

Incorporating IPP3A into Codes of Practice: Submitters' feedback and OPC response

About this document

This paper summarises the feedback we received on proposed amendments to four privacy codes of practice to incorporate Information Privacy Principle 3A (a new requirement introduced in the Privacy Amendment Act 2025, "IPP3A") and the Office of the Privacy Commissioner's (OPC) response to specific points of feedback.

We have incorporated IPP3A in the following codes, as proposed during consultation:

- Health Information Privacy Code 2020 (HIPC)
- Telecommunications Information Privacy Code 2020 (TIPC)
- Credit Reporting Privacy Code 2020 (CRPC)
- Biometric Processing Privacy Code 2025 (BPPC).

Contents

About this document.....	1
Contents.....	1
Background.....	3
The consultation.....	3
What is IPP3A?.....	3
What is a code of practice?.....	4
What was our approach to incorporating IPP3A in codes of practice?.....	4



What happens next?	4
Overview of submissions received across the codes	5
How many submissions did we receive?.....	5
General themes across submissions	6
Biometric Processing Privacy Code 2025 (BPPC)	7
BPPC: What we proposed	7
BPPC: Who did we hear from	8
BPPC: Feedback & OPC response	8
BPPC: Final IPP3A position.....	13
Credit Reporting Privacy Code 2020 (CRPC)	14
CRPC: What we proposed.....	14
CRPC: Who we heard from	14
CRPC: Feedback & OPC response	15
CRPC: Final IPP3A position	18
Health Information Privacy Code 2020 (HIPC).....	19
HIPC: What we proposed	19
HIPC: Who we heard from.....	20
HIPC: Feedback & OPC response.....	20
HIPC: Final IPP3A position	24
Telecommunications Information Privacy Code 2020 (TIPC).....	25
TIPC: What we proposed.....	25
TIPC: Who we heard from	27
TIPC: Feedback & OPC response	27
TIPC: Final IPP3A position	29
Civil Defence National Emergencies (Information Sharing) Code (Civil Defence Code)	31
Appendix 1: Technical amendments	32



Background

The consultation

From 12 January to 16 February 2026, OPC ran a consultation asking for stakeholders' views on our proposed approach to incorporating **IPP3A** into the following four codes of practice:

- Biometric Processing Privacy Code 2025 (BPPC)
- Credit Reporting Privacy Code 2020 (CRPC)
- Health Information Privacy Code 2020 (HIPC)
- Telecommunications Information Privacy Code 2020 (TIPC).

We published five information papers to help submitters understand what we were proposing, as well as four draft amendment papers and four consolidated codes with the proposed changes marked up. [Read the information papers released for consultation.](#)

We had previously carried out targeted informal engagement to test our initial thinking in late 2025.

We also made minor technical changes to address drafting errors and ensure formatting consistency across the codes, including a drafting error in the Civil Defence National Emergencies (Information Sharing) Code 2020 (which we are not incorporating IPP3A into). **See Appendix 1 for a list of these changes.**

What is IPP3A?

IPP3A is a new requirement in the Privacy Act introduced by the Privacy Amendment Act 2025.

It is a notification obligation that means businesses and organisations (“organisations”) must notify people if the organisation collects their information from a third party (as opposed to directly from the person themselves). For example, if a government agency collects information about a person from another government



agency, they would be required to notify the person about this collection, unless a relevant exception in IPP3A applies.

What is a code of practice?

Codes of practice made under the Privacy Act can modify the Information Privacy Principles (IPPs) in the Privacy Act for a certain type of information (e.g. biometric information) or sector (e.g. health agencies). For example, codes can apply the IPPs in a way that is more or less stringent, or more prescriptive to better reflect the information flows and privacy interests for that type of information or sector.

When an IPP is modified or duplicated in a code of practice, it is called a “rule”. So when IPP3A is inserted into a particular code it is referred to as “rule 3A”.

What was our approach to incorporating IPP3A in codes of practice?

Our approach across the codes was to take IPP3A as the starting point. We then looked to rule 2 (which says when indirect collection is permitted) and 3 (which says what information agencies need to provide when directly collecting) in individual codes to see if there are changes to the general direct collection rule or available exceptions that reflect the particular context of the code. If the same rationale for these code-specific differences would apply in the context of indirect collection and the organisation’s obligation to notify, then we have incorporated additions or removed exceptions accordingly.

What happens next?

New versions of the BPPC, CRPC, Civil Defence Code, HIPC, and TIPC were issued on 25 March 2026 and published on 27 March 2026.

The changes to the Privacy Act and the codes are in force from 1 May 2026. The IPP3A and rule 3A requirements (for all codes) only apply to personal information collected from 1 May 2026.



The BPPC (including the new rule 3A) is not yet in force for any type of biometric processing that commenced on or before 3 November 2025. From 3 August 2026, the BPPC (including the new rule 3A) will apply to all agencies undertaking biometric processing.

Overview of submissions received across the codes

Overall, submitters supported the proposed approach to incorporating IPP3A into codes and the technical amendments proposed. Submitters agreed with the aims of clarity and consistency i.e. having an indirect notification obligation rule in each of the codes that completely replaced the other 13 Information Privacy Principles (IPPs) for that sector or class of information.

However, submitters also raised specific concerns and suggested changes to our proposed approach in each of the codes. Most submissions focused on the need for appropriately calibrated exceptions to rule 3A, and the drafting of those exceptions. Having considered submissions, we made changes to our proposed approach to better support consistency and to address practical considerations for agencies and individuals in the context of each code.

How many submissions did we receive?

We received 16 submissions in total. Most submitters focused on the specific codes that would apply to their organisation or organisations in their sector, with more submitters focused on the HIPC than other codes (see Table 1). Three submitters made submissions on general issues relating to IPP3A and commented on multiple codes.



