

## 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:

Electoral Act 1993, section 263A  
(INZ/EC Unqualified Voters  
Programme)

Social Security Act 1964, section 126A  
(MSD/Justice Fines Defaulters Tracing  
Programme)

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

June 2016

## Commissioner's Recommendation

In this report I assess the ongoing value and suitability of the following three information matching provisions:

- Electoral Act 1993, section 263A (INZ/EC Unqualified Voters Programme).
- Social Security Act 1964, section 126A (MSD/Justice Fines Defaulters Tracing Programme).
- Tax Administration Act 1994, section 84 (MSD/IR Working for Families Tax Credits Double Payment Programme).

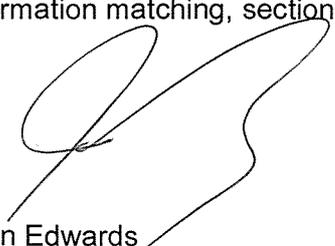
Section 106 of the Privacy Act 1993 requires the Privacy Commissioner to carry out a review of the operation of each information matching provision at intervals of not more than 5 years and consider whether:

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

In respect of the Electoral Act 1993 section 263A, and the Social Security Act 1964 section 126A, I consider that the authority conferred by each information matching provision should be continued without amendment.

Inland Revenue is considering the possible repeal of section 84 of the Tax Administration Act 1994 and expanding the purposes for which shared information can be used via an Approved Information Sharing Agreement (AISA). In the meantime, I recommend that the authority conferred by section 84 should be continued without amendment.

My detailed assessment of each programme follows. Appendix A gives a brief background to information matching, section 106 and the approach I have taken in undertaking this review.



John Edwards  
Privacy Commissioner  
June 2016

## **INZ/EC Unqualified Voters Programme (Electoral Act 1993, section 263A)**

### **1.1 Programme objective**

To ensure people who are not eligible because of their immigration status, are not added to the electoral rolls.

### **1.2 Recommendation**

I recommend that the authority conferred by section 263A of the Electoral Act 1993 should be continued without amendment.

### **1.3 Programme assessment**

#### *Financial cost/benefit and other outcomes*

The programme is a cost effective approach to identifying people who apply to be enrolled as electors, but who are not eligible because of their immigration status.

This process supports the objective of maintaining accurate electoral rolls.

#### *Compliance/operational difficulties*

There have been no compliance issues or operation difficulties with this programme. The operation of the programme has been changed over time to improve the efficiency of the process, and the engagement with applicants who, because of their immigration status, may not be entitled to be enrolled. These changes are noted under the table of programme results below.

#### *Scale of matching*

The scale of the programme is appropriate. The programme involves only two agencies and only information necessary to achieve the purposes of the programme is transferred.

#### *Alternative methods to achieve results*

The programme serves as a necessary check to ensure that the electoral roll only includes people who are entitled to be enrolled as electors. Alternative methods would be less efficient, or place a higher burden on applicants.

#### *Amendment to the information matching provision*

I have not received any advice from the Electoral Commission suggesting amendments to the provision authorising this programme. I am satisfied that the provision is suitably constrained and does not require amendment.

## 1.4 Programme results

	2010/11	2011/12	2012/13	2013/14	2014/15
Records received for matching	211,672	207,766	215,881	232,452	262,550
Possible matches identified	1,618	1,502	728	938	1,165
Notices of adverse action sent	1,618	1,202 *	728	938	1,165
Challenge received	64	54	17	21	31
Successful challenges	56	45	16	15	25
Removals from roll (till 2011)/ applications not added (post 2011)	1,562	1,457	712	923	1,140
Cost	\$47,242	\$13,856	\$3,030	\$4,626	\$3,174
Average cost per removal (till 2011)/ applications not added (post 2011)	\$30.25	\$9.51	\$4.26	\$5.01	\$2.78

\* Not counting follow up letters after phone conversations where the applicant had agreed they are not eligible.

In 2009/10 Electoral Enrolment Centre requested approval to receive daily copies of the file via an on-line transfer system. This daily transfer commenced on 14 February 2010. The current online transfer approval expires on 31 October 2016. The Commission will check and report on the effectiveness of the security arrangements for the online transfer by 1 September 2016.

