

**Ministry of Education and Teaching Council Teachers Registration
information matching: review of the statutory authority for information
matching**

**Report by the Privacy Commissioner to the Minister of Justice,
pursuant to section 106 of the Privacy Act 1993,
on the operation of information matching
authorised by:**

Education Act 1989, section 360

September 2020

Introduction

The purpose of this report

In this report I assess the ongoing value and suitability of the information matching provision, under the Education Act 1989, section 360. This match is used to keep teacher registration records current, for teachers paid under the supervision of the Ministry of Education (MoE).

Section 106 requires me to periodically review those information matching provisions listed in Schedule 3 of the Privacy Act 1993 (the Privacy Act) to ensure any intrusion on individuals' privacy remains justified. I report my findings to the Minister of Justice, who must table a copy of my report in the House of Representatives.

The requirement for periodic reassessment of information matching arrangements is valuable as the forecasted benefits from information sharing between agencies are sometimes not achieved or decline over time for various reasons. Periodic reassessment ensures that the costs of the programme and the intrusion on privacy remains justified by the benefits to individuals or society.

What is information matching?

Agencies specified in section 97 of the Privacy Act conduct information matching when they compare one set of data about individuals with another set. They usually do this to find records in both sets that are about the same person.

For the purposes of the Act, section 97 defines an information matching programme as involving two specified agencies comparing at least two documents that each contain personal information about ten or more individuals, to produce or verify information that may be used for the purpose of taking adverse action (e.g. altering a payment or investigating an offence) against an identifiable individual.

Appendix A provides more detail on information matching, section 106 and the approach I have taken in undertaking this review.

Differences between 'authorised information matching' and 'information sharing'

An alternative mechanism for authorising information sharing was added to the Privacy Act in 2013. This approach allows for the information sharing to be authorised by an Order-in-Council rather than requiring legislation. The agencies agree an "Approved Information Sharing Agreement" (AISA) which specifies the information to be shared and the processes. The Privacy Commissioner may review the operation of these agreements but is not required to do so on a regular basis. Agencies are tending to replace information matches with Approved Information Sharing Agreements.

Findings

My assessment of the ongoing value and suitability of the information matching provision under the Education Act 1989, section 360 is that this provision should be continued, pending the re-evaluations of their use of the provision by both the Teaching Council and the Ministry of Education.

Section 360 allows the Teaching Council and Ministry of Education to exchange information to ensure teachers employed at payrolled schools are correctly registered (Teaching Council) and paid correctly (Ministry of Education).

My detailed assessment of this provision 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

4 September 2020

Education Act 1989, section 360

Provision objectives

To ensure teachers employed at payrolled schools are correctly registered (Teaching Council) and paid correctly (Ministry of Education).

Finding

I consider that this provision should be continued pending the re-evaluations of their use of the provision by both the Teaching Council and the Ministry of Education.

MoE to Teaching Council Teacher Registration Match

Background

In 2001 the New Zealand Teachers Council was established by the Education Standards Act 2001 (No. 88). In 2015 the Teachers Council was replaced by the Education Council of Aotearoa New Zealand; and in 2018 the Education Council's name was changed to the Teaching Council of Aotearoa New Zealand. I have generally used Teaching Council in this report.

The provision is currently listed in Schedule 3 of the Privacy Act as being section 128A of the Education Act 1989. Section 128A was repealed and replaced by section 360 on 1 July 2015, but Schedule 3 of the Privacy Act was not updated. This is corrected in the Privacy Act 2020.

The match was authorised in 2010 and commenced that year.

The utility of this provision was previously assessed in 2015 in my report: [Ministry of Education / NZ Teachers' Council Registration Matches \(July 2015\)](#)

System description

The Teaching Council provides a list of all registered or certificated teachers on the public register to MoE Payroll who match it to their payroll records and report back all matches and any payroll records that were not matched to a registration record. Two unique identifiers, the MoE employee number and the teacher registration number, are included in the data exchanged to minimise the risk of mis-matching records that have already been matched and confirmed.