Table 1: Submissions by code of practice and sector

	Relevant sector	General comments	BPPC	CRPC	HIPC	TIPC
1	Health	✓	-	-	✓	-
2	Health	-	-	-	✓	-
3	Health	-	-	-	✓	-
4	Health	-	-	-	✓	-
5	Health	-	-	-	✓	-
6	Health	-	-	-	✓	-
7	Finance	-	-	✓	-	-
8	Finance	-	-	✓	-	-
9	Finance	-	-	✓	-	-
10	Business	-	✓	-	-	-
11	Law	✓	✓	✓	✓	✓
12	Law	-	✓	-	-	-
13	Tech	-	✓	-	-	-
14	Tech / telco	-	-	-	-	✓
15	Tech / telco	-	-	-	-	✓
16	Privacy	✓	✓	✓	✓	✓
	TOTALS	3	5	5	8	4

General themes across submissions

We identified several general themes from submissions across the codes.

- Some submitters raised concerns, particularly in relation to the HIPC, about the volume and frequency of notifications to individuals and the risk of ‘notification fatigue’ and that notifications would become less meaningful for individuals. We considered that this concern has been well-canvassed during the legislative development of IPP3A through the Privacy Amendment Act 2025 and that rule 3A and its exceptions are sufficiently flexible to cater to this concern.
- Some submitters requested more guidance on IPP3A or rule 3A for particular codes, or guidance on the application of particular exceptions. We have noted these for future consideration.
- One submitter raised specific concerns about AI tools and proposed specific transparency requirements to better address these. Due to the limited scope



we signalled for this amendment process, we have noted these comments for further policy consideration.

Biometric Processing Privacy Code 2025 (BPPC)

The BPPC replaces the IPPs for any organisation that uses biometric information in biometric processing to verify, identify or categorise people.

BPPC: What we proposed

We proposed to introduce a rule 3A (indirect notification obligation) in the BPPC.

We proposed that the indirect notification obligation would also include the additional requirements that are part of rule 3 (the direct notification obligation) in the BPPC:

- the extra notification matters (there are five additional things organisations have to be transparent about), and
- the conspicuous notice rule (the requirement that some notification matters must be notified to the person in a clear and obvious way before or at the time the information is collected).

Rule 3 aims to increase the level of transparency individuals have when an organisation uses biometric information. A high level of transparency is also desirable when someone's biometric information are being collected from a third party.

We proposed that the following exceptions **would apply** to rule 3A:

- Individual already been made aware (IPP3A(3)).
- Non-compliance is necessary to avoid prejudice to the maintenance of the law, enforcement of pecuniary penalties, protection of public revenue or for the conduct of proceedings (IPP3A(4)(c)).
- Compliance would prejudice the purposes of collection (IPP3A(4)(d)).
- Compliance would cause a serious threat to health or safety (IPP3A(4)(f)).



- Information used for statistical or research purposes and individual not identifiable (IPP3A(4)(g)(ii)).
- Public interest archiving (IPP3A(5)).
- Security and defence of New Zealand and international relations (IPP3A(6)).

We proposed that the following exceptions would **not apply**:

- Non-compliance would not prejudice the individual (IPP3A(4)(a)).
- The personal information collected is publicly available (IPP3A(4)(b)).
- Compliance is not reasonably practicable (IPP3A(4)(e)).
- Information used in form where individual not identifiable (IPP3A(4)(g)(i)).

BPPC: Who did we hear from

We received five submissions on the BPPC in our IPP3A and Codes consultation: one from a company, one from a law firm (who also submitted on consultations for the BPPC development), and three from advocacy organisations with expertise in privacy, law and internet policy.

BPPC: Feedback & OPC response

Feedback	OPC response
<p>There was support for a strong indirect notification rule... Privacy-focused submitters were particularly concerned with the need for strong transparency and notification rules when agencies are using biometrics and suggested removing additional exceptions in rule 3A.</p> <p>...as well as concern about removal of exceptions, compliance burden and over-notification Some submitters noted that the proposed approach set quite a high</p>	<p>No change. We agree that there is an imperative to have a strong notification rule in the biometrics context to ensure individuals have oversight of when their information is collected for processing, which is why we have removed some exceptions to make the rule stricter and inserted the additional notification matters from rule 3 into rule 3A.</p> <p>However, we also appreciate that there is a need to ensure there are appropriately calibrated exceptions to</p>



<p>standard due to the additional transparency requirements (from rule 3) on top of having fewer exceptions than IPP3A. Having the additional transparency requirements may lead to lengthy notices. They also flagged increased compliance burden for agencies and risk of over-notification of individuals.</p>	<p>ensure the obligation is pragmatic, not overly onerous and to provide for other interests when justified.</p>
<p>Complex commencement dates A submitter had concerns that the multiple dates for commencement might cause confusion and complexity for agencies to comply with obligations.</p> <p>The submitter also flagged an inconsistency in how we described which information the rule would apply to in rule 3A(9).</p>	<p>No change in staggered commencement dates, but update to wording of rule 3A(9).</p> <p>We have aligned dates with the general commencement date for IPP3A as well as taking account of the transition period already provided for in the BPPC:</p> <ul style="list-style-type: none"> • Agencies that started biometric processing after 3 November 2025 must comply with rule 3A on 1 May 2026 (aligns with general commencement of IPP3A). • Agencies that started biometric processing before or on 3 November 2025 must comply with rule 3A on 3 August 2026. <p>We agree there was an inconsistency and we have now corrected this for consistency with the commencement dates for IPP3A and the BPPC itself.</p>
<p>Prejudice the purpose of collection exception</p> <p>There were split views on including the exception where notification would prejudice the purposes of collection (we had proposed to include it).</p>	<p>No change.</p> <p>It is desirable to have an exception to the notification rule where notifying would undermine the reason for collecting the biometric information.</p> <p>Submitters who raised concerns were not strongly opposed to the inclusion of</p>



