



## Privacy policy

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## GENERAL PROVISIONS

### 1. Purpose

- 1.1. This policy sets out the Midwifery Council's approach to handling personal information under the Privacy Act. It does not address:
- a. health information under the Health Information Privacy Code;<sup>1</sup> or
  - b. matters of confidentiality other than as they relate to dealing with personal information; or
  - c. issues of physical or spatial privacy or respect, which are dealt with under the Code of Health and Disability Services Consumers' Rights.

### 2. Legislation and relevant policies

- 2.1. The following legislation is relevant to this policy:
- a. Privacy Act 1993
  - b. Health Information Privacy Code 1994
  - c. Health Practitioners Competence Assurance Act 2003
  - d. New Zealand Public Health and Disability Act 2000
  - e. Health and Disability Commissioner Act 1994
  - f. New Zealand Public Health and Disability Amendment Act 2010
- 2.2. This policy must be read in conjunction with the following policies or procedures:
- a. Privacy Procedure.

### 3. Definitions

- 3.1. In this policy, unless the context otherwise requires:
- a. **Code** means Code of Health and Disability Services Consumers' Rights
  - b. **Council** means Midwifery Council
  - c. **health agency** means an agency who handles health information and includes the Council and midwives<sup>2</sup>
  - d. **health information** is a subset of personal information focused on the health of an identifiable individual, including their medical history<sup>3</sup>
  - e. **HIPC** means Health Information Privacy Code
  - f. **individual** means a natural person other than a deceased person and includes information relating to a death that is maintained by the Registrar-General pursuant

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<sup>1</sup> The HIPC was issued under section 46 of the Privacy Act and substitutes for the Privacy Act's privacy principles in situations where health agencies are handling health information.

<sup>2</sup> See HIPC for full definition.

<sup>3</sup> See HIPC for full definition.

to the Births, Deaths, Marriages, and Relationships Registration Act 1995, or any former Act

- g. **IPP** means an information privacy principle
- h. **personal information** means information about an identifiable person and includes information relating to a death that is maintained by the Registrar-General pursuant to the Births, Deaths, Marriages, and Relationships Registration Act 1995, or any former Act
- i. **significant request** does not include a request that forms part of a staff member's normal duties, unless there is a particular and significant risk associated with responding to the request such that it should be escalated.

#### **4. Chief Executive delegation**

- 4.1. The Chief Executive/Registrar is the only person authorised to make a decision on any significant request for personal information except where she or he authorises someone else in writing to make such decisions. Such authorisation may be set out in a person's job description or given on a case-by-case basis.

### **POLICY**

#### **5. Guiding principles**

- 5.1. In dealing with personal information, the Council:
  - a. acknowledges the importance of personal privacy and seeks to protect the privacy of any individual about whom it holds personal information
  - b. takes care of all personal information it has, managing it lawfully and respectfully
  - c. appropriately addresses privacy and security considerations in all its work processes
  - d. acts responsibly, quickly and appropriately where there is a privacy breach
  - e. supports and encourages a culture of caution, awareness and accountability in all dealings with personal information.

#### **6. Handling personal information**

- 6.1. The Privacy Act's information privacy principles are set out in section 6 of the Privacy Act and are summarised in Appendix 1. The Council's policy position accords with those principles.
- 6.2. Whenever the Council is collecting, using, storing or disposing of personal information, it follows processes that are respectful of the information it is dealing with and that are in compliance with the Privacy Act.
- 6.3. Personal information, whether in hard or soft copy, is only to be transferred or removed from the Council's offices when necessary. Only the minimum amount of personal information required may be transferred or removed, and appropriate security precautions must be taken in handling that information.
- 6.4. Any remote access to personal information must be performed lawfully, appropriately, and in a safe and secure manner, considering the location from which the information is being accessed.

