

PRIVACY COMMISSIONER

Statement of Intent
1 July 2023 to 30 June 2027





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Foreword

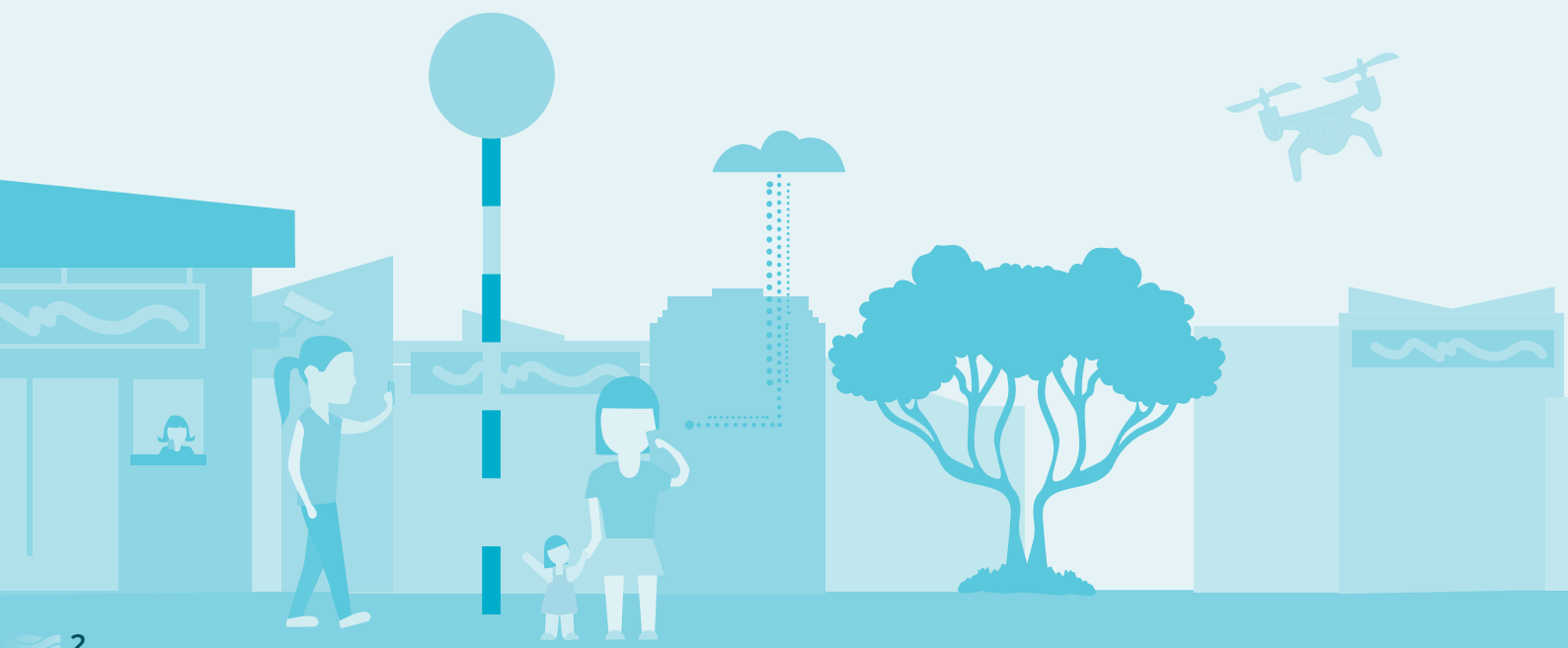
Privacy is precious. Every week, my Office learns of privacy breaches involving people who, through no fault of their own, are left frustrated, embarrassed, put at risk, hurt, or even harmed by a privacy breach.

These actions arise from the actions or inactions of agencies of all types – government departments, multinational companies, not-for-profits, and small business.

Respecting privacy is not just about avoiding harm – but about driving success. When customers or clients know that their personal information will be treated as a taonga, they will provide their sensitive personal information to agencies so that these agencies can achieve their own objectives, whether this is for private profit or public good. Valuing the privacy and personal information of New Zealanders also underpins the success of our free and democratic society by ensuring that important rights and freedoms are not overlooked, or traded away, in pursuit of other objectives.

