

Code of Conduct

**ISSUED UNDER SECTION 86 FOR OBTAINING INFORMATION
UNDER SECTION 80 OF THE
PUBLIC AND COMMUNITY HOUSING MANAGEMENT ACT 1992**

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1. Interpretation

In this Code, unless the context requires a different interpretation:

Act means the Public and Community Housing Management Act 1992.

applicable person has the same meaning as set out in section 2 of the Act.

authorised staff member means an employee or contractor of Kāinga Ora with delegated authority to issue a section 80 notice. It is also deemed to include other persons (if any) to whom the power to require such information is specifically delegated or sub-delegated under or in accordance with section 84 of the Act.

financial product means a financial product administered by Kāinga Ora and includes a loan or a grant, but does not include income related rent.

income-related rent has the same meaning as set out in section 2 of the Act.

IPP or information privacy principle means an information privacy principle contained under section 22 of the Privacy Act 2020.

Kāinga Ora means Kāinga Ora—Homes and Communities, a crown entity established under section 8 of the Kāinga Ora—Homes and Communities Act 2019.

Kāinga Ora housing means premises (whether owned by the Crown, Kāinga Ora, or any other person) let or to be let by or on behalf of Kāinga Ora for occupation by any person as a place of residence.

lawyer means a barrister or solicitor of the High Court, and includes a firm or an incorporated law firm (within the meaning of the Lawyers and Conveyancers Act 2006) in which the lawyer is, or is held out to be, a partner, director, or shareholder.

partner, in the phrase “spouse or partner”, and in related contexts, means, in relation to any person (A), a person who is A’s civil union partner or de facto partner; and who is not, in the opinion of Kāinga Ora, living apart from A.

prejudice the maintenance of the law includes an action that would, or would be likely to, prejudice the prevention, detection, investigation, prosecution, or punishment of an offence, or the imposition of a pecuniary penalty.

prospective tenant for Kāinga Ora housing means a person:

- (a) who -
 - (i) is eligible to be allocated social housing; and
 - (ii) is not a person to whom any Kāinga Ora housing is currently let; and
 - (iii) has been referred or allocated to Kāinga Ora to be allocated, assigned, or let Kāinga Ora housing; or
- (b) who -

- (i) is already a person to whom Kāinga Ora housing is let; but
- (ii) has applied to Kāinga Ora (alone or together with some other person or people) to become a tenant of some other Kāinga Ora housing and has not yet had the application accepted or declined, or withdrawn it.

purposes for collecting information (as set out in section 80 of the Act) means:

- (a) for the purpose of any investigation under section 16 of the Kāinga Ora—Homes and Communities Act 2019:
- (b) for the purpose of detecting whether a person has committed or is committing an offence under section 82 or 83:
- (c) for the purpose of determining and detecting the cost of fraud under section 82 or 83:
- (d) for the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under section 17(1)(a) of the Kāinga Ora—Homes and Communities Act 2019.

reasonable cause includes:

- (a) cause to suspect that the person:
 - (i) has committed an offence under Part 7 of the Act; or
 - (ii) has obtained by fraud any home-related financial assistance under the Kāinga Ora—Homes and Communities Act 2019;
- (b) the fact that the person has failed, within a reasonable time, or has refused to provide information in accordance with a requirement made to that person in accordance with this Code.

section 80 notice means a written notice requiring:

- (a) information from any person for any one or more of the purposes set out in section 80(1) of the Act;
- (b) advice from any person as to whether any information provided under section 80(1) of the Act is accurate (refer to Appendix B).

tenant:

- (a) in relation to Kāinga Ora housing in general:
 - (i) means any person or people to whom any Kāinga Ora housing is let or to be let; and
 - (ii) includes a prospective tenant for Kāinga Ora housing; and
- (b) in relation to any particular Kāinga Ora housing, means the person or people to whom it is let or to be let.

trust account, in relation to a lawyer, has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006