<p>Some submitters suggested a high threshold or were concerned it might be misused or applied in an over-broad way, or suggested its application be closely monitored. These submitters thought legitimate reliance on this exception would be rare.</p>	<p>this exception. Wariness about how robustly the exception might be applied or that it will be rarely utilised are not good enough reasons to warrant raising the threshold of this exception. Those concerns can be addressed through the Office’s guidance and compliance programmes.</p>
<p>Individual not able to be identified exception</p> <p>A submitter opposed our proposal to exclude the exception for where the biometric information is not going to be used in a form where the individual is identified. The submitter gave examples of internal research and benchmarking activities that might be impacted by not having this exception.</p> <p>Other submitters supported our approach.</p> <p><i>Note: We apologise that the Information Paper was misleading. It said we proposed to “narrow” the IPP3A(4)(g) exception, when in fact IPP3A(4)(g) contains two different exceptions and our approach was to remove (4)(g)(i) and retain (4)(g)(ii). In addition, the Information Paper represented that the information used for statistical or research purposes needed to be published to utilise that exception (which isn’t the case).</i></p>	<p>No change.</p> <p>Individuals still have an interest in being notified about the collection of their biometric information, even if it will be used in a form where they can’t be identified, due to the inherently personal nature of biometrics.</p> <p>We note that given the BPPC’s scope (applying to processes that seek to verify who someone is, identify them, or categorise them), most of the time, individuals will be identified in the use of the information (otherwise it wouldn’t be within scope).</p> <p>There is a related exception that permits not notifying if the individual’s biometric information is used for statistical or research purposes and won’t be published in a form that identifies that individual. This exception can be used even if the information is never published.</p>
<p>Compliance would prejudice the defence of New Zealand or its international relations exception</p> <p>We proposed to include this exception.</p>	<p>No change.</p> <p>This exception represents a matter of significant public interest – permitting an agency to avoid actions that would be</p>



<p>Submitters said it was not clear that this exception was needed (given the carve out for intelligence agencies or existence of other regulatory frameworks which would take precedence). One submitter supported its inclusion but all who commented were unclear what organisations would be able to rely on this exception and in what situation.</p>	<p>likely to prejudice the defence or security of New Zealand or its relationships with other countries – and there would need to be a strong rationale for removing it.</p> <p>This exception is unlikely to be utilised often and will only be applicable to a narrow range of organisations whose functions relate to national defence and security or international relations.</p>
<p>Trade secret and prejudice to commercial position exception</p> <p>We proposed to include this exception.</p> <p>One submitter supported our approach. Other submitters were unsure how it would apply in the biometrics context and thought the lack of clarity might result in it being misapplied.</p>	<p>No change.</p> <p>This exception protects a legitimate business interest although it is unlikely to arise often. Submitters did not propose removing this exception, but instead suggested clear guidance is needed to ensure it is not misused.</p>
<p>Conspicuous notice requirement</p> <p>One submitter sought clarification of the relationship between the conspicuous notice requirement (brought across from rule 3(3)) and the exception permitting non-compliance if the individual has previously been notified.</p> <p>Two other submitters noted they supported our proposal to include it in rule 3A.</p> <p>The conspicuous notice requirement is a requirement specific to rule 3 in the BPPC and requires that an organisation notify an individual about certain things clearly and obviously <i>before or at the time</i> of collection.</p>	<p>Change made to remove the conspicuous notice requirement.</p> <p>Upon reviewing our proposed approach, we realised it may not be appropriate to include this requirement in rule 3A because it requires notifying the individual <i>before or at the time</i> the organisation collects the information, which is inconsistent with the context of indirect collection. The obligation to notify the individual of an indirect collection arises once information has already been collected from the third party. Therefore, it doesn't make sense to include the conspicuous notice rule which requires notifying the individual before or at the time of the collection. The timing of the two rules are in conflict.</p>



	<p>We have removed the conspicuous notice rule from rule 3A to eliminate this inconsistency.</p>
<p>Requirement to notify whether there is non-biometric alternative</p> <p>A submitter was concerned there was a discrepancy between the Information Paper and the biometrics guidance material as to whether an organisation would need to let the individual know that there is <u>not</u> a non-biometric alternative available.</p>	<p>No change.</p> <p>There is a discrepancy between the wording of the requirement in the BPPC and the initial policy intent. The BPPC does require that an organisation must notify the fact that there is not a non-biometric alternative available. However, this does not reflect our intention (which is that agencies should only have to notify if there is an alternative) and we plan to consider this requirement at the three-year review of the BPPC (we haven't changed it now because we didn't consult on it and it would require a change to rule 3 as well). We will also update the guidance to replace the word "if" with "whether" to align with the current drafting of the BPPC.</p>
<p>Individual notified on 'recent previous occasion' v 'previously been made aware' exceptions</p> <p>We noticed a discrepancy between our proposed approach signalled in our information paper and the drafting in relation to these exceptions.</p> <p>Our information paper stated that "rule 3A would bring in the general exception under IPP3A(3) which applies where an individual has already been made aware of the specific indirect collection." This general exception applies where an individual has previously been made aware of the indirect collection. However, the wording in the draft</p>	<p>Change made to include previously been made aware exception.</p> <p>We have changed the drafting to reflect what we proposed at consultation i.e. including the 'previously been made aware' exception from IPP3A.</p> <p>We think there is an arguable case for narrowing the exception in rule 3A to only apply when the previous notification was made recently on the basis that there should be a high level of transparency when biometric information is collected as it's inherently sensitive. However, as we did not propose this approach in the information paper, we</p>



<p>Amendment paper brought over the narrower ‘recent previous occasion’ exception from rule 3(5) which only applies when the individual was notified recently.</p>	<p>consider it would be undesirable to proceed with this change.</p>
--	--

BPPC: Final IPP3A position

- Rule 3A has been introduced to BPPC.
- Rule 3A includes the additional notification matters from rule 3(1) and 3(2).
- Rule 3A does not include the ‘conspicuous notice’ requirement from rule 3(3).
- The following exceptions **have been included**:
 - Individual already been made aware (IPP3A(3)) (including example of how this would apply).
 - Non-compliance is necessary to avoid prejudice to the maintenance of the law, enforcement of pecuniary penalties, protection of public revenue or for the conduct of proceedings (IPP3A(4)(c)).
 - Compliance would prejudice the purposes of collection (IPP3A(4)(d)).
 - Compliance would cause a serious threat to health or safety (IPP3A(4)(f)).
 - Information used for statistical or research purposes and individual not identifiable (IPP3A(4)(g)(ii)).
 - Public interest archiving (IPP3A(5)).
 - Security and defence of New Zealand and international relations (IPP3A(6)).
 - Disclosure of trade secret or prejudice commercial position (IPP3A(7)).
- The following exceptions **have not been included**:
 - No prejudice to the individual (IPP3A(4)(a)).
 - Information is publicly available (IPP3A(4)(b)).
 - Compliance is not reasonably practicable in the circumstances (IPP3A(4)(e)).
 - Information used in form where individual not identifiable (IPP3A(4)(g)(i)).



