

## Review of statutory authorities for information matching: Four Inland Revenue Department matches

Report by the Privacy Commissioner  
to the Minister of Justice pursuant to  
section 106 of the Privacy Act 1993 on  
provisions authorising four Inland  
Revenue Department matches:

Births, Deaths, Marriages, and  
Relationships Registration Act 1995,  
S.78A

Customs and Excise Act 1996,  
S.280H, and Student Loan Scheme  
Act 2011, S.208

Customs and Excise Act 1996, S.280K

November 2018

## Introduction

In this report I assess the ongoing value and suitability of the information matching provisions enabling four information matching programmes. Section 106 of the Privacy Act 1993 requires me to periodically review information matching provisions to ensure any intrusion on individual's 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 forecast 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.

The provisions covered in this report are:

Births, Deaths, Marriages, and Relationships Registration Act 1995, S.78A

- Births, Deaths and Marriages /Inland Revenue - Newborns Tax Number

Customs and Excise Act 1996, s.280H, and Student Loan Scheme Act 2011, s.208

- New Zealand Customs Service /Inland Revenue - Student Loan Alerts
- New Zealand Customs Service /Inland Revenue - Student Loan Interest

Customs and Excise Act 1996, s.280K

- New Zealand Customs Service /Inland Revenue - Child Support Alerts

The Customs and Excise Act 1996 was replaced from 1 October 2018 by the Customs and Excise Act 2018. Section 280H of the Customs and Excise Act 1996 is replaced by section 306, and section 280K is replaced by section 307.

### **What is information matching?**

Agencies specified in Schedule 3 of the Privacy Act 1993 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.

Section 106 of the Act 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.

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

## Commissioner's findings

This report covers the following information matching programmes:

### 1. BDM/IR Newborns Tax Number Programme

Inland Revenue operates an information match with the Department of Internal Affairs to enable parents to apply for a tax number for their child when they register the birth under section 78A of the Births, Deaths, Marriages, and Relationships Registration Act 1995.

### 2. Customs/IR Student Loan Alerts Programme

Inland Revenue operates an information match with the New Zealand Customs Service to receive an alerted when an individual with an outstanding loan balance enters New Zealand under section 280H(1)(c) of the Customs and Excise Act 1996 and section 208 of the Student Loan Scheme Act 2011. (Section 280H of the Customs and Excise Act is replaced from 1 October 2018 by section 306 of the Customs and Excise Act 2018.)

### 3. Customs/IR Student Loan Interest Programme

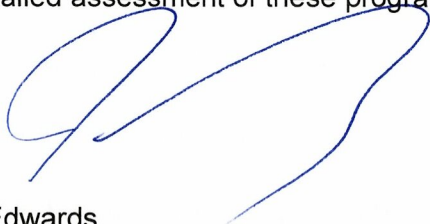
Inland Revenue operates an information match with the New Zealand Customs Service to be advised of travel movements of individuals with student loans so that IR can assess eligibility for interest write-offs under section 280H of the Customs and Excise Act 1996 and section 208 of the Student Loan Scheme Act 2011.

### 4. Customs/IR Child Support Alerts

Inland Revenue operates an information match with the New Zealand Customs Service to be alerted to parents in serious default of their child support obligations entering or leaving New Zealand under section 280K of the Customs and Excise Act 1996. (Section 280K of the Customs and Excise Act is replaced from 1 October 2018 by section 307 of the Customs and Excise Act 2018.)

I have assessed the value and suitability of these programmes and I consider that the provisions should continue without amendment.

My detailed assessment of these programmes follows.



John Edwards  
Privacy Commissioner  
November 2018

## 1. BDM/IR Newborns Tax Number Programme

(Births, Deaths, Marriages, and Relationships Registration Act 1995, S.78A)

### 1.1 Programme objective

The programme objective is to enable people registering a birth to use the same application to request an IRD number for the new-born child.

### 1.2 Finding

I consider that the authority conferred by section 78A of the Births, Deaths, Marriages, and Relationships Registration Act 1995 should be continued without amendment.

### 1.3 Programme operation

People registering a birth can, at the same time, apply for an IR number to be allocated to the child using the information provided to the Department of Internal Affairs (DIA) during the birth registration application process.

DIA information extracted from the birth registration form including the child's full name, sex, citizenship status and birth registration number. Additionally, the full name, address and date of birth of both parents are provided.