It is my role as Privacy Commissioner to ensure that my Office succeeds within the dynamic environment we are working in. The challenges will be many and varied, ranging from the adoption of future technologies, to rising expectations about our capability to honour the Treaty of Waitangi, the founding document of our country.

Respecting privacy is not just about avoiding harm – but about driving success.



I believe that as a country we will only succeed when privacy becomes a core focus for all agencies in New Zealand, whether they are in the public, private, or not-for-profit sectors. I want to see privacy regarded in much the same way as health and safety, good financial reporting, and the achievement of key financial and non-financial targets.

To make privacy a core focus, over the next four years my Office will achieve four objectives:

- We will work in partnership with Māori to take a Te Ao Māori perspective on privacy.
- We will engage and empower people and communities that are more vulnerable to serious privacy harm.
- We will set clear expectations to provide agencies with greater certainty about their responsibilities.
- We will promptly use our full range of investigation and compliance powers as necessary to hold agencies accountable for serious privacy harm.

It will take time before we can fully deliver upon the strategy within this Statement of Intent and claim success. But the changes necessary for success have already begun, and I look forward to working with the staff in my Office and all our stakeholders to achieve it.



Michael Webster
Privacy Commissioner

30 June 2023



Our strategic framework

Our system outcomes



Individuals are more confident that their privacy is protected.

Agencies can better achieve their own objectives through respecting the privacy rights of New Zealanders

The right to privacy and the protection of personal information is valued in New Zealand.

Our purpose

We ensure privacy is a core focus for agencies in order to protect the privacy of individuals, enable agencies to achieve their own objectives, and safeguard a free and democratic society.

Our objectives



We work in partnership with Māori to take a Te Ao Māori perspective on privacy.

We engage and empower people and communities who are more vulnerable to serious privacy harm.

We set clear expectations to provide agencies with greater certainty about their responsibilities.

We promptly use our full range of investigation and compliance powers to hold agencies accountable for serious privacy harm.