Credit Reporting Privacy Code 2020 (CRPC)

The CRPC replaces the IPPs for credit information held by credit reporters.

CRPC: What we proposed

We proposed to introduce a new rule 3A in the CRPC, with the following exceptions:

- the individual is already aware (IPP3A(3))
- no prejudice to the individual (IPP3A(4)(a))
- publicly available (IPP3A(4)(b))
- maintenance of the law and other public interests (IPP3A(4)(c))
- prejudice to purposes of collection (IPP3A(4)(d))
- not reasonably practicable (IPP3A(4)(e))
- serious threat to health or safety (IPP3A(4)(f))
- will not identify the individual (IPP3A(4)(g))
- defence and international relations (IPP3A(6))
- trade secrets and commercial position (IPP3A(7)).

We proposed that the public interest archiving (IPP3A(5)) exception not be included, as it is not an activity undertaken by the sector.

CRPC: Who we heard from

We received five submissions on the CRPC, with three from credit reporters and two from advocacy organisations with expertise in privacy and law. Two submissions from credit reporters made prior to formal code consultation have been treated as submissions on the proposed code amendments for the purpose of this analysis.

The credit reporter submitters were split on whether to include IPP3A in the CRPC as proposed. One felt that the intention of IPP3A is already being met through existing transparency requirements of the CRPC, and therefore that IPP3A should not be incorporated in the CRPC. The other two were not concerned about IPP3A being incorporated into the CRPC but made some suggestions.



A privacy-focused submitter supported a need for strong privacy protections in the CRPC, and said the credit reporting sector was a prime example of the application of IPP3A. It noted that, while an exception to notification would likely apply because of prior notification by subscribers using a credit reporter’s services, the obligation to undertake the notification should not be shifted to those subscribers.

CRPC: Feedback & OPC response

Feedback	OPC response
<p>Incorporating IPP3A into CRPC is unnecessary.</p> <p>A credit reporter said existing transparency requirements adequately cover the information that IPP3A requires agencies to notify individuals of when collecting indirectly. The submitter argued that:</p> <ul style="list-style-type: none"> the incorporation of IPP3A in the CRPC is unnecessary if IPP3A is included in the CRPC, any additional notification requirements should be added to the current subscriber notification requirements in Schedule 3, rather than credit reporters themselves being required to notify the individuals concerned. <p>A privacy-focused submitter considered that the IPP3A obligation should remain on the credit reporter, not the subscriber, due to the volume and sensitivity of personal information collected by credit reporters. The submitter envisaged that credit reporters would generally rely on the ‘previously made aware’ exception in</p>	<p>No change. IPP3A incorporated in the CRPC.</p> <p>We consider it appropriate to hold credit reporters legally accountable for meeting IPP3A obligations. These organisations collect very large amounts of personal information, much of which is sensitive in nature, and do so largely indirectly. To exempt them from IPP3A accountability would frustrate the policy intent of IPP3A.</p> <p>We recognise that, in practice, it is subscribers who hold the relationship with individuals who are subject to credit reporting, and who are best placed to notify those individuals about the collection of their information. So long as subscribers have notified individuals of the matters listed in IPP3A(1), credit reporters will be able to rely on the ‘previously made aware’ exception with regard to information collected by subscribers. Information collected from public sources will be covered by the ‘publicly available’ exception in IPP3A. The privacy statements and Summary of Rights that credit reporters are required</p>



<p>relation to information disclosed to them by subscribers.</p>	<p>to conspicuously display on their websites will also assist with compliance with IPP3A.</p> <p>Credit reporters can ensure that subscribers notify individuals of the matters required by IPP3A by making these notifications a requirement in subscriber agreements. Credit reporters can then monitor compliance with that requirement, as they are required to do for other aspects of the agreements. We considered that there is no need to amend Schedule 3 to shift the IPP3A obligations to subscribers. However, there is nothing to prevent credit reporters from including in subscriber agreements matters that are additional to those in Schedule 3, including those designed to ensure that IPP3A obligations are met.</p> <p>We therefore consider that:</p> <ul style="list-style-type: none">• IPP3A should be included in the CRPC• the legal obligation to ensure compliance with IPP3A should remain with credit reporters• there is no need to amend Schedule 3 to provide for additional matters that must be included in subscriber agreements to cover the requirements of IPP3A. <p>However, as discussed below, we think there is a case for providing further clarification in Schedule 3 on the use of</p>
--	--



	subscriber agreements to meet IPP3A requirements.
<p>Requirement to notify of name and address of credit reporter</p> <p>A credit reporter submitted that IPP3A requirements in the CRPC should not require notification of the name and address of the credit reporter, given that in practice it will be subscribers providing the notification. It argued that requiring a name to be provided is likely to reduce competition by acting as a barrier to subscribers changing their credit reporting supplier. The submitter stated that if the subscriber wished to switch credit reporters, it would have to notify all of its customers of the change and to update all of its documentation, requiring significant time and resource. It submitted that the requirement should be to simply provide a general description, such as ‘credit reporter’, rather than a name and address.</p>	<p>No change. All of the matters in IPP3A(1) to be included in the CRPC.</p> <p>We think it is not unreasonable to expect that individuals will be told which credit reporter their information will be provided to, in the same way individuals will be specifically advised who has collected non-credit information about them under IPP3A. The requirement to notify exists at the time of collection and does not require a retrospective notification if the subscriber wishes to change credit reporters in the future</p>
<p>Assurance reports</p> <p>A submitter suggested amending Schedule 7 of the CRPC to require credit reporters, as part of their assurance reports to the Privacy Commissioner, to provide specific assurance about whether the information provided by subscribers meets the standards expected under IPP3A.</p>	<p>No change. Schedule 7 should not be amended to expressly require credit reporters to provide assurance on IPP3A compliance</p> <p>Existing provisions of Schedule 7 already require credit reporters to provide assurance about their compliance with requirements of the Code, and about how they monitor subscriber compliance with agreements and controls. We do not think it is necessary to specifically reference compliance with rule 3A in Schedule 7.</p>



