



IMMIGRATION NEW ZEALAND
INTERNAL ADMINISTRATION CIRCULAR NO: 17/03

To:	Immigration New Zealand, all Managers	Date: 15 September 2017
	Immigration New Zealand, all Staff	

GUIDELINES ON PRIVACY ACT PRINCIPLE 7: REQUEST TO CORRECT IDENTITY INFORMATION

Please **read** this information and ensure that all staff members who may be affected are aware of what is required of them.

This Internal Amendment Circular (IAC) is supported by:

- *IAC 10/07 Timeframes for Privacy Act Requests*
- *IAC 08/15 Best Practices for the Handling of Privacy Act Requests*

NOTE: The guidelines will initially be implemented by the Immigration Resolutions Team in National Office for six months to allow central monitoring of requests for correction of identity information and for any necessary refinements to be made to the guidelines. Until further notice, all requests for correction of identity information should be sent to Immigration Resolutions, Service Design and Performance, in Wellington.

Purpose

1. The purpose of this Internal Administration Circular (IAC) is to provide guidance to Immigration New Zealand (INZ) staff assessing requests from individuals, under Information Privacy Principle 7 (IPP 7) of the Privacy Act 1993, to correct their identity information. Such requests will be considered and responded to by suitably trained and experienced Privacy Officers only. **It does not apply to Quota refugees while they are still at the Mangere Centre, for whom there is a separate process.**
2. It aims to ensure that INZ :
 - provides a consistent response to requests to correct identity information,
 - meets legislative requirements to ensure that client records are accurate and up to date; and
 - identifies and manages the risk of identity manipulation.
3. Identity information means an individual's
 - name(s)

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- gender
- date of birth
- place/country of birth
- citizenship
- adoption information
- marital status
- death information
- face image
- fingerprints
- distinguishing features
- alias or aliases
- details of identity documents
- details of travel documents.

4. If this IAC is inconsistent with any previous IAC, information or instruction, these instructions prevail.

Issue

5. Recently, the Office of the Privacy Commissioner (OPC) received a complaint from an INZ client who was dissatisfied with INZ's decision to decline a request to correct his date of birth. The OPC observed that INZ did not have a standard policy in place to manage correction requests consistently.

Background

Why correct identity information is important

6. As the authoritative source of identity information for non-New Zealand citizens, INZ is responsible for ensuring a high level of confidence and trust in the identity information it maintains.
7. INZ has developed robust business processes to ensure visa applicant and passenger identities are established and supported through a range of verifiable evidence. While not infallible, the most reliable evidence is a recognised Government-issued identity document such as:
 - birth certificate;
 - passport or other travel document; or
 - national identity card.
8. Recording identity information incorrectly can have an adverse impact on individuals and on INZ itself. Examples include clients being prevented from travelling to New Zealand due to visa

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information not matching passport information, or INZ being prevented from completing background checks properly.

9. Incorrectly recorded identity information can also affect other New Zealand government agencies that rely on INZ's vetting of identity information. These agencies include the Department of Internal Affairs for the grant of New Zealand citizenship, Ministry of Social Development for community services and benefits, and District Health Boards for providing health services.

The right to make a request to correct personal information

10. IPP 7 gives individuals the right to request correction¹ of inaccurate, out of date or misleading information held about them and to request that there be attached to the information a statement of the correction sought but not made. INZ must record requests for correction and *“take such steps (if any) to correct the information as are, in the circumstances, reasonable to ensure that, having regard to the purposes for which the information may lawfully be used, it is accurate, up to date, complete and not misleading”*. – refer to paragraph 16 below.
11. INZ may, in rare circumstances, refuse to make the correction sought. For example, INZ may:
 - have reasonable grounds for considering that the identity information already held is, in fact, correct; or
 - the new identity information being provided is incorrect, or unreliable, or is unable to be verified; or
 - be unable to correct a historic record.
12. If that should be the case, IPP 7 requires INZ to attach a statement of correction to the information in question. The statement of correction can be either the actual request for correction (if it sets out what the requester thinks the information should be) or some other specific statement provided by the client. A statement of correction is the individual's opportunity to set out what information he or she believes is incorrect, and to explain what he or she thinks the information should be.