Our functions



Communication and Education



Compliance and Enforcement



Policy and Advocacy



Investigations and Dispute Resolution



Strategy and Insights

Our values



Respect

+



Integrity

+



Independence

+



Innovation

+



Excellence

Tuitui kākahu, tuitui tāngata

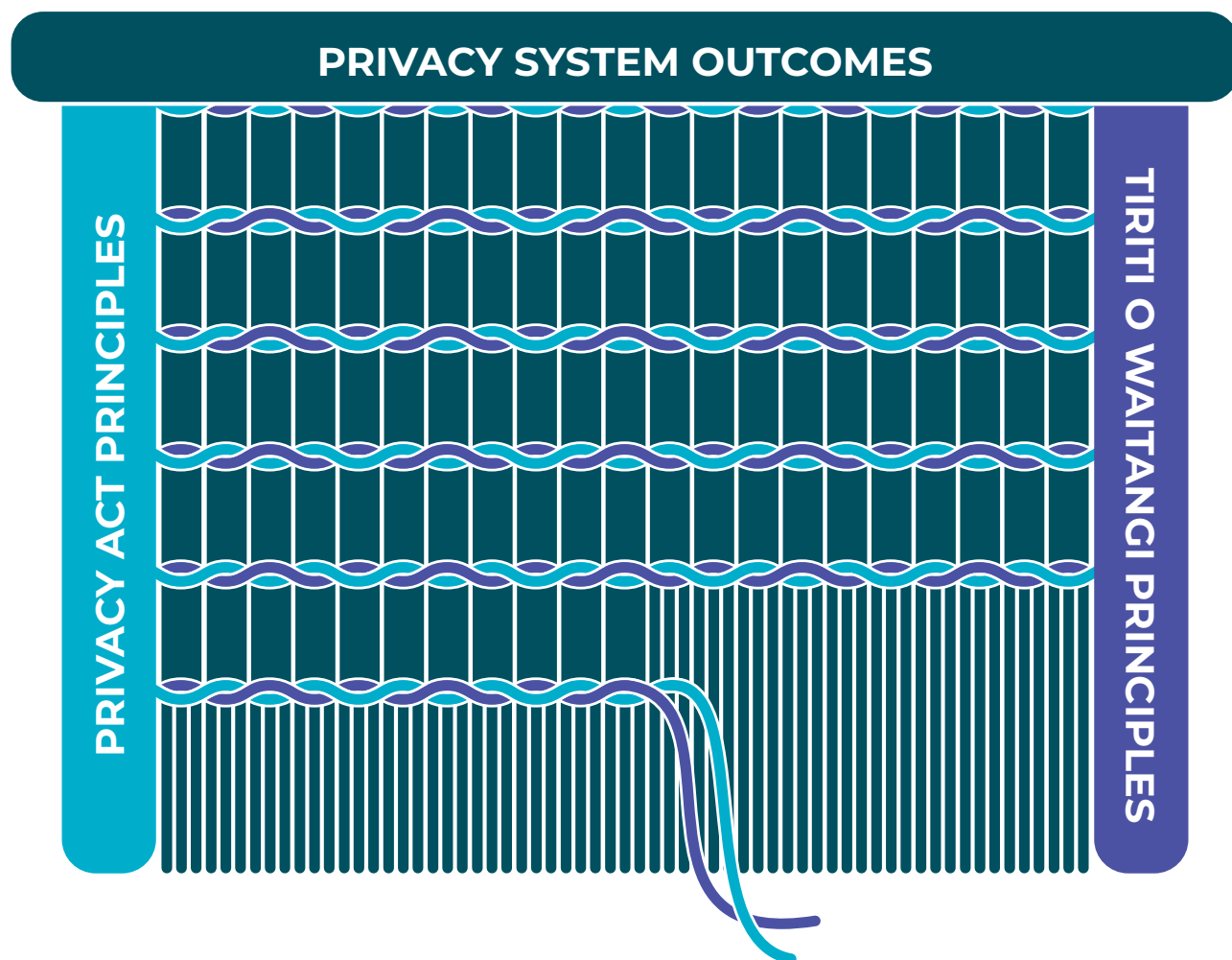
The weaving of a cloak, the weaver of people

Tuitui kākahu, tuitui tāngata is a whakataukī that speaks to the process of weaving a kākahu or traditional Māori cloak and aligns that to the weaving of people. It is a whakataukī that works well in describing the privacy system, the role of our Office, and the place of Te Tiriti o Waitangi. This includes:

- tiaki – protecting and safeguarding the privacy of all New Zealanders
- taunaki – supporting the aspiration of rangatiratanga as expressed by Māori over their taonga, their data, and their privacy, and
- tūhono – partnering with Māori.

Tuitui kākahu, tuitui tāngata describes the process of weaving and the completion of the garment, or cloak that can then be used by individuals, whānau, hapū, iwi, and Māori to protect their privacy.

Tuitui kākahu, tuitui tāngata represents how the principles of the Tiriti o Waitangi and the Privacy Act work together to achieve the outcomes of the privacy system.



Our operating environment

The broad challenges before us

Privacy is highly contextual

Successfully managing privacy is not a tick box exercise and there is no one size fits all. Good privacy practice requires that agencies have carefully considered policies, information technologies, and operational activities that take account of privacy in light of their particular environment.

The impact and importance of privacy varies

Our diverse country means that a single privacy breach can impact a range of people very differently. Some will be more vulnerable to serious harm and in greater need of assistance, while others will have the resources to better protect themselves. Some people care deeply about maintaining their privacy, while others are less concerned.

The agencies we regulate are many and varied

Our regulated sector is very broad, extending to nearly the entire public, private and not-for-profit sectors. Many agencies have a low understanding about managing privacy well, especially if they are very small. As a regulator, we will not be able to rely on market signals to reward good privacy practice and punish poor practices.

