



Responding to information privacy requests – a guide for social workers

Under Rule 6 of the *Health Information Privacy Code* (the Code) individuals have a right to access *personal health information* about them that is held by a *health agency* unless there is a "good reason" for the information, or some of the information, to be withheld. A similar right of access to *personal information* is set out in the Privacy Act (the Act).

The purpose of this guideline is provide you with some guidance on your obligations when you receive a request by a person for access to their own *health information*. Please note that many organisations will have policies and procedures in place for responding to information privacy requests. You will be expected to comply with these policies, and you should contact the Privacy Officer at your organisation if you have any questions.

Identifying the person requesting the information

You must not give an individual access to information unless you are satisfied about the individual's identity. If the person is not known to you, you should ask for identification.

You must not give an individual access to information about someone else unless the individual is acting on behalf of that person. When an individual asks to access information on behalf of someone else you should ask him/her for confirmation of his/her authority to request the information. This will usually be in the form of a signed authority. You should retain a copy of this authority for your files.

Timeframe for responding to requests

When you receive an *information privacy request* you must make a decision on the request and inform the individual of your decision within 20 *working days* (these are essentially business days, and do not include weekends and public holidays).

You can extend the timeframe for responding to a request if the request is for a large amount of information, or you need to consult someone about whether to grant the request and require additional time to do this.

If you need an extension of time you must notify the individual in writing of why you need the extension within the 20 working day period. You must also advise the individual that he/she has the right to complain to the Privacy Commissioner about the extension.

Transferring requests

If you do not hold the information that has been requested, but you believe that another agency might hold the information, you must send the request to that agency within 10 working days of receiving the request. You must advise the individual that you have done so.

Refusing information privacy requests

If you refuse an information privacy request you must advise the individual making the request of the reason for your refusal, and the individual's right to complain to the Privacy Commissioner.

Withholding some of the information requested

When you have grounds for withholding some of the information contained in a document, you can give the individual a copy of the document with parts redacted or deleted. If you do this you must advise the individual of your reasons for deleting parts of the document.

Charging for information privacy requests

You can't charge individuals for helping them with an information privacy request, transferring an individual's request to another agency, or processing an individual's request, including deciding whether to grant the request. However, you can charge an individual a reasonable fee for providing information to him/her in accordance with his/her request. When setting the charge, you can take into account the cost of the labour and materials involved in granting the individual's request. You can ask the individual to pay the whole or part of the charge in advance.

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Disclosing information

Information can be made available in a number of ways, and you should try and make the information available in the form requested. You may provide the information in a different form if providing it in the form requested would impair efficient administration. Individuals cannot insist that the original documents be given to them, but they can ask to inspect the originals.

When you make the information available, you must tell the individual that they have the right to request correction of the information.

Additional assistance

If you require additional assistance, you should contact the Privacy Officer at your organisation in the first instance. If you do not have a Privacy Officer, you can contact the Association at 03 349 0190.

In addition, the Privacy Commissioner's website (www.privacy.org.nz) has a number of useful resources available for free download, including a copy of the Health Information Privacy Code (with explanatory commentary). The Privacy Commissioner also has an 0800 number, 0800 803 909, and can be contacted for guidance on privacy laws.

Grounds for withholding information

Before disclosing the information requested, you must consider whether any of the grounds for withholding the information under the Privacy Act may apply.

A full list of the grounds for withholding information is set out in sections 27 to 29 of the Privacy Act (see <http://privacy.org.nz/access-to-personal-information-principle-six>). The grounds for withholding information that are most likely to be relevant to your practice are that:

- The disclosure would result in the unwarranted disclosure about the affairs of another individual (section 29(1)(a)). For example, this situation may arise when one person provides you with information about another person. If that other person makes an information privacy request you will need to consider whether disclosing the information, or disclosing the identity of the "informant", would involve the unwarranted affairs of the informant. Further information about this ground of withholding is available on the Privacy Commissioner's website (<http://privacy.org.nz/breach-of-another-s-privacy>); or
- The disclosure would be likely to endanger the safety of any individual (section 27(1)(d)); or

- The disclosure would be likely to prejudice the physical or mental health of the individual requesting the information. Before relying on this ground you must consult with individual's medical practitioner (where practicable); or
- The individual is under 16, and disclosure would be contrary to the individual's interest; or
- The information isn't readily available, doesn't exist, can't be found, or is not held and is not believed to be held by another agency. A proper search for the information must be made before you can refuse a request on this basis.

You should seek specific advice on these grounds for withholding information as and when required.