



Privacy Commissioner
Te Mana Matapono Matatapu

STATEMENT OF INTENT

1 JULY 2017 TO 30 JUNE 2021

PRESENTED TO THE HOUSE OF REPRESENTATIVES
PURSUANT TO SECTION 139 OF THE CROWN ENTITIES ACT 2004

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Introduction by the Privacy Commissioner

Privacy considerations have become integral to the daily lives of New Zealanders, the health of the economy and the aspirations of government to transform the way it provides public services. We are navigating new routes to share client-level data and to extract maximum value from the data sets government holds on all of us.

Trust and confidence are essential for realising the economic benefits of the digital economy. Good privacy practices and effective regulation are essential for maintaining citizen trust and confidence, whether that be trust in central government, an online retailer or a multi-national corporation.

My office plays an important role in supporting that trust and confidence. We have gone beyond the time when privacy is seen as an obstacle to progress and new initiatives, and we find ourselves in an era in which privacy is a critical enabler of innovation.

Demonstrating the value of good privacy practice is essential, and my office is clear in its goal of making it easy for all sectors of the economy to have access to the tools and information they need. We will continue to invest in online tools and resources to assist agencies and individuals meet their obligations and enjoy their rights respectively.

At a practical level, my office strives to improve its complaints management for all parties that seek our help. We are also making the best of our existing powers to improve compliance by telling the stories from our complaints and enquiries in our external communications. My office is keen to continue widening its outreach, build and grow networks and share lessons learnt from its dispute resolution work in order to extend the influence it has both within New Zealand and overseas.

Against this background of change, the need for the privacy law reforms is becoming more pressing. The Government's commitment in 2014 to updating the Privacy Act is opportune as the loss of privacy consistently features as a significant concern of the public. Our latest independent survey identified that two-thirds of New Zealanders remain concerned about their individual privacy.

I am committed to continuing to work with officials to advance the privacy law reform. My office will retain capacity to ensure we are ready to assist with legal advice and support, and that we have the resources and expertise to plan for implementation of the new law.

I look forward to reporting on our progress over the term of this Statement of Intent.



John Edwards
Privacy Commissioner

Purpose

This four year Statement of Intent (SOI) is prepared in accordance with the Crown Entities Act 2004 and is supported by the Statement of Performance Expectations (SPE) which is updated on an annual basis. Both of these documents should be read concurrently in order to get a full understanding of both the long term strategic objectives of the Office and the shorter term targets set on an annual basis.

This SOI provides an overview of the current environment in which the Office operates and sets out the strategic direction over the next four years through to 30 June 2021. It also provides an overview of how the Office will use its resources to meet its strategic objectives over the four year timeframe and how it intends to measure its performance against these objectives.

Nature and scope

The primary function of the Privacy Commissioner is to promote and protect individual privacy.

The Privacy Commissioner administers the Privacy Act 1993 (the Act) and a variety of Codes made under the Act. This legislative environment in which the Office operates is currently in a period of change and the Office has been actively engaged with officials as they work through the Privacy Act reform process. The law reform will modernise the current law and provide additional powers to enhance the Act's effectiveness, including in relation to new technology, international developments and other changes in the last twenty years. It is currently expected that the Bill will be introduced to Parliament in 2018. It is not expected that the introduction of this Bill will have any significant impact on the Office's high level strategic direction over the next 4 years.

Within the statutory functions as described in Section 13 of the current Act, the Privacy Commissioner undertakes a range of diverse functions across government, business and society at large. The Privacy Commissioner is a corporation sole and an independent Crown entity under the Crown Entities Act 2004, and acts independently in carrying out his functions.

