

Privacy Commissioner's submission to the Petitions Committee on the Petition of Katja Feldtmann

1. Thank you for inviting me to submit to the Petitions Committee on the petition of Katja Feldtmann, requesting the strengthening of enforcement powers and penalties under the Privacy Act 2020 (the Act).
2. The Act is New Zealand's main privacy statute. The introduction of the Act was a big step forward in protecting New Zealander's privacy; however it does not provide sufficient incentives for many organisations to understand or meet even the most basic privacy requirements.
3. I, and previous Commissioners, have been calling for stronger penalties and greater enforcement powers to be included in the Act.¹
4. The principles of responsive regulation make clear that compliance is most likely to be achieved where a regulatory regime is enforced by way of a hierarchy (or pyramid) of interventions. Internationally it is recognised that privacy and data protection regulators require a variety of potential sanctions, including the power to seek civil penalties, to be able to effectively respond to serious, persistent or egregious breaches and noncompliance with privacy law.²
5. If New Zealand wants to be serious about privacy, then organisations need to be held accountable for their failings in handling personal information. That includes introducing significant fines, and real consequences. As the petitioner noted, we see multimillion dollar penalties in Australia for organisations who fail to protect personal information, but in New Zealand there's no civil penalty regime.

¹ ["Privacy Act 2020 turns 5 – changes are needed"](#), 1 December 2025; [Annual Report 2025](#); Submission on the [Privacy Bill in 2018](#).

² [Review of the Privacy Act 1993: Review of the Law of Privacy Stage 4](#); Solove, D (2026) [Enforcing Privacy Law](#).



6. As noted by the petitioner, we have heard time and again from New Zealanders that they support stronger powers to protect privacy. In our March 2025 privacy survey³, three quarters of those surveyed said the Privacy Commissioner should have the power to:
1. audit the privacy practices of agencies;
 2. issue small infringement fines for a privacy breach; and
 3. ask the Courts to issue large fines for serious privacy breaches.
7. The petitioner also suggested strengthening my enforcement toolkit, for example through audit powers and requiring agencies to demonstrate how they are meeting their privacy requirements. The previous Privacy Commissioner noted that many agencies routinely handle sensitive personal information about individuals and need to do so responsibly in order to avoid privacy harm resulting to the individuals concerned.⁴ Agencies should therefore be accountable to the individuals whose information they hold and should be prepared to demonstrate that accountability to me on request.
8. Strengthening the enforcement toolkit will enable my Office to proactively monitor and respond to non-compliance, with a broader range of options, further supporting an enforcement hierarchy. Tools such as audit powers also support intervention prior to harm being caused and are therefore an important protection for New Zealanders' privacy.
9. The submitter also raises the potential addition of a 'right to erasure.' There are clear situations where the protection of individual privacy will be maintained through expanding existing rights to include a right to erasure. The European Union (EU)⁵ and United Kingdom (UK) legislation provide useful precedents for these

³ [2025 annual survey on privacy.](#)

⁴ Submission on the [Privacy Bill in 2018.](#)

⁵ [GDPR, Article 17](#); <https://gdpr-info.eu/issues/right-to-be-forgotten/>; [UK GDPR, Article 17.](#)



situations, which include when the information has been unlawfully obtained (such as through a data breach) or where an individual has withdrawn their consent.

10. Providing individuals with a right to erase personal information is an alternative approach than tightening requirements for how long agencies can keep information. The decision-making onus will shift from agencies (who have an incentive to collect information) to individuals so that they can maintain their own privacy. In effect, a right to erasure of personal information will provide a balance against agency desires to keep increasingly large amounts of information for longer than is necessary.
11. My predecessor recommended this addition to the Act since the 2020 reform of the Act but we now have clearer established legislative precedent in the EU and the UK following the addition of this right to the General Data Protection Right in 2018.⁶
12. Many other countries have modernised their privacy rules to capture the benefits and avoid the harms of new technologies, and we need to do the same and make sure our privacy rules reflect the society we live in today.⁷
13. I trust my comments are of use to the Committee. I am happy to appear before the Committee if that would be of assistance.



Michael Webster

Privacy Commissioner

28 April 2026

⁶ [Coordinated Enforcement Framework \(CEF\) 2025: Launch of coordinated enforcement on the right to erasure](#) and [final report](#).

⁷ For example, the upcoming reforms in [the US](#), [Canada](#) and [Australia](#).

