

# DRAFT FOR CONSULTATION



Privacy Commissioner  
Te Mana Mātāpono Matatapu

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## Biometric Processing Privacy Code 2025 Amendment No 1

This amendment to a code of practice is made under section 37 of the Privacy Act 2020 by the Privacy Commissioner.

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## Amendment to the Biometric Processing Privacy Code 2025

### 1 Title

This is the Biometric Processing Privacy Code 2025 Amendment No 1.

**2 Commencement**

- (1) This amendment comes into force—
- (a) on 1 May 2026 in respect of any type of biometric processing that commenced after 3 November 2025; or
  - (b) on 3 August 2026 in respect of any type of biometric processing that commenced on or before 3 November 2025.

**3 Interpretation**

In this amendment,—

**Code** means the Biometric Processing Privacy Code 2025.

**4 Heading inserted**

Insert "Part 1: Preliminary provisions" as a heading before clause 1 of the Code.

**5 Clause 3 (Interpretation) amended**

In clause 3(1) of the Code, **accessibility**, replace "an individual with a disability" with "a disabled individual".

**6 Clause 4 (Application of code of practice) amended**

In clause 4(3) of the Code, after "3", insert "3A".

**7 Clause 6 (Biometric processing privacy rules) rule 3 amended**

In clause 6 of the Code, biometric processing privacy rule 3, after "individual", insert "concerned" in the heading above subrule (1).

**8 Clause 6 (Biometric processing privacy rules) rule 3A inserted**

In clause 6 of the Code, after biometric processing privacy rule 3, insert biometric processing privacy rule 3A:

**Rule 3A**

**Collection of information other than from individual concerned**

- (1) If an agency collects biometric information about an individual other than from the individual concerned, the agency must take any steps that are, in the circumstances, reasonable to ensure that the individual concerned is aware of—
- (a) the fact that the information is being collected; and
  - (b) each specific purpose or purposes for which the information has been collected, specified with due particularity; and
  - (c) whether there is any alternative option to biometric processing that is available to the individual in any particular circumstances; and
  - (d) the intended recipients of the information; and
  - (e) the name and address of—
    - (i) the agency that has collected the information; and

- (ii) the agency that is holding the information; and
  - (f) if the collection, use or disclosure of the information is authorised or required by or under the law, the particular law by or under which the collection of the information is authorised or required, whether New Zealand law (including an authorised information sharing agreement), or the laws of another country; and
  - (g) the rights of access to, and correction of, information provided by rules 6 and 7; and
  - (h) a summary of the agency's retention period for biometric information; and
  - (i) the process (if any) available for an individual to:
    - (i) raise a concern about biometric processing including the handling of their biometric information; and
    - (ii) make a complaint about the handling of their biometric information; and
  - (j) the right to complain to the Privacy Commissioner about any action that this code of practice applies to; and
  - (k) the location of where the agency's assessment under subrule 1(1)(d), or a summary of that assessment, is available to view, if publicly available, or whether the assessment or summary is available on request.
- (2) Without limiting subrule (1), if the agency indirectly collects biometric information during a trial, the agency must take steps that are, in the circumstances reasonable, to ensure that the individual concerned is aware of the trial and the trial period.
- (3) Where an agency is required to take steps to ensure the individual's awareness of the matters in subrules (1)(a) and (b) and subrule (2)—
- (a) those steps must be taken before or at the time the biometric information is indirectly collected; and
  - (b) information provided to the individual concerned—
    - (i) must be communicated in a manner that is clear and conspicuous; and
    - (ii) must include a location, address or other method enabling the individual to obtain further information about the biometric processing.
- (4) Any steps to ensure the individual's awareness of the other matters set out in subrule (1) must be taken before the biometric information is collected or, if that is not practicable, as soon as practicable after the biometric information is collected.
- (5) An agency is not required to take the steps referred to in subrules (1) or (2) in relation to the collection of biometric information about an individual if the agency has taken those steps on a recent previous collection, about that individual, of the same information or information of the same kind, and for the same purpose.
- (6) It is not necessary for an agency to comply with subrules (1) or (2) if the agency believes, on reasonable grounds,—
- (a) that non-compliance is necessary—

- (i) to avoid prejudice to the maintenance of the law by any public sector agency, including prejudice to the prevention, detection, investigation, prosecution, and punishment of offences; or
    - (ii) for the enforcement of a law that imposes a pecuniary penalty; or
    - (iii) for the protection of public revenue; or
    - (iv) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation); or
  - (b) that compliance would prejudice the purposes of the collection; or
  - (c) that compliance would cause a serious threat to—
    - (i) public health or safety; or
    - (ii) the health and safety of another individual; or
  - (d) that the biometric information will be used for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned.
- (7) It is not necessary for an agency to comply with subrules (1) or (2) if—
- (a) the agency collects biometric information for the purpose of determining whether the information is of enduring value for general public interest and should be archived for public reference, study, or exhibition; and
  - (b) compliance is likely to seriously impair the agency’s achievement of the purpose in subrule (7)(a).
- (8) It is not necessary for an agency to comply with subrules (1) or (2) if compliance would be likely to prejudice—
- (a) the security or defence of New Zealand, the Cook Islands, Niue, Tokelau, or the Ross Dependency; or
  - (b) the international relations of the Government of New Zealand, the Cook Islands, or Niue; or
  - (c) the relations between any of the Governments of—
    - (i) New Zealand; or
    - (ii) the Cook Islands; or
    - (iii) Niue; or
  - (d) the entrusting of information to the Government of New Zealand on a basis of confidence by—
    - (i) the Government of any other country or any agency of the Government of any other country; or
    - (ii) any international organisation.
- (9) It is not necessary for an agency to comply with subrules (1) or (2) if compliance would—
- (a) disclose a trade secret; or

I, MICHAEL LINDO CHARLES WEBSTER, Privacy Commissioner, having given notice in accordance with section 33(3) of the Privacy Act 2020 of my intention to issue an amendment to a code of practice, now issue under section 37 of the Privacy Act 2020, this amendment to the Biometric Processing Privacy Code 2025.

The SEAL of the Privacy Commissioner was  
affixed to this amendment to the  
Biometric Processing Privacy Code 2025  
by the Privacy Commissioner

### Explanatory note

*This note is not part of the code of practice amendment but is intended to indicate its general effect.*

This amendment amends the Biometric Processing Privacy Code 2025 following the introduction of information privacy principle 3A into the Privacy Act 2020 by the Privacy Amendment Act 2025. It provides for individuals to be notified that their biometric information has been indirectly collected.

This is secondary legislation issued under the authority of the <a href="#">Legislation Act 2019</a> .	
Title	Biometric Processing Privacy Code 2025 Amendment No 1
Principal or amendment	Amendment
Consolidated version	No
Empowering Act and provisions	Privacy Act 2020, section 37
Replacement empowering Act and provisions	Not applicable
Maker name	Privacy Commissioner
Administering agency	Office of the Privacy Commissioner
Date made	16 March 2026
Publication date	19 March 2026
Notification date	19 March 2026
Commencement date	1 May 2026 or 3 August 2026
End date (when applicable)	Not applicable
Consolidation as at date	Not applicable
Related instruments	Biometric Processing Privacy Code 2025 insert website address for consolidated act