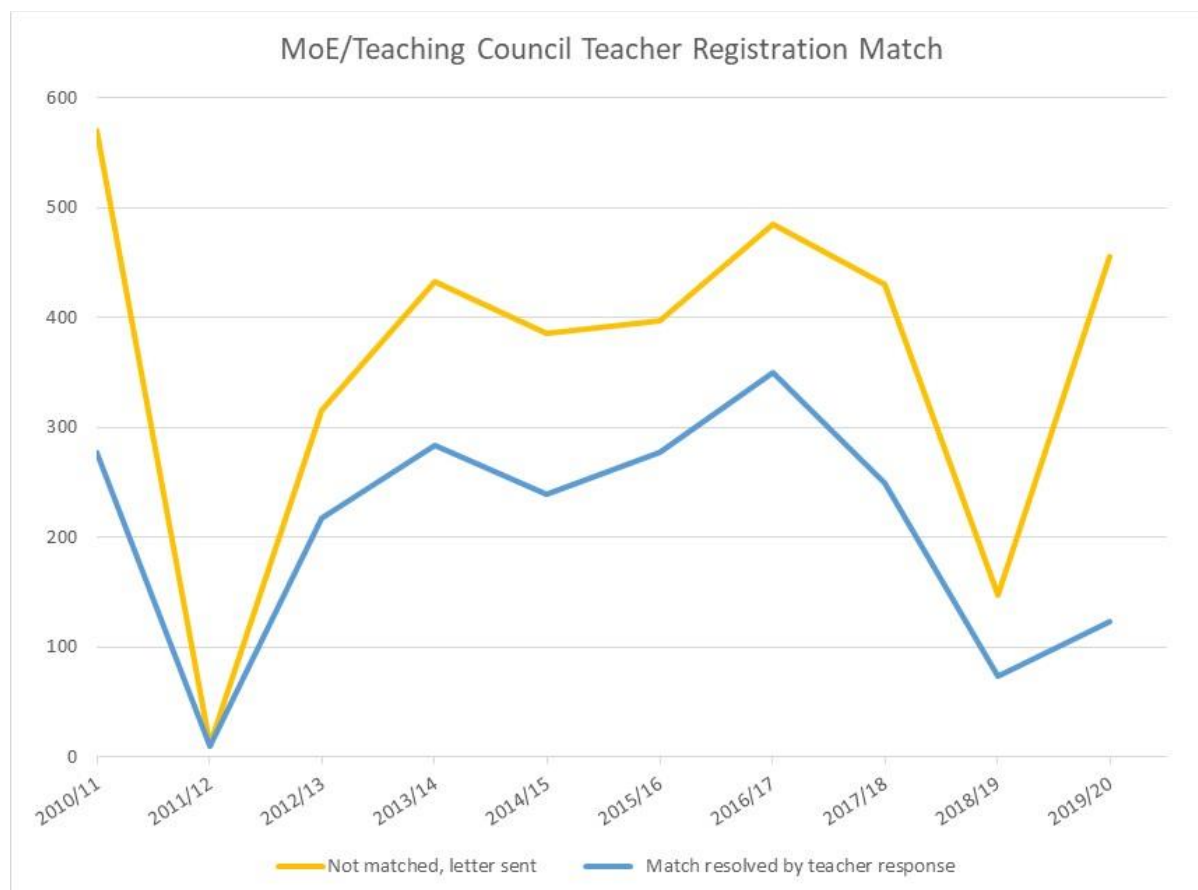
The Teaching Council reviews and confirms the matches with the teachers. The Teaching Council also follows up the payroll records that were not matched to registration records, firstly with the teacher concerned and then if necessary, with the school.

Once the match has been confirmed, MoE Payroll have the potential to check that the correct allowances are being paid for the person's registration status.

Data is transferred fortnightly. This was by online transfer until 2014 when the transfer approval expired. A new online transfer approval was requested and granted in 2020.

MoE to Teaching Council Match results

The majority of records are matched. For records that are not matched the Teaching Council writes to the teacher concerned.



The low results in 2011/12 were suggested by the Council to possibly reflect a response by schools to the introduction of the match.

In 2015/16 matches were not run during the transition from the Teachers Council to the Education Council, and over the Christmas holiday period.

Due to a process failure between 20 October 2018 and 29 July 2019 the Teaching Council do not have data for the data match process for that period.

Teaching Council to MoE match results

In 2011/12 MoE used information from the Teaching Council to check if teachers were being paid the correct rates and allowances. MoE wrote to 465 teachers and adjusted 44 salaries. Since then, efforts have been focussed on technical and operational improvements to the school payroll. MoE are now reviewing the process and how the data can be used.

Provision assessment

Assessment summary

The match is an effective method of identifying teachers who need to update their registration. The match has generally been operated in a manner consistent with the information matching controls in the Privacy Act.

Financial cost/benefit and other outcomes

The match is not undertaken for financial reasons (although the Teaching Council will gain for additional registration fees being paid). The primary benefit is an increase in compliance with the requirement to maintain current registration to be employed as a teacher in a school paid through the MoE.

The Teaching Council estimate costs (excluding staff resources) of \$1,500 (primarily for postage) for this match. MoE estimates their current annual operating costs at \$7,280. This is primarily the cost of supplying the data to the Teaching Council.

Compliance/operational difficulties

No difficulties have been identified in complying with the Privacy Act since the previous review, except during a period of system change the teaching Council failed to keep records of activity required for reporting on the match to the Commissioner.

Scale of matching process

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

Alternative methods to achieve results

This match operates as a back-stop process to ensure registrations are maintained. Teachers have an obligation to maintain their registration and schools have an obligation to ensure staff have registration or certification. In addition, the Education Review Office covers this in their regular reviews (including for schools outside the MoE payment system). Despite these other approaches, this match seems to be required.

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 (for example, 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; and
- 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 (for example, 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.