IR compares the child's surname, first name and date of birth provided by DIA against its own records. Where there is no match IR staff will create an IRD number record for the child; unless the birth certificate number is a duplicate of one used previously in which case the record will not be created.

### BDM/IR Newborns Tax Number Programme results

	2013/14	2014/15	2015/16	2016/17
Requests for IR number via birth registration	49,950	55,712	55,998	55,024
IRD number records created	49,950	55,712	55,998	55,024
Records not created	Nil	Nil	Nil	Nil

### 1.4 Programme assessment

#### *Assessment summary*

The programme is designed to help individuals conduct their business with government more efficiently and has operated without difficulties.

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

This programme is designed to facilitate an opt-in public service. By offering this service IR:

1. reduces the number of times individuals must provide basic identity information to government agencies; and
2. avoids the costs that would be incurred in processing applications received directly from individuals which would then need to be verified against data held by the Department of Internal Affairs.

*Compliance/operational difficulties*

There have been no compliance or operational issues identified.

*Scale of matching*

The scale of the programme is appropriate as only the necessary information is transferred and only when the person registering the birth requests the service.

*Alternative methods to achieve results*

I consider that the programme is likely to be the most effective way to achieve the objective. Alternative approaches such as parents of newborns completing a separate form with similar information to that required for a birth registration, are likely to be more onerous for the public.

*Amendment to the information matching provision*

IR have not suggested amendments to the provision authorising this programme. I am satisfied that the provision does not require amendment.

**1.5 Programme Authorisation**

This programme was authorised in 2001 by section 3 of the Births, Deaths, and Marriages Registration Amendment Act 2001 (2001 No.56) which inserted section 78A into the Births, Deaths, Marriages, and Relationships Registration Act.

The programme started operation in 2013.

## **2. Customs/IR Student Loan Alerts Programme**

(Section 280H(1)(c) of the Customs and Excise Act 1996 and section 208 of the Student Loan Scheme Act 2011)

### **2.1 Programme objective**

The objective of this information matching programme is to identify overseas based borrowers in serious default of their student loan repayment obligations who leave for, or return from, overseas so that IR can take steps to recover the outstanding debt.

### **2.2 Finding**

I consider that the authority conferred by section 280H(1)(c) of the Customs and Excise Act (replaced from 1 October 2018 by section 306 of the Customs and Excise Act 2018) and section 208 of the Student Loan Scheme Act, should be continued without amendment.

### **2.3 Customs/IR Student Loan Alerts Programme operation**

IR sends the full name, date of birth, and IR number of individuals who are in serious default of their student loan obligations to Customs for storage in an Alert list. Selection for the list is determined by criteria set by the Commissioner of Inland Revenue.

The matching process for the list uses the Customs standard matching process that converts names into an alpha-numeric code. An alert is generated for "A" level match results which require a 91-100% match outcome based on a weighting system.

When an alert occurs, Customs supplies IR their full name, date of birth, and IRD number, along with the date, time and direction of travel, including New Zealand port and prime overseas port (last port of call for arrivals and first port of call for departures). In addition to the electronic alert information provided for matches, Customs email a copy of the front side of the arrival card using SEEMail.

All alert results provided by Customs are sent to a holding file to await verification by a Student Loan Officer before the information is updated into IR's administrative records. Action taken as a result of the information received from Customs is governed by IR policy. All avenues available to Student Loan Officers are used in an attempt to make contact and obtain payment.

Section 103 (1C) of the Privacy Act allows IR to initiate adverse action without sending a notice of adverse action. IR's rationale to forego sending a notice is that were a notice be provided to a student loan borrower, this may enable them to leave New Zealand earlier than originally planned, making enforcement action against the defaulter more difficult.

## Customs/IR Student Loan Alerts Programme results

	2013/14	2014/15	2015/16	2016/17
Possible matches identified	10,189	10,478	11,145	11,346
Arrival cards received	3,420	3,312	3,639	3,818
Cards unusable or did not meet matching criteria	85	85	66	179
Contact attempted with borrower without using arrival card information	350	222	73	322
Remaining cards - contact attempted	2,985	3,005	3,521	3,317
Contact details updated	840	859	1,148	907

The programme started operation on 30 April 2013. OPC agreed with IR that reporting would start from the 2013-2014 year

### 2.4 Programme assessment

#### *Assessment summary*

IR do not have an estimate of the costs of this programme, or of the financial benefits. This makes it difficult to compare the costs against the benefits of the programme.

