



Information Matching Bulletin

News from the Office of the Privacy Commissioner – March 2011

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Annual report tabled

The annual report of the Privacy Commissioner was tabled in Parliament on 24 November 2010.

While there were three new information matching provisions passed by Parliament during the year, no new programmes went live. We anticipate that some of the new provisions passed by Parliament in 2009/10 will result in new programmes starting this year.

Perhaps the biggest data cleansing exercise during the year was completed by the New Zealand Transport Agency (NZTA). NZTA matched 600,023 historic death records against the driver licence register to identify licence holders who have died since 1987. The match resulted in NZTA cancelling 216,582 driver licence records.

The year in data matching was not without its challenges for several agencies. The issues encountered were varied, some with adverse consequences for individuals. However, one error inadvertently provided a benefit to several thousand people. We highlight these errors on page 53 of our report.

The annual report can be accessed on our website at www.privacy.org.nz. Detailed descriptions of each active programme (including information published in the annual report) can be accessed from www.privacy.org.nz/operating-programmes

Bills authorise government / private sector information service

There are two Bills currently being considered in the House of Representatives that will authorise similar processes to information matching but involve private sector organisations.

Courts and Criminal Matters Bill

The Courts and Criminal Matters Bill passed its second reading on 16 November 2010. Included in the Bill are provisions which allow the Ministry of Justice to disclose the amount of overdue fines and reparation owed by a credit applicant to a credit reporting agency.

As part of the information comparison, credit reporters will provide Justice with the address details of the credit applicant.

Identity Information Confirmation Bill

The Identity Information Confirmation Bill passed its first reading on 19 October 2010. The Bill extends the use of the Data Validation Service (DVS) to the private sector.

While the existing Privacy Act information matching framework allows many public sector agencies to check their client records against identity records held by the Department of Internal Affairs (DIA), that framework was not drafted with the private sector in mind.

Matching safeguards included

Although neither of these proposals will operate under the information matching controls of the Privacy Act, the Bills have been drafted to include many of the information matching safeguards found in the Privacy Act. For instance, the Identity Information Confirmation Bill requires that the agreement between DIA and the user agency includes details of the process to be followed before adverse action is taken. This will include a requirement to give the individual the ability to challenge the results of the identity check.

Law Commission review of the Privacy Act

The Law Commission is currently completing a detailed review of the information matching controls as part of its review of the Privacy Act. A report detailing the results of that review is expected to be provided to the government by May 2011.

Privacy Act information matching controls – enforcing good practice

Colin Trotter

The introduction of Bills into Parliament which authorise new information matching-type provisions outside of the Privacy Act information matching framework prompted me to consider how well the framework is working.

Despite 17 years of rapid ICT development since the Privacy Act was enacted the information matching (IM) controls in the Act generally remain relevant and work well.

I believe the IM controls are founded on good practice and common sense ideas. The controls are designed to enforce good information handling practice for a process which has some inherent privacy risks like:

- taking action against the wrong person
- taking action against someone based on incorrect information
- taking action without the knowledge or consent of the individual.

Some common sense rules to promote good practice

Before an authorised programme goes live there must be a signed agreement and a technical document in place to govern the operation of the programme. These documents combine to clearly set out the responsibilities of each agency and provide a valuable reference document to support the accurate and timely processing of information.

Before an agency takes action against someone as a result of information matching it must first send a letter to them outlining what the problem is and what the agency intends to do. It's important to give someone a chance to challenge information gained from a match because there may have been a mistake made during the process.

Once information gained from the match has been used to complete an action, the original information supplied from the other agency must be destroyed. It's important that information is not reused at a later date as it may no longer be correct due to changed circumstances.

The information matching controls are set out in Part 10 and Schedule 4 of the Privacy Act.

Information matching workshops

These half day workshops are designed to give some practical background knowledge about the Privacy Act along with more detailed information about preparing an Information Matching Privacy Impact Assessment. The cost is \$170 (inc GST).

The timing of the next workshop is dependent on having enough participants registered. To register interest in attending this workshop, contact Sharon Newton on (04) 4747590 or by email to sharon.newton@privacy.org.nz.

Publications

There are a number of other publications and reports available from the Privacy Commissioner that may be of interest to those involved in information matching. These are listed on the Privacy Commissioner's website, <http://www.privacy.org.nz/data-matching-introduction/>

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