2. Application and scope of Code

- 2.1 This Code is issued under section 86 of the Act and applies in respect of any requirement for information for any of the purposes set out in section 80 of the Act (refer to Appendix B).
- 2.2 All section 80 notices must be issued in accordance with this Code.
- 2.3 Any person who is required to provide any information under section 80 of the Act, or who is the subject of that information, may make a complaint to the Privacy Commissioner that the requirement breaches this Code. Parts 5 and 6 of the Privacy Act 2020 apply to any such complaint as if the Code were a code of practice issued under Part 3 of the Privacy Act.
- 2.4 This Code may be reviewed from time to time. Kāinga Ora reviewed it in 2024. The code will be reviewed thereafter at three yearly intervals (or earlier if there are amendments to the Act).

3. Who must comply with Code of Conduct

The following persons must comply with the code of conduct when requiring information under section 80:

- (a) Kāinga Ora and every employee of Kāinga Ora; and
- (b) any other person to whom the power to require such information has been delegated or sub-delegated under or in accordance with section 84 of the Act.

4. Steps to be taken prior to giving a section 80 notice

- 4.1 When seeking information about a:
 - (a) tenant or an applicable person in relation to the tenant;
 - (b) applicant for or recipient of a financial product or the spouse or partner of the applicant or recipient;
 - (c) prospective tenant for Kāinga Ora Housing or the person who would be an applicable person in relation to the prospective tenant for Kāinga Ora Housing -

for any of the purposes for collecting information, the authorised staff member must:

- (d) in relation to clause 4.1(a) or (c), first request the information from the person who is the subject of that information;
- (e) in relation to clause 4.1(b), request the information from the applicant for or recipient of a financial product or the spouse or partner of the applicant or recipient (except where the

authorised staff member has reasonable grounds to believe that compliance with this clause would prejudice the maintenance of the law); and

- (f) give that person a reasonable time (e.g. 5-10 working days) to provide the information and inform that person of the applicable time frame.

4.2 A request under clause 4.1 must comply with IPP 3 of the Privacy Act 2020, where applicable.

5. Issue of section 80 notices

5.1 Section 80 notices may only be issued:

- (a) for one or more of the purposes listed in section 80(1); or
- (b) to obtain advice as to whether any information provided under section 80(1) is accurate (refer to Appendix B).

5.2 Subject to clauses 6 and 7 of this Code, an authorised staff member may give a section 80 notice to a person (who is not the person in clause 4.1(a) when seeking information) if, after having complied with clause 4.1, he or she has reasonable cause.

Provided that, reasonable cause is not required before giving a section 80 notice to any financial institution, lawyer, employer or former employer of the person who is the subject of the information, or any department, departmental agency, or Crown entity.

5.3 Form and content of section 80 notice (refer to the example at Appendix C)

Every section 80 notice must:

- (a) be in writing;
- (b) advise of the existence of this Code and notify the person to whom the notice is given how that person can view or obtain a copy;
- (c) specify that the notice is given under section 80 of the Act;
- (d) specify the information sought;
- (e) specify the date by or period within which the recipient must provide the required information and the form in which they are to be provided;
- (f) notify the recipient of their right to complain to the Privacy Commissioner if they believe that the requirement breaches the Code;
- (g) comply with Information Privacy Principle 3 of the Privacy Act 2020, if applicable;
- (h) inform the recipient about their rights to access and correct personal information held about them; and
- (i) include the matters at clause 5.5.

5.4 The date or period specified in clause 5.3(e) must not be less than 5 working days after the notice is given.

5.5 A section 80 notice should also include the following:

(a) no person will be required to provide any information or documents that would be privileged in a Court of law except as provided in clause 7.2 of this Code.

(b) any person who:

(i) fails or refuses to provide without reasonable excuse the information or advice required;
or

(ii) provides false or misleading information in response to the requirement,
commits an offence and is liable on conviction to a fine not exceeding \$2,000.

