

## The Role

Position Title:	Senior Legal Adviser
Reports to:	General Counsel
Location:	Wellington
Date Issued:	October 2020

### Purpose

The purpose of the position is to assist the Privacy Commissioner to achieve the objectives of the Commissioner's office by providing legal and privacy advice, and to assist the General Counsel provide the Commissioner with a legal quality assurance role across the Commissioner's functions.

### Background

The Office of the Privacy Commissioner is an independent Crown entity established by the Privacy Act. The Privacy Commissioner reports to Parliament through the Minister of Justice (or Associate).

The General Counsel function supports the work of the Office by providing independent expert advice to the Commissioner and to different workstreams in the Office. The legal team provides problem-solving input, a check and balance as quality assurance on exercise of the Commissioner's functions, and brings a legal perspective to novel and cutting edge privacy issues.

The main purpose of the Privacy Act is to promote and protect individual privacy. The Office of the Privacy Commissioner (OPC) has a broad range of functions including the ability to:

- make public statements on matters affecting individual privacy
- investigate complaints about breaches of privacy
- build and promote an understanding of the privacy principles
- monitor and examine the impact that technology has on privacy
- develop codes of practice for specific industries or sectors
- examine draft legislation and proposed government information sharing agreements for possible impacts on individual privacy
- inquire into any matter where it appears that individual privacy may be affected
- receive reports of notifiable privacy breaches
- monitor and enforce compliance with the Privacy Act; and

- report to government on matters affecting privacy, both domestic and international.

OPC also has oversight functions relating to privacy matters under other enactments.

OPC is guided by the principles of fairness, consistency and transparency, proportionality, accountability and kōtuitui (connectedness).

The Commissioner is required to have due regard for the protection of important human rights and social interests that might compete with privacy, and to take account of international obligations accepted by New Zealand and international developments in privacy protection, and cultural perspectives on privacy.

### Principal Accountabilities

Key Function	Accountabilities
<b>Legal Advice and problem-solving</b>	<ul style="list-style-type: none"> <li>• To provide expert legal and privacy advice and quality assurance to the Commissioner and the Commissioner's staff that is legally sound, factually accurate, well-reasoned and well judged.</li> <li>• To provide advice on regulatory and compliance action and the exercise of the Commissioner's functions under the Privacy Act, including public inquiries and investigations.</li> <li>• To help lead and manage the contribution of the Commissioner's office to any review or reform of the Privacy Act including the development and drafting of any proposed legislation.</li> <li>• To support the investigations team with expert legal and privacy advice, as required, on the correct application and/or interpretation of privacy law for the investigation and resolution of complaints.</li> <li>• To assist with the drafting of legal opinions arising out of the investigation of complaints, as required.</li> <li>• To assist the General Counsel with litigation, appeals and enforcement in the Human Rights Review Tribunal (or courts), including preparation of documents and submissions, and appearing before the Human Rights Review Tribunal as led by the General Counsel.</li> <li>• To provide sound legal advice about the legal and privacy implications of draft or existing legislation, proposed or current government policy, non-government proposals, and business or other developments which might have an impact on the privacy of the individual.</li> <li>• To provide advice, as required, to public agencies on privacy-enhancing solutions for sharing personal information in order to deliver better public services, including advising on the legislative provisions that allow/govern information sharing including Authorised Information Sharing Agreements (AISAs).</li> <li>• To provide a quality assurance role in ensuring that the OPC's communications, and the educational and guidance material it produces, are legally sound, relevant and appropriate.</li> <li>• To assist, as required, with the research and drafting of Codes of Practice and their issue, amendment or revocation.</li> <li>• To help manage statutory complaints about OPC decisions including</li> </ul>