<p>Update Guidance Note in Schedule 3</p> <p>A credit reporter suggested an update to the Guidance Note in Schedule 3 to clarify the relationship between rule 3A and Schedule 3. It proposed that the Guidance Note state that a subscriber agreement may impose additional obligations on a subscriber that are not set out in the Schedule, including to reflect rule 3A.</p>	<p>Change made to Schedule 3.</p> <p>We have made an amendment to Schedule 3 in response to this suggestion, though not in the form of a Guidance Note.</p>
<p>Schedule 9</p> <p>A credit reporter stated that Schedule 9 is no longer needed as it was a transitional arrangement relating to debts between \$100 and \$125.</p>	<p>Noted, but out of scope for the current process</p>

CRPC: Final IPP3A position

Following submissions, we have made no substantive changes to the position we consulted on with regard to the CRPC (although we have made one clarifying change to Schedule 3).

The final position is:

- Rule 3A has been introduced to CRPC.
- The following exceptions to the notification rule **have been included**:
 - Individual already been made aware (IPP3A(3)) (including example of how this would apply).
 - No prejudice to the individual (IPP3A(4)(a)).
 - Information is publicly available (IPP3A(4)(b)).
 - Non-compliance is necessary to avoid prejudice to the maintenance of the law, enforcement of pecuniary penalties, protection of public revenue or for the conduct of proceedings (IPP3A(4)(c)).
 - Compliance would prejudice to purposes of collection (IPP3A(4)(d)).



- Compliance is not reasonably practicable in the circumstances (IPP3A(4)(e)).
- Compliance would cause a serious threat to health or safety (IPP3A(4)(f)).
- Information used in form where individual not identifiable (IPP3A(4)(g)(i)).
- Information used for statistical or research purposes and individual not identifiable (IPP3A(4)(g)(ii)).
- Security and defence of New Zealand and international relations (IPP3A(6)).
- Disclosure of trade secret or prejudice commercial position (IPP3A(7)).
- The public interest archiving (IPP3A(5)) exception **has not been included**.

Health Information Privacy Code 2020 (HIPC)

The HIPC replaces the IPPs for health agencies collecting and using people's health information to provide health services.

HIPC: What we proposed

We wanted to reflect the sensitivity of health information and the importance of transparency for individuals about how their health information is being shared. We also acknowledge that indirect collection is common within the sector and the exceptions need to be balanced to ensure the provision of health services isn't unnecessarily impacted by the obligation.

We proposed raising the threshold for exceptions relating to prejudice to the individual (IPP3A(4)(a)) from *non-compliance would not prejudice* to *compliance would prejudice* to reflect rule 3(4)(a) in HIPC. This means agencies need to notify



individuals when their health information has been collected unless doing so would be detrimental to the individual (or another exception applies).

We also proposed removing the exceptions for enforcement of a law that imposes a pecuniary penalty, protection of public revenue and conduct of proceedings in alignment with rule 3 of HIPC.

Exceptions for public interest archiving, defence and international relations, and trade secrets and commercial position were also excluded as we considered these were unlikely to be relevant in the health context.

We proposed bringing across the other exceptions from IPP3A and HIPC rule 2(2)(e) (relating to collecting information for family or genetic history), such as where an individual is already aware their information is being collected by an health agency, to support the practical reality of the scale and volume of health information that is shared in order to provide services to individuals.

In this consultation we also proposed amending rule 2(2)(a) in HIPC which relates to authorised collection of information, so that the rule will refer to rule 3A instead of rule 3 as it relates to indirect collection.

HIPC: Who we heard from

We received eight submissions on the HIPC, with six from health agencies, and two from organisations with expertise in privacy and law.

During informal consultation we also heard from two other health agencies.

HIPC: Feedback & OPC response

Feedback	OPC response
High-volume of notifications	<p>No change.</p> <p>We consider that this risk is not specific to the HIPC and has been covered in our IPP3A guidance. Relevant</p>



<p>Several submitters raised concerns about potential high-volume of notifications.</p>	<p>exceptions can be applied for high-volume processes and ensuring people are aware of collection practices can help to meet notification requirements. We consider that routine and anticipated indirect collection can be identified and notified through layered privacy notices (or similar) rather than requiring individual notifications to the affected individual each time.</p>
<p>Lower threshold for “no prejudice” exception</p> <p>Several submitters suggested the threshold for the exception for compliance would prejudice the individual should be lowered to the general IPP3A formulation of non-compliance would not prejudice the individual.</p>	<p>No change.</p> <p>We have retained the exception as consulted. We considered the concerns presented by submitters, such as the different context of direct compared to indirect collection and the ability for a more holistic consideration if the threshold were lowered. We considered that other exceptions may be applicable in some scenarios raised by submitters (such as the not reasonably practicable exception). The higher threshold is appropriate for the health context, including where collection is indirect, given the sensitivity of the information and the importance to individuals of transparency over its use.</p>
<p>Addition of ‘not contrary to the interests of the individual’ exception</p> <p>One submitter suggested introducing an additional exception where notification would be contrary to the interests of the individual, which would enable the health agency involved to take a more holistic view of whether the notification would be contrary to the interests of the individual.</p>	<p>No change.</p> <p>We did not accept this submission. As we are retaining the higher threshold of compliance would prejudice the individual for HIPC, we do not agree with the rationale for this proposal, for the same reason as why we have retained the narrower formulation of ‘compliance would prejudice the interests of the individual concerned’.</p>



