

Information handling policy

Introduction

This document describes how the New Zealand Law Society | Te Kāhui Ture o Aotearoa (**Law Society**) collects, uses, discloses, and stores personal information. It is intended to be a resource for Law Society personnel and a source of information for the legal profession and members of the public.

Information handling policy

- This policy is not intended as a substitute for legal advice.
- A Community Law Centre, Citizens Advice Bureau or lawyer can provide advice on privacy.
- Full information about individual privacy rights is available on the Office of the Privacy Commissioner's website at www.privacy.org.nz

What is personal information?

- 'Personal information' means information about an identifiable individual.

Information Privacy Principles

- The Privacy Act 2020 (**Privacy Act**) sets out 13 information privacy principles relating to the collection, use, disclosure, and storage of personal information.
- A summary of the information privacy principles is reproduced at the end of this policy.

Privacy framework – objectives

The Law Society is committed to protecting an individual's right to privacy of their personal information. To achieve this, the Law Society has established a privacy policy framework.

The objectives of the framework are as follows:

- Maintaining a positive "privacy culture" in which Law Society employees, contractors, appointees, officers, committee members and other individuals acting in an official capacity (**Law Society personnel**) are supported and encouraged to adopt good privacy practices.
- Building trust and confidence with the legal profession and members of the public by:
 - collecting personal information in accordance with clear purposes;
 - adopting good data handling processes;

- avoiding the potential for security or data breaches;
 - meeting access and correction requests within prescribed time periods;
 - ensuring accuracy of personal information wherever reasonably possible; and
 - lawfully using and disclosing personal information.
- Ensuring legal compliance.

Privacy Act – and other legislation

This policy is informed by the Law Society's obligations under the Privacy Act, the Lawyers and Conveyancers Act 2006 (**LCA**) and rules and regulations relating to the conduct of, practice of law by, and regulation of lawyers (**Rules**).

The Privacy Act provides that where another law authorises or requires personal information to be made available or to be used in a specific way, this will override the applicable information privacy principles. The Privacy Act also provides that other statutes which prohibit or restrict the availability of personal information take precedence over the applicable information privacy principles.

The Law Society is not subject to the provisions of the Official Information Act 1982.

What personal information is collected by the Law Society

The Law Society collects personal information about individuals for purposes connected with the Law Society's regulatory or representative functions, or both.

The specific personal information the Law Society collects in any particular circumstance will depend on why it is being collected. For example, personal information collected by the Law Society for the purposes of issuing a practising certificate will differ from personal information collected to address a complaint. In some circumstances, the LCA and Rules set out the information that must be collected by the Law Society for a particular regulatory purpose.

The personal information the Law Society may collect about an individual for purposes connected with the Law Society's regulatory or representative functions, or both includes:

- Identity information such as an individual's name, any former names and date of birth together with verification documents.
- Contact information such as phone number and email address.
- Information the Law Society collects to keep and maintain the register of lawyers under the Rules, such as when and where the lawyer was admitted and if the lawyer is intending to provide real estate services.
- Information relevant to any application an individual may be making to the Law Society. For example, if an individual is applying for a certificate of character, the Law Society will collect information relevant to assessing the individual's qualifications, character, and fitness for admission as a barrister and solicitor of the High Court of New Zealand including intended date of admission, tertiary qualifications, and employment history.

- Information to assess whether an individual is a fit and proper person:
 - for admission as a barrister and solicitor of the High Court of New Zealand; or
 - to hold a practising certificate; or
 - to renew a practising certificate; orwhether there are any other grounds under the LCA for declining to issue the individual with a practising certificate or renew the individual's practising certificate.
- Information to assess an individual's suitability to practise on own account.
- Information to enable a member of the public to contact a suitable lawyer to carry out legal work, including a lawyer's practice areas and languages spoken.
- Information relating to a lawyer's continuing professional development, including information to enable the Law Society to carry out an audit of a lawyer's CPD plan and record.
- Information necessary to process, resolve and/or determine a complaint, inquiry or disciplinary matter or carry out an investigation or review.
- Information to monitor compliance with orders made by a Standards Committee, the Lawyers Complaints Review Officer, the Lawyers and Conveyancers Disciplinary Tribunal, or compliance with undertakings given to the Law Society (for example, periodic reports from health practitioners or professional mentors).

The Law Society also requests personal information such as an individual's title, preferred pronoun, gender, and ethnicity for the purposes specified below.

How the Law Society collects personal information

The Law Society may collect personal information directly from an individual any time the individual interacts with the Law Society. For example, the Law Society may collect personal information directly from an individual when:

- the individual communicates with the Law Society by post, phone, or email;
- an application or other form is completed and submitted to the Law Society; or
- the individual submits personal information through the Law Society's website or other online platforms.

The Law Society may also collect personal information about an individual from third parties if:

- the individual has authorised the Law Society to do so (for example, the individual has authorised the Law Society to make independent inquiries for the purpose of assessing the individual's application for a certificate of character or practising certificate);
- obtaining the information directly from the individual would prejudice the purpose of the collection (for example, if an individual makes a complaint about a lawyer to the Law Society, the Law Society will collect personal information about the lawyer from the individual complainant and may potentially collect personal information about the lawyer from people or entities related to the lawyer);

- the Law Society is otherwise permitted or authorised to do so by the Privacy Act, LCA, the Rules or another law.

