

15 April 2026

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Tēnā koe

Official Information Act Request (Our Ref: OIA/0523)

We refer to your two Official Information Act requests to OPC concerning smart meter data, advanced metering infrastructure (AMI) and related privacy issues.

Your first request dated 9 March 2026 covered the period from 1 January 2020. We responded to that request on 7 April 2026.

This letter responds to your second request dated 13 March 2026 that covers the period from 1 January 2015:

Under the Official Information Act 1982, I request the following information from 1 January 2015 to the present concerning smart meter data, advanced metering infrastructure (AMI), and privacy governance in New Zealand.

Please provide:

1. Any internal briefings, legal analyses, issue papers, or correspondence concerning whether smart meter data may constitute personal information under the Privacy Act 2020.
2. Any records concerning privacy risks associated with:
 - granular electricity consumption data,
 - occupancy pattern inference,
 - behavioural profiling,
 - data sharing,
 - secondary use,
 - retention,
 - or downstream analytics involving smart meter data.
3. Any inter-agency correspondence with MBIE, the Electricity Authority, Ministry of Health, Health NZ, ESR, or electricity retailers/distributors concerning privacy issues associated with smart meter or AMI data.

4. Any complaints trend summaries, enquiry summaries, anonymised issue notes, or guidance development documents relating to smart meter data or electricity-sector metering information.
5. Any draft or final guidance concerning consent, transparency, minimisation, access, correction, retention, disclosure, or safeguards in relation to smart meter data.
6. Any records considering whether existing privacy law adequately addresses inferred information generated from metering data, even where the raw data itself may appear technical or operational in nature.

Response to your request – information

Privacy Commissioner's submission to the Electricity Authority's consultation on multiple trading relationships

The Privacy Commissioner's 2018 submission to this consultation is publicly available from the Electricity Authority's website.¹

Privacy Commissioner's 2017 open letter

We attached the Commissioner's open letter to our response to your previous OIA request.

The initial context for the development of the open letter is set out below:

Nearly all residential properties have meters which record total electricity consumption at an address. Traditionally, these meters were analogue and needed to be manually checked each month by a meter reader. Analogue meters are being replaced with 'smart' meters that collect at half hourly intervals what power is being used. This data is sent in one package from each meter once a day – not real time. Approximately 70% of households now have smart meters, this will rise to 90% within 2 years according to the Electricity Retailers Association of NZ, ERANZ.

Electricity retailers who administer the meters to their customers are getting increasing demand from electricity distributors for the detailed half hourly data the meters are collecting.

The Distributors are requesting it under the provisions contained in their contracts with the retailers that state the latter will provide data for 'network planning' purposes.

Retailers believe the detailed data is being used for other purposes, including customer surveys and potential business expansion. The retailers consider that the Distributors do not need household specific data in order for them to do network planning but rather need grid level or relay box level data.

The retailers are concerned that should there ever be a data breach or if their customer data is used inappropriately by the distributors that this could cause their business significant harm. They also don't think that their customers would want them providing this highly detailed data to the distributors without a clear purpose.

¹ <https://www.ea.govt.nz/projects/all/evolving-multiple-trading-and-switching/consultation/multiple-trading-relationships/>

International context

Smart meters are broadly similar to IP addresses in that they collect potentially sensitive information about households rather than individuals (but their data could be linked to individuals with additional context).

On 19 October 2016, the Court of Justice of the European Union published its judgment in [Case 582/14 – Patrick Breyer v Germany](#), in which it held that IP addresses are personal data in certain circumstances.

Personal data are defined in [Article 2\(a\) of the Directive](#) as "any information relating to an identified or identifiable natural person ('data subject'). An identifiable person is one "who can be identified, directly or indirectly [...]" (emphasis added). Further analysis of the issue of identifiability is provided by the EU's [Article 29 Working Party](#), in its [Opinion 4/2007](#).

Where a piece of information (such as an IP address) does not directly identify a person, that piece of information will nevertheless be personal data in the hands of any party that can lawfully obtain sufficient additional data to link the information to a person's real world identity. On the other hand, that same piece of information will not be personal data in the hands of a party that has no legal means of obtaining sufficient additional data to make such a link.

News Media

GCHQ were consulted on the security of smart meters in the UK, predominantly from a concern that they could be hacked to turn them off and therefore cut power supply to millions of UK citizens however it appears likely if you could hack them to turn them off you could hack them for information. I'm unsure if GCSB has been consulted on the roll out of smart meters in NZ.