<p>Exception for indemnifiers or advisers for claims management purposes</p> <p>One submitter requested an exception for indemnifiers or advisers for claims management.</p>	<p>No change.</p> <p>We do not consider a bespoke exception is required. We appreciate that indemnifiers need relevant information to provide appropriate advice to their members and manage claims. However, there are a number of other exceptions that could be relied upon. Further, compliance with rule 3A can be achieved by coordination with member healthcare practitioners to ensure patients are informed of the potential information collection if a complaint is made.</p>
<p>Inclusion of conduct of proceedings exception</p> <p>Two submitters suggested the conduct of proceedings exception is necessary in some health contexts.</p>	<p>Change made to include this exception.</p> <p>We agree with submitters that proceedings before a court or tribunal (e.g. Health Practitioners Disciplinary Tribunal) need to be fully informed, and there is a legitimate interest represented in this exception that will be relevant in the health context. Health agencies with a role in proceedings need to be able to collect relevant information without the notification of the collection impairing these proceedings. This exception has important safeguards including that the proceedings must be ‘reasonably in contemplation’ limiting the applicable cases. Further, the use of the exception can only be where necessary for the conduct of the proceedings, so it would only apply where the notification would undermine or impact the conduct of the proceedings.</p>



<p>Inclusion of necessary to protect public revenue exception</p> <p>One submitter suggested the protection of public revenue is necessary in some health contexts.</p>	<p>Change made to include this exception.</p> <p>We agree with this submission that the exception for protection of public revenue should be included in HIPC rule 3A.</p> <p>Protection of public revenue represents a legitimate public interest. We note that the exception applies narrowly, only to situations where not notifying an individual is actually required to enable the health agency to pursue the debt or otherwise protect public revenue.</p> <p>We do not expect this exception to be used often.</p>
<p>Clarifying application of rule 3 or 3A when a representative is involved</p> <p>Submitters made some suggestions for drafting of:</p> <ul style="list-style-type: none"> • rule 3A(1) timing of collection • rule 2(2)(b) <p>to clarify handling of rule 3 and 3A notifications when a representative is involved.</p>	<p>Change made.</p> <p>We agree that the wording should be clarified to align with the Privacy Act IPP3A wording “has been collected”, our draft wording for the HIPC rule 3A said “is being collected”.</p> <p>We agree that the addition of rule 3A to the HIPC also has implications for rule 2(2)(b) and handling of collection where a representative is involved. We agree that it makes sense to clarify this change.</p> <p>We note that agencies will still need to assess in context whether a person is acting as a representative, and this may change over time in ways with implications for whether rule 3 (direct collection) or rule 3A (indirect collection) requirements apply.</p>



<p>Requests for guidance</p> <p>Submitters also had suggestions or questions for clarification in guidance.</p>	<p>Our Capability and Guidance team are producing sector specific guidance for HIPC.</p>
--	--

HIPC: Final IPP3A position

Rule 3A in the HIPC brings across the following IPP3A exceptions:

- Rule 3A has been included in the HIPC.
- IPP3A(2) As soon as practicable
- The following exceptions to the notification rule **have been included**:
 - Indirect notification obligation (with references to representative, health information and health agency) (IPP3A(1)).
 - The individual has already been made aware (including example of how this would apply) (IPP3A(3)).
 - No prejudice to the individual (but modified to “compliance would prejudice the individual” wording from rule 3) (IPP3A(4)(a)).
 - Information is publicly available (IPP3A(4)(b)).
 - Maintenance of the law (IPP3A(4)(c)(i)).
 - Protection of public revenue (IPP3A(4)(c)(iii)).
 - Conduct of proceedings (IPP3A(4)(c)(iv)).
 - Prejudice to purposes of collection (IPP3A(4)(d)).
 - Compliance not reasonably practicable (IPP3A(4)(e)).
 - Compliance would cause a serious threat to health or safety (IPP3A(4)(f)).
 - Information used in form where individual not identifiable (IPP3A(4)(g)(i)).
 - Information used for statistical or research purposes and individual not identifiable (IPP3A(4)(g)(ii)).



- Collection of information for family or genetic history (in line with HIPC rule 2(2)(e)).
- The following exceptions **have not been included**:
 - Enforcement of a law imposing a pecuniary penalty (IPP3A(4)(c)(ii)).
 - Public interest archiving (IPP3A(5)).
 - Defence and international relations (IPP3A(6)).
 - Trade secrets and commercial position (IPP3A(7)).
- We have also aligned HIPC rule 2(2)(a) with 3A rather than 3.

Telecommunications Information Privacy Code 2020 (TIPC)

The TIPC replaces the IPPs for telecommunications information (for example both content and metadata for phone calls, text messages, and Internet connections) and telecommunications agencies (for example Internet service providers). It also has schedules that set more specific requirements for handling complaints about breaches of the TIPC (Schedule 1), directory services and enquiries (Schedule 2), caller line information presentation or “caller ID” (Schedule 3), and emergency location information (Schedule 4).

TIPC: What we proposed

We proposed to introduce a rule 3A (indirect notification obligation) in the TIPC.

We proposed that the indirect notification obligation would include some telecommunications-specific exceptions consistent with those in TIPC rule 3, to reflect practical and public policy concerns in the telecommunications context.

For example, rule 3(4)(b)(iii) provides an exception where necessary to respond to cybersecurity issues, and rule 3(4)(f) provides an exception for “interconnection or delivery of a call management system (CMS)” to provide for efficient provision of telecommunications services. The rationales for both these exceptions also apply in the indirect collection context and we proposed to include them in rule 3A.



We proposed that the following exceptions **would apply** to TIPC rule 3A:

- Individual has already been made aware (IPP3A(3)).
- No prejudice to the individual (IPP3A(4)(a)).
- Information is publicly available (IPP3A(4)(b)).
- Maintenance of the law (IPP3A(4)(c)(i)).
- Conduct of proceedings (IPP3A(4)(c)(iv)).
- Compliance would prejudice the purposes of collection (IPP3A(4)(d)).
- Compliance is not reasonably practicable in the circumstances (IPP3A(4)(e)).
- Compliance would cause a serious threat (IPP3A(4)(f)).
- Information used for statistical or research purposes and individual not identifiable (IPP3A(4)(g)).
- Security and defence of New Zealand and international relations (IPP3A(6)).
- Preventing or investigating threats to network security or integrity (TIPC rule 3(4)(b)(iii)).
- Interconnection or delivery of a call management system (CMS) (TIPC rule 3(4)(f)).