The information does enable IR to contact people regarding outstanding debts, which does benefit those individuals by minimising their debts, and also benefits IR by the establishment of payment plans.

I identified issues with the operation of the programme as described below but I am satisfied that the privacy of individuals has not been adversely affected and that IR can satisfactorily resolve the remaining issue.

The scale of matching is appropriate and alternative methods to identify when borrowers have returned to New Zealand and are therefore easier to contact are likely to be more burdensome or intrusive to individuals.

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

There are no specific on-going costs attributed to this programme as it is included in IR's business-as-usual operations and not separately accounted for.

For the 2017/18 financial year the total loan balances belonging to borrowers who were included in the Customs Alerts programme was \$190 million, including \$98 million in default.

The alerts programme assists IR to re-engage with people who have outstanding student loan balances as it is significantly easier to contact people while they are in New Zealand than when they are overseas.

#### *Compliance/operational difficulties*

I am satisfied that the compliance and operational issues with this programme were of a technical nature that has not resulted in harm to individuals.

- **Server software not being updated**

An audit in August 2015 of the online transfer process found that the file transfer server operating systems were not being patched to keep the software up-to-date. This may have made the systems vulnerable to hacking.

This was remedied through the planned replacement of the obsolete systems. This issue also affected the Customs/IR Student Loans Interest programme and the Customs/IR Child Support Alerts programme.

- **Programming mistakes affecting the selection of people for alerts**

IR regularly up date the list of people they are requesting travel information on, to ensure that they only receive relevant information. In September 2016 IR replaced some middleware software which resulted in 2,000 student loan holders being included in, or remaining on, the list sent to Customs when IR would not normally have sought information on those individuals.

No information was received on 1,194 of these people. Information was received on the other individuals but was discarded when reviewed. All alerts are manually reviewed by IR staff to check that the match is correct and the information is useable and that the person still meets the criteria for action. The initial action to be taken is to attempt to contact the person. These manual steps mitigate the risk of inappropriate action being taken.

This issue also affected the Customs/IR Student Loans Interest programme and the Customs/IR Child Support Alerts programme.

- **No other issues found**

A search of our records did not identify any complaints to OPC relating to this programme.

The information matching programme is supported by IR having access to Customs systems to conduct ad hoc look-ups. This is authorised by section 280I of the Customs and Excise Act 1996 and section 209 of the Student Loan Scheme Act 2011. Customs conducts an annual audit of IR's compliance with the agreement between Customs and IR governing IR's access. This audit is intended to ensure that only approved personnel are using the access to the Customs system, and that the enquiries being made are legitimate enquiries. The audits have not found misuse and thus give assurance that the provision is being used appropriately.

*Scale of matching*

The scale of the programme is appropriate as it is limited to two agencies and the information exchanged is limited to the information appropriate to achieve the objective.

*Alternative methods to achieve results*

I consider that the Student Loan Alerts programme is likely to be an effective way for IR to re-engage with students with outstanding student loan balances who return to New Zealand. IR does use alternative methods to try and re-engage with students who are overseas.

*Amendment to the information matching provision*

IR have not suggested amendments to the provision authorising this programme. I am satisfied that the provision does not require amendment.

## **2.5 Programme Authorisations**

The Customs/IR Student Loan Alerts programme was authorised in 2013, by section 48 of the Student Loan Scheme Amendment Act 2013 which amended section 280H(1) of the Customs and Excise Act.



### 3. Customs/IR Student Loan Interest Programme

(Section 280H(1)(a) of the Customs and Excise Act 1996 and section 208 of the Student Loan Scheme Act 2011)

#### 3.1 Programme objective

The objective of this information matching programme is to detect student loan borrowers who leave for, or return from, overseas so that IR can administer the student loan scheme and its interest-free conditions.

#### 3.2 Finding

I consider that the authority conferred by section 280H of the Customs and Excise Act (replaced from 1 October 2018 by section 306 of the Customs and Excise Act 2018) and section 208 of the Student Loan Scheme Act, should be continued without amendment.

#### 3.3 Customs/IR Student Loan Interest Programme operation

IR provides Customs with the full name, date of birth, and IRD number for student loan borrowers, who have a loan balance of more than \$20, in a Person of Interest (POI) list. The POI list held at Customs is updated by IR in near real-time as borrowers meet, or cease to meet, the selection criteria.

The matching process for the POI list involves a character-by-character comparison of the family name, given names (and any aliases), and date of birth. Customs supplies POI information to IR where there is an exact match between information on the POI list and passenger movement information generated when an individual passes through Customs. For matched individuals, Customs supplies IR with their family name, given name(s), date of birth, IRD number, and date, time and direction of travel (arrival or departure).