In August 2011 the legislation was amended to allow the match to take place before people are added to the roll (previously the check could only occur after the person had been added to the roll).

## 1.5 Programme operation

This programme was authorised by the Electoral Act 1993 section 263A in 1995 and has operated since 1996. The statutory responsibility was transferred from the Chief Executive of New Zealand Post to the Commission by the Electoral (Administration) Amendment Act 2011. In 2012 the Information Matching Agreement was amended by a Novation Agreement to reflect that change.

The Electoral Commission uses the Enrolment Services (ES) to process this programme. The ES was previously known as the Electoral Enrolment Centre. The ES is currently (June 2016) being transferred from NZ Post to the Commission. This transfer was provided for in the Novation Agreement.

Immigration New Zealand (INZ) sends the ES daily files of all people known to be in New Zealand on the basis of limited duration residence permits or visas, or who are believed to be overstayers. The file contains the names (including aliases), date of birth, address, and permit expiry date.

ES matches enrolment applications as they are received against this information. If a match is found, ES contacts the applicant by phone where possible, or by letter, to check their eligibility. After each telephone conversation a letter is still sent to confirm the conclusion reached during the phone call.

## **MSD/Justice Fines Defaulters Tracing Programme (Social Security Act 1964, section 126A)**

### **2.1 Programme objective**

To enable the Ministry of Justice (Justice) to locate people who have outstanding fines in order to enforce payment.

### **2.2 Recommendation**

I recommend that the authority conferred by section 126A of the Social Security Act 1964 should be continued without amendment.

### **2.3 Programme assessment**

#### *Financial cost/benefit and other outcomes*

During the review period, this programme has been successful in providing Justice with contact information enabling it to collect a significant amount of unpaid fines.

#### *Compliance/operational difficulties*

In 2013, as part of a thematic review to support my assessment of agency compliance with destruction requirements set out in Part 10 and Schedule 4 of the Privacy Act, I assessed this programme as not compliant. Justice was not destroying information in accordance with the information matching agreement governing the programme. Justice modified its data retention processes to comply and provided confirmation that the issue was remedied in early 2015.

#### *Scale of matching*

Since October 2011 this programme has operated daily. This has meant a large increase in matching activity and a corresponding increase in the value of outstanding fines recovered compared to when the programme operated only 5 -10 times per year. While the number of records sent is significant, up to a maximum of 20,000 records per day, the amount of information disclosed by Justice to MSD is limited to name, date of birth and a unique identifier. I do not consider the scale of matching a concern.

#### *Alternative methods to achieve results*

This programme is one of a number of initiatives that Justice uses to locate people with outstanding fines. The use of multiple sources of information contributes to the success of Justice's programme to recover outstanding fines.

#### *Amendment to the information matching provision*

I have not received any advice from Justice suggesting amendments to the provision authorising this programme. I am satisfied that the provision is suitably constrained and does not require amendment.

## 2.4 Programme results

This programme operates in conjunction with the IR/Justice Fines Defaulters Tracing programme. For the purposes of this assessment, I report the value of payments that are attributed to this programme only.

	2011/12	2012/13	2013/14	2014/15
Records sent for matching	1,274,700	2,130,893	2,077,316	2,028,984
Notices of adverse action sent	161,034	171,262	138,379	98,450
Challenges	530	829	872	661
Successful challenges	139	63	57	27
People with payment or remittal	34,273	47,543	40,192	37,254
Paid/settled (\$m)	22.1	23.0	14.8	8.2

## 2.5 Programme operation

On a daily basis Justice send MSD details of fines defaulters with whom they have lost contact. The defaulters eligible for selection include those where Justice does not have a current address, and no current arrangement to pay is in place. Justice sends the full name, date of birth (and a unique identifier which is generated and used solely in this programme) for the selected fines defaulters.