We proposed that the following exceptions would **not apply**:

- Enforcement of a law imposing a pecuniary penalty (IPP3A(4)(c)(ii))
- Public interest archiving (IPP3A(5)).
- Disclosure of trade secret or prejudice commercial position (IPP3A(7)).

The proposed rule 3A would not apply to emergency location information used by agencies involved in emergency responses. Schedule 4 of the TIPC applies to this information use, collection and notification.



TIPC: Who we heard from

We received four submissions addressing proposals for the TIPC in our IPP3A and codes consultation. Two were from large telecommunications agencies, and two from advocacy organisations with expertise in law and privacy issues.

TIPC: Feedback & OPC response

Feedback	OPC response
<p>Traffic information</p> <p>Submitters recommended an exception to align with rule 2(2)(h), saying collection of traffic information is automatic and it would be impractical to notify under rule 3A.</p>	<p>Change made to include this exception.</p> <p>Traffic information is information automatically generated when making a telecommunication but does not include the content of a call. Indirect collection will occur when calls or signals involve connection to another provider's network. This is a high volume, automated process where 3A notifications to individuals are not likely to be useful for transparency purposes.</p>
<p>Interconnection, wholesaling and essential element of service provision</p> <p>Submitters recommended expanding our proposed exception for "interconnection or delivery of a CMS" to include both "wholesaling or similar arrangements between network operators" and "where collection is an essential element of service provision" to align with rule 2(2)(i).</p>	<p>Change made to expand this exception as suggested.</p> <p>Our proposed exception was intended to align to other rules covering high volume and automated processes where 3A notifications are not likely to be useful for transparency purposes. We agree that this should include wholesaling (where telecommunications agencies buy and sell back-end connectivity) and collection that is an essential element of service provision. We have split out the specific exception for a CMS as in rule 10(1)(h)(iii) as this is clearer.</p>



<p>Suggested exception for billing enquiries</p> <p>Submitters recommended including an exception to the indirect notification obligation allowing for household members or authorised representatives to deal with billing enquiries, based on TIPC rule 2(2)(j). One submitter also suggested aligning to rules 11(1)(e), which allows for disclosure of specific charges, and 11(1)(m) which allows for disclosure of billing details to a household member or representative who appears to be acting on behalf of the subscriber.</p>	<p>Change made to include this exception.</p> <p>We have added an exception to allow for a household member or representative to handle billing enquiries where they appear to be acting on behalf of the subscriber. This aligns to 2(2)(j) with the more specific requirement about when the exception applies set out in the similar rule 11(1)(m). We agree that allowing for these third parties to handle billing enquiries is practical and privacy risk is likely to be low, unless there is a reason for the telecommunications organisation to think that they are not acting on the subscriber’s behalf. If there is a reason to doubt that, this exception to 3A requirements would not apply. We do not recommend an exception aligning to rule 11(1)(e) as we think other exceptions will cover the relevant use-cases and there is no similar exception in rule 2.</p>
<p>Suggestion for specific exception for caller ID collections</p> <p>One submitter identified issues with Calling Line Identification Presentation (CLIP) or “caller ID”, which involves the collection of personal information from individuals with whom telcos do not have a direct relationship. They recommended adding an exception aligned to rule 11(1)(p) to ensure Schedule 3 requirements would apply to CLIP.</p>	<p>Change made to include this exception.</p> <p>CLIP or “caller ID” is an example of a call management service (CMS) for which we were proposing a more general exception. TIPC Schedule 3 sets specific rules for CLIP, including requirements allowing callers to block the display of their outbound call information and requirements for agencies to take reasonable steps to make subscribers aware of these options. We agree that it makes sense</p>



	to have a specific exception, so Schedule 3 clearly applies.
<p>Suggested exception for complaints or nuisance</p> <p>One submitter recommended an exception aligned to rule 10(1)(g) which allows for the use of personal information to investigate complaints and take appropriate action in respect of malicious or nuisance telecommunications, combined with changes to rule 11.</p>	<p>No change.</p> <p>We did not add this exception. To have the intended effect would require changes to rule 11 which are out of scope here. It is also not clear that a specific response to nuisance calls remains effective and relevant in the broader telecommunications environment, and this would need focused policy work to resolve.</p>

TIPC: Final IPP3A position

Following submissions, we made further changes to align rule 3A with TIPC rule 3 and to apply existing specific TIPC schedules in the context of the indirect notification obligation. For some of these new exceptions, we considered that it is likely that the telecommunications agencies could rely on existing exceptions within rule 3A (such as compliance would not prejudice the interests of the individual or that compliance is not reasonably practicable). In deciding to incorporate the exceptions, we considered that directly incorporating these exceptions would be more coherent with the scheme of the TIPC as a whole and reduce risk of confusion in respect of these use cases. This included exceptions that apply specific provisions from TIPC Schedules, for example Schedule 3 requirements for CLIP or “caller ID”.

The final position is:

- Rule 3A has been introduced to the TIPC.
- The following exceptions **have been included**:
 - Individual already been made aware (IPP3A(3)) (including example of how this would apply).
 - No prejudice to the individual (IPP3A(4)(a)).
 - Information is publicly available (IPP3A(4)(b)).



- Maintenance of the law (IPP3A(4)(c)(i)).
- Protection of public revenue (IPP3A(4)(c)(iii)).
- Conduct of proceedings (IPP3A(4)(c)(iv)).
- Preventing or investigating threats to network security or integrity (TIPC rule 3(4)(b)(iii)).
- Compliance would prejudice the purposes of collection (IPP3A(4)(d)).
- Compliance is not reasonably practicable in the circumstances (IPP3A(4)(e)).
- Compliance would cause a serious threat (IPP3A(4)(f)).
- Information used in form where individual not identifiable (IPP3A(4)(g)(i)).
- Information used for statistical or research purposes and individual not identifiable (IPP3A(4)(g)(ii)).
- Traffic information (TIPC rule 2(2)(h)).
- Delivery of a call management system (CMS) (TIPC rule 3(4)(f)).
- Collection that is an essential element of service provision, interconnection, wholesaling or similar arrangements between network operators (TIPC rule 2(2)(i)).
- Household members or authorised representatives dealing with billing enquiries where they appear to be acting on behalf of the subscriber (TIPC rules 2(2)(j) and 11(1)(m)).
- Calling Line Identification Presentation (TIPC rule 11(1)(p) and Schedule 3).
- Security and defence of New Zealand and international relations (IPP3A(6)).
- The following exceptions **have not been included**:
 - Enforcement of a law imposing a pecuniary penalty (IPP3A(4)(c)(ii)).
 - Public interest archiving (IPP3A(5)).
 - Disclosure of trade secret or prejudice commercial position (IPP3A(7)).