## **7. Public register**

- 7.1. The Council must keep a register of midwives that is available to the public.<sup>4</sup>
- 7.2. The Council makes information about midwives available on the register in accordance with the HPCAA. This allows a person to check if the midwife is registered, their qualifications, whether or not they hold a current practising certificate, and any conditions or restrictions on their practice
- 7.3. The Council assigns a unique identifier to midwives only as a registration number.
- 7.4. The Council takes the following steps to ensure they know the correct identify of the person assigned a registration number by:
  - a. receiving and verifying a certified copy of either the applicant's birth certificate or passport
  - b. receiving certified evidence of a legal change of name if the applicant's current name is not the same as on their birth certificate or passport.
- 7.5. Certification of the copy can only be done by a Barrister and Solicitor of the High Court of New Zealand, a Notary Public, or a Justice of the Peace. Certification by any other person will not be accepted.
- 7.6. Registration numbers are used for:
  - a. by the Council for the unique identification of a midwife from the time of application for entry to the register until notification of death or removal from the register. The registration number is never re-issued to another midwife.
  - b. by midwives for:
    - i prescribing
    - ii claiming under the section 88 Primary Maternity Services Notice.
- 7.7. The midwife does not make registration numbers publicly available and they do not appear on the public register.
- 7.8. Registration numbers are available to:
  - a. the Ministry of Health for purposes related to claiming and Ministry monitoring
  - b. the coordinator of the Midwifery First Year in Practice Programme
  - c. individual or corporate entities which request registration numbers for purposes of identification, processing of payments, or other purposes related to the provision of maternity care.

## **8. Requests for personal information**

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<sup>4</sup> Sections 136-150, Health Practitioners Competence Assurance Act 2003

- 8.1. A person about whom the Council holds personal information may request access to that information under the Privacy Act.
- 8.2. The Council accepts oral and written requests for personal information. Requesters do not have to expressly refer to the Privacy Act as it is the Council's responsibility to understand when a request for personal information is being made. However, the Council may ask the requester to put the request in writing where they need to clarify what information the requester needs.
- 8.3. The Council provides reasonable assistance to any requester, including doing such things as:
  - a. helping a requester clarify a request
  - b. transferring requests to the correct agency within 10 working days of receiving them
  - c. directing the requester to the correct agency where the Council does not hold the information requested
  - d. offering options before declining a request where appropriate. Options might include providing the information in a different way, charging for it, seeing whether the requester needs can be met in a different way.
- 8.4. Where the Council transfers part of a request, it responds in the usual way to the part of the request that relates to information held by the Council.
- 8.5. The Council requires reasons where any person making a request for access to personal information wishes their request to be treated as urgent.

#### *Decision on requests*

- 8.6. Within 20 working days of receiving the request:
  - a. Subject to paragraph a, the Council decides whether a request is to be granted, and in what manner and for what charge (if any), and gives the requester notice of the decision.
  - b. The Council may extend the time for transferring or responding to a request by written notice to the person making the request, if:
    - i the request is for such a large amount of information it would unreasonably interfere with the Council's operations; or
    - ii the Council needs to consult to make a proper response and cannot do so within 20 working days.
- 8.7. Where possible, the Council makes information available in the manner preferred by the party making the request, eg, inspection of originals or copies.
- 8.8. The Council ensures, as far as is reasonable, that the process used to release information cannot result in the unintended disclosure of information not intended to be disclosed.

#### *Withholding information*

- 8.9. The Council withholds as little information as is necessary to satisfy the reason for withholding, eg, if a document requested contains one line that should be withheld, the Council deletes or amends only that line and releases the remainder of the document.

- 8.10. A staff member processing a request must consult with the Chief Executive/Registrar before any personal information is withheld.
- 8.11. The Council may refuse a request only for the reasons set out in sections 27, 28 and 29 of the Privacy Act. Most of the Council's reasons for refusal are likely to be those set out in section 29 of the Privacy Act.
- 8.12. Where a decision to withhold information is made:
  - a. the reasons for refusal are recorded in the Council's records; and
  - b. the requester is advised of:
    - i the ground or grounds on which the request is refused
    - ii the reasons for the refusal
    - iii their right to make a complaint to the Privacy Commissioner

*Charging for information*

- 8.13. The Council may charge someone a fee for confirmation it holds information, for access to it, or for a request to change information or to add a statement to it.
- 8.14. The fee will be in line with the current Midwifery (Fees) Notice, or otherwise reasonable if the notice does not apply.

*Recording requests*

- 8.15. The following requests are recorded in the Council's records:
  - a. all significant personal information requests, and
  - b. all requests where information is withheld.

