

Privacy and Confidentiality Policy

Purpose

The independence, personal privacy, dignity and respect of people supported by Laura Fergusson Brain Injury Trust (LFBIT) will be maintained and LFBIT will meet its obligations under the Privacy Act 2020 and the Health Information Privacy Code 2020.

Scope

All staff, contractors and volunteers employed by LFBIT
LFBIT Board members

Associated LFBIT Documents

Abuse and Neglect and Child Protection Guidelines
Kiritaki Support/Services Plans Documentation Guidelines
Complaint or Concern Form – Easy Read
ICT Security Management Guidelines
Māori Health Guidelines (Mauri Tau Tikanga Māori)
Medical Emergency Intervention Guidelines
Ola Manua of Pacific Peoples in Aotearoa Guidelines
Reportable Events Guidelines
Kiritaki Rights and Responsibilities Guidelines

Definitions

Privacy: A culturally specific concept defining the degree of one's personal responsibility to others in regulating behaviour that is regarded as intrusive. Some privacy-regulating mechanisms are physical barriers (closing doors or drawing curtains) and interpersonal types (lowering voices or ensuring that handover does not occur in front of other kiritaki LFBIT supports).

For LFBIT kiritaki privacy encompasses personal space (physical privacy), personal data (informational privacy), personal choices including cultural and religious affiliations (decisional privacy) and personal relationships with family/whānau and other intimates.

Confidentiality: The non-disclosure of certain information, except to another authorised person.

Responsibilities and Accountabilities

The role of Privacy Officer for LFBIT is undertaken by the Chief Executive. The Privacy Officer is responsible for:

- Ensuring that LFBIT and its staff comply with their obligations under the Privacy Act 2020, and the Health Information Privacy Code 2020 in relation to kiritaki.

- Managing any privacy breach or complaint that may occur. Any privacy breach that is likely to cause serious harm will be notified by the Chief Executive to the Privacy Commissioner and any affected people as soon as practically able. Privacy breaches are reported via: <https://privacy.org.nz/responsibilities/privacy-breaches/notify-us/> The use of the Office of the Privacy Commissioner online NotifyUs reporting tool will assist LFBIT to assess the seriousness of the privacy breach and whether the Privacy Commissioner must be notified.

Policy implementation

1. To collect only the information that is necessary from:
 - the kiritaki, or their nominated representative.
 - other appropriate professionals (e.g. allied health professionals, general practitioners, pathology or radiology where tests have been ordered, the kiritaki's hospital specialist, or in the case of staff, people such as referees)
2. To provide the individual with details of the purpose of collecting information and identify others who may have access to it.
3. To ensure that written and electronic information which is held by LFBIT is:
 - secure against loss, inappropriate access, use, modification or disclosure
 - disposed of in an appropriate and timely way.
4. To ensure that sharing of information is factual, appropriate, is limited to that which is required to adequately deal with the current situation and occurs in an environment that attends to privacy requirements.
5. To ensure that release of written information occurs as required by statutory obligation and legislative compliance.
6. To enable the individual concerned to have access to all information held relating to them personally and provide the opportunity for correction of details.
7. To ascertain the information is accurate, up to date, complete, relevant, and not misleading.
8. To systematically use unique identifiers (such as NHI numbers for patients and payroll numbers for staff) appropriately and accurately.
9. To ensure timely and reliable processes relating to the release of kiritaki records.

LFBIT healthcare professionals must also meet their ethical and professional obligations of confidentiality. All staff and Board members must sign a confidentiality agreement and must abide by the requirements set out in this policy. Staff and Board confidentiality obligations continue after they leave the role or employment or stop providing services to LFBIT.

Recordbase and other Electronic Databases

Staff may only access the records of LFBIT kiritaki if the staff member has sound justification e.g. clinical, administrative or professional reason to do so. Accessing kiritaki records/information for purposes other than providing care is a breach of confidentiality.

The LFBIT Human Resources Manager will ensure adequate and secure storage, correct use and appropriate disposal of all written information regarding LFBIT staff.

Procedures

Protecting the anonymity of LFBIT kiritaki within and outside the organisation

Recognition of kiritaki and family/whānau outside of LFBIT:

- Staff members who recognise LFBIT kiritaki and family/whānau outside of LFBIT are to use total discretion if considering acknowledging the person and family/whānau.
- Under no circumstances should staff engage in discussion with LFBIT kiritaki or family/whānau about private care issues outside of LFBIT.

