

5 October 2023

s9(2)(a)

Fakaalofa lahi atu s9(2)(a)

## RESPONSE TO AN OFFICIAL INFORMATION ACT REQUEST (REF: DOIA018-2023/24)

On 7 September 2023, you contacted the Ministry for Pacific Peoples (the Ministry) to follow up on the OIA response we sent to your organisation which requested all photos taken at the farewell of the Ministry's former Secretary.

In this new request, you have sought clarification around the decisions to withhold the faces of individuals in the photos for privacy reasons and requested further information about the photographer. I have outlined your specific requests and my responses to each below.

*I could understand, though not agree, that after balancing the public interest considerations you determined those did not outweigh privacy, but to claim that there is none to consider is as arrogant and out of touch as the event itself.*

The previous response did not state that there were no public interest considerations. Note, the following public interest considerations were considered in our response to the previous OIA request:

- Transparency in the disclosure of information regarding how agencies conduct public affairs; and
- accountability for how agencies make decisions and perform their functions, spend public money, and take appropriate action when things go wrong.

However, given the recent media attention on this event, the Ministry deemed that the disclosure could lead to individuals' harm and/or distress. For example, it may:

- Expose them to harassment, or safety and security concerns.
- Expose them to unwanted, unwarranted or unfair public scrutiny or attention.
- Risk their mental or emotional wellbeing by, for example, causing them distress or humiliation.

Therefore, we considered that these risks outweighed the public interest considerations in this case and withheld the faces of individuals in the photos under section 9(2)(a) of the OIA to protect their privacy.

We also note that the key parts of information related to the review of the farewell are already publicly available on our website [here](#) and the Public Service Commission website [here](#), and the requested information would not add significantly to it. Thus, we consider that the public interest arguments about increasing accountability carry less weight in this case.

*For what purpose does the Ministry reserve the copyright and use of the images? What do you plan to use the images for?*

In regard to these photos, the Ministry is the owner of the images. Accordingly, it owns the copyright of these images. Content taken at Ministry events is often used for external communications, to keep a record of the occasion, as well as being stored by the Ministry's Communications team for future publications, social media posts, posters, and media campaigns.

*Did you contact any of the persons in the photographs to ask whether they considered it a invasion of privacy to publish the photos? If not, why not? If you did, please provide those communications.*

The Ministry did not contact the individuals as there are an estimated 90-100 people in the photos. The Ombudsman states that in certain circumstances it may be impractical to consult third parties, such as when there are too many third parties to consult, as is the case here. I am therefore refusing this part of your request for communications under section 18(e) of the OIA as the information requested does not exist.

*I am wanting to understand what the difference is between the CEO Party event, and the various events where pictures have been published. Please could you send me the relevant policy documents (presumably your privacy policy)?*

As noted above, the Ministry decided that the disclosure of the photos in relation to this specific event could lead to individuals' harm and/or distress which is why the faces of individuals were withheld in the Ministry's original response. A copy of the Ministry's Privacy Policy is attached.

*Also, I understand that among the costs of the party was a contracted/dedicated photographer. Please tell me what the purpose of the photographer was, if not to publish the photos? Can you please tell me:*

- 1. What the name of the photographic company (or individual) is;*
- 2. All invoices from that company/individual to the Ministry in the last 12 months; and*
- 3. Whether any of the photos published on your Facebook page are by that same photographer.*

*If the answer to 3 is yes, please provide me any evidence that would suggest that the purpose of the photographer's attendance was any different to those other events. That could be, for example, different licence rights, or discussed in the communications booking the photographer.*

*Finally, if the photographer was not for the benefit of the Ministry (i.e. to publish the photographs) to whose benefit were they? Was that person a staff member, or the departing CEO? If so, what was the date of the FBT return filed with the IRD listing this free, subsidised, or discounted goods and service?*

The name of the photographer the Ministry hired is withheld under section 9(2)(a) of the OIA to protect their privacy. We note that disclosure could lead to this individuals' harm and/or distress as per the considerations noted above.

Appended to this letter are copies of all invoices received from them within the last 12 months. Note some information has been withheld under the following sections of the OIA:

- section 9(2)(a) of the OIA to protect the privacy of natural persons; and

- section 9(2)(b)(ii) to protect information where the making available of the information would be likely unreasonably to prejudice the commercial position of the person who supplied or who is the subject of the information.
- In accordance with section 9(1) of the OIA, we have considered the public interest in making available the information being withheld and determined that it does not outweigh the need to withhold the information at this time.

Yes, some photos on the Ministry's Facebook page were taken by the same photographer.

The purpose of the photographer's attendance was in line with Ministry events, which as mentioned above, is often used to highlight an event in external communications, keep an internal record of the occasion, as well as being stored by the Communications team for future publications, social media posts, posters, and media campaigns. The images were not published on any external Ministry social media channels due to the attention on this specific event and the resulting need to protect individuals' privacy.

