**Privacy Impact Assessment:**

**Full report**

**Local authorities’ use of date of birth information**

March 2018



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**Glossary of terms**

| Term | Definition |
| --- | --- |
| Local authorities | A territorial authority or regional council; also includes any other elected or partly-elected body (other than a local board or a community board) to which the Local Electoral Act 2001, or any of its predecessors, is applied or has been made to apply by any other enactment. This can include city councils, district councils, and unitary authorities. |
| Local Elections | Election to any office in, under, or in connection with any local authority, local board, community board, or other body required by law to be filled by election in any local government area. This includes triennial elections, by-elections, district health board elections, and polls held by local authorities. Parliamentary elections are excluded. |
| Electoral officer | A person appointed under section 12(1) of the Local Electoral Act 2001; and includes any person who exercising all or any of the duties and powers of an electoral officer. |
| Electoral official | An electoral officer, a deputy electoral officer, and any person authorised to exercise any power or perform any duty of an electoral officer under section 12(2). |
| Elector | Any person entitled under any law in force to vote at an election or poll, as the case may be, held under the Local Electoral Act 2001. |
| Electoral roll | The forms of application for registration kept by the Electoral Commission of persons registered as electors of a district. |
| Database of registered electors (or enrolment database) | The information held by the Electoral Commission provided by electors when they enrol. |
| Roll, in relation to the Electoral Commission | An electoral roll, a main roll, or a supplementary roll, as the case may be; includes a composite roll printed under section 107 of the Electoral Act 1993. |
| Roll or roll of electors, in relation to any local authority | Any list or roll made in a manner provided by law that contains the names of the persons entitled to vote at an election or poll. |
| Voting method | Any of the following methods of voting that are prescribed for use at an election or poll:(a) the method of voting commonly known as booth voting;(b) the method of voting commonly known as postal voting;(c) any form of electronic voting;(d) any method of voting involving a combination of more than 1 of the methods of voting referred to in paragraphs (a) to (c); and(e) any other method of voting (however described). |

**Related documents**

Threshold analysis: [3W2DU3RAJ5R2-666574291-210](https://dia.cohesion.net.nz/Sites/LGV/GAD/PLM/PLI/MVO/_layouts/15/DocIdRedir.aspx?ID=3W2DU3RAJ5R2-666574291-210)

Information collected by the Electoral Commission <http://www.elections.org.nz/voters/enrol-check-or-update-now/what-information-do-i-need-give>

Enrolment form with disclosure statement: <http://www.elections.org.nz/enrolment-form>

**Project summary**

This privacy impact assessment (PIA) is being conducted at the stage of policy development for proposed legislative amendments to the Electoral Act 1993. The legislative amendments would require the Electoral Commission to provide electors’ date of birth information to local authorities for the purpose of administering local elections. The subject matter of this PIA is one of a set of three categories of legislative change currently being proposed in respect of a programme of modernisation of local body elections. The other two relate to the implementation of online voting trials for a subset of electors in local elections, and access to electors’ age category information by local bodies for the purpose of analysing participation in local elections.

The Electoral Commission collects electors’ information when that person registers as an elector and is entered into the database of registered electors, or makes amendments to this information as provided under the Electoral Act 1993. An application for registration as an elector must state:

* the person’s full name;
* the person’s date of birth;
* the place of residence in respect of which registration is claimed, specified in a manner that enables it to be clearly identified;
* the person’s postal address, if different from the residence address given;
* the person’s occupation, if any;
* the honorific (if any) by which the person wishes to be addressed;
* whether or not the person is a Māori; and
* any other particulars that are prescribed in regulations.

Under Section 113(1) of the Electoral Act if an electoral official of a local authority (as defined in [section 5](http://www.legislation.govt.nz/act/public/1993/0087/latest/link.aspx?search=sw_096be8ed81647cc6_information_25_se&p=1&id=DLM93310" \l "DLM93310) of the Local Electoral Act 2001) wishes to obtain specified information for the purposes of any election, by-election, or poll that is required by or under any Act, the electoral official is entitled to obtain from the Electoral Commission a computer-compiled list or electronic storage medium containing that information. The specified information, which shall be provided to an electoral officer or electoral official or designated body, is defined in section 113(10) and includes:

* the elector’s name, including first names, surname, and preferred honorific (if any);
* the elector’s residential address and postal address (if different);
* the elector’s occupation (if any);
* the elector’s electoral district (whether Māori or General);
* statistical meshblock details; and
* a description of each—
	+ region or constituency of a region;
	+ territorial authority district;
	+ ward;
	+ community board area; or
	+ other local authority and, where appropriate, local authority subdivision,—

in respect of which the elector appears to be entitled to vote.

