



Review of statutory authorities for information matching

Report by the Privacy Commissioner to the
Minister of Justice pursuant to Section 106 of
the Privacy Act 1993 in relation to a review of the
operation of the:

- IRD/MSD Debtors Tracing Programme
- MSD/IRD Working for Families Tax Credits
Double Payment Programme
- INZ/EEC Unqualified Voters Programme
- MSD/Justice Fines Defaulters Tracing
Programme

April 2011

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Abbreviations and acronyms

The main abbreviations and acronyms used in this report are:

EEC	Electoral Enrolment Centre
IR	Inland Revenue
INZ	Immigration New Zealand
Justice	Ministry of Justice
MSD	Ministry of Social Development

1. Executive Summary

1.1 Section 106 of the Privacy Act 1993 ("the Act") requires the Privacy Commissioner to carry out periodic reviews of the operation of each information matching provision and to consider whether:

- the authority conferred by each provision should be continued
- any amendments to the provision are necessary or desirable.

In this report we assess the ongoing value and suitability of the following four programmes:

- IR/MSD Debtors Tracing Programme
- MSD/IR Working for Families Tax Credits Double Payment Programme
- INZ/EEC Unqualified Voters Programme
- MSD/Justice Fines Defaulters Tracing Programme.

Completion of this review has been delayed. Competing priorities, such as managing the implementation of many new information matching programmes along with other pressing technology policy work, have taken precedence. However, our annual reports on information matching programmes have been thorough, so little has been lost by the delay.

1.2 The ***IR/MSD Debtors Tracing Programme*** involves IR providing MSD with up to date contact information of otherwise untraceable debtors.

The programme currently raises no privacy concerns in terms of scale or compliance. However, the failure of the programme to provide MSD with significant debt recoveries suggests that this programme and the authority conferred by section 85 of the Tax Administration Act 1994 should be reviewed to determine whether this is still a good return on investment.

MSD intends to undertake a review by 30 June 2011. As a first step, we recommend that that review should include an assessment of the programme using the guidelines set out in section 98 of the Privacy Act.

1.3 The ***MSD/IR Working for Families Tax Credits Double Payment Programme*** seeks to identify individuals who have wrongly received concurrent 'Working for Families Tax Credit' payments from both MSD and IR.

While we have reservations about the way IR calculates the estimated savings for this programme, we conclude that savings are significant and could be substantially more than the minimum \$825,000 per year originally forecast.

We believe the authority conferred by section 84 of the Tax Administration Act 1994 should be continued.

1.4 The ***INZ/EEC Unqualified Voters Programme*** seeks to identify individuals on the electoral roll who are ineligible to vote because they do not meet residency requirements.

The programme had some initial teething problems because of data quality issues, but has since been operating well. The programme continues to be an important tool enabling detection and removal of unqualified voters. We believe that the authority conferred by section 263A of the Electoral Act 1993 should continue.

- 1.5** The *MSD/Justice Fines Defaulters Tracing Programme* involves MSD providing Justice with up to date contact information of otherwise untraceable debtors.

The programme provides Justice with significant recoveries of about \$10 million annually. The programme was initially hindered by data compatibility issues and in the recent past we have had concerns with the accuracy of reporting to this office. These reporting issues have been resolved.

We believe that the authority conferred by section 126A of the Social Security Act 1964 should be continued.

1.6 Overall Conclusion and Next Steps

The IR/MSD Debtors Tracing Programme is failing to provide MSD with the means to achieve significant debt recoveries. Whilst the privacy impacts from this well operated programme are relatively modest, the fiscal benefits of the programme are negligible.

This suggests that this programme and the authority conferred by section 85 of the Tax Administration Act 1994 should be reviewed to determine whether this is still a good return on investment of taxpayers' money.

We recommend that the review MSD intends to undertake by 30 June 2011 includes an assessment of the programme using the guidelines set out in section 98 of the Act.

The remaining programmes have sufficient merit to continue to operate at the current time.



Marie Shroff
Privacy Commissioner
April 2011

2. IR/MSD Debtors Tracing Programme

(Tax Administration Act 1994, section 85)

2.1 Programme objective

To provide MSD with new contact details of untraced debtors so that MSD can recover benefit debt.

2.2 Recommendations

The address information provided by IR to MSD through this programme is failing to provide MSD with the means to achieve significant debt recoveries. Whilst the privacy impacts from this well operated programme are relatively modest, the fiscal benefits of the programme are also negligible.

This suggests that this programme and the authority conferred by section 85 of the Tax Administration Act 1994 should be reviewed to determine whether this is still a good return on investment on taxpayers' money.