The Privacy Commissioner undertakes six core functions, which are linked to the Office's output class areas as follows:

Function	Output Class	Actions
Legislation and policy	Policy and Research	Comment and respond on legislative, policy or administrative proposals that impact on the privacy of individuals, including to Cabinet or select committees Undertaking Commissioner Initiated Inquiries
Complaints and Investigations	Compliance	Manage an independent responsive complaints and investigation process Receiving and recording breach notifications

Function	Output Class	Actions
Education and awareness	Guidance, education and awareness	Develop and manage a multi-channel programme of education and communications. This includes an active presence across social media channels and a range of online tools and guidance resources. Activities include a programme of media and stakeholder engagement and presentations, development of online training modules and provision of an enquiries helpline
Information matching and Information sharing programmes	Information sharing/matching	Monitor and report on authorised data matching programmes, and information sharing across government Provision of advice to agencies carrying out information sharing and matching
Codes of practice	Compliance	Through a process of private and public sector consultation develop codes to modify the information privacy principles or prescribe how the information privacy principles are to be applied or complied with in a particular industry or context
International	Policy and Research	Active in international forums in the Asia-Pacific region and European Union countries Ensure New Zealand is recognised as having privacy protections suitable for acceptance by the international community Work towards business friendly privacy enforcement internationally through the Global Privacy Enforcement Network (GPEN) while at the same time affording suitable protections for individual privacy

Current operating environment

In 2013, the OECD recognised privacy as a “fundamental value and a condition for the free flow of data across borders”. In order to achieve this condition, nations would require “privacy enforcement authorities with the governance, resources and technical expertise necessary to exercise their powers effectively and to make decisions on an objective, impartial and consistent basis”.

One of the most significant aspects of the Privacy Commissioner’s role is its statutory independence and this remains integral to it being an effective watchdog and regulator. One of the cornerstones of the office remaining effective is to be trusted by citizen and consumers alike. Building and maintaining this trust both within New Zealand and internationally is a key focus of the work that the Office carries out on a daily basis.

Fast moving changes in technology, increased data storage and the increased usage, across both public and private sectors, of data analysis of large data sets have raised new questions and challenges regarding privacy. While the Privacy Commissioner is supportive of new innovations, there is also a need to ensure that these are structured and set up in such a way so as not to compromise privacy, and that there will be tangible benefits to New Zealanders. Privacy should not be seen as a barrier to change so there is a need to ensure appropriate frameworks are in place to allow the efficient introduction of these new innovations. Choice and transparency are fundamental where an individual’s data is included in data sets and the Office will continue to support the Data Futures Partnership in relation to this.

The Office continues to actively work with agencies in relation to Approved Information Sharing Agreements in terms of both formal consultations and general queries. In December 2016, the Office launched its new “Trusted Sharing Consultancy Service” to further help agencies in this area. There continue to be some misperceptions regarding the sharing of information, particularly where vulnerable children are concerned, and the Office continues to provide guidance and assistance in this area.

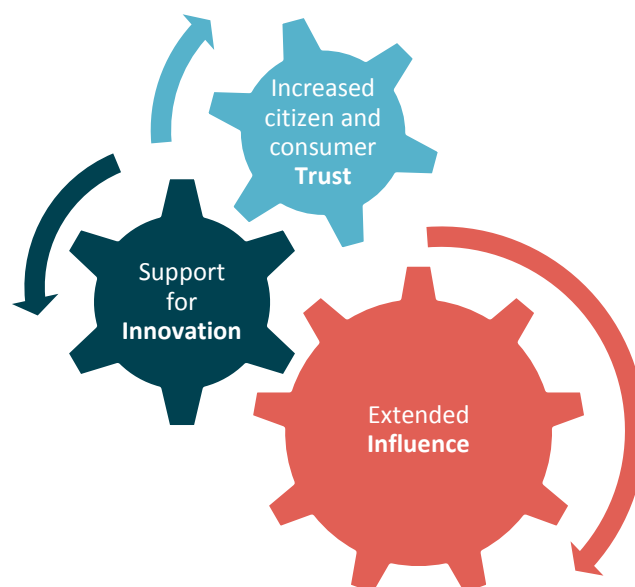


FIGURE 1: Interdependencies between the three areas of focus for the Office

The core business of the Privacy Commissioner remains an area of focus over the term of this SOI and it will continue to seek improvements in the way that services are provided to the public. There has been a significant increase in the number of website based interactive tools produced in recent years and the Office will continue to review, improve and add to these. The Office intends to continue widening its outreach, to build and grow networks and share lessons learnt from its dispute resolution work in order to extend the influence it has both within New Zealand and overseas.