**9. Privacy Officer**

- 9.1. The Chief Executive appoints a member of the Council's secretariat as Privacy Officer who has the skills, experience, and seniority necessary to properly perform the role.
- 9.2. The Privacy Officer is responsible for:
  - a. providing the Registrar and Council with sound advice and assistance in dealing with all privacy and information security matters
  - b. monitoring the Council's public register, including ensuring that the online register complies with the Privacy Act
  - c. drafting or reviewing any policies relating to, or impacting on, privacy matters and information security
  - d. managing or conducting any privacy or information security audits, reviews or projects
  - e. ensuring any complaint that may relate to, or involve breaches of privacy is dealt with efficiently, effectively, and in accordance with any statutory timeframes
  - f. ensuring all requests for access to, or correction of personal information are dealt with in accordance with the law and in a reasonable timeframe
  - g. reporting on privacy or information security matters as required.

9.3. The Privacy Officer ensures appropriate legal advice is obtained where a privacy breach has occurred or is alleged.

9.4. The Privacy Officer reports any privacy breaches or potential privacy breaches to the Chief Executive/Registrar.

## **10. Privacy breach**

10.1. A privacy breach is any access to, collection, use, or disclosure of personal information that does not comply with the Privacy Act.

10.2. As soon as any staff or Council member becomes aware of a privacy breach, they advise the Privacy Officer.

10.3. The Privacy Officer:

- a. acts immediately to contain the breach
- b. conducts a preliminary investigation of the breach
- c. considers the risks arising from the breach
- d. considers or undertakes notification of appropriate parties, including any person who is the subject of the breach.

10.4. The Council reviews all privacy breaches (including near misses), and makes appropriate changes to its policies, practices, or procedures to minimise the risk of future breaches.

10.5. The Council has regard to the guidance of the Privacy Commissioner in dealing with all privacy breaches as set out in the Privacy Commissioner's *Key Steps for Agencies in Responding to Privacy Breaches and Privacy Breach Checklist* (2008) and *Information Paper to accompany Privacy Breach Guidance Material* (2008) or any updated guidelines.

## **11. Privacy Commissioner investigations**

11.1. The Council cooperates fully with any investigation the Privacy Commissioner undertakes, and duly considers any recommendations made as a result of such an investigation.

## **12. Monitoring performance**

12.1. The Council monitors its handling of personal information.

## **13. Training**

13.1. The Council provides regular privacy training to staff and Council members. This training includes identifying the requests a staff member can respond to as part of their normal duties and what requests should be escalated.

## **14. HIPC – dealing with health information**

14.1. The Council complies with the HIPC when dealing with health information.<sup>5</sup>

14.2. The HIPC applies to the Midwifery Council as the Council has statutory responsibility for the registration of midwives.<sup>6</sup>

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<sup>5</sup> HIPC, cl 4(2)(e)

## **ADMINISTRATIVE PROVISIONS**

### **15. Owner**

15.1. The owner of this policy is the Registrar.

### **16. Responsibilities**

16.1. The Council is responsible and accountable for approving the policy.

16.2. The Registrar is responsible for administering the policy.

16.3. The Council, Registrar and all staff are responsible for complying with the policy.

### **17. Monitoring policy**

17.1. The policy is monitored on an ongoing basis, with any issues identified being brought to the Chief Executive/Registrar's or Council's attention, as appropriate.

### **18. Review**

18.1. The Council ensures that the policy is reviewed as required, and no less than once every three years.

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<sup>6</sup> HIPC, cl 4(2)(e)



**Appendix 1****Summary of information privacy principles**

<b>Collection</b>	Principle 1 - Purpose of collection of personal information Principle 2 - Source of personal information Principle 3 - Collection of information from subject Principle 4 - Manner of collection of personal information
<b>Storage and security</b>	Principle 5 - Storage and security of personal information
<b>Access</b>	Principle 6 - Access to personal information
<b>Right to correct</b>	Principle 7- Correction of personal information
<b>Restrictions on use and disclosure</b>	Principle 8 - Accuracy etc of personal information to be checked before use Principle 9 - Agency no to keep personal information for longer than necessary Principle 10 - Limits on use of personal information Principle 11 - Limits on disclosure of personal information
<b>Unique identifiers</b>	Principle 12 - Unique identifiers