- If approached by a LFBIT kiritaki or their family/whānau about private medical or care issues, staff should advise these people to contact them at LFBIT in their professional capacity.
- It is not appropriate for LFBIT staff to be 'friends' with LFBIT kiritaki via Facebook or any other social networking site.

Recognition of LFBIT kiritaki within LFBIT

- If a staff member recognises a LFBIT kiritaki or their family/whānau from previous personal contact (eg. neighbours, sports team members, friend-of-a-friend), staff should only acknowledge the person or family/whānau in a professional capacity.

Media

- If it appears the media may be interested in a LFBIT kiritaki, or in LFBIT itself, staff are obliged to inform the Privacy Officer (the Chief Executive), who will deal with the enquiry, and inform the LFBIT Board. Any agreement to disclose information to the media will be made by the Privacy Officer and the Board. If this interest relates to a kiritaki the cooperation of the person and their legal guardian/family/whānau will be required prior to information disclosure.
- No information and/or photographs of LFBIT Kiritaki will be used for promotional purposes without the consent of the person and/or their legal guardian/family/whānau.

Privacy in communal areas

- LFBIT kiritaki should not be asked to verify personal details in communal areas (e.g. common lounge/kitchen areas) where they can be overheard by others. Kiritaki are to be informed as discreetly as possible, the communication to take place in their private room or a private area – or relevant details to be altered on a written form/sheet.
- Staff receiving information, i.e. personal information or medical data over the telephone should communicate information as discreetly and confidentially as possible, particularly in areas where audible privacy is not assured e.g. communal lounge and kitchen areas.
- Confidential information relating to LFBIT kiritaki should not be discussed in communal areas when other kiritaki are present.
- Where the kiritaki is in a LFBIT residential facility:
 - Each kiritaki will have their own room
 - As appropriate, kiritaki will have access to a telephone in their own room if they choose to have one
 - Kiritaki will have the right to request personal space
 - Care should be taken so that correspondence or appointments that include sensitive personal information, and alert boards are not in public view.
- A kiritaki's information should not be discussed with family/whānau unless the person has provided consent for this sharing of information. If the kiritaki has provided consent to share information with family/whānau, this should be documented in the kiritaki's Support/Service plan.
- A person's individual Support/Service Plan record (paper and/or electronic) should not be kept in places easily accessible to other people, visitors or unrelated staff. All records must be filed away as soon as possible (definitely before the end of the shift).
- Outgoing mail awaiting collection to be placed face down when in an area accessible to public viewing.

Privacy during assessment and treatment

- All staff and any other health professionals contracted to LFBIT must at all times have respect for a kiritaki's privacy encompassing emotional, physical and cultural perspectives throughout consultation or treatment.
- Any physical or emotional information that is forthcoming from a kiritaki under the care of LFBIT needs to be treated confidentially and sensitively.

- LFBIT kiritaki are to be examined or receive treatment in a private room when physical privacy is required, or auditory privacy is required for the discussion of confidential or sensitive information.
- Windows and curtains in a kiritaki's room need to be closed during examination or treatment sessions requiring physical privacy.
- A cover sheet to maintain a kiritaki's privacy is to be always used during clinical examinations.
- Consent for the recording of any electronic (audio or visual) assessment of a kiritaki or meetings is required to be provided prior to commencement of recording. This consent is also to be obtained from all staff members, family/whānau or health professionals present.

Privacy/blocking unauthorised viewing of confidential, sensitive kiritaki information (visual privacy)

- Reception staff must be aware that their computers are to be facing away from the public and should be further aware that a kiritaki standing alongside the desk or sitting next to a staff member visiting a home, may seem innocent however confidential kiritaki information should be out of view, ie. computer screens.
- Computer screens should be locked, or computers logged off every time staff step away from their computers.
- Any kiritaki documents or other confidential information on desks should be put into drawers, at a minimum, when unattended.
- Staff who access kiritaki data at home or while travelling should have a heightened awareness of the potential risk of visual hacking while using any portable devices.

Use of LFBIT cell phones for photographing kiritaki

- Staff should not use LFBIT cell phones for photographing kiritaki. The exception is where a photograph of a kiritaki undertaking some activity is necessary for treatment and assessment purposes. For example, where it is necessary to take a photograph of a kiritaki in a vehicle for a driving modification assessment. Staff are not permitted to use personal cell phones for these purposes.
- Any images are to be saved within the LFBIT work environment (One Drive or Teams) and deleted from the LFBIT cellphone.