Procedure when a request to correct identity information is received

¹ s2(1) Privacy Act 1993 - Interpretation - “correct, in relation to personal information, means to alter that information by way of correction, deletion, or addition; and correction has a corresponding meaning”

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13. When a request to correct identity information is received, the Privacy Officer should first check AMS for duplicate client records. It may be that the client has been recorded more than once with different information. Also, check IDme if the request is to correct face image information.
14. If there are duplicate AMS client records, link the records together – the higher number to the lower number (e.g. 23456789 to 12345678). Refer to SOP *Linking identities in AMS*
15. If the requester cannot be identified in AMS or AMS history, advise the requester and ask for evidence of identity such as:
 - full birth certificate
 - name they used when entering New Zealand
 - date of arrival
 - name and date of birth of any person who accompanied them
 - all names they have ever used
 - evidence of adoption
 - any current evidence of identity, including photographic
 - evidence attended educational institutions in New Zealand
 - evidence of employment
 - any other information they hold about identity
16. Create an Information Request application in AMS, recording the type of information the requester wishes to have corrected.

Key question: Is it reasonable to agree to correct the identity information?

17. Consider the evidence the requester has provided to support the correction or updated information, including the type and quantity of any supporting documentation. Has the requester made a previous 'correction of identity' request? If so, what was the result? Note that quota refugees are given an opportunity to record errors in personal information during offshore interviews and during the Mangere Refugee Resettlement Centre programme.
18. Identity documents must:
 - preferably be originals, but may be certified true copies,
 - be currently valid,
 - in the case of birth certificates, full versions must be provided,
 - if possible, at least one document should include a photograph,
 - in the case of refugee clients, statutory declarations may be considered acceptable if the client cannot access any official identity documents. Note that a request supported only by a statutory declaration would require greater scrutiny.

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19. INZ is entitled to have a general policy of relying on Government issued identity documents, but may consider other forms of evidence in appropriate cases. Other types of evidence might include:
- medical records e.g. bone density scans
 - dental records
 - an opinion from an educational expert
 - an opinion from a psychologist.
20. Confirm the reason for the correction. Can it be traced to a data entry error, or is it an update to outdated information? If the reason for the request cannot be traced back to a data entry error and/or does not appear to be a simple request to update information (e.g. change of name on account of marriage) consider the following:
- Is there a risk of eligibility or entitlement fraud? For example:
 - Would the requester have been eligible for the visa which they were previously granted, had the new information been known at that time? This may require examination of prior visa applications and/or consultation with others internally or externally.
 - Does the correction requested mean that there is a material change in the services that may be available to the requester (e.g. benefits, superannuation, access to schooling or health care, ability to obtain a driver's licence, etc.)?
 - Does the request make sense when considered alongside information INZ already holds about the requester? e.g.
 - For requests to correct date of birth, does the new date makes sense when compared with siblings' dates of birth, parents' ages and circumstances, etc.
21. If consultation with others is necessary, consider what that would involve and how long it is likely to take. If necessary, notify an extension and of the right of complaint to the Privacy Commissioner about the extension.
22. Consultation may include checking the client's immigration history, e.g. were character checks undertaken using the previously incorrect information, or were certain character checks not undertaken when they should have been (based on the information we have now). Character checks may include:
- NZ and offshore Police checks
 - NSC check
 - FCC checks
 - Any other character or security checks.
 - Verification of identity documents offshore.

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23. The Identity Team and Risk and Verification Teams at National Office should be consulted if any technical assistance or advice is required, including the veracity of supporting documentation.
24. Contact the requester to clarify any discrepancies you may find.
25. Consider the overall credibility of the explanation for the request and the evidence provided to support it, including any statutory declarations made
26. Consider whether an interview is required to clarify any outstanding issues.

Approving a request to correct identity information

27. If satisfied that sufficient evidence has been provided to demonstrate that the correction is reasonable, and no consultation with others is necessary, make the correction in AMS/IDme, including details of the evidence submitted and the rationale.