On receipt of travel movement information from Customs, IR starts counting the number of days that the borrower remains in or out of New Zealand. IR issues a notice of adverse action (s.103 notice) at approximately 140 days, advising the borrower that if they remain in or out of New Zealand (as the case may be) their eligibility for an interest-free loan may change.

#### Customs/IR Student Loan Interest Programme results

	2012/13	2013/14	2014/15	2015/16	2016/17
Borrower records updated	543,019	518,304	534,246	559,921	581,352

#### 3.4 Programme assessment

##### *Assessment summary*

There are no specific on-going costs attributed to this programme as it is included in IR's business-as-usual operations. The information is necessary to correctly determine eligibility for student loan interest write-offs, and to enable IR to contact people regarding outstanding debts.

I am satisfied that the privacy of individuals has not been adversely affected by the issues identified and that IR can satisfactorily resolve the remaining issue.

The scale of matching is appropriate and alternative methods are likely to be more burdensome or intrusive to individuals.

*Financial cost/benefit and other outcomes*

There are no specific on-going costs attributed to these programmes as they included in IR's business-as-usual operations and not separately accounted for.

The reporting of movements allows IR to calculate interest write-offs correctly with minimal cost to the individuals. Before this programme was implemented \$96 million was written-off inappropriately from 1999 to 2006.

*Compliance/operational difficulties*

There have been compliance and operational issues with this programme of a technical nature that has not resulted in harm to individuals.

• **Notice of Adverse Action issue**

IR send out a notice to people with student loans who are recorded as being out of the country for 140 days. This notice advises that their eligibility for interest on their student loan to be automatically waived ceases after 183 days and advising of the steps they can take. During the period 1 July 2017 to 30 June 2018 IR sent 29,183 such letters. The Commissioner recently considered this approach in relation to a proposal by the Ministry of Social Development for the Winter Energy Payments and concluded that sending an advance notice does not comply with the requirements of section 103 of the Privacy Act. S103 requires that a notice be sent after the triggering circumstance, that will result in an adverse action, occurs. IR are considering their options to address this issue.

• **Other issues**

This programme was also affected by the issues described in 2.3 under the Customs/IR Student Loans Alerts programme:

- Server software not being updated
- Programming mistakes affecting the selection of people of interest

A search of our records did not identify any complaints to OPC relating to this programme.

*Scale of matching*

The scale of the programme is appropriate. Although records for all student loans borrowers with balances over \$20 are held on the Customs system, the information in the records is limited to the borrower's name, date of birth and IR number.

*Alternative methods to achieve results*

I consider that the Student Loan Interest programme is likely to be the most effective way to correctly assess eligibility. Alternative approaches would require student borrowers to incur the burden of demonstrating to IR their eligibility for the interest write-off, and IR would still need a programme such as this to verify the information provided. This approach was used before the implementation of this programme and was demonstrated to be ineffective.

*Amendment to the information matching provision*

IR have not suggested amendments to the provision authorising this programme. I am satisfied that the provision does not require amendment.

### **3.5 Programme Authorisation**

The Customs/IR Student Loan Interest programme was authorised in 2007 by the Student Loan Scheme Amendment Act 2007. Sections 33 and 41 of the amending Act respectively inserted a new section 62A into the Student Loan Scheme Act (now Student Loan Scheme Act 2011, s.208), and a new section 280H into the Customs and Excise Act.

The programme started operation in 2007 and was previously reviewed in August 2014. No issues were raised with the programme and the review recommended that it be allowed to continue and that no amendments to the provisions were required.

## **4. Customs/IR Child Support Alerts**

(Customs and Excise Act 1996, S.280K)

### **4.1 Programme objective**

The objective of this information matching programme is to identify parents in serious default of their child support liabilities under the Child Support Act 1991 who leave for or return from overseas so that IR can take steps to recover the outstanding debt.

### **4.2 Finding**

I consider that the authority conferred by section 280K of the Customs and Excise Act 1996 (replaced from 1 October 2018 by section 307 of the Customs and Excise Act 2018) should be continued without amendment.

### **4.3 Programme operation**

IR sends the full name, date of birth, and IRD number of individuals who are in serious default of their child support obligations to Customs for storage in either a Person of Interest (POI) list or an Alert (ALS) list. Selection for the POI or ALS list is determined primarily by the level of child support debt involved, with the highest value debtors included on the ALS list.