The reform of the Privacy Act should be completed during the term of this SOI. The new regulatory functions proposed in the reform will impact on all areas of the Office particularly in terms of staffing, structures and service deliveries. The impact of this will be revisited after the Bill is introduced.

Public perceptions of privacy

In 2016 the Privacy Commissioner commissioned its seventh independent survey on New Zealanders’ views on individual privacy and the handling of personal information¹. The last survey was undertaken in 2014. Privacy concerns change over time and the surveys attempt to identify the issues of the time, rather than continue to report on previous issues. The survey results assist the Privacy Commissioner to better plan and select his priority work areas.

¹ Media release on UMR Survey 2016 <https://privacy.org.nz/news-and-publications/statements-media-releases/public-attitudes-to-data-sharing-cautious-but-shifting-survey/>

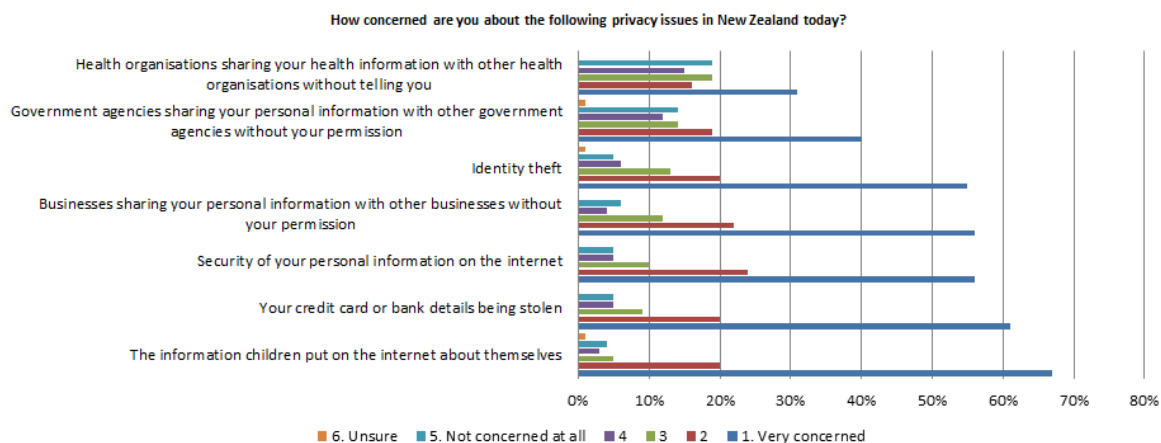


FIGURE 2: Privacy concerns in New Zealand²

The results of the survey identified that overall New Zealanders remain concerned about their individual privacy but there were no significant changes in the level of this concern with approximately two thirds (65%) still indicating a level of concern in this area. The survey did however identify some decreases in levels of concern when asked about the way in which the government or health organisations were sharing information.

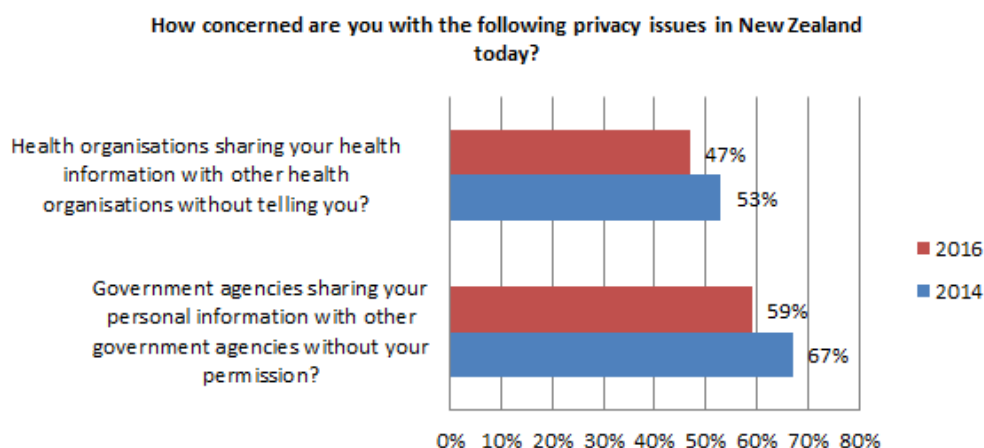


FIGURE 3: Sharing of information by government and health organisations²

The 2016 survey also introduced a new section on “Data Sharing”. This proved to be quite a divisive issue amongst the respondents with the conclusion being that having the right safeguards in place was crucial to increasing people’s willingness for their data to be shared.