Key Function	Accountabilities
	<p>under the OIA and Ombudsman Act and to assist with judicial review litigation.</p> <ul style="list-style-type: none"> <li>To help draft Commissioner correspondence to Ministers and Chief Executives.</li> </ul>
<b>Outreach and Communications</b>	<ul style="list-style-type: none"> <li>To help promote understanding and awareness by public and other agencies of privacy issues that should be taken into account when drafting legislation, formulating policy, implementing new initiatives or developing new products, services or applications.</li> <li>To help deliver, as required, privacy education seminars, workshops and presentations.</li> <li>To assist with the handling of OIAs, public and media enquiries, as required, and the development of outreach and public information material such as case notes and (blog) articles for the Commissioner's website and legal content for AskUs.</li> <li>To develop and maintain effective stakeholder relationships to help promote and facilitate the work of the Commissioner's office.</li> </ul>
<b>Other Responsibilities</b>	<ul style="list-style-type: none"> <li>To help the General Counsel coach and mentor other legally qualified staff, and assist the General Counsel to build on the privacy expertise and capacity in the Commissioner's office.</li> <li>To assist the General Counsel with the development and implementation of the legal team's strategic work programme, systems, processes and procedures.</li> <li>To help undertake public investigations and inquiries initiated by the Commissioner into any matter.</li> <li>To lead or assist with special projects undertaken by the Commissioner, typically on a cross-functional basis, into any privacy related issue or to improve any aspect of the Commissioner's operations.</li> <li>To help undertake or assist with such other functions of the Commissioner as may be required by the General Counsel or Commissioner from time to time, including but not limited to: <ul style="list-style-type: none"> <li>research into, or the monitoring of, privacy and related developments in New Zealand and overseas;</li> <li>the Commissioner's functions in areas such as security and intelligence and law enforcement information;</li> <li>investigations into complaints about alleged breaches of privacy;</li> <li>comparing the Privacy Act's safeguards to protections in overseas privacy laws and binding schemes;</li> <li>reports, papers and submissions to support policy positions taken by the Commissioner;</li> <li>development, implementation and use of privacy tools such as privacy impact assessments and privacy by design.</li> </ul> </li> </ul>
<b>General</b>	<ul style="list-style-type: none"> <li>To comply with any code of conduct, policy, practice or procedure as may be adopted by the Commissioner's office.</li> <li>To undertake the accountabilities of the position to the expected standards of quality and timeliness as communicated by the General Counsel or Commissioner.</li> <li>To alert the General Counsel in a timely manner to any significant issue that might adversely impact the progress of any work, or may</li> </ul>

Key Function	Accountabilities
	<p>be of wider significance or concern to the Commissioner's office.</p> <ul style="list-style-type: none"> <li>• To seek the prior approval of the General Counsel before applying any new interpretation of the law, or departing from approved policy or practice.</li> <li>• To create and maintain accurate and up-to-date records of all work.</li> <li>• To develop a thorough knowledge of the Privacy Act and other acts, regulations, codes, policies and procedures affecting the functions and work of the Commissioner.</li> <li>• To manage relationships with external stakeholders in a manner that reflects a responsive, timely and professional service by the Commissioner's office.</li> <li>• To maintain productive working relationships with all the Commissioner's staff, including the senior leadership team, and to contribute as a team member to the wider objectives of the Commissioner's office.</li> </ul>

### Key Relationships

<b>Internal</b>	<ul style="list-style-type: none"> <li>• General Counsel</li> <li>• Legal Adviser and Senior Legal Adviser</li> <li>• Executive Assistant, Legal</li> <li>• Managers of Investigations and Dispute Resolution (IDR), Policy and Compliance</li> <li>• Policy, IDR, and Compliance team</li> <li>• Communications team</li> <li>• Commissioner, members of the senior leadership team and other staff, as required</li> <li>• Corporate Services</li> </ul>
<b>External</b>	<ul style="list-style-type: none"> <li>• Ombudsman</li> <li>• Director of Human Rights Proceedings</li> <li>• Human Rights Review Tribunal and courts</li> <li>• Key privacy stakeholders in a range of public sector agencies and private sector organisations</li> <li>• Privacy networks and related interest groups</li> </ul>

### Delegations

<b>Human Resources</b>	Nil
<b>Financial</b>	Nil
<b>Limits on Authority</b>	<ul style="list-style-type: none"> <li>• No statement is to be issued to the news media or any information released to the general public without the prior approval of the Privacy Commissioner.</li> <li>• Any significant departure from approved or accepted work practice or procedure is first to be discussed and agreed with the General Counsel, General Manager or Privacy Commissioner.</li> </ul>

	<ul style="list-style-type: none"> <li>There is no authority to enter into any ongoing contract that may in any way be binding on the Privacy Commissioner, without the prior approval of the Commissioner or the General Manager. The booking of venues, travel or accommodation must be in accordance with the policies, practices and procedures of the Commissioner's office.</li> </ul>
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## Expertise & Competencies