In line with standard OIA practice, the Ministry proactively publishes some of its responses to OIA requests. As such, this letter may be published on the Ministry for Pacific Peoples' website. Your personal details will be removed, and the Ministry will not publish any information that would identify you or your organisation.

Should you wish to discuss this response with us, please feel free to contact the Ministry at: [uia\\_requests@mpp.govt.nz](mailto:uia_requests@mpp.govt.nz).

If you are dissatisfied with this response, you have the right, under section 28(3) of the OIA, to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at [www.ombudsman.parliament.nz](http://www.ombudsman.parliament.nz) or freephone 0800 802 602.

Fakafetai lahi lele



**Ali Ajmal**  
Chief of Staff,  
Office of the Secretary

Ministry for Pacific Peoples

# PRIVACY POLICY

Corporate Policy

Information Technology, Data and Information, Privacy

Date: July 2023

RELEASED UNDER THE OFFICIAL INFORMATION ACT 1982

### Version History:

Version No#	Date	Author	Key Changes
0.1	5 March 2023	Privacy Adviser	First draft
0.2	15 March 2023	Privacy Adviser	Updated based on feedback
0.3	23 March 2023	Privacy Adviser	Approved by IPSG
0.4	6 June 2023	Privacy Adviser	Updated based on additional feedback

**Note:** Do not make unauthorised electronic copies or new versions (drafts) of this corporate policy. Contact the Privacy Officer to have new drafts initiated and recorded in the appropriate manner.

### Status:

Contact Person	Privacy Adviser/Privacy Officer
Policy Owner	DCE Corporate Services
IPSG Review and Approval Date	23 April 2023
Tautua Approval Date	5 July 2023
Revision Cycle	3 years
Next Review Date	June 2026

### Approval:

	Meeting No# and Date
Tautua	Meeting No# 26, 5 July 2023

## 1. Purpose

Privacy relates to personal information, which is information about an identifiable individual.

MPP collects a large amount of personal information about members within our Pacific communities, as well as information about our own staff. The Privacy Act 2020 governs the collection, use, storage and disclosure of personal information.

This policy provides guidance to staff and confirms MPP's expectations regarding the management of that information.

## 2. Scope

This policy applies to all MPP personnel (including permanent and temporary employees, contractors and volunteers) who handle or manage personal information.

## 3. Values based principles

The following guiding values support this policy:

- Access to and sharing of accurate personal information is essential for the provision of our support to our Pacific communities.
- Privacy is about managing and protecting personal information about an *individual*. We are mindful of the trust relationship we have with our communities and are respectful of our obligations as guardians of information we hold about them.
- Privacy is everyone's responsibility.
- When dealing with personal information it should be treated with the same care and respect as if it were our own.
- We have a transparent and open approach to managing personal information.
- We build privacy into the design and implementation of our facilities, services, processes and systems.
- We know, promote and comply with our legal and ethical obligations.

## 4. Policy Content

### Why do we need a Privacy Policy?

MPP plays a privileged and trusted role as guardians of individual's personal information which includes staff information and personal information collected about members of our Pacific communities. Both these groups expect us to safeguard their information.

Because of these expectations, MPP places privacy at the core of how we work with people.

The aim of this policy is to ensure that our systems, processes and practices provide a comprehensive and sound platform to safeguard personal information so that all staff know how to manage the personal information we hold in a proper and respectful manner.

### What do we need to do?

**1. Collect only the information necessary to carry out our functions and responsibilities:** We collect personal information<sup>[1]</sup> for the purpose of carrying out our functions such as:

- understanding Pacific issues and opportunities which informs our policy advice and helps us to design and deliver our programmes, and to promote access by them to information and support from MPP and other Government agencies.
- Personal information relating to MPP staff is collected for determining job suitability, work performance, workplace health and safety, workforce planning and administration.

MPP commits to **making people aware when we are collecting their personal information**, how it will be used, and that they have a right to access and correct it. We will collect the information in a way that is **lawful, fair, open and transparent**. Irrelevant or unnecessary information that is not required for MPP's functions will not be collected. If it is collected in error, it will be returned or destroyed.

**2. Allow individuals to access and correct their information.** MPP will enable individuals to have access to their personal information<sup>[2]</sup>. They can also seek to correct their information where it is wrong. Identity of requestors will be verified, and the information will be provided to them within legal timeframes and requirement. See [MPP Guide on Dealing with a Privacy Act Request for Personal Information.docx](#)

**3. Store information with reasonable safeguards against loss or misuse:** See [MPP Guide on Safeguarding Personal Information v0.1.docx](#) for a list of the measures we are all expected to take to protect personal information while in use, storage and transit.

