

Collection of personal information

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Policy statement and principles

What?

The first four Information Privacy Principles (IPPs) of the Privacy Act 2020 deal with the collection of personal information. This chapter encourages diligence in the way Police employees apply these IPPs when collecting personal information from all people who engage with us.

This chapter applies to all Police employees and to [personal information](#) in whatever form it is collected, including electronic and hardcopy.

Why?

The appropriate application of the IPPs when collecting personal information from individuals ensures that information is only collected for a lawful purpose and that it is necessary for that purpose.

How?

Police will ensure that:

- collection of personal information is from the individual concerned unless an exception in the principles allows for collection from other sources for a lawful purpose - this includes for law enforcement purposes.
- personal information shall only be collected when necessary and proportionate to the policing function or activity for which it is required.
- where it is reasonable in the circumstances, people should be told when and why personal information about them is collected. The principles provide grounds for Police to not inform people of collection if to do so would prejudice our law enforcement purposes.
- police shall not use unlawful or unfair means to collect personal information nor means that intrude to an unreasonable extent upon the affairs of a person
- an individual's identifying information shall not be collected when it is not necessary or not required.

Definitions

Personal information

‘Personal information’ means information about an identifiable individual. The individual does not have to be identified in the information. Information can be ‘personal information’ even if the individual is only identified with the use of extrinsic information or knowledge.

Collection

In the context of personal information, ‘collection’ means the acquisition of and taking any steps to seek or obtain personal information from individuals but does not include the receipt of unsolicited information.

Passively receiving unsolicited information is not a ‘collection’ for the purposes of Principle 1 to 4, regardless of whether the information is received in person or by way of letter, email, or telephone. However, asking for more information or unrelated information is likely to amount to collection.

Collection of personal information

The collection of personal information is covered within the Privacy Act 2020 and in particular Principles 1 to 4 of the IPPs.

Principle 1 - Purpose of collection of personal information

Police must not collect personal information unless -

- the information is collected for a lawful purpose connected with a Police [function](#) or activity; and
- the collection of the information is necessary for that purpose, function or activity
- in respect of identifying information, it is required for a lawful purpose.

(See the full principle [here](#))

Functions of Police

Functions of Police include:

- keeping the peace
- maintaining public safety
- law enforcement
- crime prevention
- community support and reassurance
- national security
- participation in policing activities outside New Zealand
- emergency management

([s9](#) Policing Act 2008)

Issues to consider

The collection of personal information must be necessary and proportionate for the purposes for which it is required. For example, if your interaction is with a member of the public reporting lost property it would usually be unnecessary to take a photograph of that person.

Ask yourself why the information needs to be collected. Do you genuinely need the information or is it just nice to have? If the information is not needed, don't collect it.

Think about whether in the circumstances, collecting less will be sufficient or would anonymised information serve our purposes and reduce the risks of causing offence.

If you have doubts about the need for collecting personal information, think about the purpose for which you are collecting the information. Is the purpose connected to Police's lawful functions?

Principle 2 - Source of personal information

Police will usually collect personal information directly from the person concerned, unless one of the listed

exceptions to this principle applies.

The listed exceptions contain specific exemptions for an agency like Police and include where you believe on reasonable grounds -

- the person authorises collection from someone else
- the information is publicly available information
- collecting it from the person would prejudice the prevention, detection, investigation or prosecution of offences described in the principle as 'maintenance of the law')
- collecting it from the person is not reasonably practicable in the circumstances of the particular case
- collecting the information from another source would not prejudice the interests of the person who the information is about.

(See the full principle [here](#)).

Issues to consider

If you are collecting the information from another source and you have some doubts about the process, think about whether your intention fits within one of the exceptions. Is collecting the information from another source necessary to achieve your aims?

If you have doubts about whether you should be collecting the information it may mean that the collection ought to be directly from the person.

If the information is collected from a source other than the person whom it is about, should we or can we later tell that person that we have the information?

If the collection involves the authority of the individual, make a record of how the authority was acquired.

Principle 3 - Advice to individual on collection

Where personal information is collected directly from the person concerned, Police must take such steps (if any) as are, in the circumstances, reasonable to ensure that the person is aware of -

- the fact that the information is being collected; and
- the purpose for which the information is being collected; and
- the intended recipients of the information; and
- if the collection is under a law, the name of the law and whether the collection is voluntary or mandatory, and the consequences (if any) for that person if all or part of that information is not provided; and
- the right to have access to the collected information and the right to correct it.

These steps shall be taken before the information is collected, or if not achievable, as soon as practicable after the information is collected.

Exceptions

As with Principle 2 there are exceptions to the obligation to advise a person, such as belief on reasonable

grounds that:

- it is not reasonably practicable in the circumstances to tell the person; or
- not telling the person would not prejudice that person's interests; or
- not telling the person is necessary to avoid prejudice to maintaining the law such as prevention, detection, investigation and prosecution of offences; or
- telling the person would prejudice the reason for collecting the information.

(See the full principle [here](#)).

Issues to consider

It may be that the circumstances of the interaction with the person are well understood making it unnecessary to provide all of the detail required by Principle 3. It may be helpful to ask yourself:

- Would the person be surprised if they knew what was to happen to the information provided?
- Is the reason for collecting the information obvious and well understood?
- Would it be obvious to the person that you intend to send the information to another party? For example where you have given the person a Family Violence - Victim Information Sheet which includes advice that certain information will be forwarded to a support agency.

If you are collecting the information pursuant to a law, for example the Land Transport Act 1998, the person should be advised of the law and whether providing the information is mandatory or not, along with the consequences for not providing the information.

If you are not able or willing to advise the person of the fact of the collection consider whether there are reasonable grounds to rely on one of the [exceptions](#).

Principle 4 - Manner of collecting personal information

Personal information shall not be collected -

- by unlawful means, or
- by means that, in the circumstances of the interaction (particularly in the case of children or young persons)
 - are unfair, or
 - intrude to an unreasonable extent upon the personal affairs of the person concerned

(See the full principle [here](#))

Issues to consider

If the method of collection doesn't feel right, what other options are available?

If the person is not aware of the collection or the reasons for the collection, can Police rely on a relevant law or other authority?

Does the method of collection involve some deception or coercion that might be seen as unfair or unlawful?

Further advice and assistance

For advice and assistance around the collection of personal information, contact Police's [Chief Privacy Officer](#) based in the Assurance Group at Police National Headquarters. Additionally, the Office of the Privacy Commissioner's [website](#) provides further information about the information privacy principles and how agencies may collect, store, use and disclose personal information.

See the '[Privacy and official information](#)' chapters for information about the disclosure of personal information and managing privacy breaches.

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