Educating and empowering the right people, especially the Privacy Officers within organisations, on the right safeguards and areas for consideration in relation the Privacy Act will continue to remain a focus of the Privacy Commissioner during the term of this SOI.

² Source – UMR Research Report “Privacy Concerns and Data Sharing” March/April 2016

Which of the following statements is closest to your view?

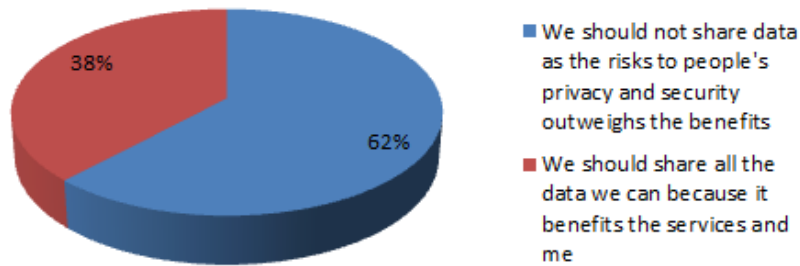


FIGURE 4: Views on data sharing³

Whilst the data from the survey shows reduced concern in some areas such as government and health organisations, retaining or further improving this level of trust, as well as building trust in organisations where the level of trust may be less, is an area of focus. The Office aims to look at examples where trust has been lost and how this can be restored whilst also showcasing areas of good practice. Much of this information can be obtained from the dispute resolution database but also from reported breaches. A key part of the reform of the Act is the inclusion of a requirement for mandatory reporting of data breaches and therefore a move from voluntary reporting (the current state).

The past few years have seen an increase in the reported breaches with those relating to private sector organisations increasing by 92% over the past 12 months as shown below. There are likely to be lessons that can be learnt from such incidents particularly how larger organisations are able to retain their trust. Proactive engagement with these organisations will enable the Office to further understand issues that are being faced regarding the management of personal information.

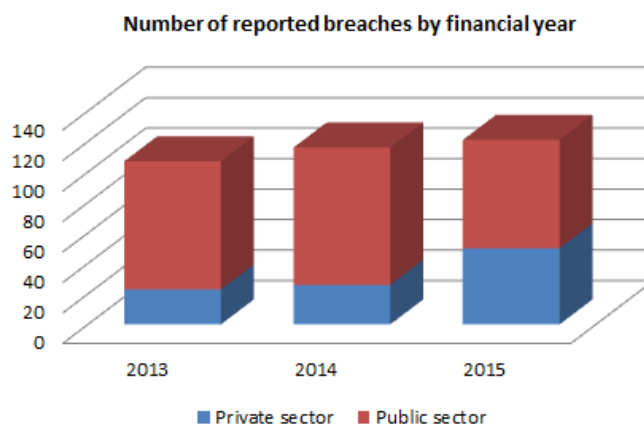


FIGURE 5: Trends in data breach notifications

³ Source – UMR Research report “Privacy Concerns and Data Sharing” March/April 2016

The Privacy Commissioner's response

The current environment and perceptions on privacy provide a number of opportunities for the Privacy Commissioner over the next 4 years. The contribution and initiatives that are expected to be undertaken are set out and further detailed below.

FIGURE 6: Outcomes and initiatives



Measures of success

The following section provides some more detail on how the Privacy Commissioner intends to perform its functions over the period of the SOI in order to achieve its outcomes, and how it intends to measure its success and progress against those outcomes.

OUTCOME 1: INCREASED CITIZEN AND CONSUMER TRUST IN THE DIGITAL ECONOMY

The Office has a key role to play in ensuring that citizens and consumers have trust in the increasingly complex digital economy in which they are operating. As the UMR survey results confirmed, there is still concern amongst New Zealanders about various privacy issues and whilst there has been a decrease in concern in some areas there are many areas where concern remains high.