<http://www.dailymail.co.uk/news/article-3501918/GCHQ-steps-fear-11bn-smart-meters-installed-millions-homes-hacked-leading-gas-supplies-cut-off.html>

Russian hackers penetrate US power grid -
https://www.washingtonpost.com/world/national-security/russian-hackers-penetrated-us-electricity-grid-through-a-utility-in-vermont/2016/12/30/8fc90cc4-ceec-11e6-b8a2-8c2a61b0436f_story.html?utm_term=.0f3b01eb4127

Concern over amount of data collected by smart meters and privacy implications –

<http://news.nationalgeographic.com/news/energy/2012/12/121212-smart-meter-privacy/>

European Data Protection Supervisor concerned about smart meters -
<https://www.theguardian.com/environment/2012/jul/01/household-energy-trackers-threat-privacy>

Case Note on Smart meters by Victorian Privacy Commissioner -
<http://www.smartmeters.vic.gov.au/privacy>

Have we received any related complaints or enquiries?

Between Feb 2011 and Oct 2015 we have received 37 enquiries about smart meters we have also investigated one complaint during this period.

I have broken down the topics of the enquiries below, some fell into two categories so have been recorded below more than once.

Number	Subject
14	Concerned about detailed collection
2	Concerned about government agency using data
1	Use of contractors to administer smart meters
5	General inquiry about roll out of smart meters
2	Concerned about 'radiation' emitted from meter affecting health
2	Query about complaint process re smart meters
12	Query whether smart meter data is personal information
5	Case note query
1	Security of collected data

The one complaint relates to ability for power companies to collect data, the OPC response noted that the frequency of collection does not change their lawful purpose for collecting it e.g. billing. We found no breach and as a result wrote a case note.

One of the people responsible for a number of the above enquiries noted that the Electricity Authority provided advice on their website that people have a right of access to their meter data – our case note somewhat conflicts with this advice as we noted that because the data is for a household it is unlikely to be considered 'personal information'.

OPC developed its position and considered further international research which is referred to in the open letter:

Information disclosed by retailers is identified by an ICP (Installation Control Point) number which effectively identifies a property. Meters also have serial numbers, which will serve the same purpose. Consumption information tied to an ICP number may be personal information if that information is able to be tied to an individual or individuals.

Our current legal position around smart meters is outlined in the case note we released in 2015 - <https://www.privacy.org.nz/news-and-publications/case-notes-and-court-decisions/case-note-251185-2015-nz-privcmr-3-use-of-smart-meters-by-utility-companies/>:

In its raw form, the data collected by advanced meters may not identify a particular person at all. The data collected in its raw form appears as a series of numbers like "20130542399". No customer data is stored at the meter, ensuring that customers cannot be identified at the site.

However, usage information collected from smart meters is personal information once it is associated with an account holder. This is particularly so if only one person lives at a residential address; any data collected from that address will also be about the resident/account holder.

When more than one individual lives at an address the data is less likely to identify the power usage of one of those residents. However, it will be linked to the account holder. Power companies therefore will need to comply with the Privacy Act.

The Electricity Authority says in its online guidance about smart meters:

Electricity retailers are required to outline all the purposes it has for your smart meter data in their privacy policy. This is readily available to you on their website and you can request it by contacting your retailer.

In New Zealand a University of Auckland academic conducted a review of privacy and technology issues around smart meters and noted "There is general consensus that smart meter data should be managed according to the provisions foreseen for personal data".²

In 2011 the Article 29 Working Party released a Working Paper, "Privacy by Design and Smart Metering: Minimize Personal Information to Maintain Privacy" with 8 recommendations setting out a privacy by design approach to ensure that electricity consumers would have the privacy of their data respected without the need to take any specific actions. In particular it noted that "research has shown that utilities may not need detailed energy consumption information about individual consumers to perform load balancing functions. To achieve as little personal data flow as possible utilities may use techniques such as anonymisation, pseudonymisation, or data aggregation".

Following that the EU Data Protection Supervisor prepared a 2012 opinion on the Commission Recommendation on preparations for the roll-out of smart metering, concluding: "Considering the risks to data protection, one of the key pre-conditions for the rollout of smart metering systems is to ensure a high level of protection of personal data."³

A 2014 report on smart meters by US consumer protection advocate KT Weaver highlighted concerns about smart meters in a US context, proposing that the meters might constitute an unreasonable search and seizure.⁴

Transparency reporting suggests that electricity retailers are willing to disclose information, sometimes after receiving a production order but often upon request. The Hager case is relevant, where Westpac disclosed information about Mr Hager following a Police request. While this is not indicative of how any particular agency will act in response to a Police request, there are privacy risks from bulk disclosure that could be reduced by that information being deidentified.