Civil Defence National Emergencies (Information Sharing) Code (Civil Defence Code)

The Civil Defence Code modifies only some IPPs (IPPs 2, 10, 11, and 12) to provide agencies with broader discretion to collect, use and disclose personal information in the rare event of a major disaster that has triggered a state of national emergency.

We initially considered incorporating IPP3A into this code but decided not to after initial engagement with stakeholders before consultation. This code exists for specific listed purposes and to prevent agencies acting in a risk-averse manner when sharing information during times of national emergency.

However, we proposed to fix a formatting error in clause 6(1)(c) of the Civil Defence Code and consulted on that change. No submitters raised concerns with our proposal to fix the formatting error, and this change has been progressed.



Appendix 1: Technical amendments

We used this amendment process to make some minor technical amendments to fix drafting errors or ensure formatting consistency across codes and with the Privacy Act. Some of these were noted in our consultation paper. Others have been made after consultation. All of these changes are outlined in the table below.

Consequential amendments that have resulted from inserting a rule 3A into each code (e.g. changes to clause or rule numbering) are not included.

<p>Same change made in BPPC, CRPC, HIPC and TIPC</p>
<p>The word “concerned” has been inserted into the heading of rule 3 in each code so that it reads “Collection of [<i>type of personal information</i>] information from individual concerned” to align with change made to the corresponding heading in IPP3 by the Privacy Amendment Act 2025.</p>
<p>Same change made in CRPC, HIPC and TIPC</p>
<p>Amendments have been made to rule 12 of each code to reflect the changes made to IPP 12 in the Statutes Amendment Act 2025:</p> <ul style="list-style-type: none"> • insert in subrule 1(e) the words ‘and the disclosure is not precluded by any limitation or qualification prescribed in respect of that country under section 214(3) of the Act’ after ‘country’. • amend the definition of ‘prescribed country’ in subrule (3) to delete the words ‘that are made without any qualification or limitation relating to a class of person that includes B, or to a type of information that includes credit information’.
<p>Same change made in BBPC, CRPC and HIPC</p>
<p>Inserted heading “Part 1: Preliminary Provisions” before clause 1 to fix a drafting omission.</p>
<p>BPPC</p>
<p>Corrected the clause numbering of subclause 1(1) which had been omitted.</p>



In clause 3, the interpretation section, replaced “an individual with a disability” with “a disabled individual” in the definition of **accessibility** to align with the language adopted in the New Zealand Disability Strategy (2016-2026).

Updated clause 4(3) to ensure that rule 3A does not apply to an intelligence and security agency, which is consistent with IPP3A.

In clause 6, rule 1, inserted numbering (5) for the last subrule to correct a drafting omission.

In clause 6, rules 3 and 3A, inserted “biometric” before “information” for consistency with other rules.

CRPC

In clause 4 (Interpretation):

- amended the definition of ‘access agreement’ to clarify that the definition applies to agreements that comply with Schedule 4 of the code
- in the definition of ‘credit information’, replaced ‘sex’ with ‘gender’
- updated the definition of ‘direct marketing’ to include marketing by means of SMS.

In clause 5, amended rule 3(2) by inserting ‘directly’, so rule 3(2) relates to a website statement about direct collection and rule 3A(2) relates to a website statement about indirect collection.

In clause 5, amended rule 11(6) to clarify that application of rule 11 to credit information obtained before or after the commencement of the rule is subject to any applicable requirements of Schedule 9 (which relates to transitional arrangements associated with small debts).

In clause 5, amended rule 12 to delete ‘that’ in subrule 1(g).

Inserted new clause 6A, which clarifies that Schedule 8 provides a process for an individual who reasonably believes that they may be likely to become a victim of fraud (including identity fraud) to request a credit reporter suppress credit information.

Amended Schedule 5 to delete contact information for the Office of the Privacy Commissioner, other than the Office’s website address.



Amended Schedule 8 to:

- use gender-neutral language
- correct an error in numbering in clause 4.2.

Amended Schedule 11 to insert '(Rules 2 and 10)' below the title of the schedule, to indicate the rules that the schedule relates to.

HIPC

In clause 3(1), in the definition of disability support services replaced "promotion of the inclusion" with "promotion of their inclusion" and deleted "of such people" to align the definition with the Pae Ora (Healthy Futures) Act 2022.

In clause 5, rule 2, inserted a comma into subrule (2)(a) for better readability and to allow us to align the updated subrule (2)(b).

In clause 5, rule 4(1)(b) replaced "personal" with "health" to fix an earlier drafting error.

In clause 5, rule 13(4)(b), replaced "Common Provider Number" with "Common Person Number".

In Schedule 1:

- inserted after "Council" insert "of New Zealand" in paragraph 2 to reflect the agency's legal name
- replaced "Institute of Environmental Science and Research Limited" with "New Zealand Institute for Public Health and Forensic Science Limited" in paragraph 3 to use updated name
- revoked paragraph 5 as the company is no longer providing health services.

In Schedule 2:

- deleted "of New Zealand" in paragraph 11 to reflect the agency's legal name
- revoked paragraph 13 as the Māori Health Authority has been disestablished
- replaced "Ministry for Disabled People" with "Ministry of Social Development Disability Support Services" in paragraph 14 as this function has been transferred.



TIPC

In rule 2(2)(i), deleted “the” before “interconnection” to address an earlier drafting inconsistency.

In clause 6, rule 12, deleted “that” in subrule (1)(g).

Civil Defence Code

In clause 6, inserted subclause (1)(c)(iv) “a person who is responsible for the individual (within the meaning of clause 5(3)); and” and delete subclause (1)(d) to fix a formatting error and align the provision to sit under subrule (1)(c).

