

Te Take/ Purpose

To ensure that NZQA and NZQA Personnel meet the legal obligations under the Privacy Act 2020 and in relation to its functions under section 433 and 434 of the Education and Training Act 2020.

This policy helps NZQA and NZQA Personnel promote and support compliance with the 13 Individual Privacy Principles, as set out in section 22 of the Privacy Act 2020, with reference to the source, collection, storage and security, access, correction, accuracy, retention, use and disclosure of personal information.

To ensure that there is no 'interference with privacy' in the way that NZQA conducts business.

This policy must be read and followed in conjunction with the [Notes to the Privacy Policy](#) (the Notes), which provide more detailed supporting information on the legal requirements and NZQA processes for managing privacy-related matters.

Te Tirohanga Whānui/ Scope

This policy applies to all NZQA personnel whether permanent or temporary staff, including contractors and consultants, and/or organisations with agreements or arrangements to carry out work or provide services to NZQA, who are involved with the use of personal information.

This policy applies to all personal information collected or used by NZQA, or on behalf of NZQA.

Compliance with this policy is required under the [NZQA Code of Conduct](#).

This policy supports legislative compliance with the Privacy Act 2020 and the Education and Training Act 2020.

Te Kaupapahere/ Policy

1 Background

The Privacy Act 2020 (the Act)

1.1 The Act is a comprehensive piece of legislation which sets out rights and obligations relating to the proper source, collection, storage and security, access, correction, accuracy, retention, use and disclosure of personal information. See the Notes to the Privacy Act and the IPPs in the Appendix to those Notes for more details,

2 NZQA shall meet the Information Privacy Principles of the Privacy Act 2020

The following sets out requirements for NZQA in relation to specific principles.

2.1 Principle 1 – Purpose of collection of personal information

2.1.1 Personal information must not be collected by NZQA unless the information is collected for a lawful purpose connected with the functions of NZQA as set out under section [433](#) and [434](#) of the Education and Training Act 2020 and the collection of the information is necessary for that purpose and to support the business functions of the organisation.

2.1.2 NZQA's goal shall be to collect the least possible amount of personal information needed to support customers and business requirements. .

2.2 Principle 2 – Source of personal information

2.2.1 Wherever possible NZQA shall collect personal information directly from an individual as the individual is the best source of information about themselves.

2.3 Principle 3 – Collection of information from the subject

2.3.1 NZQA Personnel must take all reasonable steps to ensure that the individual knows and understands:

- why their personal information is being collected, or will be collected, and who may have access to it; and
- their right to access and correct the information collected.

2.3.2 If NZQA collects personal information under the law then NZQA must advise the individual of the relevant law, and whether supply of the information by the individual is voluntary or mandatory, and any consequences for not providing it.

2.3.3 Refer to the [Notes](#) section 3 for information on indirect collection of information.

Note: Under section [458](#) of the Education and Training Act 2020, NZQA may collect personal information directly from institutions. However, the information must only be gathered for the purposes of performing NZQA's functions under the Education and Training Act 2020.

2.4 Principal 4 - Manner of collection of personal information

2.4.1 NZQA shall not collect personal information by unlawful means, nor where collection would be unfair and intrude unreasonably upon the personal affairs of the individual concerned.

2.4.2 NZQA Personnel shall take particular care when collecting personal information from young people.

2.5 Principle 5 - Storage and security of personal information

2.5.1 NZQA Personnel have an obligation to ensure that only those with a direct business need have physical and/or electronic access to personal information held.

2.5.2 NZQA Personnel must take all reasonable safeguards to protect against loss or misuse, or unauthorised access, use, modification, or disclosure of personal information.

2.5.3 For further detail refer to the Code of Conduct, Acceptable Use Guidelines for computer and information security, the Information and records management policy and the Clear desk for classified information policy.

2.6 Principle 6 - Access to personal information

2.6.1 NZQA has documented [procedures](#) that support the process for individuals to access their personal information.

2.6.2 NZQA must respond to requests for access within 20 working days.

2.6.3 Where the information requested is not held by NZQA but is believed to be held by another agency, or the information is held by NZQA but believed to be more

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closely connected to the functions/ activities of another agency NZQA must transfer any request within 10 days.

2.6.4 NZQA must notify the individual if their request has been transferred to another agency.

2.6.5 Refer to [the Notes](#) section 4 for additional information on access.

Note: Parents and guardians do not have automatic access to personal information about learners, including learner login details and NCEA results, and are required to gain the individual's consent before access is permitted.

2.7 Principle 7 - Correction of personal information

2.7.1 NZQA must have procedures to support an individual to request correction to their information.

2.7.2 If NZQA holds the information, NZQA must ensure any factual and demographical information is corrected on request.

2.7.3 Where NZQA is not willing to correct the information, it will take reasonable steps to attach any statement provided by that individual of the correction and inform the individual of the same.

2.7.4 Where personal information is corrected, or where a statement of correction is attached to it, NZQA must, as far as reasonably practicable, inform every other person to whom NZQA has disclosed that information.