Leaving messages on a kiritaki's or family/whānau answerphones

- Leaving messages for or about kiritaki on their cell phone, or family/whānau answerphones or cell phones should be avoided where possible.
- When urgent contact is to be made or the kiritaki or family/whānau is expecting your call, the only message that is acceptable to be left on an answerphone or voicemail is the name of the person to you need to call you back, and your name and telephone number.
- No clinical or medical details of any description (i.e. names of procedures, test results) are to be left on answerphones or voicemail.

Emailing kiritaki Information

Faxing is no longer considered an appropriate medium for the communication of private information (email is preferred). If the person requesting the information is entitled to receive the information:

- Staff should ensure the email address of recipient is correct.
- Check e-mail address before pushing the send button.
- Where practicable, telephone prior to sending so the recipient is aware the email is being sent.

Necessity, Purpose and Collection of Information

Kiritaki will be made aware that the information collected from them is to assist with their treatment and care at LFBIT and is treated confidentially at all times.

- Information about kiritaki should be collected from the person themselves unless the person has consented to collection from a third party or the collection of information from the person is not possible. If collection from the kiritaki is not judged to be in their best interests, then it is acceptable for LFBIT staff to collect the information from a third party.
- Health information may not be collected by unlawful, unfair or unnecessarily intrusive means.
- All Support/Service Plans for kiritaki will be held securely.

Additional Requirements Under Information Privacy Principle (IPP) 3A (Indirect Collection Notification)

From 1 May 2026, under the Privacy Amendment Act, if we collect your personal information indirectly (from someone other than the kiritaki/client), we will take reasonable steps to notify the kiritaki unless an exception applies.

This notification will include:

- What personal information has been collected
- The purpose of the collection
- The intended recipients of the information
- The name and address of the agency collecting and holding the information
- Whether the collection is authorised or required by law and the specific law
- Your right to access and correct your information.

Exceptions may apply where:

- The kiritaki has already been made aware of the information collection
- Notification would prejudice the purpose of collection or is not reasonably practicable
- Other exceptions outlined in the Privacy Act apply.

A kiritaki's request for amendment of personal healthcare records

- Under Rule 7 of The Health Information Privacy Code 2020, LFBIT kiritaki are entitled to request correction of information in their personal healthcare records.
- If LFBIT is not willing to make an amendment, you must, if requested, take reasonable steps to attach a statement of the correction sought, but not made.
- The statement should be attached so that it will be read with the disputed information.
- Careful consideration must be given if the kiritaki disagrees with diagnosis/comment and wants this removed from the file – removing this information could render notes incomplete.
- LFBIT must take reasonable steps to inform other relevant agencies of corrections to support/service plans / clinical records.

Protecting a kiritaki's identity

- Names are not displayed in LFBIT residential homes or on bedroom doors.
- Kiritaki can request that no medical details be released to Next of Kin by informing LFBIT staff at any time.
- Unless specific consent is given, only the general condition of the kiritaki (e.g. satisfactory) can be released.
- Support workers are to ensure, where at all possible, that calls to family/whānau following assessment and treatment take place in a confidential environment.

- Visitors shall not enter or be shown any area which is determined to be the personal space of a kiritaki unless permission is firstly obtained from the kiritaki.

Releasing copies of personal healthcare records

- Refer to Appendix 1 'Guidelines for Releasing Personal Healthcare Information' for specific requests for personal healthcare records information, and Appendix 2 for the flowchart of the LFBIT process to release the requested information.
- LFBIT kiritaki have the right of access to personal information about themselves. This right is given by Rule 6 of The Health Information Privacy Code 2020 and Section 22F of the Health Act 1956.
- Kiritaki may request copies of their personal healthcare records either verbally or in writing.
- Requests for copies of a kiritaki's records are taken by a support worker and should be directed to the General Manager of their service for review of records before providing the kiritaki with a copy. The appropriate service General Manager is required to approve the release of personal healthcare notes.
- A kiritaki may only have a copy of personal healthcare records, never the originals.
- A kiritaki's healthcare records must be released to them within 20 working days of a request. If LFBIT is unable to meet this timeframe, the reason for the delay must be conveyed to the person in writing.
- Personal healthcare records should not be collected by a Third Party

Urgent Requests

- If a kiritaki wants a request to be treated as urgent, they must explain why at the time of their request.
- The bullet points above relating to releasing personal healthcare records should be followed.
- Where possible, every effort should be made to fulfil the kiritaki's request.

