New Zealand needs Privacy Act modernisation

The need for change is increasingly urgent

The Act is increasingly 'long in the tooth' as it is based on Law Commission recommendations from 2011. Many countries have modernised their privacy regimes beyond our own to capture the benefits and avoid the harms of new technologies. For example, some countries have amended privacy legislation or created new legislation to accommodate developments in the field of artificial intelligence.

The Act also provides insufficient incentives for many agencies to understand or meet even the basic privacy requirements, leading to significant non-compliance that is difficult for us to address. For example, a growing number of small-to-medium sized agencies do not establish policies and practices to effectively manage the privacy impacts of their activities or have failed to appoint a privacy officer.

The New Zealand public supports the need for Act reform. In our March 2025 survey of over 1,000 New Zealanders, three quarters of those surveyed considered that the Privacy Commissioner should have the power to audit the privacy practices of agencies, to issue small infringement fines for a privacy breach, and the power to ask Courts to issue large fines for serious privacy breaches.

The specific amendments we are proposing to the Act

We continue to recommend a specific set of amendments to the Act to the Government that would further modernise it and strengthen privacy outcomes. They include:

1. Empowering New Zealanders to better protect themselves with new rights, such as a 'right to erasure' that would provide individuals with the right to ask agencies to delete their personal information.
2. Establishing strong incentives for agencies to take privacy seriously through establishing a new and significantly stronger penalty regime.
3. Requiring agencies to be able to demonstrate how they meet their privacy requirements, such as the privacy management programmes recommended by the OECD.
4. Providing New Zealanders with stronger protections for automated decision making, which can have issues with inaccurate predictions, discrimination, unexplainable decisions and a lack of accountability.