We recommend that the review MSD intends to undertake by 30 June 2011 should include an assessment of the programme using the guidelines set out in section 98 of the Privacy Act.

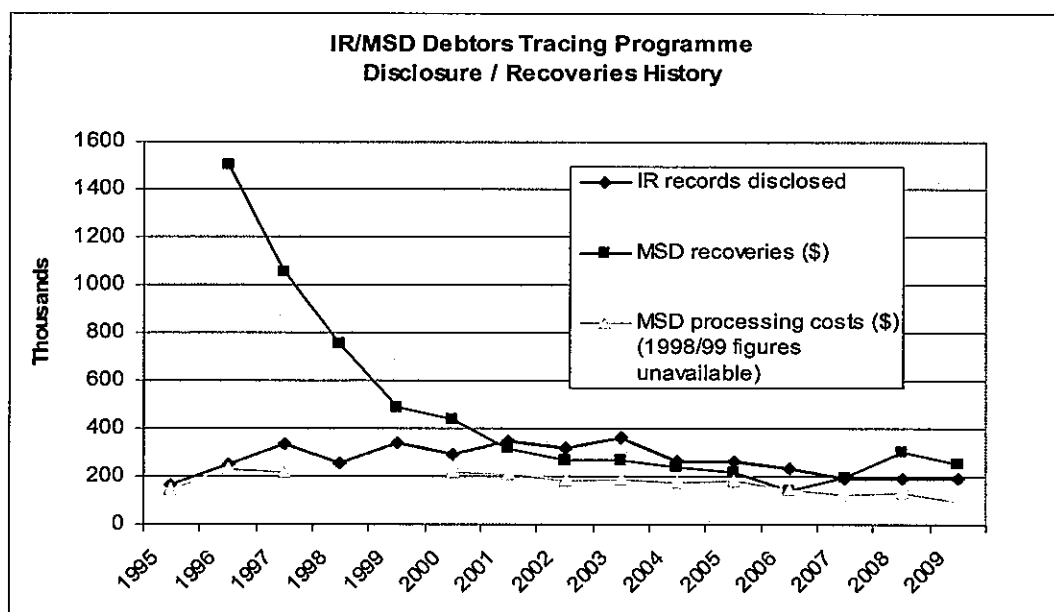
2.3 Programme assessment

MSD continues to persevere with this programme, but for 10 years it has delivered only a small fraction of the estimated debt recoveries advised to the Social Assistance Reform Committee in 1992.

The scale of matching has reduced with the number of debtor records sent to IR for matching declining from about 360,000 in 2002/03 to less than 200,000 records per annum for the last three years.

Annual reports since 1999 have noted compliance with the information matching controls (although there were compliance issues prior to this, as noted below).

2.4 Programme results



The programme commenced in late 1994. Matching was suspended for three months during 1995 after an incident where letters generated from the programme were sent to individuals who were wrongly identified.

From 1995 to 2000 net debt recoveries fell from \$1.3M to \$220,000 per annum. From 2001 only a minor level of debt repayment has been achieved. During 2005/06 MSD changed its processes; it carried out other debt recovery activities first so that only the otherwise irrecoverable debts ended up in this programme. The results for 2005/06 showed a negative return on investment (the cost of running the programme exceeded the value of debts recovered).

In November 2009, MSD implemented changes after discovering that it was not receiving the most recent address information available from IR. MSD has signalled that it intends to review the impact of these changes by 30 June 2011.

2.5 Programme operation

On a bi-monthly basis MSD sends a file of debtor records to IR, requesting contact details. IR matches the file against tax records and returns the matched individual's street address and their last known employer's name, address, and telephone number.

Where both individual and employer addresses are returned, MSD first sends a notice to the individual. If there is no response from the individual then their employer is sent a letter. If these letters do not result in contact, MSD still pursues the debtor but through other practices.

2.6 Programme authorisation

In November 1992, the Social Assistance Reform Committee:

- noted that officials considered that address matching between IR and MSD had potential to assist in the tracking of MSD Crown debtors
- directed officials to report back on a number of issues relating to information matching between MSD and IR.

A report provided to the Committee in February 1993 by the Offices of the Ministers of Social Welfare and Revenue concluded that an address matching system between IR and MSD would increase the amount of debts able to be recovered by MSD.

The report noted that IR information can be up to 18 months out of date, but every 1% of non-paying debtors (i.e. 1500 of the 150,000 outstanding debtors owing \$255m) located and converted into paying debtors equates to an additional \$2.6m in potential debt collections with a programme implementation cost of about \$127,000.