The matching process for the POI list involves a character-by-character comparison of the family name, given names (and any aliases), and date of birth. Customs supplies POI information to IR where there is an exact match between information on the POI list and passenger movement information generated when an individual passes through Customs.

For matched individuals, Customs supplies IR with their full name, date of birth, and IRD number, along with the date, time and direction of travel, including New Zealand port and prime overseas port (last port of call for arrivals and first port of call for departures). Customs POI information is automatically added into IR's administrative records and an email is sent to a generic email address for further action by Child Support Officers.

The matching process for the Alert list uses the Customs standard matching process that converts names into an alpha-numeric code. An alert is generated for "A" level match results which require a 91-100% match outcome based on a weighting system.

When an alert occurs, Customs supplies IR the same information as in the POI process above, and also includes the match outcome rating achieved. In addition to the electronic alert information provided for matches, Customs emails a copy of the front side of the arrival card using SEEMail.

All alert results provided by Customs are sent by IR to a holding file to await manual verification by a Child Support Officer before the information is updated into IR's administrative records. Action taken as a result of the information received from Customs is governed by IR policy. All avenues available to Child Support Officers are used in an attempt

to make contact and obtain payment. Only in exceptional cases would an arrest warrant be applied for to enforce payment.

No notice of adverse action is sent for this programme. A legislative amendment to section 103 of the Privacy Act (s.103 (1c)), enacted alongside the legislation authorising this programme allows IR to initiate adverse action without sending a notice of adverse action. IR's rationale to forego sending a notice is that a notice to a liable parent might enable them to leave New Zealand earlier than originally planned, making enforcement action against the defaulter more difficult.

### Customs/IR Child Support Alerts Programme results

	2012/13	2013/14	2014/15	2015/16	2016/17
Possible matches identified	10,060	7,010	6,812	6,495	5,973
Arrival cards received for liable parents	1,057	1,533	1,028	1,172	1,186
Cards not useable or did not meet matching criteria	96	59	36	431	50
<b>Remaining cards where contact attempted with liable parent</b>	<b>961</b>	<b>1,474</b>	<b>992</b>	<b>589</b>	<b>1,136</b>
New contact details updated	212	190	328	426	122
Existing contact details confirmed	379	256	68	66	61
Contact details not useful	370	1,028	596	675	953

'Possible matches identified' include both arrivals and departures and may reflect more than one trip.

#### 4.4 Programme assessment

##### *Assessment summary*

IR do not have an estimate of the costs of this programme but these can reasonably be expected to be significantly less than the amount recovered.

IR did have an issue with the operation of the programme but I am satisfied that individual's privacy has not been adversely affected and by IR's assurance that the issue has been resolved.

The scale of matching is appropriate and alternative methods are likely to be more burdensome or intrusive to individuals.

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

This programme now forms part of IR's business-as-usual operations so there are no specific on-going costs attributed to its operation.

Over the period of this programme 6,302 liable parents have commenced payments after being contacted through this programme and have paid more than \$22 million since being contacted.

Successful contact with a liable parent does not necessarily result in increased collection. Other factors such as the ability or willingness of the liable parent to make or maintain payments apply.

*Compliance/operational difficulties*

The operational issues as described in section 2.4 (under the Customs/IR Student Loans Alerts programme), also affected this programme but I am satisfied that these have not resulted in harm to individuals.

A search of our records did not identify any complaints to OPC relating to this programme.

*Scale of matching*

The scale of the programme is appropriate. An agreement between the Commissioner of Inland Revenue and the Privacy Commissioner sets the criteria for determining those in serious default of their child support obligations. The criteria are reviewed at agreed intervals.

*Alternative methods to achieve results*

I consider that receiving the information from Customs is likely to be the most effective way to achieve the objective of the programme. Alternative approaches such as voluntary disclosure have proven ineffective.

*Amendment to the information matching provision*

IR have not suggested amendments to the provision authorising this programme. I am satisfied that the provision does not require amendment.

**4.6 Programme Authorisation**

This programme was authorised in 2007 by the Taxation (Business Taxation and Remedial Matters) Act. Section 263 of the amending Act inserted a new section 280K into the Customs and Excise Act.

The programme started operation in 2008 and was previously reviewed in August 2014. No issues were raised with the programme and the review recommended that it be allowed to continue and that no amendments to the provisions were 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 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; 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 (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.