Technology is rapidly changing

There is strong uptake of new technologies like facial recognition technology and artificial intelligence. While these technologies are bringing significant benefits to both individuals and agencies, they are also introducing new and novel privacy risks that need to be managed if we are to minimise privacy harm.

Privacy is increasingly important

With countries increasingly viewing data as 'the new oil', it is important to have an internationally well-regarded privacy regime. While our small size limits our international influence, many of our issues are common to other jurisdictions, meaning we do not need bespoke New Zealand solutions.



The Treaty of Waitangi / Te Tiriti o Waitangi challenges before us

There are rising expectations that have been made clear to us in the privacy space.

Kia takatū tātau (preparing ourselves)

As we head toward 200 years since the signing of the Treaty of Waitangi / Te Tiriti o Waitangi, our Office is increasingly expected to have a strong understanding and capabilities related to Te Tiriti, tikanga Māori and Te Ao Māori.

Mā te mōhio ka mārama, mā te mārama, ka mātau (with knowledge comes understanding, with understanding comes wisdom)

Mātauranga Māori, as a knowledge system, and its contribution to Aotearoa is increasingly being acknowledged. As a learning organisation we will be expected to respond to ensure we realise the value it can bring to our thinking.

Mā te tika, te hē e whakatikatika (correcting the wrongs with the rights)

While the rights in the Privacy Act apply to all New Zealanders; the Tiriti principle of active protection will mean that we must ensure awareness of these rights and confidence to exercise them. There is an opportunity to grow an understanding of these rights and when things go wrong have Te Ao Māori inform the restoration of balance.

Te Whakatau Kerēme, Te Whakatū Hononga (partnering with and across Te Ao Māori)

Co-design and co-delivery between Māori organisations and the public sector will be increasingly expected as whānau, hapū and iwi emerge from the historical Treaty Settlement processes and aspire to tino rangatiratanga and mana motuhake. Māori organisations will increasingly expect to have data and data sovereignty that can inform delivery of equitable outcomes for Māori.

Te Rākau o te Pākehā (the new technologies)

While rapid technological advances deliver benefits for individuals, agencies, and society, they also raise some questions and challenges for privacy and the protection of taonga, of tapu, and of mana.

How New Zealanders feel about privacy

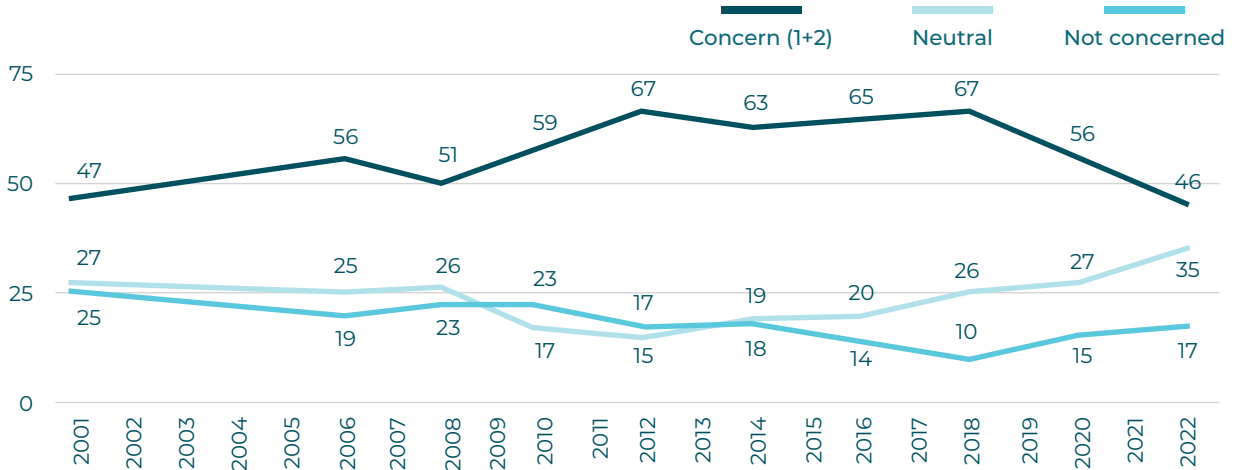
Since 2001, our Office has surveyed the public to measure awareness, knowledge, and levels of concern regarding privacy and the protection of personal information.

