Privacy Commissioner
Te Mana Mātāpono Matatapu

Draft Information Paper

Proposed Amendment No 1 to the Telecommunications Information Privacy Code 2020

Amendments to Schedule 4 to ensure search and rescue operations can work as intended, and to address operational changes

9 May 2025

Privacy Commissioner
Te Mana Mātāpono Matatapu

Information paper on Code amendments

This paper is to help people who want to submit on proposed changes to Schedule 4 of the Telecommunications Information Privacy Code 2020 ("Schedule 4").

These minor proposed changes aim to make Schedule 4 work as intended. They fix problems where rules do not work under the new operational structure for emergency location information, make it clear that general information can be shared for search and rescue operations, and correct mistakes.

Most of Schedule 4 still works well but we are proposing some minor changes

Schedule 4 enables emergency services to access information about people's location either from 111 calls or from their smartphones if they cannot make an emergency call. This enables emergency service providers to find and help people. However, the Schedule recognises that location information is sensitive, and it sets out strong privacy safeguards for that information.

The Schedule generally still works well. In particular, we are not proposing any reduction of privacy safeguards. However, a few minor changes are needed to make sure that the Schedule works as intended. The changes aim to:

- **support search and rescue operations:** in particular to make sure an emergency service provider can share general location information with volunteers or others working on its behalf where this is necessary to support a search and rescue operation.
- **ensure the Code fits with the new operational structure for emergency location information**. This includes making sure the Police can still share location information with other emergency responders, but also make sure that full logs are kept of how device information is used.

We have also taken the opportunity to **fix some typos** in Clauses 1 and 2.

How to make a submission

Submissions are due by **5pm on 6 June 2025**. To make a submission, read the consultation questions and email tipc@privacy.org.nz. You can either put your comments in the body of your email, or attach them as a pdf or Word document.

We want to hear your views on the proposed changes

The rest of this information paper explains what changes we are proposing and why we think they are needed. At the end of the paper, we provide a "tracked changes" copy of Schedule 4 to show the wording changes that we propose to make, so you can see them in context. We want to hear if you think these changes will work in practice, and if you are comfortable with them.

We do not intend to reduce or remove any privacy safeguards, so we are particularly interested in hearing if you think the changes will create privacy problems and what we could do to fix that. You can either answer our specific consultation questions or simply let us know what you think.

There are only certain things a Code can do

It is important to know that there are some limits on what we can do with these changes to Schedule 4:

- As part of a code of practice, Schedule 4 can only modify how the information privacy principles under the Privacy Act 2020 apply to the agencies it covers.
- The TIPC only applies to telecommunications information, and Schedule 4 only applies to emergency location information which is collected, used, and shared through the Emergency Location Information System.

We suggest that you focus your comments on a discussion of these specific proposed changes. While we always welcome any wider views on how our Codes operate, we are not in a position to be able to make other changes at this time.

Publication of submissions

Our normal practice is to publish submissions on our Code proposals, including amendments. We do not identify submitters who are individuals or publish contact details, but we do normally identify organisations that have made submissions.

If there is any reason why we should **not** publish all or part of your submission or if we should not identify you (if you are an organisation), please state this clearly when you make your submission, and let us know why this is important to you.

Background: Schedule 4 helps with emergency responses

Schedule 4 starts on page 20 of the Telecommunications Information Privacy Code 2020. It applies to Emergency Location Information (ELI) about a person which comes either from 111 calls or from devices like smartphones that can share their location. Schedule 4 sets strict rules for how this location information can be collected, used, and shared, as well as rules for the system that collects and shares that information (the Emergency Location Information System, or ELIS).

111 calls provide Emergency Caller Location Information (ECLI)

When a person makes a 111 call, information about their location can be collected and shared by the network operator providing the phone connection. This type of location information has been included in Schedule 4 since 2017, where it is referred to as Emergency Caller Location Information (ECLI).

Smart devices provide Device Location Information (DLI)

Smartphones and other modern devices have GPS and other built-in ways to collect and share location information. You may have used this type of location information when using a device to arrange a car ride or get directions, or finding the nearest branch of a shop from a website by choosing to “share location”.

In 2020, Schedule 4 was updated to allow emergency services to use Device Location Information (DLI) when responding to emergency situations. The use of DLI does not require the person involved to make a 111 call. This is very helpful for emergencies where a person is unable to call 111, as it enables the emergency service providers to find them. However, it also creates greater privacy risks, since it is using your personal device to track you.

The Schedule protects this information by only allowing it to be used when this is genuinely necessary to find and help you. The safeguards in the Schedule include:

- Extra checks to make sure DLI relates to the right person (Clause 3(4)).
- Location agencies must tell a person whose DLI is collected (Clause 4).

- All disclosures of DLI must be recorded in a disclosure log which is regularly reported to the Privacy Commissioner (Clause 7(3)).
- The only acceptable purpose for using DLI is to prevent or lessen a serious threat to a person's life or safety (Clause 1, "permitted primary purpose"). This is more specific than the requirement to use information from 111 calls.

