

How long do I have to file a privacy claim in the Human Rights Review Tribunal?

Under the Privacy Act 2020, you have 6 months to file a claim in the Tribunal. On 1 December 2020, the new Privacy Act came into force, replacing the Privacy Act 1993.

If OPC closed your complaint on or after 1 December 2020, your investigator should have clearly communicated why we are closing your complaint, the outcome and the date we gave you that notice.

The 6-month time limit runs from when your investigator notifies you about the closure of your complaint under the Privacy Act 2020. This is called a “Section 98 notice” in the Statement of Claim form.

What would my ‘Section 98 notice’ look like?

If we closed your complaint after 1 December 2020, you should have received a covering email or an attachment from OPC labelled ‘Section 98 notice’. This is what you need to attach to your statement of claim when you file your claim in the Tribunal.

Note that you do not need to attach the actual closing letter from OPC which goes into details about the reasons, just the page or email that is the section 98 notice.

If you are unsure, contact your investigator or the investigations team for advice and we will do our best to help. They will be able to confirm the date of notice so you can work out when your 6 months will be up.

If you wish to file your claim in the Tribunal, let us know as soon as possible and we will provide you with a Certificate that you can attach to the Statement of Claim, along with the section 98 notice.

I don’t know how the new statement of claim applies to my complaint

If you are having difficulties filling out the Statement of Claim form, you should contact the Tribunal in the first instance. More information on how to file a claim in the Tribunal can be [found on its website](#).

If I haven’t commenced proceedings within 6 months, have I lost my chance?

Not necessarily. Section 98(8) of the Privacy Act 2020 allows the Chairperson of the Tribunal to extend the time period for commencing proceedings if satisfied that “exceptional circumstances prevented proceedings from being commenced”.

If you have a good reason which explains your delay in filing your claim, you can explain this to the Tribunal. Things you may wish to consider here include any personal circumstances that affected your ability to file a claim or prevented you from filing your claim promptly.

If this is you, you should contact the Tribunal directly for advice on how to proceed. You may also wish to seek advice from your local [Community Law Centre](#), [Citizens Advice Bureau](#), or a [private lawyer](#).

My complaint was closed but I didn't receive a section 98 notice

Please contact your investigator and we will do our best to help.

Note that if your complaint was closed before 1 December 2020 under the Privacy Act 1993, you don't need a section 98 notice to file a Statement of Claim in the Tribunal. But you will need a Certificate of Investigation from OPC, so let us know as soon as possible and we will be able to send one to you if we investigated your complaint.

What do I need to file a Statement of Claim?

Information about filing claims in the Tribunal is available here:
<https://www.justice.govt.nz/tribunals/human-rights/make-a-claim/>

Complaints closed after 1 December 2020

You will need the Statement of Claim form [Statement of Claim – Privacy Act 2020](#) [PDF, 104 KB]

If your complaint was closed under the Privacy Act 2020, you will need to attach a section 98 notice from OPC on closure of the investigation of your complaint.

You will also need to attach a Certificate from OPC confirming that your complaint was investigated.

You will need to file your claim within 6 months of receiving the section 98 notice or explain to the Tribunal the reasons that affected your being able to meet that deadline.

Complaints closed before 1 December 2020

You will need the Statement of Claim form [Statement of Claim – Privacy Act 2020](#) [PDF, 104 KB]

You will need to attach a Certificate of Investigation from OPC confirming that your complaint was investigated.

You should file your claim promptly in case the 6-month time limit applies (this is not yet confirmed). If it does apply, the Tribunal has a discretion to accept your claim if you can explain you have good reason (exceptional circumstances) for the delay.