Releasing Sensitive Personal Healthcare Information

- Sensitive personal healthcare information should be recorded in the kiritaki's Support/Service plan with the following noted: **This information is not to be disclosed without the permission of the person who provided the information.**
- Contact the person who provided the information and ask permission to disclose the information to the given requestor.
- Record the details of the conversation between yourself and the person who provided the information in the kiritaki's progress notes. Ensure you record whether permission for disclosure was granted or refused.
- If permission for disclosure is granted, refer to the Releasing Copies of Personal Healthcare Records above.

Releasing Personal Healthcare Records in an Emergency

- In a clinical emergency where the kiritaki must be transferred to hospital, if at all practicable a copy of the individual Support/Service Plan is to be printed out to accompany the patient. This includes:
 - Kiritaki's profile
 - Medication
 - Individual Support/Service Plan

Transporting of a kiritaki's health records/removing from LFBIT premises

- Kiritaki health records should not be taken off-site, however, there may be some occasions where this is necessary, eg. off-site health clinics, community rehabilitation.
- When taking any health records off-site:

- No more than the bare minimum of notes are to be taken off-site, e.g. a kiritaki's entire file should not be taken if you only require recent progress notes from the last session. Kiritaki notes should be stored electronically where practicable.
- If health records are taken off-site these must be carefully transported (in a bag) and should be kept in a locked compartment, especially if the staff member shares a house with anyone (including their children).
- If a kiritaki's notes (including laptops) are to be left in a locked vehicle, they must not be visible and must be locked in the boot.
- Staff who access kiritaki data outside the office should have a heightened awareness of the potential risk of visual hacking which using any portable devices, such as laptops. If travelling by air, laptops should be taken as hand-luggage.
- If any health records are lost while transporting an Incident form must be completed and the kiritaki and their family/whānau informed of the breach.

Releasing details of personal healthcare records verbally to LFBIT kiritaki and family/whānau

- LFBIT kiritaki or family/whānau may ask LFBIT about the results of tests, assessments or other information from their personal or a family member's personal healthcare record.
- Staff should first satisfy themselves of the person's or family member's identity before releasing information. If this cannot be readily done staff should courteously tell the caller that it will be necessary for him or her to call in to LFBIT with means of identification to enable the information to be released.
- If in doubt about the caller's true identity you must not give out any information from a kiritaki's personal healthcare record.

Protection of Staff Privacy

- LFBIT requires some confidential and private information from its employees (minimum detail only required) including:
 - Name, Address, Telephone Number
 - Emergency Contact Details
 - Bank account/IRD number
 - Proof of qualifications
 - Ethnicity
 - Gender
 - Police Vet
- The above information is held electronically and only accessed by appropriate staff.
- Other staff do not have the right of access to this personal information and at no time must this information be discussed or passed on by any person who has right of access to this information. If personal information is inadvertently accessed, this must be treated with respect and confidentiality.
- Some information such as contact details for "on-call" need to be made available to staff and other persons dependant on the circumstances. This is only to be given out in appropriate circumstances where the judgement of the person giving out the information deems that it is in the best interests of LFBIT's kiritaki or business activities.
- If staff wish to make a complaint regarding a breaching of their privacy, they may take their complaint to the Chief Executive. This complaint can be taken to the Privacy Commissioner if not resolved.
- If staff at any time feel vulnerable or at risk when giving or receiving information by phone or in person with a LFBIT Kiritaki, they must alert their manager.
- Consent for the recording of any electronic (audio or visual) meeting with a staff member or staff members is required to be provided by that staff member or those participating prior to commencement of recording (e.g. notifying staff that a Microsoft Teams Meeting is to be recorded)

Breach of a kiritaki's privacy

- If a LFBIT kiritaki approaches a staff member with a complaint relating to their privacy, staff are to guide the person to a private area.
- Staff should advise (or assist) the kiritaki to document the details of the complaint in writing and forward to their manager to discuss with the Privacy Officer (who is the Chief Executive).
- If the kiritaki prefers to discuss the complaint verbally, staff should liaise with their line manager to arrange a suitable time for a meeting with the kiritaki.