Emergency location information (ELI) can only be used for emergencies

Under Schedule 4, emergency location information about a person can only be collected for the purpose of supporting an emergency response. Once collected, it can only be shared among specific defined location agencies: network providers, emergency service providers, and the government agency which operates the computer system used to collect and share emergency location information.

Schedule 4 sets rules for the Emergency Location Information System (ELIS)

The Emergency Location Information System (ELIS) is the system that receives location information covered by Schedule 4 and allows emergency services to access it. Schedule 4 sets rules for how this system operates, including legal requirements on the government agency which is responsible for the system.

All location agencies need to be open and transparent

Schedule 4 requires the network operators, emergency service providers, and the government agency responsible for the ELIS to be open and transparent (Clause 5).

The proposed changes

1 Support for search and rescue operations

1.1. ‘Search and rescue’ is a coordinated effort to find and aid missing people who need urgent help. In New Zealand, the search and rescue sector is coordinated by the New Zealand Search and Rescue Council, but actual search and rescue operations are coordinated by New Zealand Police (for land and close-to-shore searches) or by Maritime New Zealand (for marine searches in New Zealand’s search area, which covers a large section of the Pacific Ocean).

1.2. Schedule 4 is meant to help with search and rescue operations. This is why it allows for use of location information for search and rescue purposes. However, it sets very strict limits on who can access emergency location information, as it recognises that there are real privacy concerns that need to be managed.

Clause 3(1)(b) can be read as barring on-sharing to search and rescue volunteers

1.3. Most search and rescue operations rely on some level of help from volunteers as well as from professional emergency services (see Table 1).

Table 1: Search and rescue emergency scenarios

Land search: missing hiker	Marine search: missing boat
A hiker told a friend about their planned two-day mountain walk, but did not check in on the third day as planned. The friend called 111 and New Zealand Police are now coordinating a land search for the hiker. An effective search requires **help from skilled volunteers who know the area** and can hike into it.	A person called 111 saying friends went fishing and have not come back after strong winds pushed their boat offshore. New Zealand Police is coordinating a close-to-shore marine search. An effective search may need **help from people in charge of nearby aircraft and sea vessels** to look for the boat.

1.4. Under clause 3(1)(b), emergency service providers and other location agencies listed in Schedule 4 are only allowed to disclose ELI to *other* location agencies. This is an important privacy safeguard. However, there is a risk that the clause could be narrowly read as barring agencies from sharing general information about a missing person's last location with search and rescue volunteers. If this happens, it would act as a serious barrier to search and rescue operations

1.5. We considered whether the problem could be solved by adding different categories of people to the list of "emergency service providers" in Schedule 4. However, this is impractical. Defining categories too broadly would undermine privacy safeguards, and defining them too narrowly would make search and rescue operations inflexible.

1.6. We also considered whether the relevant government agency could use its existing power under clause 2 to authorise the disclosure of the information if it proved necessary. However, this would also be impractical. Time is usually of the essence with search and rescue situations. It is not possible to know in advance whose help may be needed, and seeking authorisation would delay the response.

1.7. Instead, we think Schedule 4 should explicitly allow sharing of location information to people and organisations who are not part of a listed location agency provided that:

- The information is only information **about someone's potential location**…
- …which a location agency shares with **someone acting on their behalf**…
- …**in order to find and rescue the missing person**.

1.9 This is the purpose of our proposed new clause 9:

> Nothing in this Schedule prevents a location agency from disclosing information about an individual's potential location to any agency or person who is acting on behalf of that location agency to locate and rescue that individual.

1.8 We think that this new clause accurately reflects what happens as part of search and rescue operations now, and that it allows the right degree of flexibility for how those operations need to work. We think it also maintains strong privacy safeguards. The information can only be general information, and it can only be used for search and rescue purposes, not more broadly. The reference to sharing with someone acting on the location agency's behalf is intended to make it clear that the location agency itself remains responsible for what happens with that information under the Schedule in the normal way, including making sure that the information is not misused.

1.9 We therefore think the privacy risks should be relatively low, particularly when combined with the other protections in Schedule 4, including notification to the person where device location information has been used.

Question 1
Do you agree with the proposed new clause 9 in the Schedule? If not, do you have a suggestion for how else the problem could be resolved?

"New Zealand Search and Rescue" is not a single agency, which creates some legal uncertainty

1.10 The current list of emergency service providers under clause 1 includes "New Zealand Search and Rescue". The purpose of including it on the list was to make it clear that information could be properly shared for search and rescue purposes.

1.11 However, unlike all the other organisations that are included on that list, New Zealand Search and Rescue is not a specific legal entity. Instead, it is a grouping of agencies that work together to co-ordinate search and rescue across the sector. The fact that it is not a legal entity creates a potential gap in privacy accountability: if something goes wrong, it is unclear which of the potential agencies might be formally responsible for addressing that problem.