The Committee agreed in February 1993 that an address matching system be developed between IR and MSD. On 28 September 1993, section 2(1) of the Inland Revenue Department Act (No 2) 1993 authorised the new information matching provision.

3. MSD/IR Working for Families Tax Credits Double Payment Programme *(Tax Administration Act 1994, section 84)*

3.1 Programme objective

To identify individuals who have wrongly received concurrent Working for Families Tax Credits (WFFTC) payments from both MSD and IR.

3.2 Recommendations

While the newer MSD/IR Working for Families Tax Credits Administration Programme has substantially reduced the doubling up of WFFTC payments, this programme continues to be an important means to help safeguard the integrity of the WFFTC payment system.

We consider that the authority conferred by section 84 of the Tax Administration Act 1994 should be continued.

3.3 Programme assessment

For many years we have reported on our concerns about the way savings for this programme are calculated. IR calculates the estimated savings figure by working out how much extra money it would pay out if the 'double dipping' continued from when it is first identified by the matching programme until the end of the tax year.

Without the programme IR would eventually become aware of the 'double dipping' at the close of the tax year. Therefore the estimated savings figure represents the maximum potential saving achieved by the programme.

While we have doubts about the way that IR calculates savings for this programme, we are satisfied that the savings are still significant and could be substantially more than the minimum \$825,000 per year originally forecast.

IR believes that the current cost of operating the programme has not changed significantly from the \$140,000 reported in 2005. The estimated savings generated by the programme clearly exceed the cost of operating it.

We do not consider that the programme involves matching that is excessive. Only two agencies are involved and the information exchanged is limited to that required to establish whether double payments have been made.

The 2009/10 audit of this programme completed by IR's Corporate Risk and Assurance Division concluded that effective controls were in place with no compliance issues identified.

3.4 Programme results

The programme first operated in 1995 with matches being run nine times per year up until the end of 2002. Since 2003 the programme has run fortnightly except at the Christmas/New Year period.

IR estimated savings from the programme in the first year as \$5.9m. In following years the estimated savings steadily rose to a high of \$21.7m in 2001 before dipping to \$16.5m in 2005.

In April 2005, the MSD/IR Working for Families Tax Credits Administration programme went live. This new programme was introduced to improve the management of the family assistance programme by automatically exchanging information about clients between MSD and IR as clients move into and out of employment. The operation of the new programme has reduced by 80% the number of double payment cases formerly identified by this programme and the resulting estimated savings has dropped to 25% of previous levels.

Estimated savings figures from 2005 onwards have not been routinely calculated by IR because of the shift to an audit based programme assessment. However figures provided for this review show estimated savings of \$4.4m in 2006/07 and based on figures for the 6 months to October 2010, the estimated savings for 2010/11 will also be in the \$4m to \$5m range.

3.5 Programme operation

IR sends MSD an extract of their WFFTC payment records for MSD to compare against its records. Where a person is found in both sets of records, the details of that person are sent back to IR so that IR can cancel their WFFTC payments and, if appropriate, establish a debt for the amounts overpaid.

3.6 Programme Authorisation

In March 1993, Cabinet:

- noted that responsibility for payment of Family Support (now known as Working for Families Tax Credits or 'WFFTC') to non beneficiaries would be transferred from MSD to IR after 31 March 1993
- noted that officials estimated a minimum expected saving of \$825,000 per year by implementing a double payments matching system
- agreed that the necessary legislative authority for the double payments matching be introduced as part of a Tax Reform Bill.

On 28 September 1993, section 2(1) of the Inland Revenue Department Act (No 2) 1993 authorised the new information matching provision.

4. INZ/EEC Unqualified Voters Programme

(Electoral Act 1993, section 263A)

4.1 Programme objective

To maintain the integrity of the electoral roll by identifying and removing individuals who are not qualified to vote because of their residency status.

4.2 Recommendations

The programme remains an important tool to enable detection and removal of unqualified voters. We consider that the authority conferred by section 263A of the Electoral Act 1993 should be continued.