Confidential rubbish separation and disposal

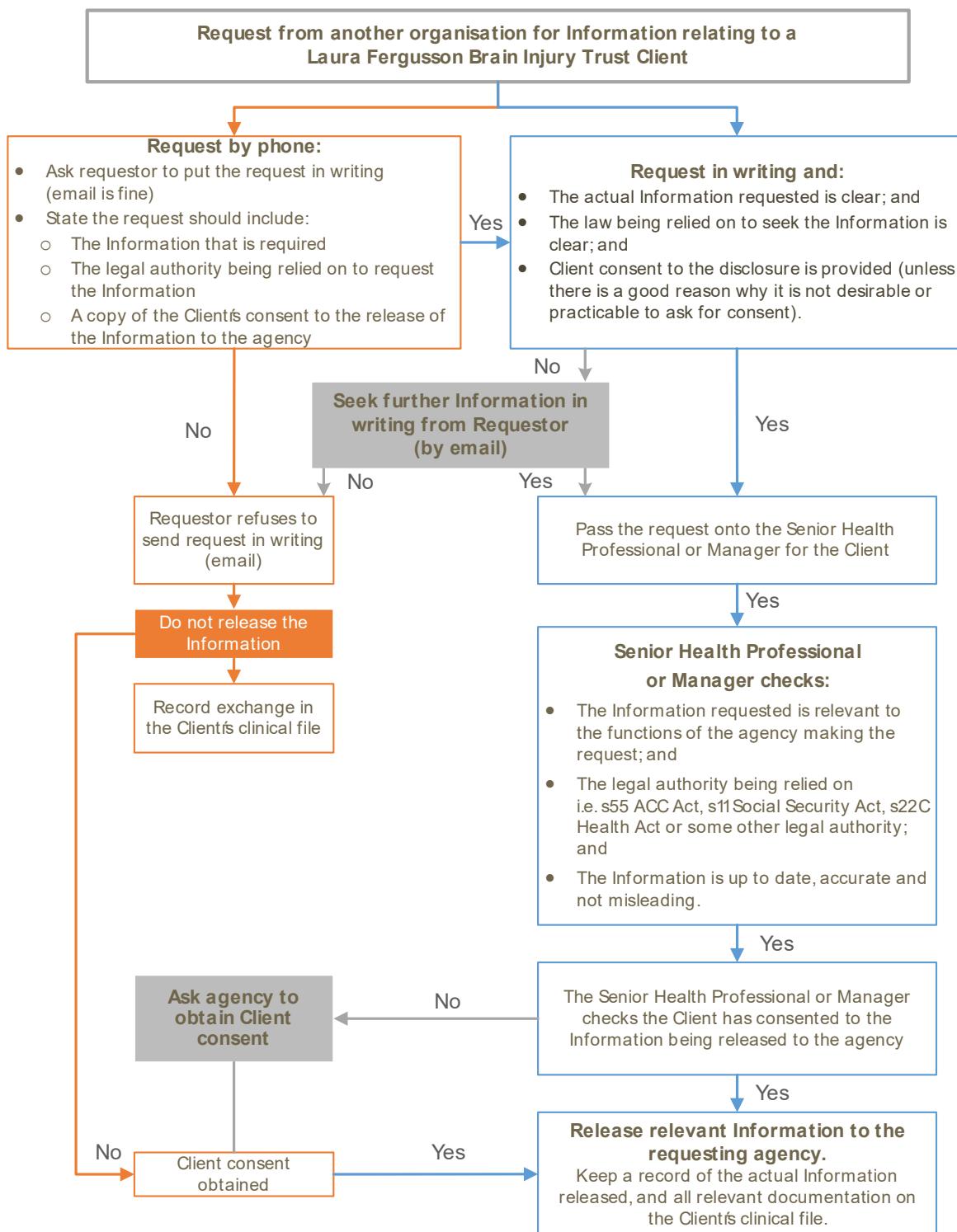
- Rubbish that has personal healthcare records or staff information on it must be disposed of in a confidential manner.
- If possible, immediately insert papers into the confidential papers bin.
- The bins for confidential rubbish must be removed for shredding regularly.
- If personal healthcare information is on any plastic or other non-shred able materials, ensure the information cannot be read by erasing or crossing out and place in rubbish bin.