This proposal would amend section 113(10) of the Electoral Act 1993 to include the elector’s date of birth in the specified information an electoral official can access, for the purpose of running an election. It would also amend the provisions under section 42 and/or 38(4) of the Local Electoral Act 2001 to exclude this information from the provisions requiring the information to be published with the electoral roll (in alignment with the Electoral Act 1993). This PIA identifies privacy risks associated with this information use and outlines the processes for managing these risks.

The aim of this proposal is to address key barriers to the future efficient and effective administration of local elections. These key barriers were identified as part of the Department of Internal Affairs’ work in partnership with local government representatives to modernise voting in local elections, and in particular progress work towards a trial of online voting. While the need for the proposed amendments has been identified in relation to a possible trial of online voting, they are likely to be useful in relation to other potential future voting methods and in a variety of situations.

 As part of the reforms to modernise local elections, new voting methods such as online voting, may be trialled. To enable trials of new voting methods, other legislative amendments are proposed and new regulations will need to be promulgated. Additional PIAs relating to the use of date of birth information will be prepared as any proposals to develop new voting methods progress.

**Scope**

This PIA assesses the impact, additional risks and mitigation associated with the proposed legislative change to require the provision of electors’ date of birth information held by the Electoral Commission to local authorities. The PIA does not assess current arrangements for the transfer of information between the Electoral Commission and local authorities, or between local authorities and approved third parties.

This PIA acknowledges that there are risks associated with the design of a voting method that relies on the date of birth information, notes where a voting method may increase associated risks, and comments on any potential mitigation in the design of the legislative change. However, there is an expectation that updated PIAs will be conducted at key stages in the development of enabling regulations, systems and processes for new voting methods to determine the particular risks associated with the method’s design.

**The process**

The Department of Internal Affairs (the Department) has conducted this analysis with information provided during investigations into online voting in local government elections. This includes advice from local government sector representatives the New Zealand Society of Local Government Managers (SOLGM) and Local Government New Zealand (LGNZ), the Ministry of Justice, and the Electoral Commission.

**Personal information**

The personal information involved is electors’ date of birth, which is proposed to be available alongside other personal information which can already be provided to the electoral officials for local authorities by the Electoral Commission, on request for use in administering local elections under the Electoral Act 1993. This information is currently collected from electors and held by the Electoral Commission.

Under the proposed changes, where a date of birth was required to administer local elections, for example as an additional piece of information to verify the electors’ identity, local authorities’ electoral officials would be able to receive date of birth information from the Electoral Commission as a computer compiled list or electronic storage medium in the same way as other enrolment database information can be received on request. This information may be supplied to, and used by, a local authority’s electoral official or authorised third parties for the purpose of the relevant election.

Processes also exist under the Local Electoral Act that reference the process above to ensure that each territorial authority has the information it needs to compile a roll of electors for its district prior to each triennial election. While related this is a separate function from the transfer and use of date of birth details described in this PIA.

As is the case with the other provisions for transferring enrolment database information between the Electoral Commission and electoral officials, any electronic storage medium supplied by the Electoral Commission must be returned to the Electoral Commission as soon as practicable after use.

The flow of information is depicted below:

**Individuals**

**Electoral Commission**

**Use D.o.B during elections to vote**

**Local Authorities (electoral officers)**

**Enrolment database: D.o.B**

**Authorised third-party: voting method provider**

**D.o.B**

**Storage medium for data**

**Enrol to vote:**

**D.o.B**

**Privacy assessment**

There are four key areas where the proposals risk being non-compliant with the privacy principles. See **Appendix A** for the assessment of all 12 principles. The Department considers these risks to be necessary and reasonable, and that appropriate mitigations can be put in place (as discussed in section 5 below).