Achievement of this outcome will require work across all functional and output class areas of the Office as shown.

Output class area	Contribution to outcome area	Measures of success
Guidance, education and awareness	<p>Active provision of advice and guidance to organisations and the public to ensure they feel empowered and have the tools they require to undertake their roles effectively within their organisations.</p> <p>Continued review and improvement to the website on-line tools that the Office currently operates to ensure they remain up to date and meet the needs of users.</p>	<p>Detailed measures and targets for progress against this outcome area will be set out in the annual Statement of Performance Expectations.</p> <p>On a medium term basis, progress will be measured through the UMR survey which will indicate whether there are decreased or increased levels of concern around privacy issues.</p>
Policy and Research	<p>The Office's active involvement in international privacy groups and projects will provide insight and learning that can be shared and promoted in New Zealand.</p> <p>Making use of the information obtained through breach notifications, and other operational work, to understand and share how trust can be restored.</p>	
Information Sharing and Matching	<p>Continued innovation and participation in information sharing processes.</p>	
Compliance	<p>Provision of the Office's independent dispute resolution service.</p> <p>Proactive use of information obtained through day-to-day operational work to showcase good practice and provide areas for improvement in organisations.</p>	

OUTCOME 2: INNOVATION IS PROMOTED AND SUPPORTED

Over the past few years, the Office itself has been actively innovative in terms of the way it has provided services to the public. The 2015 and 2016 years saw the introduction of online e-learning modules, the launch of an on-line interactive enquiries service *AskUs* and collaborative working with other agencies to set up the on-line tool, *AboutMe*, to enable people to request access to their personal information. In October 2016, the Office won the People's Choice Award in the New Zealand Open Source Awards for the development of its privacy statement generator tool *Priv-o-matic*.

The Office is very open to innovation and intends to work collaboratively with innovators across New Zealand to help ensure that privacy is not seen as a barrier to technological advancement within both private and public sectors, whilst also ensuring benefits to the public.

Achievement of this outcome will require work across all functional and output class areas of the Office as shown.

Output class area	Contribution to outcome area	Measures of success
Guidance, education and awareness	Ensuring that the benefits of innovation are shared and that guidance is provided as required to enable the adoption of new technologies. Active promotion of the office's PIA on-line module and guidance.	Detailed measures and targets for progress against this outcome area will be set out in the annual Statement of Performance Expectations. In the medium term, the Office's progress and success will be identified through: - The level of user satisfaction with guidance provided in relation to new innovations; - The number of multi-stakeholder partnerships developed; - The proactive dissemination of learnings from International counterparts to New Zealand based projects.
Policy and Research	Learning from International initiatives and innovations and learning from their experiences. Proactive research into new or emerging areas of innovation.	
Information Sharing and Matching	To work collaboratively with agencies through the provision of the "Trusted Sharing Consultancy Service" to actively help them better understand their information sharing needs and design appropriate business processes.	
Compliance	Proactive use of information obtained through business-as-usual operational work to identify areas for future innovation and improvements.	

OUTCOME 3: INCREASED INFLUENCE TO IMPROVE PERSONAL INFORMATION PRACTICES

The Organisation for Economic Co-operation and Development (OECD) has emphasised the importance of a multi-stakeholder approach for responsible business conduct. Such an approach aids in the successful implementation of projects as it is less likely to result in a misalignment of expectations from various stakeholder groups.

It is this multi-stakeholder approach that the Privacy Commissioner has been encouraging and will continue to use over the four years covered by this SOI to increase its influence to ultimately improve personal information practices. Effective collaboration with agencies both within New Zealand and internationally will aid in this process and help to ensure that the influence that the Office has extends beyond local boundaries. This approach will also be facilitated through discussion with the Government Chief Privacy Officer (GCPO).

Achievement of this outcome will require work across all functional and output class areas of the Office as shown.

