLS has an internal data security policy. Under NZLS's policy, personal information is only accessible to authorised staff and is protected by appropriate security measures. Those security measures include limits on access to electronic databases where personal information is stored and 'password protection' where appropriate.

Information must only be held by NZLS as long as the information is needed. Personal information no longer required to be held will be securely destroyed by NZLS.

## Requests for personal information (correction and access)

Under the Privacy Act a person has the right to request access to their personal information (IPPs 6 & 7). There are limited grounds upon which NZLS may refuse to disclose personal information. These include situations where the provision of information would prejudice the maintenance of the law (including the

prevention, investigation and detection of offences); breach legal professional privilege; where the information is evaluative and was provided in confidence; and where disclosure would lead to the unwarranted disclosure of the affairs of another person or endanger the safety of any individual (see ss 49-53 of the Privacy Act).

If a person believes their personal information is inaccurate then they may request that the material be corrected by NZLS. If a decision is made not to correct the information then the person's request must be attached to all available copies of the information.

When NZLS receives a request for access to or correction of personal information it is referred to the Privacy Officer. NZLS aims to respond to such requests as soon as possible. The requester will be advised of any extension of time required to respond to the request. NZLS will ask for clarification if any part of the request is unclear.

The Privacy Act requires that a response to any request be provided as soon as reasonably practicable and within 20 working days after the day on which the request is received, but an extension of time may be made if appropriate (see s 65 of the Privacy Act). The requester must be advised of the reason for the extension, its length and their right to complain to the Privacy Commissioner about the extension.

If a request is made to NZLS for personal information held by another agency, NZLS must transfer the request to that agency within 10 working days and advise the requester.

Once a request has been considered, NZLS will advise if any information is to be withheld and provide the reasons for withholding any information.

If a person is dissatisfied with NZLS's response then they may contact the Privacy Commissioner.

A flowchart illustrating the process for responding to a request for access, disclosure or correction of personal information is included at the end of this policy.

## How we respond to a Privacy Act request

1. Information privacy request made by an individual and received by NZLS - access to or correction of personal information held by NZLS.
2. NZLS to provide reasonable assistance to the requester to make their request in accordance with the Privacy Act (if request is not compliant). Refer to the appropriate agency (if NZLS is not the appropriate agency), and advise requester, within 10 working days.
3. NZLS to decide as soon as reasonably practicable and within 20 working days whether request is to be granted and whether any charges will apply. NZLS to advise requester (OR advise requester if an extension of time is sought and if so on what basis and for how long).
4. NZLS to make the personal information available in the way preferred by the requester unless a specified exception applies.
5. Where there is good reason to withhold some of the information contained in a document, NZLS to provide a copy of the document with appropriate redactions. NZLS to advise requester of the reason for withholding the redacted information.
6. Where an information privacy request is refused, NZLS to advise requester of the reason for the refusal and to advise requester of their right to complain to the Privacy Commissioner to seek a review of the refusal.

## How we maintain best privacy practice

NZLS is committed to maintaining best privacy practice through:

- ensuring all staff understand privacy rights and are kept up to date through training;
- ensuring that requests for disclosure of personal information or new projects involving personal information are referred to the Privacy Officer for review;
- undertaking audits of privacy policies and procedures on at least a bi-annual basis and following up any specific privacy issues which may arise;
- keeping abreast of privacy law developments, technology updates and following best practice guidance from the Privacy Commissioner; and
- responding to privacy concerns and/or complaints in a timely and constructive way.

## Action where there is a potential privacy breach

Inadvertent privacy breaches may happen despite good processes and the best of intentions. Where a potential breach is identified it is important to act quickly and openly.

As soon as a breach is detected, NZLS personnel are required to advise their Manager and notify the Privacy Officer. The Privacy Officer will work with staff to address any privacy concerns, following the Privacy Commissioner's guidelines for dealing with privacy breaches available at [www.privacy.org.nz](http://www.privacy.org.nz).

## Who to contact

If you have any questions about this policy or NZLS's information handling obligations under the Privacy Act and the LCA, please contact the Privacy Officer - [privacy.officer@lawsociety.org.nz](mailto:privacy.officer@lawsociety.org.nz).

# Information Privacy Principles

A summary of the IPPs contained in s 22 of the Privacy Act is reproduced below

## **Purpose of collection**

Principle 1 is a collection principle. An agency should not collect personal information unless it is for a lawful purpose connected with a function or activity of that agency, and it is necessary to collect that information for that purpose.

## **Source of personal information**

Principle 2 says that personal information must be collected directly from the individual concerned. An agency may collect information from other sources if an exception applies.

## **Collection of information**

Principle 3 outlines that during collection of personal information, an agency must take reasonable steps to ensure the individual is aware of the fact the information is being collected, for what purpose, whether the information is compulsory or optional, where the information is held, who will use it and that individuals have a right to request access to and correction of their personal information.

## **Manner of collection**

Principle 4 outlines that personal information must not be collected by unlawful means or means that are unfair or unreasonably intrude on the personal affairs of the individual.

## **Storage and security**

Principle 5 governs the way personal information is stored. It is designed to protect personal information from unauthorised use or disclosure.

## **Access**

Principle 6 outlines an individual's access rights to personal information held by an agency.

## **Correction of information**

Principle 7 outlines an individual's correction rights if personal information is inaccurate, incomplete or out of date.

## **Checking accuracy of information before use**

Principle 8 specifies that an agency must take all reasonable steps to ensure information is accurate, complete, relevant and not misleading prior to using that information.

## **Retention of information**

Principle 9 specifies that an agency cannot keep information for longer than is required for the purposes for which the information may lawfully be used.

## **Limits on use**

Principle 10 specifies that subject to specified exceptions an agency cannot use information that has been collected for one purpose, for another purpose that was not originally specified.

### **Limits on disclosure**

Principle 11 outlines the limits on disclosure of personal information to third parties. An agency may disclose personal information if one of the exceptions applies such as the agency reasonably believes that the disclosure is authorised by the individual or is in connection with the purpose for which it was obtained.

### **Disclosure outside New Zealand**

Principle 12 requires an agency to ensure personal information disclosed overseas is given adequate protection.

### **Unique identifiers**

Principle 13 provides that an agency must not assign a 'unique identifier' (e.g. IRD or passport number) to an individual unless the assignment of that identifier is necessary to enable the agency to carry out its functions efficiently.