***Principle 1 - Purpose of the collection of personal information (only collect it if you really need it)***

The Department has determined date of birth is the most effective and efficient means of supporting authentication of an elector. Date of birth information does have some limitations as a robust means of authentication, as family and friends may have access to this information, it may be available from other sources online, and it is included in the information that is mailed to electors as part of the update campaign run prior to local and general elections. For these reasons it may not be appropriate to use this as the sole piece of information used for authentication.

However, being able to use this information to help authenticate an elector reduces the barriers to voting through future voting methods while ensuring public trust and confidence in the electoral system. Amendments will be designed so that local authorities can only be provided this information when it was necessary to administer an election.

***Principle 2 – Source of personal information (get it directly from the individual where possible)***

The Electoral Commission already collects a complete set of electors’ information for the enrolment database, this information (minus the elector’s date of birth) is then temporarily provided to local authorities to prepare local rolls, or can be requested by local authorities for the purposes of administering an election.

If local authorities were to generate their own new record of electors’ date of birth from the individual themselves this would duplicate this record and introduce an additional place for storing this personal information. This also introduces the potential for errors when mapping date of birth to the electoral roll and would generate privacy concerns under the information mapping provisions. This would also mean electors may have to check with both the Electoral Commission and their local authority to ensure their information is correct.

This action will be authorised by an amendment to the Electoral Act 1993-see section 7(4) of the Privacy Act.

***Principle 5 – Storage and security of personal information (take care of it when you have it)***

The storage and use arrangements for the information transferred would be similar to those in place for the current electoral roll information. Under section 113(1) the information would have a very strict disposal authority attached. If it is to be used only for the purpose of a specific election/poll then it should not be retained or reused after this.

The increased privacy risks would be in how this information was used by a voting method. For example, as a means providing an additional piece of identity information to access online voting this information may need to be encrypted into an online voting portal. This risk would need to be assessed on a case by case basis during the development of voting methods and addressed by enabling regulations or guidelines as appropriate.

***Principle 11 – Disclosure of information***

Date of birth information has not previously been disclosed by the Electoral Commission. The addition of date of birth to information that is normally disclosed increases the likelihood of an individual being identified as a result of an accidental partial release.

This action will be authorised by an amendment to the Electoral Act 1993, see section 7(4) of the Privacy Act.

**Risk assessment**

The four risk areas described above have been rated as:

|  |  |  |  |
| --- | --- | --- | --- |
| Risk area | Likelihood | Consequence | Rating |
| Unnecessary collection of personal information | Unlikely | Low | Low |
| Collection from a source other than the individual | Unlikely | Low | Low |
| Failure of security resulting in loss of information | Unlikely | Medium/High | Medium |
| Unauthorised disclosure of the information | Unlikely | Severe | Medium |

The mitigations discussed in this document will need to be complemented by case-by-case analysis of the design of enabling regulations and voting methods that will use date of birth information. Below is a summary of the key risks and the proposed mitigation. These have been broken into two categories.

***Information management***

This is a substantial change to the current policy regarding the Electoral Commission’s use and provision of date of birth information. To date this information has not been shared with local authorities. The risk associated with the transfer of personal information may be perceived to be higher with date of birth being added to the package of personal information that may be provided on request for the purpose of running an election. A breach would be detrimental to the individual concerned and a large scale breach could potentially have serious consequences.

Local authorities often contract external providers as Electoral Officers to administer their elections. This is likely to be more common with future voting methods, such as online voting, as local authorities look to contract providers with specialised expertise in administering the new voting methods. Similar arrangements for the use and transfer of information will need to be in place as is the case for the enrolment database information currently provided to local authorities and utilised by third parties.

***Storage and use***

As is the case with other information (temporarily) transferred from the Electoral Commission to local authorities, the storage medium for this information is to be returned to the Commission as soon as practicable after the election. Further, there are clear provisions for the use of the information while with local authorities, and proposed amendments will be consistent with this. For example, section 89 of the Local Electoral Act 2001 provides a process for electoral records to be secured and destroyed after the vote count is completed.