2.8 Principle 8 - Accuracy of personal information to be checked before use or disclosure

2.8.1 Before using or disclosing information, NZQA personnel must take reasonable steps to ensure that the information is accurate, up to date, complete, relevant and not misleading.

This is especially important if the information has been collected or received from a third party and not directly from the individual.

2.9 Principle 9 - Agency not to keep personal information for longer than necessary

2.9.1 NZQA shall not keep personal information for longer than is required for the purposes for which the information may lawfully be used.

2.9.2 Where personal information constitutes public records, it will be retained to the extent required by the Public Records Act 2005. Refer to the retention requirements authorised in the [NZQA Disposal Authority DA 622](#) and the [NZQA Information and records management policy](#).

2.10 Principle 10 - Limits on use of personal information

2.10.1 NZQA shall only use information obtained in connection with a purpose for that specific purpose, or for other purposes with the authority of the individual concerned.

Uses which are "directly related" to the purpose for which the information was collected will generally include administrative purposes.

2.10.2 Refer to [the 'Notes'](#) section 5 and IPP 10 in the Appendix to those Notes for exceptions to limits on use.

2.11 Principle 11 – Limits on disclosure of personal information

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2.11.1 NZQA shall only disclose personal information requested to the individual to whom that information relates unless NZQA receives the individual's authority to disclose that information to their agent.

2.11.2 Refer to processes in [process group 10.4.2](#).

2.11.3 Refer to [the Notes](#) section 6 and IPP 11 in the Appendix to those Notes for exceptions in relation to disclosure.

2.12 Principle 12 – Disclosure of personal information outside New Zealand

2.12.1 NZQA must ensure that personal information is only disclosed to organisations in other countries where there are similar protections to those in the New Zealand Privacy Act 2020. Where a jurisdiction does not offer similar protections to the New Zealand Privacy Act then NZQA must ensure that:

- The receiving organisation has agreed to provide similar protection to the personal information through contractual arrangements; or
- The receiving organisation is covered by a binding scheme, or is subject to the privacy laws, of a country prescribed by the New Zealand Government; or
- The individual whose information is being disclosed outside NZ has provided their permission for the cross-border disclosure and has been informed by NZQA that their information may not be given the same protection as is provided by the New Zealand Privacy Act.

2.12.2 Refer to [Office of the Privacy Commissioner guidance](#) on disclosure to organisations in other countries.

2.13 Principle 13 - Unique identifiers

2.13.1 NZQA will only assign unique identifiers where it is necessary for the efficient functioning of business operations.

Note: Use and disclosure of NSNs is regulated under sections 621 and 649, and Schedule 24 of the Education and Training Act which in this case overrides the Privacy Principles for use and disclosure.

3 Privacy Officer

3.1 NZQA shall appoint a Privacy Officer whose responsibilities include ensuring compliance with the Act.

4 Privacy breach

4.1 All privacy breaches or vulnerabilities must be managed using process [10.4.2.3 Respond to a privacy breach](#).

4.2 NZQA shall advise the Office of the Privacy Commissioner when there has been unauthorised or accidental access to personal information, or disclosure, alteration, loss, or destruction of personal information that has caused serious harm to someone or has the potential to cause serious harm.

5 Compliance with the EU General Data Protection Rules (GDPR)

5.1 NZQA shall only collect and process EU personal data where it has a lawful basis to do so - this includes where users have given consent, and for NZQA's legitimate interests to carry out its statutory functions.

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- 5.2 Where NZQA collects and processes the personal data of anyone residing in the EU this shall be done in accordance with the GDPR Principles. Any EU personal data shall be sourced directly from the customer, their nominated agent or through use of our services.
- 5.3 To the extent there are any inconsistencies between other sections of our Privacy Policy and this section, in relation to the collection and processing of EU personal Data this section prevails.
- 5.4 Where NZQA relies on user consent to collect and process EU personal data, users may withdraw, restrict or decline consent at any time or object to NZQA's legitimate interests. If a user pursues these options, then this may prevent NZQA from delivering its services to the customer. NZQA staff will contact the Privacy Officer or the Chief Legal Advisor for advice on taking appropriate action.
- 5.5 NZQA shall not use automatic decision making such as profiling or algorithms to make a decision that may produce a legal effect relating to EU personal Data.