It is difficult to gauge how New Zealanders feel about privacy and we have found that expressed concern changes over time and is influenced by many factors. For example, over the past 20 years there was a large increase in the expressed concern about privacy and this subsided during and after the COVID-19 pandemic¹.

We have begun surveying New Zealanders' awareness of their privacy rights. In 2022 we found that only 47 percent of respondents were aware that the Privacy Act provides them with a right to a copy of any personal information an organisation holds about them.

However, when asked about specific privacy issues over half of New Zealanders surveyed expressed concern about businesses or government agencies sharing their personal information without permission, and the security of their personal information on the internet. This high level of expressed concern about specific privacy issues has been quite consistent over time, even as the general level of concern about privacy has changed over time.

Using a scale of 1 to 5, where 1 means you are very concerned and 5 not concerned at all, how concerned are you about an individual's privacy and the protection of personal information? (%)



1. Privacy concerns and sharing data, *Omnibus research commissioned by the Privacy Commissioner*. AK Research & Consulting, March 2022.

The privacy system and its outcomes

Our Office is a regulator in the privacy system – the flows of personal information between individuals and agencies throughout New Zealand. This system has three outcomes²:

Individuals are more confident that their privacy is protected

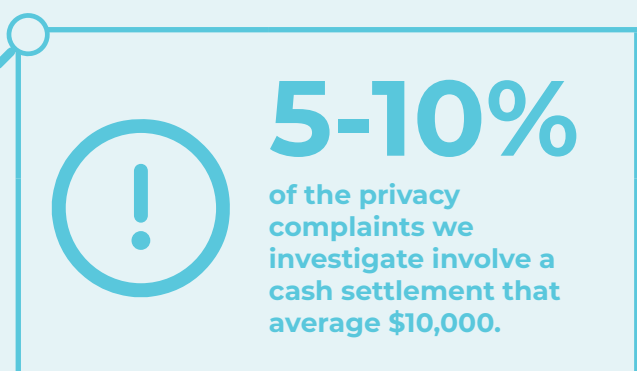
When an individual trusts that their personal information will be treated as a taonga, it gives them the confidence to provide it to an agency. Good privacy practices reduce the harms caused by privacy breaches, whether emotional, reputational, financial, or physical. About 5-10 percent of the privacy complaints we investigate involve a cash settlement that average \$10,000. In the past decade, where the Human Rights Review Tribunal has awarded damages for privacy cases, these have averaged \$21,000³.

Agencies can better achieve their own objectives through respecting the privacy rights of New Zealanders

When individuals entrust their personal information to an agency, that agency then provides the goods or services in order to provide a public service or to make a profit. Privacy breaches create high costs to agencies. They must address the immediate cause, important data may have been lost, and there could be a loss of existing customers or clients. In our 2022 survey of New Zealanders' attitudes to privacy, 63 percent of respondents said they would likely change service providers if they heard theirs had poor privacy and security practices⁴.

The right to privacy and the protection of personal information is valued in New Zealand

The outcomes of the privacy system extend beyond the interactions of individuals and agencies. Collectively, a society that values privacy and personal information is one where its people can have greater trust in government and institutions because they know that the information that is precious to them will be well treated. This trust helps drive better outcomes by encouraging engagement in democratic and consultation processes, helping to inform the design of effective services, and tackling complex problems. This trust is especially important for whānau, hapū and iwi in achieving their aspirations for equitable outcomes. Our Office contributes to this trust through our statutory independence that provides the public with a 'watch dog' who advocates on their behalf.



2. Measures for these outcomes is included in the Objectives section of this document.

3. *Human Rights Review Tribunal Decisions*, Ministry of Justice.

4. *Privacy concerns and sharing data*, Omnibus research commissioned by the Privacy Commissioner. AK Research & Consulting March 2022.

