



File Ref: SDE 32

**WORKFORCE (IMMIGRATION NEW ZEALAND)**  
**INTERNAL ADMINISTRATION CIRCULAR NO: 08/15**

**To:** All Workforce/Immigration New Zealand (INZ) staff

**Date:** 27 November 2008

*BEST PRACTICES FOR THE HANDLING OF PRIVACY ACT REQUESTS*

Please **READ** this information and ensure that all staff members are aware of what is required of them.

**Introduction**

1. The purpose of this Internal Administration Circular (IAC) is to remind staff of the need to comply with the Department of Labour's policies on responding to information requests under the Privacy Act 1993 (PA) and to provide some suggestions to assist with the handling of such requests.
2. In addition, a reminder about the need to comply with the Department's Records Management policy is also provided.

**Background**

3. A recent increase in the number of complaints to the Office of the Privacy Commissioner has highlighted the need to remind staff about the existence and use of the Department's policies and presents an opportunity to provide additional guidance on specific matters.

**Locating the Department's policies**

4. Note that staff handling PA requests should also be familiar with the Department's policy on handling Official Information Act requests.
5. Staff who are responsible for handling information requests should take particular note of the following from the Department's Privacy Act policy
  - The requirement at J.3.1 to make a **clear** record of the information that is disclosed in response to the information request (ie, each application that is provided, what information from AMS was supplied, etc). A clear record must also be kept of the information withheld and the reasons for withholding the information.
  - The requirement at D.5 and J.6 to seek legal advice if the staff member considers some information should be withheld.
  - The requirement at J.3.5 that a record be kept of any managerial or legal input.
  - Make sure all items mentioned in the request for information are dealt with. If there is any doubt about the scope of the request, contact the requester to clarify the scope of the request in accordance with C.11.

6. All staff who deal with visa and permit client case files should take particular note of Annex B the Archives Disposal Schedule, which provides information about how long various application types must be retained.

### **Additional guidance for handling Privacy Act requests**

7. Many complaints to the Privacy Commissioner arise when the requestor believes the Department has not released all information or improperly withheld some.
8. Whenever the Department refuses a request, whether it is because the information doesn't exist or for any other reason, section 44 of the Act **requires** us to give reasons for refusing the request.
9. Below we give guidance on how to respond to requests where the information doesn't exist. We cover three scenarios:
  - a. the information never existed;
  - b. the Department hasn't received the information; and
  - c. the file is missing or has been disposed of or purged.

#### The information never existed

Some requestors specify the information that they are seeking. For example:

- Application information sheets
- Decision making templates
- Verification reports
- Compliance records

In some cases this information does not actually exist in respect of the client(s) about whom the information is sought. In this instance it is recommended that the specific information be itemised and an explanation be provided as to why, from an operational perspective, this information does not exist. For example, there will not be any compliance records if no compliance activity in relation to the client has taken place. In addition, the requestor should be advised that the request for the specific information has been refused under section 29(2) (b) of the Privacy Act.

#### The Department hasn't received the information

9. Another possibility is that some specific information does not exist on the Department's file because it is believed to have never been received by the Department. If that is the case, the information should be itemised and the relevant explanation provided. The requestor should be advised that the request for the specific information has been refused under section 29(2)(b) or section 29(2)(c) of the Privacy Act, whichever is the most appropriate.

#### The file is missing or has been disposed of or purged

10. Sometimes information is not able to be provided because a file is missing or has already been disposed of or purged. In this instance, the requestor should be told what is believed to be the status of the file (missing or purged) and the request should be refused under section 29(2) (b) of the Privacy Act.

Manager, Resolutions,  
Service Design

THE ADVICE IN THIS INTERNAL ADMINISTRATION CIRCULAR IS NO LONGER CURRENT