References and Standards

1. The Privacy Act 2020 and associated 13 Information Privacy Principles: [Office of the Privacy Commissioner | Privacy Act 2020](#) (accessed August 2025)
2. The Health Information Privacy Code 2020
3. The Code of Health and Disability Services Consumers' Rights 1996
4. Health Act 1956
5. HISO 10001 2017: Ethnicity Data Protocols
6. The Health and Disability Services (Safety) Act 2001
7. Official Information Act 1982
8. Privacy Commissioner NotifyUs – to report privacy breaches; [Office of the Privacy Commissioner | NotifyUs - For organisations to report privacy breaches](#) (accessed August 2025)
9. Ngā Paerewa Health and Disability Services Standard NZS8134:2021; criterion 1.4.3 respect dignity, privacy, confidentiality; criterion 2.5 Information - quality records, including in terms of privacy
10. Office of the Privacy Commission. Office of the Privacy Commissioner | IPP3A: notification requirements for indirect collection of personal information. Retrieved December 2025

Appendix 1 : Guidelines for Releasing Personal Healthcare Information

| Requestor | Requesting info about | Required before release of info | Timeframe |
|---|-------------------------------|---|--|
| Person | Self | <ul style="list-style-type: none"> • Signed request or consent for release of information from person • Chief Executive to review Personal Healthcare Records prior to release • ID sighted if not known by staff organising records | Within 20 working days of request |
| GPs | Patient | <ul style="list-style-type: none"> • Request under Section 22F of Health Act • Chief Executive to view Personal Healthcare Records prior to release | N/A |
| Person's Agents (on behalf of Person) | Patient | <ul style="list-style-type: none"> • Written and signed authorisation from person for release of Personal Healthcare Records. • Chief Executive to review Personal Healthcare Records prior to release • ID of Agent must be sighted and Agent must sign for records | Within 20 working days of request |
| Executor or Administrator of will | Deceased Person | <ul style="list-style-type: none"> • Evidence of authority from Lawyer • Chief Executive to review Personal Healthcare Records prior to release • Signed request for information • ID of Executor or Administrator sighted, and records signed for | Within 20 working days of request |
| Police (performing or exercising official duties) | Person | <ul style="list-style-type: none"> • Request under Section 22C of Health Act • Chief Executive to review Personal Healthcare Records prior to release • ID of Police person sighted, and records signed for (if collected in person) | Within 20 working days of request |
| Children (Under 16 years) | Self | <ul style="list-style-type: none"> • Signed request or consent for release of information from person • Chief Executive to review Personal Healthcare Records prior to release • ID Sighted if not known by staff member organising records | Within 20 working days of request |
| Parents | Own children (under 16 Years) | <ul style="list-style-type: none"> • Signed request or consent for release of information from parent • Refer request to the Chief Executive for decision re disclosure of Personal Healthcare Records • ID sighted if not known by staff member organising records | Within 20 working days of request |
| Government Agencies | Person | <ul style="list-style-type: none"> • Written request including signed consent for release of information from person • Chief Executive to review the individual person's records prior to release | Within 20 working days of request |
| Insurance Companies | Person | <ul style="list-style-type: none"> • Contact person for verbal consent to release the requested information • If person uncontactable, post requested information to person and ask them to send to insurance company | Email following verbal consent from person, or post in mail following verbal consent from person |
| Researchers/ Auditors | Person | <ul style="list-style-type: none"> • Discuss guidelines for release of information with the Chief Executive • ID sighted if Researcher/Auditor not known to staff | Email, or on-site viewing of records |

Appendix 2: Flowchart – requests for kiritaki information from another organisation


NOTES - The Privacy Act 2020 enables agencies to collect, use, and disclose information that is necessary and proportionate to their lawful requirements. An agency's authorising legislation may provide the mechanism by which the agency can require Information to be provided from persons other than the individual. However, usually Information should be sought directly from the individual concerned, unless there are reasonable grounds to believe that this would 'prejudice the maintenance of the law' or another exception in rule 11 of the Health Information Privacy Code 2020 applies.

LFBIT should not release information without the consent of kiritaki except in exceptional circumstances where it is not practicable or desirable to obtain their consent. If the requesting agency considers the kiritaki's consent should **not** be sought, for instance because it would jeopardise the purpose for collecting the information, they should provide LFBIT with a clear explanation.