Output class area	Contribution to outcome area	Measures of success
Guidance, education and awareness	Building on and extending networks and multi-stakeholder relationships. Continuation of the Office's outreach programme with an emphasis on extending the range of communities. Provision of the enquiries helpline.	Detailed measures and targets for progress against this outcome area will be set out in the annual Statement of Performance Expectations. In the medium term, the Office's progress and success will be identified through: - Successful establishment of multi-stakeholder relationships; - Extent of outreach activities into a wider range of communities and feedback obtained following these activities.
Policy and Research	Effective use of the Office's international connections to broaden expertise and enable New Zealand to "stay ahead of the game" in relation to privacy issues. Completion of Commissioner led inquiries into areas of interest or risk.	
Information Sharing and Matching	To work collaboratively with agencies through the provision of the "Trusted Sharing Consultancy Service".	
Compliance	Proactive dissemination of lessons learnt through business-as-usual operational work to aid in the improvement of privacy practices within agencies.	

Organisational Health and Capability

The Office of the Privacy Commissioner consists of a staff of 39, and has offices in Wellington and Auckland.

The Commissioner has the legal status of a corporation sole and an independent Crown entity under the Crown Entities Act 2004. The Privacy Commissioner's office is led by the Senior Leadership Team comprising the Privacy Commissioner as Chief Executive, two Assistant Commissioners, the General Counsel, the General Manager and the Public Affairs Manager.

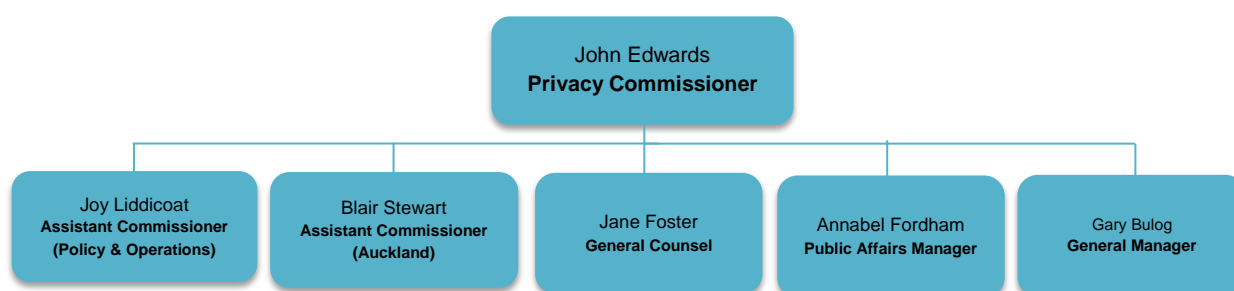


FIGURE 7: Senior Leadership Team

Structure and staffing

The current structure of the Office delivers the bulk of services through functional work areas. During the course of the four years covered by this SOI there is likely to be a need to restructure and consider the current split of functional roles particularly as the law reform progresses.

Much of the need to consider a restructure will likely come from the proposed additional powers and agency duties (e.g. mandatory breach notification) once they come into force. The specifics of this are not known at this time but will be revisited. There is additional funding set aside to aid with this transition process and additional staffing requirements that may result.

Contractors and Secondments

In a small office there is often a need for increased dependence on specialist skills for information gathering, reporting and the delivery of specific services. The Office has made use of contractors in the following key areas:

- Independent audits of the quality of complaint files and policy files
- Functional reviews
- Development of internal procedural documents
- Review and re-design of surveys for assessing quality of service delivery

Competencies and capabilities

Existing knowledge

In order to achieve the various initiatives that have been set out in this SOI there will be a need to leverage the collective knowledge and skills that the Office currently has in place. There is also likely to be a need for upskilling in some areas from the law reform proposals. The Office is supportive of continuing professional development and will ensure that staff are provided with the tools that they require in order to undertake their roles effectively.

One-team working

There will continue to be a clear focus on working together as “one-team” within the office and utilising the skills across different functional areas as and when required for various projects.

Cross-functional working groups have already been used successfully on various projects. For example, such a group has recently met to assess potential system and documentation amendments required because of the law reform. It is crucial that the Office will not only be in a strong position internally but will also be in a position to proactively inform stakeholders of potential impacts to them from the law reform .

Flexibility

Flexibility and re-prioritisation will also remain key attributes particularly as the Office enters a period of change.