Key parties in the privacy system

Wider privacy system

Industry bodies

Represent and champion the interests of agencies

Privacy advisors

Assist agencies with advice on how to meet privacy requirements, includes the Government Chief Privacy Officer

ICT providers

Provide agencies with processing or storage capabilities

Core regulatory system

Ministry of Justice

Lead government agency for privacy policy advice

Office of the Privacy Commissioner

Regulator of the privacy system

Individuals

Individuals have their personal information used by agencies in return for goods and services

Agencies

Agencies (public and private) use personal information to achieve their objectives

Human Rights Review Tribunal

Judicial body for privacy issues

Advocacy groups

Help individuals directly or advocate for privacy improvements on their behalf

Māori organisations

Represent Māori interests with a core focus on the success and wellbeing of Māori



Our role

The Privacy Commissioner promotes and protects individual privacy through administering the Privacy Act 2020 and the variety of Codes made under it. As an independent Crown entity under the Crown Entities Act 2004, the Privacy Commissioner has independence when undertaking a wide range of activities across government, business and society.

We undertake the following functions:

Communication and Education

We inform people about their privacy rights. We promote privacy understanding and competence using media, opinion writing, events and conferences, and stakeholder engagement. We produce material and resources to inform, guide, and educate.

Investigations and Dispute Resolution

We use dispute resolution techniques for individual complaints and undertake full investigations where necessary and appropriate. Where we can, we encourage the settlement of a complaint. We refer serious cases to the Director of Human Rights Proceedings to consider bringing to the Human Rights Review Tribunal.

Compliance and Enforcement

We identify and assess systemic issues using the right tools to get the best privacy outcomes for New Zealanders. We undertake monitoring and compliance activities to ensure compliance with the Privacy Act and prosecute offenders if required.

Policy and Advocacy

We develop interventions such as guidance and Codes of Practice so that our expectations as regulator are clear. We provide advice on the privacy implications of policies being developed by Government. We advocate for privacy positive outcomes.

Strategy and Insights

We promote better prioritisation and decision making through analysing enquiries, complaints, privacy breaches and other information we receive. We develop and maintain an understanding of the impact of technological developments on privacy. We monitor the success of our strategies and initiatives.

Our purpose

We ensure that privacy is a core focus for agencies in order to protect the privacy of individuals, enable agencies to achieve their own objectives, and safeguard a free and democratic society.

It is critical that agencies regard privacy as a core focus that they manage alongside other important issues, such as health and safety. Failing to make privacy a core focus will lead to privacy being ignored and New Zealanders experiencing serious harm.

As we emphasise privacy to sectors and agencies, they will rightfully expect more of us as a regulator. We will become an effective modern privacy regulator through achieving four objectives:

1. We work in partnership with Māori to take a Te Ao Māori perspective on privacy.
2. We engage and empower people and communities who are more vulnerable to serious privacy harm.
3. We set clear expectations to provide agencies with greater certainty about their responsibilities.
4. We promptly use our full range of investigation and compliance powers to hold agencies accountable for serious privacy harm.

How we contribute to Government priorities

Our work to improve privacy system outcomes contributes to the priorities of the Justice Sector and broader Government.

The Ministry of Justice priorities are to:

- Bring the strength of communities into courts and tribunals
- Reduce the harm experienced by victims and their whānau
- Steward our policy and regulatory systems
- Improve access and experiences for participants in courts and tribunals, and
- Play a leading role to deliver an integrated sector-wide response.

The Government's priorities include:

- Continuing to keep New Zealand safe from COVID-19
- Accelerating the recovery and rebuild from the impacts of COVID-19, and
- Laying foundations for the future, including addressing key issues such as climate change response, housing affordability, and child poverty.

Our objectives

We will work in partnership with Māori to take a Te Ao Māori perspective on privacy

We recognise that to be a modern privacy regulator in Aotearoa New Zealand we need to be able to walk in a Te Ao Māori world and consider privacy through a Te Ao Māori lens.