NZLS CLE Limited is a wholly owned subsidiary of the Law Society and assists the professional development of lawyers by providing continuing legal education services. The Law Society may request information from NZLS CLE Limited confirming completion of courses by an applicant for the purpose of assessing the applicant's eligibility for a certificate to practise on own account or approval to take direct instructions or for other regulatory or representative purposes.

When an individual visits or uses the Law Society's website, the Law Society collects general information such as the user's internet protocol address, browser type and other technical information. The Law Society uses this information to administer its website and to gain a better understanding of users and how they use the Law Society's website. However, this information is not personal information.

Purposes for which personal information is collected

Regulatory functions

The Law Society collects information, including personal information, so that the Law Society can carry out the following regulatory functions under the LCA and Rules:

- Controlling and regulating the practice of law in Aotearoa New Zealand by barristers and barristers and solicitors.
- Upholding the fundamental obligations imposed on lawyers who provide regulated services.
- Monitoring and enforcing the provisions of the LCA and the Rules.
- Assisting and promoting the reform of law.

Information collected and held by the Law Society for one regulatory purpose may be used by the Law Society to inform decision making about the individual in relation to other aspects of the Law Society's regulatory functions.

In some circumstances, the LCA and Rules set out the information that must be collected by the Law Society to carry out its regulatory functions. For example, the Rules require the Law Society to establish and maintain a register of lawyers and sets out the specific information that the register must contain.

If information that is requested for a regulatory purpose is not provided, the Law Society may not be able to consider the relevant application or fulfil the specific purpose for which the information has been requested, or the relevant process may be delayed. In some cases, failure to provide the requested information may amount to a breach of the LCA and/or the Rules.

The provision of title and preferred pronoun information is voluntary. Collecting this information helps Law Society personnel use the most respectful language when addressing you.

Representative functions

The Law Society also collects information, including personal information, so that the Law Society can carry out its representative functions under the LCA, which are to represent its members and serve their interests.

As a membership body, the Law Society provides:

- national representative services for lawyers across Aotearoa New Zealand;
- representation and support of the profession, with branches across the motu and specialist representative sections and groups.

Members of the Law Society have access to a range of services, including education, networking and connection, information, technical guidance, support and advice. The Law Society also undertakes extensive advocacy for the benefit of the profession.

The Law Society keeps and maintains a register of members.

Information collected by the Law Society to carry out its representative functions is used for:

- sending information about membership matters, including networking opportunities, events and other membership services;
- seeking feedback on proposed legislation and other section or group issues;
- identifying whether lawyers are part of a particular section or group; and
- planning and research purposes.

The Law Society's specialist representative sections and groups give members who have a common interest in any area or branch of law, or any legal activity, or any other legally associated matter, an opportunity to promote that interest in association with others. This may involve discussing and debating issues of interest, studying legal matters, and preparing and disseminating reports, studies and recommendations.

Information about Law Society members, including name, organisation, email address, practice area, gender and date and place of admission is disclosed by the Law Society to NZLS CLE Limited for the purpose of enabling NZLS CLE Limited to offer continuing legal education services and deliver such services to those individuals. NZLS CLE Limited may use member information to tailor its marketing and continuing legal education services, for example, to particular practice areas, experience levels, or locations. It also uses this information to access a member's eligibility for particular NZLS CLE Limited programmes.

The Law Society may use third parties for providing research, booking and event management services and other services to carry out its representative functions.

Membership of the Law Society is voluntary. The provision of information to the Law Society for membership and to access its representative services is voluntary. However, if the requested information is not provided, the Law Society's ability to process an individual's membership application or its ability to provide membership services to the individual may be impacted.

Regulatory and representative functions

In some circumstances, the Law Society collects personal information that is used for both its regulatory and its representative functions. For example, it collects and uses identity and contact information for both purposes.

The Law Society aims to be inclusive of the diverse society in Aotearoa New Zealand and to improve access to justice and legal services. Collecting data on gender and ethnicity helps identify what the disparities are so they can be addressed. Provision of this information is voluntary. We may publish anonymised aggregate data based on the information provided. We may also publish anonymised aggregate data on other matters such as lawyers' location, time spent practising, and areas of work.

The Law Society uses personal information to communicate with the legal profession about regulatory and representative matters.

Gender, ethnicity, areas and modes of practice, language, and other personal information collected by the Law Society may also be used to better target its communications for both its regulatory and representative functions.

Use and disclosure of personal information

The Law Society will generally only use or disclose personal information for the purpose for which it was obtained. These purposes are set out in this policy, or at the point of collection.

The Law Society may use or disclose personal information for another purpose if the individual concerned authorises the other use or disclosure, or the Law Society is otherwise permitted to do so under the Privacy Act, the LCA, the Rules or any other law.