(c) any person that:

(i) carries out the following act:

- makes any statement knowing it to be false in any material particular; or
- deliberately does or says anything for the purpose of misleading or attempting to mislead Kāinga Ora; or
- when required to provide information under section 80, deliberately omits to do or say anything for the purpose of misleading or attempting to mislead Kāinga Ora; and

(ii) for the purpose of that person or another person to be or continue to be allocated, assigned, or let particular Kāinga Ora housing, or to be allocated, assigned, or let some other Kāinga Ora housing; and

(iii) results in that person, or another person:

- is or continues to be allocated, assigned, or let particular Kāinga Ora housing;
- is allocated, assigned, or let some other Kāinga Ora housing,

commits an offence and is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both.

(d) any person that:

(i) carries out the following act:

- makes any statement knowing it to be false in any material particular; or
- deliberately does or says anything for the purpose of misleading or attempting to mislead Kāinga Ora; or
- when required to provide information under section 80, deliberately omits to do or say anything for the purpose of misleading or attempting to mislead Kāinga Ora; and

(ii) for the purpose of that person or another person to receive or continue to receive home-related financial assistance under the Kāinga Ora–Homes and Communities Act 2019.

(iii) results in that person, or another person receiving or continue to receive home-related financial assistance under the Kāinga Ora–Homes and Communities Act 2019.

commits an offence and is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both.

6. Limitations on what may be requested from specified groups

6.1 Employers or former employers

Any section 80 notice given under clause 5 to an employer or former employer must:

- (a) require only information relating to the employment and address of an employee or former employee, and
- (b) not require employers or former employers to provide information that relates solely to the marital or relationship status of an employee or former employee.

7. Further limitations on what may be requested

7.1 No person is required to provide any information or produce any document that would be privileged in a court of law, or that is legally professionally privileged, except as provided in clause 7.2.

7.2 Clause 7.1 does not apply to information that consists wholly or partly of, or relates wholly or partly to:

- (a) the receipts, payments, income, expenditure, or financial transactions of a specified person (whether a lawyer, his or her client, or any other person); or
- (b) investment receipts (being receipts arising or accruing from any money lodged at any time with a lawyer for investment) or any person or persons (whether the lawyer, his or her clients, or any other person or persons) and

that is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared by or kept in connection with a trust account of the lawyer.

7.3 If a person refuses to disclose any information or document on the ground that it is privileged under clause 7.1:

- (a) Kāinga Ora or that person or any other person to whom the information or document relates may apply to a District Court Judge for an order determining whether the claim of privilege is valid; and

- (b) for the purposes of determining that application, the Judge may require the information or document to be produced to the court.

8. Enforcing compliance with section 80 notices

- 8.1 No enforcement proceedings under section 82 or section 83 of the Act are to be commenced unless a section 80 notice includes the matters set out in 5.5, or the authorised staff member has advised the recipient of the matters set out in 5.5.

9. Application of Information Privacy Principles

- 9.1 Except where expressly overridden by the Act, the IPPs set out in section 22 of the Privacy Act 2020 apply to all information collected, stored or used by Kāinga Ora under this Code.

Appendix A

Explanatory Notes for the Code of Conduct for obtaining information under Section 80 of the Public and Community Housing Act 1992

1. Why have a Code?

Parliament has recognised the powers given to Kāinga Ora to compulsorily obtain information can be intrusive and should be balanced with a Code that governs the way in which those powers are exercised. The Code provides important safeguards to protect confidential relationships and to ensure fair procedures are followed.

Section 86 of the Act requires Kāinga Ora to issue the Code after consultation with the Privacy Commissioner and to publish it on an Internet site that is publically available at all reasonable times or in a form that is accessible to the public. Copies can be obtained from the Kāinga Ora website at www.kaingaora.govt.nz.

2. Information collecting powers

Kāinga Ora collects personal information about its clients in several different ways and for a variety of purposes. Sometimes the information is collected directly from the client on application form or during interviews. Sometimes informal inquiries are made of clients or of other people with authorisation from the client. Occasionally information is collected by using statutory powers.

Where Kāinga Ora is given special statutory powers to obtain information, these powers override the Privacy Act 2020.

