



Data Protection and Use Policy

Access to Information Guideline – a summary



Everyone has a legal right to access and ask for corrections to their personal information (information that does or could identify them). Having that right is one thing – understanding it, knowing how to use it and being supported to do so is another. In addition, agencies can refuse these requests in certain situations.

The relationship between service users and the agencies that hold data or information about them is a unique one. The information can be very emotional, sensitive or detailed and using it can have significant consequences (positive and negative).

Service users may want to access it, know that it's correct and suitable for the purpose that it was collected for, or is being used for.

The Mana Whakahaere Principle means proactively explaining these rights, making it safe and easy to use them, and looking for ways to offer access without people having to ask. Even if an agency does not directly collect information from service users, if they have it, they need to consider access and correction.

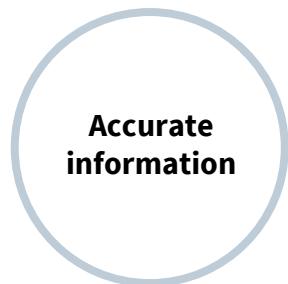
Being proactive about access and corrections has many benefits



**Enhances
mana**



**Ethical and
legal**



**Accurate
information**

- People can feel disempowered, anxious or unsafe if they think an agency has more information about them than it actually does.
- Having access to their data and information can give service users control when they interact with agencies.
- If service users do not agree with something in their records, then explaining to them why it's recorded the way it is, and hearing and understanding their point of view, is something they have a right to, both legally and ethically.
- The Privacy Act 2020 says people have the right to access their personal information and ask for corrections to it (except in specific situations), so being proactive about this helps agencies uphold their legal obligations.
- A proactive approach to access and correction aligns with people-centred ethics and empowerment.
- There may be other legal requirements in terms of records and information management – having clear processes centred on the service user can help to meet those requirements.
- The Privacy Act 2020 requires agencies to make sure the data or information about people they hold is relevant, accurate for the purpose it was collected for or is being used for, up to date and complete.
- Accurate information is also key for anything from assessments for services to good data analysis. A way to check that information is accurate is make it easy for service users to access their records and check their details.

Have processes and systems that support easy access and correction

If an agency is transparent and doing what it should under the Privacy Act 2020, it will let service users know they can access their personal information and ask for corrections to be made (see the **Transparency and Choice Guideline**).

As well as being transparent with service users about this, an agency's systems, processes and policies are important. How these look depend on what an agency does, the kind of personal data or information they hold, their resources and capabilities. Aim to make them easy for service users and staff to understand and use.

Key areas to focus on

Create easy-to-understand information for service users about ways to access their information and ask for corrections to be made.

Train and support staff so they are comfortable and capable to explain to service users how they can access and request correction of their information, and to help and advocate for them when appropriate.

Make sure the introduction and exit processes for service users include discussions with them about their rights of access and correction.

Make it normal business practice to find out service users' ideas and suggestions for agencies to be proactive around access and corrections.

Explore the possibility of online portals where service users can see their information and correct it, if they want to.

Review processes to reduce the number of times a service user has to share their story with other agencies, if that is something they want.

Put in place easy-to-follow business practices for staff to find and give information to service users. This might include looking at how files and records are managed and stored, or creating guidance around managing records that have more than 1 person's personal information on it.

Develop protocols for easy access with other agencies you regularly share information with that identifies (or could identify) service users. It should not be a challenge for service users to find out where their information is, to access it or ask for corrections to it.



Make it friendly and safe

Service users might know their rights, but not know how to use them. They may worry that asking to see their information will have negative consequences. It's important that agencies help them feel comfortable and safe.

- Advertise and promote the idea of access for service users.
- Translate information.
- Think about people with sight or hearing impairments, low literacy levels or communication challenges — how do they need to be empowered to use their rights? How will information need to be provided to them?
- What does the approach need to be if people are in crisis or distress?
- Think about cultural, social or religious issues — how might they affect people's understanding? For example, refugees may have different experiences with official agencies that impact their willingness to ask for their information.
- Children and young people have the same rights as adults — how can this be supported?
- Take into account any safety issues for service users — for example, if someone is experiencing family harm they may need their information to be shared very carefully.

Be practical

As well as making things friendly and safe, there are some practical proactive things to make 'access' a normal part of engaging with service users. The most practical approach might be to offer copies of records without service users having to ask.

- Read out what information has been recorded to check it with service users.
- Turn a computer screen around or show service users the notes that have been written.
- Give photocopies or printouts of documents about the service users, like copies of assessments or referral documents.
- Copy someone into an email about them.
- Let them take photos of their information.
- Ask if they would like to fill out forms or write down information themselves.
- Write notes together, agreeing what will be recorded.
- Check in with service users on a regular basis to see if they would like to update their information or if anything has changed.

Support and advocacy

Service users may want help to access or ask for corrections to their information.

- Help them make a request for their information to your agency — remember they do not have to make it in writing. Put them in touch with the best person or action the request yourself.
- If someone asks for access, the Privacy Act 2020 says the agency must get back to them within 20 working days.
- Set up processes for service users to nominate advocates to act on their behalf and access information from your agency.
- Be an advocate for service users with other agencies if it's appropriate.
- The Office of the Privacy Commissioner has useful tools and information:
- Tell people about, or help them fill out, the AboutMe tool (privacy.org.nz/further-resources/aboutme-request-my-info-tool/) — an online tool that people can use to request their information from any New Zealand agency, business or government agency
- Your right to know is a document that can be given to service users: privacy.org.nz/publications/guidance-resources/your-right-to-know/

! Keep in mind

- Even if an agency does not collect information directly from service users, they have the same duty to enable access and correction.
- Written Privacy Act 2020 requests are not legally required. Agencies can give service users access to their information without a request, or when a service user simply asks for it.
- Think about privacy. Take care not to accidentally provide someone else's information.

When passing on information

When an agency passes a person's information onto another agency in a way that can identify the person, and that person wants access, the first agency needs to:

- promptly let the second agency know of the person's request, and within no more than 10 days of that request.
- let the person know that the agency has passed on the request and to which agency.