For example, the LCA and Rules set out limited situations where information about complaints, investigations or trust account inspections may be disclosed to certain agencies including the Registrar-General of Land, members of the police or Serious Fraud Office who are performing their duties.

Before using or disclosing personal information to any third party, the Law Society takes reasonable steps to ensure that the information is accurate, up to date, complete, relevant, and not misleading.

If it is necessary for personal information to be given by the Law Society to any third party to carry out services on behalf of the Law Society everything reasonably within the power of the Law Society is done to prevent unauthorised use or disclosure of the information by that third party.

Storage and security of personal information

The Law Society handles significant volumes of information including personal information for the purposes of its regulatory and representative functions. Much of this is handled electronically. We have policies and procedures in place to help protect personal information from unauthorised access, use, modification and disclosure, and other misuse.

Access to electronically stored information held by the Law Society is controlled through user passwords and where appropriate, multi-factor authentication. Different arms of the Law Society have secure areas designated for the electronic storage of information and access to these areas is restricted to Law Society personnel who require access to carry out their roles.

Confidential and sensitive information is identified and access to it is restricted to Law Society personnel who require access to carry out their roles.

The Law Society stores data in secure facilities located in Aotearoa New Zealand, Australia and the United States. The Law Society employs firewalls, intrusion detection systems and virus scanning tools to protect against unauthorised persons and viruses entering our computer systems.

The Law Society only holds personal information for as long as the information is needed for a lawful purpose. Personal information no longer required to be held is deleted or securely destroyed.

Rights of access to and correction of personal information.

Under the Privacy Act, an individual has the right to request access to their personal information. There are limited grounds upon which the Law Society may refuse to disclose personal information. These include situations where the provision of information would breach legal professional privilege or where disclosure would lead to the unwarranted disclosure of the affairs of another person.

If an individual believes their personal information is inaccurate, they may request the Law Society to correct the information.

You can make a request for access to or correction of your personal information by contacting the Law Society's Privacy Officer at privacy@lawsociety.org.nz.

Privacy breaches

Inadvertent privacy breaches may happen despite good processes and the best of intentions. As soon as a breach is discovered, Law Society personnel are required to advise their Manager and the Privacy Officer. The Privacy Officer will work with the relevant personnel to contain the breach, assess the breach, determine whether notification to the Privacy Commissioner and/or any affected individuals is required, and address any specific privacy concerns.

Updates and other information

We may update this policy from time to time. We will advise you of this by changing the "last updated" date below. All updates will apply to previously collected information.

The Law Society's national office and the office of NZLS CLE Limited are located at Level 4, 17-21 Whitmore Street, Wellington.

The Law Society can be contacted at PO Box 494, Wellington 6140. DX SP20202

If you have any questions about this policy or any updates, or the Law Society's information handling obligations under the Privacy Act and the LCA, please contact the Privacy Officer - privacy@lawsociety.org.nz.

Last updated: 1 April 2024

Information Privacy Principles

Purpose of collection

Principle 1 is a collection principle. An agency must not collect personal information unless it is for a lawful purpose connected with a function or activity of that agency, and it is necessary to collect that information for that purpose.

Source of personal information

Principle 2 states that personal information must be collected directly from the individual concerned. An agency may collect information from other sources if an exception applies.

Collection of information

Principle 3 provides that when personal information is collected directly from an individual, an agency must take reasonable steps to ensure the individual is aware of:

- the fact the information is being collected;
- the purpose for which the information is collected;
- the intended recipients;
- the name and address of the agency collecting the information and the agency that will hold the information;
- if the collection of the information is authorised or required by law, the name of the particular law and whether the supply of the information is voluntary or mandatory;
- the consequences (if any) if the requested information is not provided;
- the fact that individuals have a right to request access to and correction of their personal information.

Manner of collection

Principle 4 outlines that personal information must not be collected by unlawful means or by means that are unfair or unreasonably intrude on the personal affairs of the individual.

Storage and security

Principle 5 governs the way personal information is stored. It is designed to protect personal information from unauthorised use or disclosure.

Access

Principle 6 outlines an individual's access rights to personal information held by an agency.

Correction of personal information

Principle 7 outlines an individual's right to request an agency to correct personal information.

Checking accuracy of information before use

Principle 8 specifies that an agency must take all reasonable steps to ensure personal information is accurate, complete, relevant and not misleading prior to using that information.

Retention of information

Principle 9 specifies that an agency cannot keep personal information for longer than is required for the purposes for which the information may lawfully be used.

Limits on use

Principle 10 specifies that subject to specified exceptions an agency cannot use personal information that has been collected for one purpose, for another purpose that was not originally specified.

Limits on disclosure

An agency that holds personal information must not disclose the information to another agency or to any person unless an exception applies.

Disclosure outside Aotearoa New Zealand

Principle 12 requires an agency to ensure personal information disclosed overseas is given adequate protection.

Unique identifiers

Principle 13 provides that an agency must not assign a 'unique identifier' to an individual unless the assignment of that identifier is necessary to enable the agency to carry out its functions efficiently.