<sup>[1]</sup> A person might still be identified even though their name is not mentioned or recorded in a document. If the person can be identified from other information, this can still amount to personal information for the purposes of the Privacy Act.

<sup>[2]</sup> Unless an exception under legislation applies

**4. Take steps to ensure personal information is complete, relevant, and up to date:** We will take reasonable steps to check that information is accurate before it is used.

**5. Destroy the information once it has served the purpose for which it was collected.** Personal information should be stored only as long as it is necessary for the purpose it was collected. When it is no longer needed, information will be destroyed securely. Refer to the MPP Information Retention and Disposal policy.

**6. Establish a clear and lawful purpose for collecting personal information and use and disclose it according to that purpose.** Personal information should generally be used for the same purpose as it was collected unless an exception applies. See [MPP Guide on Use and Disclosure of Personal Information.docx](#)

**7. Disclose personal information to other parties only where there is legal authority to do so:** MPP may disclose personal information to third parties to fulfil our legislative obligations and in exceptional circumstances where it is necessary to protect the safety of individuals. MPP will take reasonable steps to ensure third parties protect the personal information MPP shares with them in line with legislation and with the same care MPP gives to it. Further guidance can be found in the [MPP Privacy Impact Assessment Policy .docx](#) .

**8. Disclose personal information to an overseas recipient only if it is safe to do so for the individual:** Disclosure to overseas recipients can occur if that entity meets one of a number of requirements. If

those requirements are not met, then disclosure should not occur unless the individual authorises it. For further information please refer to the [MPP Guide on Disclosing PI with an Overseas recipient v0.1.docx](#).

**9. Use a unique identifier only where necessary.** Any unique identifier created for one purpose may not be used for another.

**10. Ensure privacy is considered on all new or changed systems that involve personal information.** MPP will complete a Privacy Impact Assessment (PIA) in all new projects where personal information is involved. See the [MPP Privacy Impact Assessment Policy .docx](#) for more guidance.

**11. Respond quickly and appropriately to a privacy breach or incident.** Further guidance can be found in the [20230330 Akono MPP Security & Privacy Incident Response Plan v0.7.docx](#).

**12. Provide training, resources and guidance material on privacy practices and information management.** New staff are trained to ensure the privacy principles are applied when fulfilling their role within MPP.

**13. Protect the privacy of staff members.** Staff personal information is treated with the utmost care and respect, and in accordance with the Privacy Act 2020.

### What happens if I breach this Policy?

If you think you may have breached this policy, you should contact MPP's Privacy Officer immediately.

MPP's Code of Conduct sets out the expectation that all staff will comply with all policies and procedures and actions found to be in breach of the Code of Conduct may result in disciplinary action.

### What happens if MPP breaches the Privacy Act?

[The Privacy Act 2020](#) gives the Privacy Commissioner greater powers to ensure businesses and organisations comply with their obligations. The Privacy Commissioner has the power to issue fines and actions against an agency for non-compliance.

### Where can I seek help?

MPP's Privacy Officer can provide support and advice, assist in responding to any complaints about privacy related matters and review Privacy Impact Assessment where any new project or change affects the way MPP deals with personal information.

## 5. Roles and Responsibilities

Outline specific roles and responsibilities of positions (the list below is not definitive, add/remove any roles necessary).

Individual	Accountability
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All Staff (includes volunteers and contractors)	<ul style="list-style-type: none"> <li>• Comply with this policy and supporting guidelines</li> <li>• Manage personal information safely and with integrity.</li> <li>• Respect others' information and be mindful when discussing personal information that it is appropriate and in the correct forum.</li> <li>• Report all privacy breaches and near misses to a manager or the Privacy Officer</li> <li>• Identify privacy risks.</li> </ul>
Chief Digital Information Officer	<ul style="list-style-type: none"> <li>• Implement security functions to ensure electronically held personal information is adequately secured against loss and protected against unlawful access, misuse and disclosure.</li> </ul>
Data and Information Management Manager	<ul style="list-style-type: none"> <li>• Provide leadership for effective management and use of information across MPP.</li> <li>• Contribute IM expertise at a corporate level, through the Information Governance Group, and the Information Privacy and Security Group.</li> <li>• Develop an IM Programme across MPP.</li> </ul>
Privacy Adviser	<ul style="list-style-type: none"> <li>• Support compliance with this policy and legislation through advice to staff on privacy best practice and risk management</li> <li>• Ensure there is training and guidelines in place for all staff, so they understand their obligations</li> </ul>
Managers	<ul style="list-style-type: none"> <li>• Manage privacy risk and awareness within their respective directorates.</li> <li>• Ensure staff are aware of their role in privacy, are compliant with this policy and that they complete privacy training relevant to their role.</li> <li>• Report privacy incidents and near misses to the Privacy Officer</li> <li>• Ensure that contracts for new employees and contractors specify the requirement to fulfil the privacy responsibilities as appropriate for their role</li> </ul>