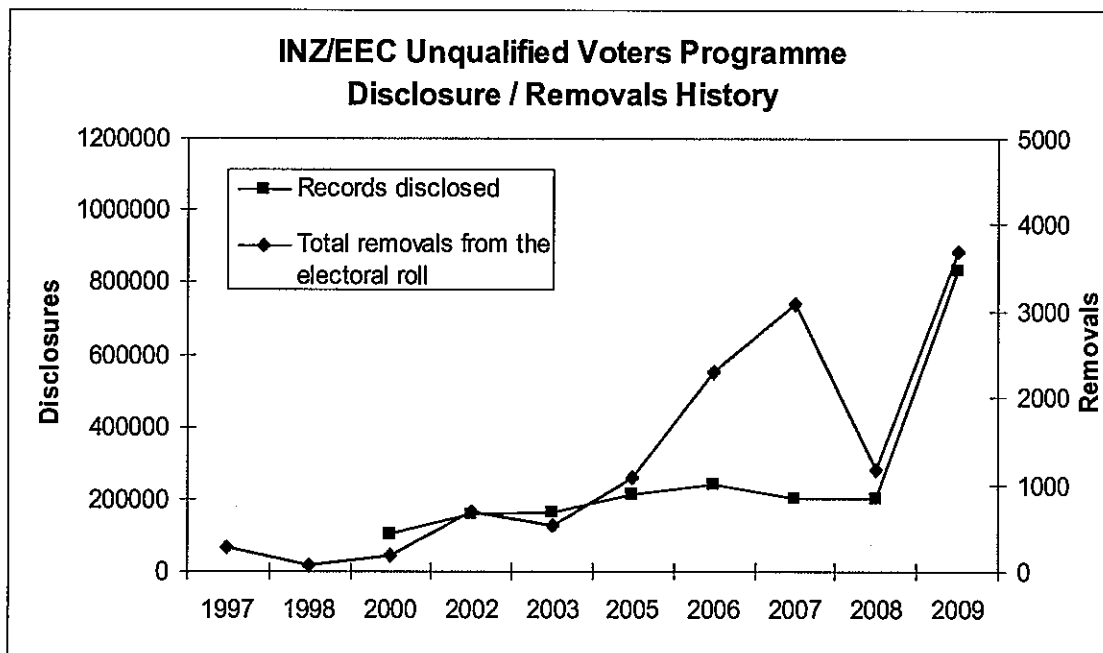
4.3 Programme assessment

The detection and removal of unqualified voters by this programme is an important part of maintaining the integrity of the electoral system.

We do not consider this programme involves matching that is excessive. Only two agencies are involved, and the programme is run annually except during the run up to a general election when the programme is run on a weekly basis.

The programme has been consistently run in compliance with the information matching controls.

4.4 Programme results



The first matches in 1996 and 1997 resulted in 10% of matched people being wrongly identified as ineligible to vote. This prompted concerns about the quality of data held by INZ. Following a special report by the Privacy Commissioner to the Minister of Justice, a new verification process was introduced to exclude unverified overstayer records.

Since 2003, the programme has identified an increasing number of unqualified voters. This may in part be because of an increased number of immigrants arriving in New Zealand and more intense campaigns to get people onto the electoral roll.

The EEC has signalled it wishes to check INZ records during voter enrolment (rather than after enrolment) so that unqualified voters are not enrolled. Implementing this process would require changes to the Electoral Act.

4.5 Programme operation

INZ sends the EEC a file containing details of people known to be in New Zealand on limited duration residence permits or visas, or who are recorded as overstayers. EEC matches this information against the electoral database on an annual basis, with more frequent matching undertaken in the run up to a general election.

4.6 Programme authorisation

In 1995, Cabinet approved the introduction of the Electoral Amendment Bill which included a provision authorising the matching of elector enrolment details held by the Chief Registrar of Electors with information held by INZ.

On 6 December 1995, section 86 of the Electoral Amendment Act (No.2) 1995 authorised the new information matching provision.

5. MSD/Justice Fines Defaulters Tracing Programme

(Social Security Act 1964, section 126A)

5.1 Objective

To enable Justice to locate people who have outstanding fines, in order to enforce payment.

5.2 Recommendations

The programme enables Justice to make contact with fines defaulters and recover about \$10 million annually in outstanding court fines. We consider that the authority conferred by section 126A of the Social Security Act 1964 should be continued.

