



28 MAY 2021

Tēnā koe

On 14 April 2021, you emailed the Ministry of Social Development (the Ministry) requesting, under the Official Information Act 1982 (the Act), the following information:

All guidance, documents and legal advice created, held or used by the Ministry pertaining to the interaction of the right to correction under Principle 7 of the Privacy Act 2020 and the Ministry's obligation under the Public Records Act 2005, ss 7 and 20, to retain and maintain protected records.

The Ministry has identified the following three documents as being within the scope of your request:

- Email – *Correcting personal information – [s 9(2)(a) OIA] complaint*, dated 3 June 2009
- Filenote – *CE Complaint Panel – [s 9(2)(a) OIA] family complaint*, dated 3 June 2009
- Email – *A complaint*, dated 3 August 2017

However, the documents are withheld under section 9(2)(h) of the Act in order to maintain legal professional privilege. The greater public interest is in ensuring that government agencies can continue to obtain confidential legal advice.

The names of individuals within the document titles are withheld under section 9(2)(a) of the Act in order to protect the privacy of natural persons. The need to protect the privacy of these individuals outweighs any public interest in this information.

The Ministry usually obtains guidance in regard to the PRA and the Privacy Act through resources produced by the Office of the Privacy Commissioner and by Archives New Zealand, available through their websites:

- www.privacy.org.nz
- www.archives.govt.nz

Taking this guidance into account, the Ministry's position on our joint obligations under the Privacy and Public Records acts can generally be described as follows:

Both the Privacy Act (PA) and the Public Records Act (PRA) impose requirements on agencies to ensure that any personal information they hold is accurate (PA principle 8, PRA s17) and that it is disposed of appropriately once no longer required (PA principle 9, PRA s18). The PA also specifically requires that agencies take reasonable steps to correct information if asked (PA principle 7).

Information is accurate where it correctly represents the activity or facts it purports to represent. Information that solely provides evidence that an activity occurred will only

need to be corrected if it is an inaccurate record of that activity. Other information must be kept up to date to be accurate.

Because information can be accurate for one use but not another, information must be described such that its intended use is clear. This can include annotating or otherwise marking the information to ensure the limitations of the information are understood by any potential users (as provided for under PA principles 7 and 8).

By way of example:

- A client's contact details and preferred name are accurate when they are up to date, and will need to be updated when the Ministry becomes aware that they have changed.
- A list of previous addresses needs to be updated whenever the client moves, and if it is identified that any of the addresses are incorrect.
- A record of a letter sent to the client, retained as evidence of what was sent, is accurate when it is an exact copy of that letter. This record would need to be updated if it was discovered that it was missing pages or otherwise not reflective of the actual letter.

Once information is no longer required, it can potentially be disposed. The PRA requires that information only be disposed under an approved disposal authority. Disposal authorities are legal instruments which specify which information can be transferred or destroyed, and the minimum period that information must be retained for prior to any such disposal.

Retention periods for information covered by a disposal authority are established by reference to the Archives New Zealand appraisal criteria and to the value statements set out in the relevant appraisal report for that authority. For personal information, these value statements also describe how long the information needs to be kept for to meet the requirements of PA principle 9.

The Ministry's current disposal authority, and our privacy statement describing the purposes for which we collect personal information, are available online here:

- Disposal authority (DA694) - <https://www.archway.archives.govt.nz/ViewEntity.do?code=DA694>
- Privacy notice - <https://www.workandincome.govt.nz/about-work-and-income/privacy-notice/index.html>

The principles and purposes of the Official Information Act 1982 under which you made your request are:

- to create greater openness and transparency about the plans, work and activities of the Government,
- to increase the ability of the public to participate in the making and administration of our laws and policies and
- to lead to greater accountability in the conduct of public affairs.

This Ministry fully supports those principles and purposes. The Ministry therefore intends to make the information contained in this letter available to the wider public. The Ministry will do this by publishing this letter on the Ministry of Social Development's website. Your personal details will be deleted, and the Ministry will not

publish any information that would identify you as the person who requested the information.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with this response, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

A handwritten signature in blue ink, appearing to be 'Hannah Morgan', with a small dash to the right.

Hannah Morgan
Acting General Manager Information