

Module	<b>CREDIT REPORTING</b>
Jurisdictions	<b>NEW ZEALAND</b>
Legal Expert	<b>TANIA GOATLEY</b> Partner at Bell Gully <a href="https://www.bellgully.com/our-people/tania-goatley/">https://www.bellgully.com/our-people/tania-goatley/</a> <a href="https://www.linkedin.com/in/tania-goatley-0310119a/">https://www.linkedin.com/in/tania-goatley-0310119a/</a>

## Module Scope

Does the organisation have procedures in place to ensure that it only collects personal information that falls within the definition of credit information for the purposes of credit reporting?

Does the organisation comply with the 12 Information Privacy Principles when collecting, storing and using credit information?

Does the organisation have policies and procedures in place to ensure that it is collecting, using and storing credit information that complies with the Credit Reporting Privacy Code 2004 and credit reporting laws?

Does the organisation have policies and procedures in place to ensure the integrity and accuracy of the credit information collected and that it facilitates lawful access and correction of credit information?

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## Module Application

The NEW ZEALAND CREDIT REPORTING module informs credit reporting bodies about the laws that govern regulation of credit reporting in New Zealand. A credit reporting body means any entity that is carrying on a business of relaying information or reporting information that is relevant to the assessment of the creditworthiness of an individual.

The NEW ZEALAND CREDIT REPORTING module covers the obligations of credit reporters in New Zealand where they must handle information in a way that respects and protects the privacy of the individuals to whom that information relates. The primary obligations of credit reporters are imposed by the:

- › Privacy Act 1993 (the Privacy Act)
- › Credit Reporting Privacy Code 2004 (the Code)

The module covers the 12 Information Privacy Principles (IPPs) outlined in the Privacy Act, which relate to personal information and its collection, use, disclosure, storage, quality and accuracy, access, correction, retention, and connection to unique identifiers. Additionally,

the module also covers the Code, which contains the Credit Reporting Privacy Rules (the Rules) and how they intersect with the Privacy Act.

Personal information encompasses any information about an identifiable individual — written or electronic. The module covers the many different forms that ‘information’ can take as well as how the definition of credit information is narrower in scope than the definition of personal information. Credit reporters are required to identify all the different types of personal information they have access to and ensure that their policies and procedures adequately cover the differences in handling each type of information. The module details the types of information the credit reporter is allowed to collect, where credit reporters are only able to collect personal information that falls within the definition of credit information for the purpose of credit reporting.

In some instances, the Code prescribes specific measures and controls that the credit reporter must put in place to ensure compliance. The NEW ZEALAND CREDIT REPORTING module advises credit reporters about putting these specific measures in place as well as guidance on how to comply with the credit-reporting obligations under the relevant legislation, including:

- › Developing a robust privacy culture within the organisation and developing a privacy programme surrounding the collection of credit information
- › Ensuring there are persons within the agency who have a depth of knowledge and take responsibility for facilitating compliance
- › Displaying strong management and governance on credit reporting privacy matters and having procedures in place to manage data security, IT data handling, staff training, and the identification and investigation of breaches
- › Having procedures and policies in place to monitor internal controls and the systematic review of procedures
- › Establishing policies and processes that govern how credit information is handled from collection or receipt to destruction
- › Ensuring the purpose and manner of collection of credit information complies with the legislated requirements
- › Establishing policies and procedures to ensure the integrity and accuracy of the credit information collected
- › Establishing policies and processes that govern how credit information is used in accordance with the credit reporting requirements
- › Facilitating the lawful access and correction of credit information
- › Ensuring that credit information is only disclosed in accordance with credit reporting law
- › Ensuring that the credit reporter meets its record keeping and reporting obligations under the Code

The 12 IPPs covered by the module are:

1. The purpose of collection of information
2. The source of the information
3. Collection of credit information from an individual
4. Manner of collection of credit information
5. Storage and security
6. Access to credit information
7. Correction of credit information
8. Accuracy of credit information
9. Retention of credit information
10. Limits on use of credit information
11. Limits on disclosure of credit information
12. Unique identifiers

As well as the Privacy Act and the Code, the module also covers various other acts that impact on the credit reporting sector, including:

- › Births, Deaths, Marriages, and Relationships Registration Act 1995
- › Contract and Commercial Law Act 2017
- › Contract and Commercial Law (Electronic Transactions) Regulations 2017
- › Human Rights Act 1993
- › Companies Act 1993
- › Insolvency Act 2006
- › Limited Partnerships Act 2008 (NZ)
- › Personal Property Securities Act 1999
- › Privacy Regulations 2020
- › Summary Proceedings Act 1957
- › Summary Proceedings (Credit Reporting of Fines) Regulations 2011

The Privacy Commissioner (the Commissioner) is responsible for the regulation of the credit reporting sector and the complaints process. The module covers the authority of the Commissioner and the obligations of the credit reporter when dealing with the Commissioner, including processes for:

- › Providing reasonable assistance during investigations
- › Providing documents and information when requested
- › Designating a complaint handler
- › Submitting an annual assurance report to the Commissioner each financial year
- › Establishing and maintaining a complaints process framework
- › Complying with enforceable orders and directions

Credit reporters must co-operate with the Commissioner. The consequences of failing to comply with the Commissioner are covered in the module, where the possible penalties can include:

- › Financial penalties and fines
- › Imprisonment
- › Criminal charges

The NEW ZEALAND CREDIT REPORTING module also covers possible penalties to be applied to a credit provider in the event of a successful complaint, which can include:

- › A declaration that the agency has interfered with the privacy of an individual
- › An order restraining the agency from causing or permitting others to engage in interfering conduct
- › An order to pay up to \$350,000 in damages
- › An order that the agency perform certain acts in reparation

The NEW ZEALAND CREDIT REPORTING module is limited to the specific obligations imposed on credit reporting bodies. It does not provide information on general obligations for other types of entities dealing with personal or credit related information.

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