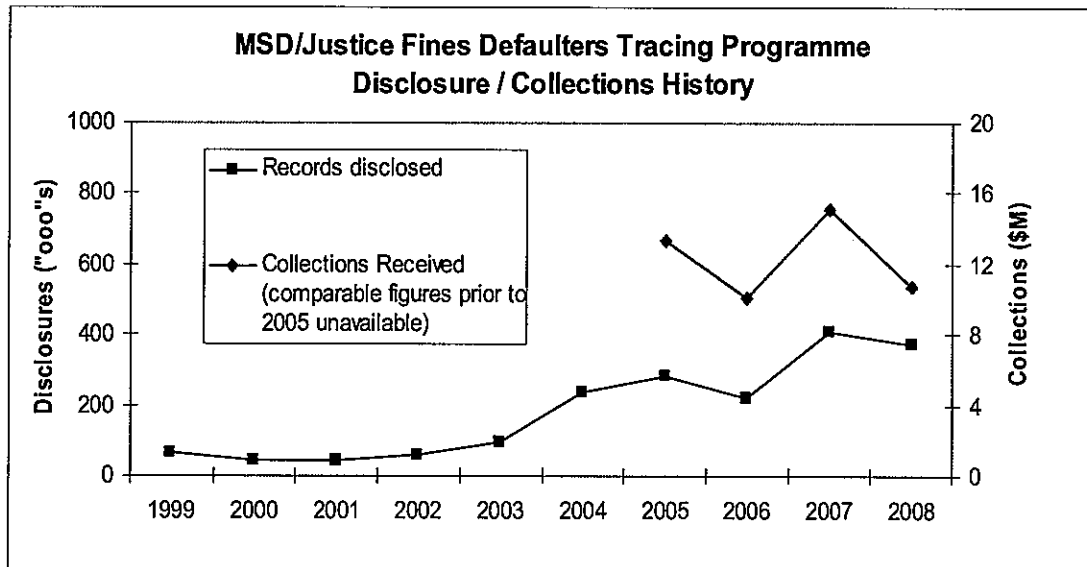
5.3 Programme assessment

The programme provides Justice with a useful flow of new address information, enabling it to collect about \$10M annually in outstanding court fines.

We do not consider that this programme involves matching that is excessive. Only two agencies are involved, and the programme is run between five and 10 times per year. The amount of information disclosed about each individual is the least required to enable the programme to operate.

While the programme had early teething problems, we have been able to report in each year of operation that the information matching rules have been satisfactorily met.

5.4 Programme results



The first attempt to operate this programme in 1997 failed due to issues with the format of the Courts file. Following this, three more match runs were abandoned because of data compatibility problems.

Only 14 successful matches were completed between December 1997 and June 2002. The following five years saw more regular matching activity with 42 matches completed between July 2002 and July 2007. The programme currently operates between five and 10 times per year.

In 2002/03 we raised concerns about the high level of successful challenges recorded for this programme. A challenge is recorded when an individual disputes the information contained in a notice of adverse action letter (section 103 of the Privacy Act). Justice investigated and found several flaws in its reporting systems which meant it was over-reporting the figures.

An interim reporting system was introduced from 2004 to remedy the reporting issues. The reporting has improved but would still benefit from a more integrated reporting system to ensure greater accuracy.

5.5 Programme operation

Justice sends a range of its outstanding fines defaulter records to MSD which matches these against its records. MSD provides Justice with the last known address of all fines defaulters successfully matched.

5.6 Programme authorisation

In 1994, a trial information match approved by the Cabinet Strategy Committee was carried out between the Department for Courts and MSD. The match results showed that MSD had the potential to provide courts with new addresses for 13% of fines defaulters.

The Cabinet Social Policy Committee:

- noted that the proposed programme would contribute to making fines a more credible sentence and was expected to provide an annual net fiscal benefit for the Crown of \$0.608M
- approved the drafting of amendments to allow for an information matching programme between Courts and MSD.

The Law Reform (Miscellaneous Provisions Bill (No.5) was introduced on 19 December 1995 and on 3 September 1996, section 2 of the Social Security Amendment Act (No.4) 1996 authorised the new information matching provision.

6. Background: Information matching

Information matching involves the comparison of one set of records with another, usually to find records in both sets that belong to the same person. Matching is commonly used to detect fraud in social assistance programmes, or to trace people who owe debts to the Crown.

Oversight of this growing area of activity is important to safeguard individuals and maintain transparency and trust in government. The Privacy Act regulates information matching through controls directed at:

- authorisation – ensuring that only programmes clearly justified in the public interest are approved
- operation – ensuring that programmes operate within the information matching framework
- evaluation – subjecting programmes to periodic review.

6.1 Section 106

Section 106 of the Act requires the Privacy Commissioner to undertake periodic reviews of the operation of each information matching provision and to consider whether:

- the authority conferred by each provision should be continued
- any amendments to the provision are necessary or desirable.

A periodic review is necessary to assess the ongoing value and suitability of a programme in light of experience of the programme operating. A programme may lose effectiveness over time if hit rates have peaked or the wider context has changed.

To conduct this review we have focused mainly on the information matching guidelines set out in section 98 of the Act. In particular we focus on whether each provision:

- continues to achieve its objective by providing significant monetary benefits or other comparable benefits to society
- raises concern because of the scale of matching (because of the number of agencies involved, the frequency of matching, or the amount of personal information being disclosed)
- is operating within the information matching controls in the Act.