Section 80 of the Public and Community Housing Management Act 1992 permits Kāinga Ora to require any person to provide information for one or more of the purposes set out in section 80(1) of that Act, and to require any person to provide advice as to whether or not any such information is accurate (refer section 80(3)). Section 80(1) and (3) are set out in Appendix B of the Code.

The Code deals only with the exercise of powers to obtain information under section 80(1) and (3). It does not apply to requests for information made under other statutory or non-statutory powers.

3. Steps to be taken prior to giving a section 80 notice

Before giving a section 80 notice to any person, the information must first be sought informally from the subject of the request directly (in compliance with IPP 2 of the Privacy Act 2020). This step to obtain the information directly from the subject themselves must be taken on every occasion, even in cases where it is unlikely that the subject will be able to provide the information, for example where that person does not have custody or control of the information. The only exception to this requirement is where the section 80 notice relates to a financial product. In that case, information must be sought from either the applicant for or recipient of the product, or the spouse or partner of the applicant or recipient, as the case may require (unless seeking the information from either of those parties would prejudice the maintenance of the law (see section 90(1)(a) of the Act)).

This is an informal process which provides the individual with the opportunity to provide the information themselves rather than having it sought from others. This provides some measure of privacy

protection as well as ensuring that they are kept informed about the nature of the enquiries being made about them. The person does not have to comply with the request. The request need not be in writing – it can be made in person or by phone. A reasonable time frame for compliance should be specified.

When an informal request is made, Kāinga Ora must comply with IPP 3 of the Privacy Act 2020 (if applicable), which requires that the person from whom the information is being requested (and who is the subject of the information) is advised of the purpose of the request, the fact that giving the information is (at this stage) voluntary, the consequences of not providing the information, who will hold it, intended recipients of the information (if any), and that the person has a right to request access to and correction of their information. These matters can only be omitted if the authorised staff member believes on reasonable grounds that one of the exceptions to IPP 3 applies.

If the person does not provide the information in response to the informal request after the reasonable time specified then, subject to the restrictions on what can be asked for from whom, the authorised staff member can give a section 80 notice to the subject of the request or to a third party who the authorised staff member reasonably believes holds the information.

4. Giving of section 80 notices

The purposes for which a section 80 notice may be given are set out in section 80(1) and (3) of the Act (these subsections are reproduced in Appendix B to the Code).

The term “working days” is defined in the Legislation Act 2019. A working day means a day of the week other than -

- (a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, Te Rā Aro ki a Matariki/Matariki Observance Day and Labour Day; and
- (b) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and
- (c) if 1 January falls on a Friday, the following Monday; and
- (d) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday; and
- (e) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.

If notice is sent to any person by post, then, in the absence of evidence to the contrary, the notice is deemed to have been received by that person on the fourth day after the day on which it is posted. This is when it is ‘given’ for the purposes of the Code. In proving the delivery, it is important to be able to show the letter was properly addressed and posted.

The time period for complying with a section 80 notice must not be less than 5 working days and can be extended for a longer period at the discretion of Kāinga Ora having regard to the circumstances of the case, including the volume of information requested and the manner in which it is believed to be stored or held.

The notice might specify the manner in which the information is to be produced. For example, it may require copies of documents to be produced, or original documents to be sent or shown to Kāinga Ora.

Information must be provided without charge to Kāinga Ora. (Refer to section 80(4)(b) of the Act).

Apart from notices given to the subject of the information themselves (or their spouse, if applicable), or to financial institutions, lawyers, employers or former employers of that person, or to departments, departmental agencies or Crown entities, no-one can be required to provide information unless there is “reasonable cause” to give a notice.

The circumstances that might give an authorised staff member reasonable cause to give a notice cannot be listed exhaustively, although examples are specified in the Act and repeated in the interpretation section of the Code.

A person to whom a notice under section 80 is issued is authorised to disclose any personal information in response to the requirements in the Notice (notwithstanding any limitations in the Privacy Act). There may be other statutory prohibitions on the release of information which are relevant in certain circumstances.