As above, the use of date of birth information to administer local elections under future voting methods may involve the storage of the information in a new way. For example, electors’ date of birth may need to be encrypted into an online voting system for it to be used to verify the elector, and could potentially be held offshore. This potential change in use has the ability to change the storage arrangements of the information, and as such it may increase the risk of a breach of the information. Privacy Impact Assessment updates would need to be completed at key stages in the design of a voting method that were to use date of birth information to identify risks and mitigation in the storage and use of this information.

**Summary**

Below is a table summarising the key risks and mitigations of those areas the Department has identified as of significant/potential privacy risk. See Appendix A for the assessment of all 12 privacy principles and the Brief Privacy Assessment for more information.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Privacy Risk** | **Risk probability**  | **Risk impact** | **Risk mitigated by** | **Assessment of residual risk** |
| ***R-001: Information management***The risk associated with the transfer of personal information may be perceived to be higher with date of birth being added to the package of personal information provided for the purpose of running an election. A breach would be detrimental to the individual concerned and a large scale breach could potentially have serious consequences. Local authorities are also likely to contract third parties who would handle and use this information. | Low | High | The legislative amendment and enabling regulations will need to be clear on the arrangements for the use and transfer of date of birth information, as is the case for the enrolment database information currently provided to local authorities (and authorised third parties). | Low |
| ***R-002 Storage and use***The use of date of birth information to administer local elections may involve the storage of the information in a new way. This potential change in use has the ability to change the storage arrangements of the information, and as such it may increase the risk of a breach of the information. | Low | High | Specifying in the legislation that, as is the case with other information transferred from the Electoral Commission to local authorities, the storage medium for this information is to be returned to the Commission as soon as practicable after the election. Further, there will need to be clear provisions for the use of the information while with local authorities.Regulations enabling future voting methods will need to be made on the advice of PIA updates specific to the storage and use on this information. | Medium |

**Action plan**

As discussed, there are some risks to individual’s privacy. Mitigations to support the proposed changes primarily depend on clear legislative design around the purpose and use of the information.

On balance, the proposals themselves do not introduce substantial risks to individual’s privacy provided changes are managed carefully with privacy mitigations in mind. However, the potential use of the date of birth information by future voting methods may introduce higher risks that would impact individual’s privacy. As such, updated PIAs will be undertaken at the relevant stages for future voting methods proposing to use date of birth information and the relevant new regulations.

**Authorisation**

The Business Owner is ultimately responsible for ensuring that this PIA has the appropriate scope, and that the recommendations are actioned. The Principal Advisor Privacy should be consulted before the document is finalised to ensure that the PIA addresses the necessary privacy considerations.

|  |  |  |
| --- | --- | --- |
| **Authorised by** | **Signature** | **Date** |
| Raj KrishnanGeneral Manager Policy |  |  |
| Hiranthi Abeygoonesekera Chief Legal Advisor | H Abeygoonesekera | 8 March 2018 |