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Tautua - Executive Leadership Team	<ul style="list-style-type: none"> <li>• Model best privacy practices</li> <li>• Ensure the right controls are in place to sufficiently manage privacy obligations and risks</li> <li>• Allocate the appropriate level or resource to support the operation of this policy</li> <li>• Provide the point of escalation and decision making for high-risk incidents.</li> <li>• Responsible for the governance and accountability of MPP in relation to the Government Chief Privacy Officer's expectations.</li> </ul>
Human Resources	<ul style="list-style-type: none"> <li>• Manage and safeguard staff records, including appropriate storage, user access and use.</li> <li>• Manage disciplinary process in relation to breaches of this policy, where required as by MPP's internal policies</li> </ul>

## 6. Relevant Operational Processes / Procedures / Guidance

- i. Guide on Dealing with a Privacy Act Request for Personal Information.
- ii. Guide on Safeguarding Personal Information
- iii. Guide on Use and Disclosure of Personal Information.
- iv. Privacy Impact Assessment (PIA) Procedure
- v. Guide on Disclosing Personal Information to an Overseas Recipient
- vi. Privacy Incident Response Plan.

## 7. Connection to legislation

NZ Legislation

[The Privacy Act 2020](#)

[The Official Information Act 1984](#)

[Public Records Act 2005](#)

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s9(2)(a)

# TAX INVOICE

GST No: s9(2)(a)

Invoice No: 4688

Date: 13 Oct 2022

## Client

Ministry for Pacific Peoples  
P O Box 833  
Wellington 6140  
Attn: s9(2)(a)

## Description

Photographic assignment:

Laulu Mac Leauanae farewell ceremony at Pipitea Marae

Photography: 4.5 hours s9(2)(b)(ii)

Editing & photoshop retouching: 3.5 hours s9(2)(b)(ii)

### Bank account details:

Name of Account s9(2)(a)

Bank account number

Bank

s9(2)(b)(ii)

Sub Total

\$ 1200.00

GST

\$ 180.00

Total

\$ 1380.00

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TAX INVOICE

GST No: s9(2)(a)

Invoice No: 4708

Date: 30 Nov 2022

Client

Ministry for Pacific Peoples  
P O Box 833  
Wellington 6140  
Attn: s9(2)(a)

Description

SLT Portraits

Photography set up and group portraits

6 individual portraits – portrait & landscape @ s9(2)(b)(ii)

Fee includes digital capture, editing & photoshop retouching

Bank account details:

Name of Account s9(2)(a)  
Bank account number  
Bank

s9(2)(b)(i)

Sub Total	\$ 550.00
GST	\$ 82.50
Total	\$ 632.50

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TAX INVOICE

GST No: s9(2)(a)

Invoice No: 4714

Date: 13 Dec 2022

Client

Ministry for Pacific Peoples  
P O Box 833  
Wellington 6140  
Attn: s9(2)(a)

Description

Photographic assignment:

Prime Minister's Pacific Youth Awards at Parliament

Photography: 3 hours s9(2)(b)(ii)

Editing & photoshop retouching: 3 hours s9(2)(b)(ii)

Bank account details:

Name of Account s9(2)(a)

Bank account number

Bank

s9(2)(b)(ii)

Sub Total

\$ 900.00

GST

\$ 135.00

Total

\$1035.00

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s9(2)(a)

TAX INVOICE

GST No: s9(2)(a)

Invoice No: 4724

Date: 26 Jan 2023

Client

Ministry for Pacific Peoples  
P O Box 833  
Wellington 6140  
Attn: s9(2)(a)

Description

Photographic assignment:

Katoatoa photoshoot at Parliament Re: Tupu Tai

Assignment fee includes digital capture, editing & photoshop retouching.

Bank account details:

Name of Account  
Bank account number  
Bank

s9(2)(a)

Sub Total	\$ 400.00
GST	\$ 60.00
Total	\$460.00

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TAX INVOICE

GST No: s9(2)(a)

Invoice No: 4743

Date: 14 Mar 2023

Client

Ministry for Pacific Peoples  
P O Box 833  
Wellington 6140  
Attn: s9(2)(a)

Description

Photographic assignment  
Gerardine Clifford-Lidstone portraits  
Photography set up and individual portraits  
Fee includes digital capture, editing & photoshop retouching

\$350.00

Bank account details:

Name of Account  
Bank account number  
Bank

s9(2)(a)

Sub Total

\$ 350.00

GST

\$ 52.50

Total

\$ 402.50

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