5. Limitations on what may be requested from specified groups

An authorised staff member seeking information will not necessarily be aware of the nature of the specific contents of the information, or the circumstances in which it has been obtained by the recipient of the notice. For this reason, it is possible that an informal request for information, or a section 80 notice, might encompass information in respect of which, if sought in court, the holder could claim a privilege to prevent them from disclosing it.

The Act makes it clear that a person who receives a section 80 notice requesting privileged information is not required to provide that information. It is not always clear whether a privilege will apply.

If there is a dispute about whether the information can properly be considered to be privileged, the matter can be decided by a District Court Judge.

Any recipient of a notice who believes that such a privilege might apply to the information that has been required of them should immediately advise the authorised staff member concerned of the nature of the privilege they are claiming.

6. Further limitations

Limitations on enforcement of section 80 notices

As discussed above, the Code imposes a number of restrictions on the types of information that may be required from certain persons. As a general rule no-one is required to provide any information that is legally professionally privileged or would be privileged in a court of law. This includes the privilege against self-incrimination and may include the privilege relating to special relationships of confidence, such as between doctor or psychologist and patient, priest and penitent and others. See Evidence Act 2006.

What are the safeguards against misuse of the powers?

Authorised staff may obtain information only where they are permitted to do so by law. All staff are obliged to maintain the security and confidentiality of all information that they handle as a result of their duties. Information cannot be disclosed to other agencies except where required or permitted by

law. Any staff making unauthorised requests or disclosures of information may be subject to disciplinary action and possible criminal prosecution.

Within Kāinga Ora, access to personal information is limited to those staff who need it for the purposes of carrying out their work. A number of controls exist to safeguard access to and retention of information. Kāinga Ora operates a suite of policies setting out the requirements and expectations of staff, assurance activities occur around management controls, and technology systems have defined permissions and access rights for individuals.

Complaints

Complaints about the use of these powers may be made to the Chief Operating Officer, Tenancy Services. Complaints about a breach of the Code may be made to the Privacy Commissioner, who deals with them as if they were complaints about a Code of Practice under Part 3 of the Privacy Act.

7. Application of Information Privacy Principles

The Information Privacy Principles or IPPs apply to almost all agencies and their handling of personal information. Kāinga Ora must comply with these principles.

This means, for example, that information must not be collected by unfair or unlawful means (IPP4), must be stored safely and securely (IPP5), and must be accurate and up to date (IPP8).

However, some aspects of the Act override the IPPs. For example, the power to obtain information from a third party overrides IPP 2. The power to seek information from a third party also involves disclosing certain information. For example, a request made for financial information to a bank will likely disclose that Kāinga Ora may be investigating that person. Such an incidental disclosure will not be in breach of IPP 11, because Kāinga Ora is expressly authorised under the Act to take actions that will likely result in such disclosures.

Nothing in the Code or the Act affects an individual's right to seek access to or correction of personal information held about them by Kāinga Ora in accordance with IPPs 6 and 7.

Appendix B

PURPOSES FOR WHICH SECTION 80 REQUIREMENTS CAN BE MADE

Section 80, Public and Community Housing Act 1992

(1) Kāinga Ora—Homes and Communities may by written notice require information from any person for any 1 or more of the following purposes:

- (a) for the purpose of any investigation under section 16 of the Kāinga Ora—Homes and Communities Act 2019;
- (b) for the purpose of detecting whether a person has committed or is committing an offence under section 82 or 83;
- (c) for the purpose of determining and detecting the cost of fraud under section 82 or 83;
- (d) for the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under section 17(1)(a) of the Kāinga Ora—Homes and Communities Act 2019.

...

(3) Kāinga Ora—Homes and Communities may in writing require any person to advise whether any information provided under subsection (1) is accurate.

...

Appendix C – Example section 80 notice

UPDATE per 5.3

[Postal address]

[Date]

Sent by email: [Email address]

Dear [Name],

Notice of Impending Investigation

Kāinga Ora-Homes and Communities (**Kāinga Ora**) is conducting a review of your **[name of financial product]** in respect of the purchase of **[property address] (the property)**.