MSD matches the Justice information with beneficiary full name and date of birth information held in its files. For matched records, MSD returns to Justice the last known residential address, postal address, residential, cell-phone and work phone numbers for the person, and the unique identifier originally provided by Justice. Match information is only provided for fines defaulters who have been in receipt of a benefit within the last two years, or where data has been confirmed as correct within the last two years.

## **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 Working for Families Tax Credits (WFFTC) from both the Ministry of Social Development (MSD) and Inland Revenue (IR).

### **3.2 Recommendation**

Inland Revenue is considering the possible repeal of section 84 of the Tax Administration Act 1994 and expanding the purposes for which shared information can be used via an Approved Information Sharing Agreement (AISA). In the meantime, I recommend that the authority conferred by section 84 of the Tax Administration Act 1994 should be continued without amendment.

### **3.3 Programme assessment**

#### *Financial cost/benefit and other outcomes*

Since 2005 this programme has operated in support of the MSD/IR Working for Families Tax Credits Administration programme that provides for the transfer of details between MSD and IR to deliver uninterrupted WFFTC payments to individuals that transition from receiving payments as part of their MSD benefit into paid employment.

This programme delivers modest but worthwhile savings. The key benefit of this programme is to help prevent individuals from getting into significant debt by receiving double payments over a prolonged period. The programme also therefore helps protect the integrity of the WFFTC payment system.

#### *Compliance/operational difficulties*

On the basis of the audit reports provided by IR, and from analysis undertaken by my staff, I have assessed this programme as compliant in each of my annual reports over the last 5 years. The programme has been operating without incident.

#### *Scale of matching*

I 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.

#### *Alternative methods to achieve results*

There is currently no apparent alternative method to achieve the results that this programme provides.

IR advises that it takes steps to inform individuals about what to do when moving from a benefit to paid employment. Providing more information, through different communication channels or advertising to persuade people to use the correct process would be unlikely to result in everyone providing the correct information and the programme would still be necessary.

Changing the legislation so that only one agency can issue WFFTC would be inconvenient for customers and it is likely IR would still match information to ensure the information customers supply about benefits or taxable income is correct.

As IR progresses with its business transformation project to migrate onto a new technology platform, new opportunities may arise.

#### *Amendment to the information matching provision*

Inland Revenue is considering the possible repeal of section 84 of the Tax Administration Act 1994 and expanding the purposes for which shared information can be used via an AISA. My Office has had some initial discussions with IR about this and continues to work with IR on its proposal.

### **3.4 Programme results**

For 2010/11, IR estimated the programme delivered prospective savings of between \$4m to \$5m. This represented the maximum savings possible if double payments identified continued to be paid until the end of the year. Since 2011/12, IR has reported on the actual number and value of payments stopped.

	<b>2011/12</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>
Records sent for matching*	Not available	Not available	Not available	Not available
Notices of adverse action sent*	Not available	Not available	Not available	Not available
Challenges*	Not available	Not available	Not available	Not available
Successful challenges*	Not available	Not available	Not available	Not available
Payments stopped	1,089	970	1,304	842
Value of payments stopped (\$)	309,488	300,000	351,087	220,404

\* In lieu of reporting these figures, Inland Revenue perform regular audits to confirm compliance with the Information Matching Rules.

### **3.5 Programme operation**

Each fortnight, IR sends details of current WFFTC recipients to MSD. The details include the full name, date of birth, address, and tax file number of the qualifying person and spouse. MSD compares these details with its own WFFTC payment details.

Where an individual is found in both files and that individual has received two or more WFFTC payments during the same period, MSD sends details about that individual back to IR to have the Tax Credits from IR cancelled and, if appropriate, to establish a debt for the amount overpaid.

## **Appendix A: Background to 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, but can also be used ensure people get entitlements as in the case of the unenrolled voters programmes.

Oversight of this 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; and
- evaluation – subjecting programmes to periodic review.

### **Section 106**

Section 106 of the Privacy 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 operating the programme. A programme may lose effectiveness over time if hit rates have peaked or the wider context has changed.

To conduct these reviews I primarily consider the information matching guidelines set out in section 98 of the Privacy Act. In particular I 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); and
- is operating within the information matching controls in the Privacy Act.