Clear communication channels both within the Office as well as with external stakeholders will be crucial to ensuring that business-as-usual services continue to be delivered at a high quality whilst changes are occurring.

Innovation

Many of the initiatives identified will require staff to make use of the systems and data gathering processes that they are used to whilst also thinking about how we could use them differently to provide greater benefit to our stakeholders. For example, undertaking more analysis in trends of complaints or breaches to identify areas of good practice, areas where further educational guidance may be useful or where sharing of lessons learnt would benefit others.

Risk Management

The Privacy Commissioner has identified major risks and implemented responses to address those risks:

Risk Category	Responses
<p>Accountability and Independence</p> <p>The risk that the Privacy Commissioner loses influence with the public, government, business and the media. The Privacy Commissioner loses relevance.</p>	<p>Ensure statutory obligations and advisory responsibilities are met.</p> <p>Maintain the independence of the Privacy Commissioner in the delivery of functions as a regulatory agency.</p> <p>Maintain effective working relations with the Government Chief Privacy Officer.</p> <p>A robust communications programme across all sectors.</p> <p>Demonstrate Better Public Services in the delivery of our functions.</p>
<p>Analysis</p> <p>The risk that poor analysis or research compromises the usefulness of the Office's work and affects reputation.</p>	<p>Clear internal procedures in place for review of analysis, case law, reports or research undertaken prior to it being published or shared with stakeholders.</p> <p>Use of external specialist resources where needed to ensure that the Office has the right level of expertise to undertake work where required.</p>
<p>Communications and engagement</p> <p>The risk that poor communication and engagement leads to the Office's work being perceived as not useful, not meeting the needs of users, is of poor quality, does not take into account all relevant points of view or that people do not know about it.</p>	<p>A robust communications programme in place.</p> <p>An active programme of outreach across all sectors and areas within New Zealand.</p> <p>Established networks are maintained and developed to ensure that the needs of stakeholders are taken into account when developing effective communications that meet the need of audiences.</p> <p>Regular engagement with the responsible Minister and GCPO.</p>
<p>Counter views</p> <p>The risks that counter views expressed by organisations or people within the community cast doubt on the viability of the reports and communications produced by the Office.</p>	<p>Reports and communications will clearly demonstrate that the Office's views are well found and based on appropriate analysis and consultation.</p> <p>Early identification of significant alternative points of view to enable these to be recognised and dealt with in a timely and respectful way.</p>
<p>Organisational fitness</p> <p>The risk that the Office does not have the necessary resources in order to effectively deliver its services.</p>	<p>Regular review of staffing levels in line with service requirements.</p> <p>Ensure that the required skills are developed and maintained.</p> <p>Staffs at all levels are supported with professional and personal development opportunities and provided opportunities for gaining wider experience and career development.</p> <p>Regular enhancements to systems used to deliver services to ensure they are fit for purpose.</p> <p>Regular policy review and updates.</p>

Risk Category	Responses
<p>Security of information</p> <p>The risk that there is a data breach in relation to the significant personal, classified, organisational and official information that the Office holds resulting in unacceptable reputational harm.</p>	<p>Robust internal policies in place regarding the handling of information.</p> <p>Regular system updates and enhancements.</p>
<p>Workflow management</p> <p>The risk that the Office cannot meet the demand for services arising from increased awareness.</p>	<p>Flexibility of approaches to manage changes in demand.</p> <p>Regular reviews of workflow are undertaken and prioritisation assessments made.</p> <p>Increased use of on-line tools to reduce the demand on staff time.</p> <p>Incorporation of international best practice and experience in the Office's range of functions.</p>

Equal Employment Opportunities and Good Employer Statement

The Privacy Commissioner has an EEO policy and is an equal opportunities employer in its recruitment, human resources and staff development practices. The Privacy Commissioner has documented human resource policies and regularly reviews staff morale as part of management reporting.

We aim to provide equal employment opportunities to make the most of the talents of all our people. We assess our status as a good employer against the elements and criteria set out by the Human Rights Commission. Over the next three years we will continue to ensure that all elements are in place and working well.

The Privacy Commissioner reports on the Key Employment Elements in the Office through the Annual Report.