As you purchased the property on **[insert date]**, you had an obligation to reside in the property until **[insert date]**. It has come to our attention that the sale of the property took place on **[insert date]** without written consent from Kāinga Ora.

The three-year primary place of residence occupancy obligation was a condition of **[name of financial product]** agreement. This agreement also noted that failure to comply with this condition without Kāinga Ora's written consent may result in the repayment of the grant to Kāinga Ora. A copy of the signed agreement is attached for your reference (Attachment A).

We invite you to provide a formal explanation using the attached questionnaire and submit supporting evidence (documentary or otherwise) in response to the identified breach and concerns that you may not have resided at the property as required by the residency obligation.

Kāinga Ora- Homes and Communities conducts home-related financial assistance investigations under sections 16 and 17 of the Kāinga Ora-Homes and Communities Act 2019 ("**Kāinga Ora Act**") and sections 79 and 80 of the Public and Community Housing Management Act 1992 ("**PACHMA**"). An extract of the relevant sections of the Kāinga Ora Act and the PACHMA is attached for your reference.

This is a notice under section 80 of PACHMA and is issued in accordance with a Code of Conduct issued under section 86 of PACHMA. The Code of Conduct is available on the Kāinga Ora website www.kaingaora.govt.nz.

Please be aware that you are under a legal obligation to provide the requested information (attached to this letter), and that failure to do so or provision of false or misleading information would be a breach of sections 82 and 83 of the PACHMA (attached to this letter).

Please provide the requested information by **[date]**.

If we do not receive a response by **[date]**, Kainga Ora will make a decision based on the available information and information obtained pursuant to section 80 of PACHMA.

If you have any questions, or would like to talk about this request or the questionnaire, please call me as soon as possible on **[insert phone number]** during business hours 8.00am to 3.30pm, Monday – Friday.

You have the right to complain to the Privacy Commissioner if you believe that this notice breaches the Code of Conduct.

Please provide the requested information no later than [date and time].

Yours sincerely,

[Name]

Investigator

Integrity Services

QUESTIONNAIRE

1. Please provide a timeline of when you took permanent occupancy of the property at **[insert address]** including when you vacated (including any supporting documents relevant to this question).

2. Please provide a list of your residential addresses and dates of occupancy for these addresses between **[insert dates]** (including any supporting documents relevant to this question).

3. Please advise if the property at **[insert address]** was occupied by persons other than yourself between **[insert dates]** (including any supporting documents relevant to this question).

4. Please provide copies of the sale and purchase agreement of the property at **[insert address]** and any other documents or information relating to the sale of the property.

5. Please provide copies of any utility bills (i.e., water, electricity, internet services, and Sky TV), bank statements, contact details for the GP/ medical centre, details of any online shopping accounts you may have including delivery address registered with the provider etc, and any other supporting documents that will confirm that you were resident at **[insert address]** between **[insert dates]**.

I have provided the above information in response to a request under Section 80 of the Public and Community Housing Management Act 1992, being aware that I am under an obligation to provide the information under Section 80 Public and Community Housing Management Act 1992, and that it is an offence under Section 82 Public and Community Housing Management Act 1992 to fail to provide the information or to provide false or misleading information.

Signed and dated: _____ / _____ / _____

(If additional pages are used, please initial each page before returning the information to the sender)

Kāinga-Ora Homes and Communities Act 2019

16 Kāinga Ora-Homes and Communities may investigate circumstances of applicant for home-related financial assistance

Kāinga Ora-Homes and Communities may investigate circumstances of-

- (a) an applicant for, or a recipient of, home-related financial assistance that is administered by Kāinga Ora-Homes and Communities, whether on its own behalf or on behalf of the Crown or Crown entities; or
- (b) any person who, at the time of the application, is the spouse, civil union partner, or de facto partner of the applicant.