Doing so will enable us to not only meet our obligations under Te Tiriti, but to better connect with Māori and Māori organisations, ranging from Māori health providers to the Data Iwi Leaders Group. While we have made some steps towards this ambition, we remain near the beginning of our journey in this area.

Over the course of the next four years, we will:

- Expand the capability and confidence of staff to engage effectively with Māori and in Te Ao Māori through training in Te Rēo Māori, tikanga, and kawa.
- Prioritise empowering Māori to use their privacy rights.
- Provide the public sector with greater clarity about the application of the Treaty of Waitangi to privacy issues and Te Ao Māori perspectives on privacy and support all agencies to better understand and accommodate cultural privacy perspectives.
- Develop strong partnerships with and across Te Ao Māori and have these partnerships shape our priorities and approach to our work.

How we will assess our performance

Indicator	Baseline (year)	Direction of travel
Māori awareness of right to access personal information under the Privacy Act	50% (2022) ⁵	Increase
All externally reviewed policy files appropriately incorporate Treaty and Te Ao Māori analysis as necessary	New measure	Maintain
Continued implementation of our Mahere Reo strategy and training to develop staff understanding of Te Ao Māori	New measure	Increase

5. *Privacy concerns and sharing data, Omnibus research commissioned by the Privacy Commissioner.* AK Research & Consulting March 2022.

We will engage and empower people and communities who are more vulnerable to serious privacy harm

We will support individuals to use their privacy rights in order to incentivise agencies to make privacy a core focus.

Agencies will improve their privacy compliance if they know their clients will seek access to their personal information to check the accuracy and complain if their privacy has been interfered with. We will increasingly focus on outreach and engagement and raising understanding of privacy rights and obligations and ensure that we provide the right information in an accessible way.

Over the course of the next four years, we will:

- Improve our digital service channels so that they provide people with what they need (including replacing our existing website).
- Undertake outreach and engagement activities focused on understanding those parts of society that are more vulnerable to serious privacy harm and working with others to empower them to use their privacy rights.

How we will assess our performance

Indicator	Baseline (year)	Direction of travel
Public awareness of right to access personal information under the Privacy Act	47% (2022) ⁶	Increase
Significant improvements made to digital service channels	New measure	Increase
Respond to all public enquiries within five working days	99% (2022) ⁷	Maintain

6. Privacy concerns and sharing data, Omnibus research commissioned by the Privacy Commissioner. AK Research & Consulting March 2022.

7. The figure reported in the 2022 Annual Report of 94% was against a measure of responding within 2 working days. The figure shown here has been calculated at 5 working days for comparative purposes.

We will set clear expectations to provide agencies with greater certainty about their responsibilities

Agencies can only make privacy a core focus when they understand and have the capability to meet their privacy requirements.

While we have done a lot to support agencies through providing advice and tools on our website, there is more we must do in order to set clear expectations for agencies.

Over the course of the next four years, we will:

- Provide agencies with greater certainty through setting specific, strong, and clear expectations, focusing on areas where there are the most significant power imbalances between individuals and agencies and/or sensitive information is involved.
- Support agency understanding and capability by supporting the development of, and engaging with, the privacy profession (both in-house privacy professionals and privacy advisors).
- Ensure that Codes of Practice issued under the Privacy Act and our guidance, advice and education material are fit for purpose.
- Expect Government and businesses to demonstrate that their privacy related activities are necessary and proportional.

How we will assess our performance

Indicator	Baseline (year)	Direction of travel
Awareness of Privacy Act requirements	New measure	Increase
Undertake two projects per year relevant to setting privacy standards, expectations, or guidance in the privacy system	New measure	Maintain
Percentage of externally reviewed policy files that are rated as 3.5 out of 5 or better for quality	95% (2022) ⁸	Maintain

8. Baseline taken from the 2022 Annual Report. The indicator has been changed slightly from prior years to include also include Codes files. These were previously not included in the review.

We will promptly use our full range of investigation and compliance powers to hold agencies accountable for serious privacy harm

It is critical that agencies in the privacy system know that as the regulator we will promptly use our investigation and compliance powers.