| # | Description of the privacy principle | Summary of personal information involved, use and process to manage | Assessment of compliance | Risk assessment | Risk mitigation  |
| --- | --- | --- | --- | --- | --- |
| 1 | Principle 1 - Purpose of the collection of personal informationOnly collect personal information if you really need it | The amendments will be designed so that date of birth information is only to be provided to local authorities when it is required to administer elections, for example as a means of authenticating the elector’s identity on an online voting portal. As the Electoral Commission already collects this information it removes the need to collect/link an alternative authentication to the elector. | Risks being non-compliant | - Low risk-There may be public concern local authorities are collecting more information on electors than is necessary. This is a low risk as this information is already collected and held by the Electoral Commission and would allow additional security for a voting method without requiring additional information to be gathered or a new unique identifier assigned to electors. | Clear legislative boundaries on the parameters for the request of this information by local authorities and the use of the information will limit what value the information can be perceived to have for local authorities and the uses it can be put to. |
| 2 | Principle 2 – Source of personal informationGet it directly from the people concerned wherever possible | This proposal is not to get the information directly from the source as the Electoral Commission already holds this additional information in the enrolment database.The proposal is to amend the Electoral Act to authorise collection of the information from the Electoral Commission (see section 7(4) of the Privacy Act.) | Risks being non-compliant | -Low risk-The information is needed to be associated to the electoral roll. As the Electoral Commission already collects this information as a set there is less risk of error in using the existing enrolment database information than collecting it again from individuals. This also removes duplication of costs associated with collecting the information and less risks than holding another list of this information permanently with local authorities. | None required beyond amendment of Electoral Act to authorise collection of the information from the Electoral Commission. |
| 3 | Principle 3 – Collection of information from subjectTell them what information you are collecting, what you’re going to do with it, whether it’s voluntary, and the consequences if they don’t provide it. | Electors provide information to the Electoral Commission for the purposes of enrolling to vote. Using the elector’s date of birth to enable the elector to vote by a certain voting method is not an unreasonable extension of this purpose. | Risks being non-compliant | -Low Risk-There is a risk individuals may feel their information was gathered under one purpose and then provided on to local authorities for another purpose. This is however a low risk as the use is not out of line with the original purpose under which the information was gathered. | Work with the Electoral Commission to update the disclosure statement at the point of collection moving forward.Amend the Electoral Act to authorise collection of the information from the Electoral Commission. |
| 4 | Principle 4 – Manner of collection of personal informationBe fair and not overly intrusive in how you collect the information | No changes will be made to the Electoral Commission’s collection process of this information. Using existing information is also less intrusive to individuals than alternative means of authenticating an elector. | Complies | No new risk | None required |
| 5 | Principle 5 – Storage and security of personal informationTake care of it once you’ve got it and protect it against loss, unauthorised access, use, modification or disclosure and other misuse. | The transfer, storage and return of information from the Electoral Commission to local authorities will be conducted in the same way as existing information flows.There may be changes to the storage and use of the information based on the voting method. The development of a voting method will require safeguards to protect the information. | Risks being non-compliant | -Medium Risk-The primary risk to the security of individual information stems from the potential future storage and security of this information under future voting methods. | Development of voting methods will require separate PIAs, or risk assessments as appropriate, at key stages on a case-by-case basis. Safeguards, for example may include encryption for online portals. |
| 6 | Principle 6 – Access to personal informationPeople can see their personal information if they want to | No changes will be made to the Electoral Commission’s process for accessing this information. | Complies | No new risk | None required |
| 7 | Principle 7 – Correction of personal informationThey can correct it if it’s wrong, or have a statement of correction attached | No changes will be made to the Electoral Commission’s process for correcting this information. | Complies | No new risk | None required |
| 8 | Principle 8 – Accuracy etc. of personal information to be checked before useMake sure personal information is correct, relevant and up to date before you use it | No changes will be made to the Electoral Commission’s process for checking this information. | Complies | No new risk | None requiredElectoral cycles often include a public awareness campaign to check ones information is correct with the electoral commission. If the voting mechanism were to utilise date of birth information this may be part of the implementation plan. |
| 9 | Principle 9 – Not to keep personal information for longer than necessaryGet rid of it once you’re done with it | No changes will be made to the current provision to return the storage medium for the information to the Electoral Commission’s as soon as practicable after use. Current statutory provisions relating to securing and destroying electoral records will apply. | Complies | No new risk | None required |
| 10 | Principle 10 – Limits on use of personal informationUse it for the purpose you collected it for, unless one of the exceptions applies | The provision of date of birth information will be specified as only for the purpose of administering local elections, this is in line with the purpose it was collected. | Complies | -Low risk-(see principle 1 and 3) | (see principle 1 and 3) |
| 11 | Principle 11 – Limits on disclosure of personal informationOnly disclose it if you’ve got a good reason, unless one of the exceptions applies | Electors’ information will not be disclosed beyond authorised persons for the specified uses.The proposal is to amend the Electoral Act to authorise collection of the information from the Electoral Commission, see section 7(4) of the Privacy Act. | Complies | No new risk | None required beyond amendment of Electoral Act to authorise collection of the information from the Electoral Commission. |
| 12 | Principle 12 – Unique identifiersOnly assign unique identifiers where permitted | The use of date of birth removes the need to assign electors a unique identifier. | Complies | No new risk | None required |