NOTE: the correction may not always result in a definitive change to the identity information. For example, it may be impossible to establish a requester's actual date of birth. The correction should include an information warning and a note in AMS stating that it is likely that the originally declared date of birth is incorrect and that the client was probably born between XXXX and XXXX.

28. If the request is approved, advise the requester of this as soon as reasonably practicable but not later than 20 working days of receipt, or within any properly notified extension date. If the information at issue has been disclosed to any third party and it is reasonably practicable to do so, inform that third party what steps have been taken on the request for correction (PPI 7(4)).
29. Request the return of any Certificates of Identity that were issued by INZ using incorrect information before issuing a new one (if necessary).
 - A new INZ Certificate of Identity is only to be issued for the purpose of ensuring that the requestor can travel to NZ, if the requestor does not have a valid travel document, and if there are no residual concerns about the person's character with respect to the previously incorrect identity (if there are, see 'Managing identity or character concerns' below). If the requestor is already onshore, they should apply to the Department of Internal Affairs for a Certificate of Identity.

Important: Although the correction request may be approved, a visa under the new identity must not be granted until any character or other concerns are resolved with respect to the original identity. See 'Managing identity or character concerns' below.

Refusing a request to correct identity information

30. If not satisfied that sufficient, reliable supporting evidence has been provided, or the information contradicts other reliable evidence, the request may be refused. Record the rationale for the decision in AMS and create a client warning advising of the concerns.
31. Do not issue any further documents e.g. a Certificate of Identity.

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32. Respond to the requester, advising that the request sought has been refused and that a copy of the request has been attached to the information in such a way that it will always be read with the information at issue. Inform any other person or agency to whom the information has been disclosed, of the outcome of the request. Advise of the right to complain to the Privacy Commissioner.

Managing identity or character concerns arising from the request

33. The above processes may raise a number of concerns about the person’s character or identity. The table below is a guide of where to refer the matter according to the particular situation:

Situation	Visa status	Action
Person holds a visa in a false identity	temporary	Refer to CRIS for possible deportation liability proceedings under s156 of the Act (false ID). Use the INZ-Compliance Investigations email box.
Person holds a visa in a false identity	resident or permanent resident	Refer to Immigration Resolutions (Deportation Team) for possible deportation liability proceedings under s156 of the Act (false ID). Consider whether Fraud should be advised. .
Person held a visa in a false identity	unlawful	Refer to CRIS for possible deportation liability proceedings
New police checks uncover previously unknown convictions	temporary or unlawful	Refer to CRIS for possible deportation liability proceedings
New police checks uncover previously unknown convictions	resident or permanent resident	Refer to Immigration Resolutions for possible deportation liability proceedings under s158 or s161 of the Act.
Concerns raised that person (and/or family member) may have had false information in their application(s).	temporary or unlawful	Refer to CRIS for possible deportation liability proceedings
Same as above	resident	Refer to Immigration Resolutions for possible deportation liability proceedings

34. In all cases, INZ should consider which other government agencies need to be informed of the person’s new identity or any other aliases the person has, and to advise the agency what INZ considers to be the true identity (refer to Principle 11(e) for example. Such agencies may include, but are not limited to:

- Department of Internal Affairs (for NZ passports, travel documents or Certificates of Identity)

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- NZ Transport Agency (for drivers' licences)
- Ministry of Social Development (for Community Services Cards and benefits)
- NZ Police (for firearms licences)
- NZ Customs Service (if the incorrect information was received from Cusmod)

Ops Support must therefore be contacted for this information to be passed on to the relevant agency.

Communication with requestor

35. The requester should also, if appropriate, be advised what action is being contemplated in terms of deportation liability or about a new investigation, (provided this does not prejudice the investigation). This should only be done after consulting with CRIS or Immigration Resolutions as appropriate, for advice on what to do.
36. Consideration could be given, depending on the circumstances, as to whether a new visa should be granted, if the person's new identity is accepted. However, again, Immigration Resolutions or CRIS must be consulted before this decision is made. If a visa is appropriate, the requestor should be advised how this can be granted to them.

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