

23 October 2025

Office of the Privacy Commissioner
Wellington

By email: IPP3A@privacy.org.nz

Tēnā koe

Informal consultation: amending Codes of Practice to incorporate new IPP3A

1 Introduction

- 1.1 Thank you for the invitation from the Office of the Privacy Commissioner (**OPC**) to contribute to this informal consultation. The New Zealand Law Society Te Kāhui Ture o Aotearoa (**Law Society**) welcomes the opportunity to consider whether existing Codes of Practice require any amendments to incorporate new Information Privacy Principle 3A (**IPP3A**).¹
- 1.2 This submission has been prepared with the assistance of the Law Society's Human Rights and Privacy Committee.² As set out below, we consider that:
- (a) The Civil Defence National Emergencies (Information Sharing) Code 2020 may not require amendment, but it could be desirable for optimum clarity.
 - (b) Amendments to each of the Credit Reporting Privacy Code 2020, Health Information Privacy Code 2020, and Telecommunications Information Privacy Code 2020 will be needed.

2 Civil Defence National Emergencies (Information Sharing) Code 2020

- 2.1 The Civil Defence National Emergencies (Information Sharing) Code modifies IPPs 2, 10, 11 and 12 to assist with the effective management of the response to a national emergency.³ Without amendment to the Code, IPP3A will apply in full to emergency-related procedures, subject only to the statutory exceptions in IPP3A(4).
- 2.2 Under IPP3A(4), it is not necessary for an agency collecting information to comply with the regular notification requirement for indirectly obtained information if doing so is “not reasonably practicable in the circumstances of the particular case”, or compliance would cause a serious threat to either public or individual health and safety. These

¹ This new IPP will commence from 1 May 2026: Privacy Amendment Act 2025, ss 4 and 6.

² More information about our law reform committees is available on the Law Society's website: <https://www.lawsociety.org.nz/branches-sections-and-groups/law-reform-committees/>.

³ Clause 6(2).

exceptions in the Act are potentially applicable to and sufficient for emergency scenarios in which information is obtained, collected and used under the Civil Defence National Emergencies (Information Sharing) Code.

- 2.3 Arguably, the Act might also have benefited from adding an extension to the exceptions, for declared national emergencies and mass displacement/evacuation scenarios where notification is logistically impossible. In the absence of such an amendment, it is possible that doubts could be raised about whether the statutory exceptions should be relied on to cover the lawful and expected nature of information handling in an emergency scenario.
- 2.4 If there is doubt on that point, the Code could be amended to modify or exclude IPP3A. Even if it is not strictly necessary, for clarity this may be desirable.

3 Credit Reporting Privacy Code 2020

- 3.1 The Credit Reporting Privacy Code introduces equivalent Rules instead of the IPPs. To give effect to IPP3A it will require:
 - (a) Amendments to introduce a new Rule 3A to reflect the notification requirements of IPP3A.
 - (b) Updates to the Summary of Rights (Schedule 5) and Subscriber Agreement (Schedule 3) to cover IPP3A obligations.
- 3.2 In the Law Society's view, for the purposes of this Code:
 - (a) The statutory exceptions are broadly appropriate, but some are likely to be more relevant than others (e.g. that information is publicly available or the individual is already aware).
 - (b) There should not be fewer exceptions, because this would hinder credit reporting operations and create unnecessary compliance burdens.
 - (c) There is potential to allow more exceptions: for example, specific exceptions could be added for data collected under statutory authority (e.g. the Credit Contracts and Consumer Finance Act 2003) or where notification would undermine fraud detection or credit risk assessment.

4 Health Information Privacy Code 2020

- 4.1 The Health Information Privacy Code (**HIPC**) introduces equivalent Rules instead of the IPPs. To give effect to IPP3A it requires amendments to introduce a new Rule 3A to reflect the notification requirements of IPP3A.
- 4.2 In the HIPC, the exceptions presently provided to Rule 3 are more limited than the exceptions to IPP3. In the Law Society's view, the exceptions currently provided for in Rule 3 of the HIPC are appropriate. Consideration should be given to ensuring that the exceptions provided for in a new Rule 3A added to reflect IPP3A are comparable. Providing for exceptions akin to those for Rule 3 will ensure that individuals' expectation around the information they receive from health providers is the same, regardless of whether the provider is collecting the information directly or indirectly.

5 Telecommunications Information Privacy Code 2020

- 5.1 The Telecommunications Information Privacy Code introduces equivalent Rules instead of the IPPs. To give effect to IPP3A it requires amendments to introduce a new Rule 3A to reflect the notification requirements of IPP3A.
- 5.2 In the Law Society's view, for the purposes of this Code:
- (a) The current statutory exceptions are broadly appropriate, but some are likely to be more relevant than others (e.g. that notification is not reasonably practicable, information is publicly available, or the individual is already aware).
 - (b) There should not be fewer exceptions.
 - (c) There is potential to allow more exceptions: for instance, a specific exception could be added for emergency services access (e.g. location data provided during a 111 call) and network security monitoring where notification could compromise integrity. This will already fall under existing exceptions but could provide greater certainty for agencies and less reliance on interpreting the existing exceptions.

6 Next steps

- 6.1 We hope this feedback is useful. Please feel free to get in touch with me via the Law Society's Senior Law Reform and Advocacy Advisor, Claire Browning (claire.browning@lawsociety.org.nz), if you have any questions or wish to discuss this feedback further.

Nāku noa, nā



Jesse Savage
Vice President