1.12 We therefore propose to remove all references to "New Zealand Search and Rescue" from the Schedule. We have confirmed that this should not cause problems in practice. The agencies included under the search and rescue 'umbrella' are either already defined as "location agencies" or could be defined as such under clause 2 by the responsible government agency. Also, the ability to use ELI for search and rescue purposes is sufficiently clear from the rest of the Schedule.

Question 2
Do you agree with removing references to "New Zealand Search and Rescue" from the Schedule?

2 Ensuring the Code fits with the new operational structure

2.1 Schedule 4 requires there to be a 'relevant government agency' that is responsible for operating, maintaining and monitoring the ELIS, including maintaining the privacy safeguards. However, the Schedule does not dictate who that relevant government agency should be. That decision is up to the government of the day.

2.2 Until now, the relevant government agency has been the Ministry of Business, Innovation and Employment (MBIE).

2.3 However, in November 2024, the Next Generation Critical Communications (NGCC) unit was set up as the new emergency services co-ordination body, as a specific business unit within New Zealand Police. As part of establishing NGCC, the government has named New Zealand Police as the "relevant government agency" under Schedule 4.

2.3.1 Police are also listed as an emergency service provider, in their operational capacity.

Operational changes mean existing rules do not work properly

2.4 These changes in operational roles for key organisations mean parts of Schedule 4 no longer work as intended. We are therefore proposing minor changes so the affected parts of Schedule 4 work as intended – see Table 2.

Table 2: Problems and proposed approach to fixing them

Clause	Problem	Proposed approach
3(3)	Clause 3(3) says New Zealand Search and Rescue, Maritime New Zealand, and emergency services authorised under Clause 2 must not access location information "directly from the relevant government agency". Operational practice is for these agencies to access location information indirectly through NZ Police. As NZ Police is now also the relevant government agency this access is now blocked by 3(3).	We propose to amend Clause 3(3) so that it prevents relevant agencies from accessing location information "directly from the ELIS". We think this maintains the privacy safeguard of ensuring that only limited agencies can directly access information from the ELIS, while also ensuring that Police can distribute information to emergency service providers.
2	The references to ELI having to come "from the ELIS" are redundant. All ELI is sourced from the ELIS. The phrase is already confusing and becomes even more so once the change to clause 3(3) is made.	Remove all three references to "from the ELIS" from clause 2. Removing these references does not lessen privacy protections: these newly designated emergency service providers would still need to comply with the Schedule, and clause 3(3) makes it clear that they would not be able to have direct access to the ELIS.
1	Definition of "relevant government agency": Police are technically not a "government" agency	Change the definition of "relevant government agency" to refer to "public sector agency" (and point to the Privacy Act for definition of "public sector agency")

Clause	Problem	Proposed approach
7(3)	Clause 7(3) requires the relevant government agency to log all disclosures of device location information as a privacy safeguard. As NZ Police is now the relevant agency, its operational use of device location information is technically not a "disclosure" (because the information would remain 'in house'). The requirement to log is a major privacy safeguard.	We propose to add a new Clause 7(4) requiring that the relevant government agency log all of its uses of device location information as if these were disclosures.

Question 3
Do you agree with the proposed change to clause 3(3), barring wider access to the ELIS itself, but ensuring NZ Police can pass information as needed to other location agencies?

Question 4
Do you agree with the proposed addition of clause 7(4) to require the relevant government agency to log all internal uses of device location information as well as external disclosures?

3 Fixing typographical errors in Clauses 1 and 2

3.1 Clause 1 sets out the permitted secondary purpose which allows the relevant government agency to use emergency location information (with identifying details removed) for purposes of auditing and monitoring the operation of the ELIS.

3.2 The clause currently contains a drafting error. The permitted secondary purpose reads “monitoring **the** auditing the operation of the ELIS” where it should read “monitoring **and** auditing the operation of the ELIS”. We propose to fix this error.

3.3 Clause 2 allows for the relevant government agency to authorise new emergency service providers after consulting the Privacy Commissioner.

3.4 Clause 2 refers to the wrong part of Clause 1. It refers to **subparagraph (e)** under the Clause 1 definition of “emergency service provider”, but it should point to the subparagraph “any other agency authorised by the relevant government agency under clause 2 of this Schedule to receive ELI from the ELIS”. We propose to fix this error.

3.5 If we make our proposed change of removing New Zealand Search and Rescue the relevant numbering will be **subparagraph (f).**

3.6 Finally, clause 8(3) is awkwardly worded. It would be clearer if the phrase “every three months” was placed at the start of the sentence.

Question 5
Do you support fixing the errors in clauses 1 and 2 and adjusting the wording of clause 8(3)?

4 Conclusion

4.1 Thank you for considering our proposals to amend Schedule 4. We look forward to hearing from you. To make a submission email tipc@privacy.org.nz by 5pm on June 6 2025.