Ngā Kawenga Mahi/ Responsibilities

| Position | Responsible for |
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| Manager People and Capability | <ul style="list-style-type: none"> Ensuring confidential employment records are securely held and only made accessible in accordance with the Privacy Act and the Collective Employment Agreement or Individual Employment Agreement. Managing any employee requests for access, disclosure or correction to information held by People and Capability in accordance with the Privacy Act, Individual Employment Agreements and the Collective Employment Agreement. Managing all employee requests for information held in People and Capability records under the Privacy Act (and where relevant section 23 of the Official Information Act). |
| NZQA Board | <ul style="list-style-type: none"> Maintaining an overview of privacy management at NZQA |
| NZQA Managers | <ul style="list-style-type: none"> Ensuring that confidentiality of personal information is always maintained. Ensuring that personal information is collected and stored securely, and the information is used only for the purposes for which it was obtained. Ensuring that the least amount of information possible to meet their team's business objectives is collected and that access to that personal information is managed on a need to know basis. Ensuring that when they are seeking feedback about an individual from other people (e.g. referee checking applicants for vacancies, performance feedback on staff during the annual performance review) they obtain the permission of the individual concerned before proceeding. Contacting the Privacy Officer or legal services for advice as required. Complying with the Privacy Principles. |
| NZQA Personnel | <ul style="list-style-type: none"> Ensuring that they are aware of NZQA's privacy obligations as they relate to individuals both internal and external to NZQA and assisting NZQA to comply with its obligations. Unauthorised disclosure may amount to serious misconduct and may result in a disciplinary process, an investigation of |

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| | <p>NZQA by the Privacy Commissioner and/ or legal proceedings</p> <ul style="list-style-type: none"> • Ensuring that all (internal and external) privacy requests are advised to the Privacy Officer. • Immediately contacting their manager or the Privacy Officer if they become aware of a privacy breach or vulnerability. • Ensuring that when they are seeking feedback about an individual from other people, they obtain the permission of the individual concerned before proceeding unless an exception to Principle 3 applies. |
| Privacy Officer | <ul style="list-style-type: none"> • Supporting NZQA compliance with the provisions of the Privacy Act. • Managing external requests made to NZQA under the Privacy Act and the completion of privacy responses as required. • Contacting legal services for advice where unsure of resolving an issue. • Working with the Privacy Commissioner on complaint investigations in relation to NZQA made pursuant to Part 5 of the Privacy Act. • Advising, training and arranging training for NZQA Personnel on collection, use, storage, access, disclosure and complaints to NZQA. |
| Strategic Leadership Team | <ul style="list-style-type: none"> • Approving any amendments required to the NZQA Privacy policy. • Approving the NZQA processes for managing personal information and requests for personal information. • Supporting a privacy-respectful culture at NZQA. • Being accountable for ensuring the protection of personal information collected and used by NZQA. |

Ngā Puna Tautoko/ References

[NZQA Code of Conduct](#)

[Information gathering policy](#)

[NZQA Complaints policy](#)

[Computer and Information Security policy](#)

[Clear desk for classified information policy](#)

[Acceptable Use Guidelines](#)

[Processes for responding to privacy requests](#)

[Privacy Act 2020](#) (“Privacy Act”)

[Official Information Act 1982](#) (“OIA”)

[Harmful Digital Communications Act 2015](#)

[Information and Records Management Policy](#)

Ngā Kōrero Tautuhi/ Definitions

For the purposes of this policy, unless otherwise stated, the following definitions apply:

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| Breach | In relation to personal information held by an agency means: <ul style="list-style-type: none"> unauthorised or accidental access to, or disclosure, alteration, loss, or destruction of, the personal information; or an action that prevents the agency from accessing the information on either a temporary or permanent basis; and was caused by a person inside or outside the agency; or is attributable in whole or in part to any action by the agency. |
| Interference with privacy | An 'interference with privacy' involves a breach of privacy law (such as a breach of the privacy principles) and some harm arising from that breach, with harm being: <ul style="list-style-type: none"> financial loss or other injury adverse effect on a right, benefit, privilege, obligation or interest significant humiliation, significant loss of dignity, or significant injury to the feelings of the individual. Involves refusal to make information available where the Privacy Commissioner is of the opinion that there is no proper basis for the refusal. |
| NZQA Personnel | (a) employees of NZQA, whether permanent or fixed-term; and (b) others, whether individuals or organizations or both, carrying out work for or on behalf of, or providing services to or on behalf of, NZQA, where the agreement or arrangement for the work or services requires compliance with all or some of NZQA's policies, frameworks, processes, or procedures. |
| Personal information | Personal information is information about an identifiable individual (a natural person) and in the context of NZQA's work includes information relating to National Student Numbers (NSNs), dates of birth, home addresses, institutions attended by students, achievement data, gender, ethnicity and disabilities. It can also include images and recordings. It does not include statistical information that does not identify individuals. |
| Serious harm | While the Privacy Act 2020 does not specifically define 'serious harm', section 113 of the Act advises factors that must be considered when determining whether there is a likelihood of serious harm being caused by a breach. |
| Third party | Is defined as being any person (other than the individual) or a body of persons, whether corporate or unincorporated, and whether in the public sector or the private sector |

Ngā Kōrero Whakatau/ Measurement Criteria

No inappropriate release of personal information about employees, students or other individuals that is held by NZQA.

Any access to personal information held by NZQA is limited to those who need it.

No justifiable complaints from staff members regarding, inappropriate use of, or inaccuracies in, their personal information held by NZQA.

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