While our 'harder' powers will always be a minority of the actions we undertake, their use will provide a warning to non-compliant agencies – and support to compliant agencies.

Over the course of the next four years we will:

- Have our compliance activities prioritise systemic privacy issues relating to those parts of society that are more vulnerable to serious privacy harm, especially when those issues stop individuals from exercising their privacy rights.
- Promptly triage and investigate privacy complaints and breach notifications, while accounting for cultural needs and recommending redress where possible.
- Inform our work with insights from identified privacy system risks, international experiences and our own data.

How we will assess our performance

Indicator	Baseline (year)	Direction of travel
Percentage of serious privacy breaches notified to our Office within 72 hours	61% (2022)	Increase
Notified privacy breaches that are likely to cause serious harm, are followed up with the notifying agency within 10 working days of receipt	New measure	Maintain
The percentage of complaints closed during the year that were less than six months old at closure	78% (2022) ⁹	Maintain
The percentage of externally reviewed compliance investigations that are rated as 3.5 out of 5 or better for quality	New measure	Maintain

9. The figure reported in the 2022 Annual Report of 67% was against a slightly different measure. The figure shown here has been calculated for comparative purposes against the new measure.

Our values

1



Respect – Whakaaro nui

For all the people we deal with, and for viewpoints that differ from our own.
Ki ngā tāngata katoa e mahi ana me mātau, me ngā whakaaro rerekē ki ō mātau ake

2



Integrity – Ngākau tapatahi

We are honest, fair, and transparent in our work.
He pono me te matatika mātau me te ngākau tuwhera i roto i ā mātau mahi

3



Independence – Motuhaketanga

We operate impartially and without political or personal bias.
Ka mahi mātau i runga i te wairua tōkeke me te kore e riro i te whakaaro tōrangapū, whaiaro rānei

4



Innovation – Auahatanga

We value innovation, creativity and a culture of continuous improvement.
He hira ki a mātau te auahatanga, wairua auaha, me te wairua rapu kia pai haere tonu

5



Excellence – Hiranga

We strive for best professional practice and leadership in our field.
Ko ngā tikanga tino ngaio tā mātau e whai ana me te noho mātāmua i roto i tō mātau rāngai

Our organisational health and capability

Working together as an inter-related Office

We will work systemically across our Office so that we allocate and prioritise our resources to aid decision making and achieve the best results. Each of our functions (including our support functions) will bring unique perspectives and skills that enable us to achieve our vision.

We will strive for evidence-based decision making by conducting robust analytics reports on our information holdings as well as informing our work with international insights. We will seek to invest in our information technology, upgrading our digital services channels and content and customer management systems.

Working with other regulators to protect privacy

There is much that we can learn from privacy regulators in other countries, and there are regulators in New Zealand who have responsibilities that overlap with the privacy system (as their regulatory systems collect, use, and share personal information).

We will better promote and protect privacy by working with regulators, whether in New Zealand or in other countries. Connecting with regulators enables us to pool resources, share wisdom and practice, and to learn from others. In addition, effective implementation of good privacy practices requires buy-in from others.



Maintaining highly skilled and engaged staff

The people working in our Office are passionate about privacy and dedicated to promoting it. We will continue building and valuing a strong organisational culture that ensures our people feel engaged and valued.

We will invest in ongoing capability building through:

- Embedding inspired and cohesive people leadership throughout the organisation, harnessing improved engagement, and organisational performance.
- Investing in training and development for our people to set them up for success and support them in their professional development.
- Recruiting people with expert skills who will support us on our journey.
- Improve the Office's understanding of Te Ao Māori and use of Te Reo.

Equal employment opportunities and good employer statement

The Privacy Commissioner has an Equal Employment Opportunities policy and is an equal opportunities employer in its recruitment, human resources, and staff development practices.

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 four years we will continue to ensure that all elements are in place and working well.

Key Employment Elements are reported on through the Annual Report.

Our Kia Toipoto Pay Gaps Action Plan is available on our website.





Privacy Commissioner
Te Mana Mātāpono Matatapu

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