² <https://www.cs.auckland.ac.nz/~asghar/papers/asghar12-smartgridsec.pdf>

³

https://secure.edps.europa.eu/EDPSWEB/webdav/site/mySite/shared/Documents/Consultation/Opinions/2012/12-06-08_Smart_metering_EN.pdf

⁴ <https://skyvisionsolutions.files.wordpress.com/2014/08/utility-smart-meters-invade-privacy-22-aug-2014.pdf>

Summary information - Privacy complaints and breach notifications (question 4)

In relation to information about our investigations and enquiry logs, please see the summary provided in our earlier response. We have summarised some further privacy concerns below for the period of your second request:

Summary table of enquiries, concerns and complaints about electricity retailers

1	OPC ref. 108197	2015-04-27	Concerns about having a smart meter including concerns about surveillance
2	OPC ref. 124989	2017-06-29	Concerns about collection of information by smart meters, security of smart meter data and sharing data
3	OPC ref.	2017-10-17	Query about case note 251185 [2015] NZ PrivCmr 3 – see below
4	OPC ref. C/30571 OPC ref 134615	2019-07-22	Concerns about unauthorised changes to customer contact details. OPC investigated the company's response to customer's IPP 6 access request.

As noted in the table above (row 3), in 2017 we received an enquiry about OPC's 2015 case note about smart meter data⁵ and our response to that enquiry is set out below:

Kia ora,

Thank you for your enquiry regarding Case Note 251185 [2015] NZ PrivCmr 3. In summary, you have queried a statement in this case note that "in its raw form, the data collected by advanced meters may not identify a particular person at all. The data collected in its raw form appears as a series of numbers like "20130542399". No customer data is stored at the meter, ensuring that customers cannot be identified at the site."

You also noted in your enquiry that you have recently requested your electricity usage data from your power provider and have not received a response to this request – but that you are not making a complaint to this office at this time.

The questions you have asked are:

- Is the ICP number visible to anyone who looks at an electricity meter?
- Is the meter's serial number visible to anyone who looks at a meter?
- Is the data encrypted when sent from the meter to the metering company?

My staff have been in touch with the Electricity Authority to assist me in my response to your enquiry. From our enquiries I can advise:

⁵ <https://www.privacy.org.nz/resources-and-learning/case-notes-and-court-decisions/case-note-251185-2015-nzprivcmr-3-use-of-smart-meters-by-utility-companies/>

- The ICP number is not programmed into the meter, the meter is identified with the serial number of the device which is shown on the front of the meter.
- All information (“comms”) from a smart meter are end to end encrypted and all smart meters are password locked.

An ICP number does not uniquely identify a person, it uniquely identifies a meter connected to a household. However, as noted in our case note, “usage information collected from smart meters is personal information once it is associated with an account holder”.

Response to your request - decision

Your request is granted to the extent set out above.

Apart from published outcomes, the Privacy Commissioner is subject to an obligation of secrecy under section 206 of the Privacy Act. Therefore, your request for correspondence is refused under section 18(c)(i) of the Official Information Act on the basis that release of this information would be contrary to another enactment (i.e. section 206 of the Privacy Act).

Otherwise, your request is refused under section 18(e) of the Official Information Act on the basis that following a search of our records, we do not hold the information requested.

Conclusion

While there is limited information that we are able to provide you in response to your requests, you may be interested in the Supreme Court decision in *R v Alsford* [2017] NZSC 42. As the Privacy Commissioner was an intervenor in this case, there is a summary on our website.⁶ In considering the privacy implications of electricity consumption data when this is obtained by the Police for investigative purposes, the court noted that smart meter data may collect power consumption data in a way that reveals intimate details of a person’s lifestyle and other choices.⁷

If you are not satisfied with this response to your request, under section 28 of the Official Information Act 1982 you have the right to ask the Ombudsman to investigate and review our decision on your request, however we would appreciate the opportunity to discuss this with you first.

Nāku iti noa, nā

Liz MacPherson
Deputy Privacy Commissioner

⁶ <https://www.privacy.org.nz/resources-and-learning/court-decisions/alsford-v/>

⁷ Footnote 96.