- legal qualifications and a current practising certificate;
- 5+ years relevant legal experience;
- excellent legal and analytical skills;
- excellent written and oral communication skills;
- an inquiring mind;
- a keen interest in the interactions between privacy, law and policy;
- an understanding of Treaty of Waitangi, human rights and cultural diversity;
- common sense and sound judgement;
- the ability to build and maintain co-operative and collegial working relationships;
- the ability to work independently and also be a team player;
- the ability to lead and manage projects;
- the ability to coach and mentor less experienced members of the team; and
- demonstrated ability to work effectively under pressure.

### Key Competencies

The competencies identified below are mapped against the 5 core values of the Commissioner's office

Competency	OPC Values	Description of skilled behaviours
<b>Analytical Skills</b>	Innovation Excellence	<ul style="list-style-type: none"> <li>• Applies intellectual rigour to researching and analysing complex issues systematically and comprehensively;</li> <li>• Provides robust, well thought out conclusions supported by relevant data;</li> <li>• Identifies emerging issues early and proactively addresses them; and</li> <li>• Thinks laterally about issues and is innovative in problem-solving.</li> </ul>
<b>Professionalism</b>	Respect Integrity Independence	<ul style="list-style-type: none"> <li>• Displays highest standards of personal integrity, honesty and conduct;</li> <li>• Exercises complete discretion at all times, particularly in dealing with sensitive or confidential material;</li> <li>• Develops and maintains constructive working relationships with internal and external stakeholders; and</li> <li>• Uses language and has a demeanour and personal presentation that reflects a professional outlook.</li> </ul>

Competency	OPC Values	Description of skilled behaviours
<b>Communication Skills</b>	Respect Integrity Excellence	<ul style="list-style-type: none"> <li>Communicates clearly, concisely and in plain English, both orally and in writing, and is an active listener;</li> <li>Delivers presentations effectively and can use a range of presentation methods and media; and</li> <li>Negotiates effectively and can achieve co-operation and agreement where there are conflicting objectives.</li> </ul>
<b>Technology Skills</b>	Innovation Excellence	<ul style="list-style-type: none"> <li>Competently uses equipment and software to produce own work, and is proficient with the Microsoft Office suite of applications and such other software or information technology tools as are required for the role; and</li> <li>Adopts and adapts to new technologies readily.</li> </ul>
<b>Self-management</b>	Innovation Excellence	<ul style="list-style-type: none"> <li>Works independently and is largely self-managing, yet is also a strong team player;</li> <li>Self-motivated and self-driven, understands and accepts responsibility for own performance requirements;</li> <li>Plans, organises and prioritises work effectively, is motivated to find solutions to problems, and is results-driven;</li> <li>Maintains and enhances knowledge by actively keeping up-to-date with developments;</li> <li>Participates actively in training and development opportunities;</li> <li>Completes work in a timely manner and follows through with commitments; and</li> <li>Sets and maintains high standards of performance.</li> </ul>
<b>Teamwork</b>	Respect Innovation Excellence	<ul style="list-style-type: none"> <li>Works as a team member and demonstrates collegiality through knowledge sharing and excellent work relationships;</li> <li>Relates to a wide variety of people, both within the office and externally, in a positive and helpful manner; and</li> <li>Supports group decisions and puts group goals ahead of own goals.</li> </ul>
<b>Innovation and Adaptability</b>	Innovation Excellence	<ul style="list-style-type: none"> <li>Displays a positive attitude to change, adapts readily, and initiates changes as required;</li> <li>Effectively manages competing priorities;</li> <li>Generates ideas for improvement, takes advantage of opportunities and suggests innovations; and</li> <li>As with all other staff, undertakes such other duties and responsibilities as the Commissioner may reasonably request from time to time.</li> </ul>

# VALUES

## Respect

for all the people we deal with,  
and for viewpoints that differ from our own

## Integrity

we are honest, fair  
and transparent in our work

## Independence

we operate impartially and  
without political or personal bias

## Innovation

we value innovation, creativity and  
a culture of continuous improvement

## Excellence

we strive for best professional practice  
and leadership in our field