17 Kāinga Ora-Homes and Communities may ask questions take actions, etc

(1) For the purpose of any investigation conducted under section 16, Kāinga Ora-Homes and Communities—

- (a) may ask any person whose circumstances it may investigate any relevant questions it thinks fit; and
- (b) may ask any person whose circumstances it may investigate to verify by statutory declaration—
 - (i) any information they have given when answering questions asked under paragraph (a); or
 - (ii) any other information that they have at anytime given to Kāinga Ora-Homes and Communities; or
 - (iii) any information within their personal knowledge that has at any time been given to Kāinga Ora-Homes and Communities by the spouse, civil union partner, or de facto partner of the person.

(2) Kāinga Ora-Homes and Communities may take the actions stated in subsection (3) if—

- (a) any person whose circumstances it may investigate—
 - (i) fails or refuses to answer (or, in the opinion Kāinga Ora-Homes and Communities, fails or refuses to answer fully) any questions asked under subsection (1)(a); or
 - (ii) fails or refuses to verify any information by statutory declaration when asked to do so under subsection (1)(b); or
- (b) it believes on reasonable grounds that any person whose circumstances it may investigate under section 16 has deliberately given a false or misleading answer to any question asked under subsection 1(a).

(3) The actions are to—

- (a) assess the eligibility of an applicant for, or recipient of, the home related financial assistance on the basis of Kāinga Ora-Homes and Communities' own understanding of the circumstances;
- (b) treat the applicant or recipient as not or as no longer eligible for that financial assistance.

Public and Community Housing Management Act 1992

79 Kāinga Ora-Homes and Communities may seek information

- (1) For the purposes of a review under section 75 or an investigation under section 16 of the Kāinga Ora-Homes and Communities Act 2019, Kāinga Ora-Homes and Communities may request any person to—
 - (a) answer questions; or
 - (b) allow Kāinga Ora-Homes and Communities to inspect any document or other written information; or
 - (c) give Kāinga Ora-Homes and Communities—
 - (i) a copy of any document or other written information; or
 - (ii) a printout of any information stored digitally.
- (2) The person does not have to comply with the request but (for the purposes of section 24 of the Privacy Act 2020) this subsection authorises the person to make personal information available in response to the request.

80 Kāinga Ora-Homes and Communities may require information for certain purposes

- (1) Kāinga Ora-Homes and Communities may by written notice require information from any person for any 1 or more of the following purposes:
 - (a) for the purpose of any investigation under section 16 of the Kāinga Ora-Homes and Communities Act 2019:
 - (b) for the purpose of detecting whether a person has committed or is committing an offence under section 82 or 83:
 - (c) for the purpose of determining and detecting the cost of fraud under section 82 or 83:
 - (d) for the purpose of ascertaining whether a person has failed or refused to answer fully, or has deliberately given a false or misleading answer, to any question asked under section 17(1)(a) of the Kāinga Ora-Homes and Communities Act.
- (2) Kāinga Ora-Homes and Communities when requiring any information under subsection (1) must do so in accordance with the code of conduct.
- (3) Kāinga Ora-Homes and Communities may in writing require any person to advise whether any information provided under subsection (1) is accurate.
- (4) A person from whom information is required under subsection (1) or advice is required under subsection (3) must comply with the requirement—
 - (a) no later than 5 working days after the notice was given; and
 - (b) in the manner specified in the notice, without charge to Kāinga Ora-Homes and Communities.
- (5) This subsection authorises (for the purposes of section 24 of the Privacy Act 2020) any person who is required to provide information under subsection (1) or advice under subsection (3) to make personal information available in response to the requirement.
- (6) Subsection (1) does not—
 - (a) require any person to provide any information or produce any document that would be privileged in a court of law:

- (b) require any person to provide any information or produce any document that is legally professionally privileged.
- (7) Subsection (6) does not apply to information—
- (a) that consists wholly or partly of, or relates wholly or partly to,—
- (i) the receipts, payments, income, expenditure, or financial transactions of a specified person (whether a lawyer, his or her client, or any other person); or
- (ii) investment receipts (being receipts arising or accruing from any money lodged at any time with a lawyer for investment) of any person or persons (whether the lawyer, his or her client, or any other person or persons); and
- (b) is contained in, or comprises the whole or part of, any book, account, statement, or other record prepared by or kept in connection with a trust account of the lawyer.
- (8) If a person refuses to disclose any information or document on the ground that it is privileged under subsection (6)(a) or (b),—
- (a) Kāinga Ora – Homes and Communities or that person or any other person to whom the information or document relates may apply to a District Court Judge for an order determining whether or not the claim of privilege is valid; and
- (b) for the purposes of determining that application, the Judge may require the information or document to be produced to the court.
- (9) In this section,—

lawyer means a barrister or solicitor of the High Court, and includes a firm or an incorporated law firm (within the meaning of the Lawyers and Conveyancers Act 2006) in which the lawyer is, or is held out to be, a partner, director, or shareholder

trust account, in relation to a lawyer, has the same meaning as in section 6 of the Lawyers and Conveyancers Act 2006.

82 Offence not to provide information or to provide false or misleading information

- (1) A person who is required to provide information under section 80(1) commits an offence if the person—
- (a) fails or refuses to provide, without reasonable excuse, the information required;
- (b) provides false or misleading information in response to the requirement.
- (2) A person who is required to advise under section 80(3) whether information provided under section 80(1) is accurate commits an offence if the person—
- (a) fails or refuses to provide the advice without reasonable excuse;
- (b) provides false or misleading information in response to the requirement.
- (3) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$2,000.

83 Offence to mislead Kāinga Ora housing for certain purposes or results

- (1) A person commits an offence who, for the purpose described in subsection (2) or with the result described in subsection (3),—
 - (a) makes any statement knowing it to be false in any material particular; or
 - (b) deliberately does or says anything for the purpose of misleading or attempting to mislead Kāinga Ora-Homes and Communities; or
 - (c) when required to provide information under section 80, deliberately omits to do or say anything for the purpose of misleading or attempting to mislead Kāinga Ora-Homes and Communities.
- (2) The purpose is—
 - (a) for that person or another person to be or continue to be allocated, assigned, or let particular Kāinga Ora housing, or to be allocated, assigned, or let some other Kāinga Ora housing:
 - (b) for that person or another person to receive or continue to receive home-related financial assistance under the Kāinga Ora-Homes and Communities Act 2019.
- (3) The result is that person, or another person, whether or not entitled to it,—
 - (a) is or continues to be allocated, assigned, or let particular Kāinga Ora housing:
 - (b) is allocated, assigned, or let some other Kāinga Ora housing:
 - (c) receives or continues to receive home-related financial assistance under the Kāinga Ora-Homes and Communities Act 2019.
- (4) A person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding \$5,000, or both.

86 Code of conduct applying to obtaining information required under section 80

- (1) Kāinga Ora-Homes and Communities, in consultation with the Privacy Commissioner, must, within 3 months after the commencement of this section, issue a code of conduct that applies in respect of any requirement for information under section 80.
- (2) The code of conduct—
 - (a) must include the matters specified in section 90; and
 - (b) may include restrictions on obtaining—
 - (i) specified classes of information; and
 - (ii) information from specified classes of persons or from persons in specified relationships; and
 - (c) must specify procedures applying to the obtaining of information under section 80.

- (3) Kāinga Ora–Homes and Communities may from time to time, in consultation with the Privacy Commissioner, amend the code of conduct, or revoke the code of conduct and issue a new code of conduct.
- (4) Nothing in the code of conduct may derogate from any code of practice issued by the Privacy Commissioner under section 32 of the Privacy Act 2020 that applies to the information required under section 80, and Kāinga Ora–Homes and Communities, in consultation with the Privacy Commissioner, must amend the code of conduct to conform with any such code of practice. This subsection is affected by section 88.
- (5) As soon as practicable after issuing any code of conduct and any amendment to it under this section, Kāinga Ora–Homes and Communities must arrange for it to be published on an Internet site that is publicly available at all reasonable times or published in a form that is otherwise accessible to the public.
- (6) The code of conduct that, before the commencement of this section, was issued under Part 5 is, on the commencement of this section, deemed to be issued under this section.