Annual Report

of

PRIVACY COMMISSIONER

for the year ended 30 June 2002

Presented to the House of Representatives

pursuant to section 24 of the Privacy Act 1993

NOVEMBER 2002

THE ASSOCIATE MINISTER OF JUSTICE

I tender my report as Privacy Commissioner for the year ended 30 June 2002.

B H Slane
PRIVACY COMMISSIONER

CONTENTS

PART III TABLES & FIGURES

PART III TABLES

PART III FIGURES

PART IV TABLES & FIGURES

PART IV TABLES

PART IV FIGURES

I. INTRODUCTION

TEN YEARS ON

For the first time anywhere a privacy law covered personal information held in both manual and electronic files in both the public and private sectors.

The Office of the Privacy Commissioner was created by the Privacy Commissioner Act 1991. The Office was established ten years ago by the appointment of the Commissioner in April 1992. The first task of the Commissioner was widespread consultation with those who had made representations on the Privacy of Information Bill with a view to bringing down, in conjunction with the Department of Justice, recommendations which would satisfy some of the objections while maintaining the integrity of the legislation.

This was achieved during 1992 and the Privacy Act was passed unanimously by Parliament in May 1993.

The Privacy Act was groundbreaking. For the first time anywhere a privacy law covered personal information held in both manual and electronic files in both the public and private sectors. Although months later Quebec followed suit and Hong Kong in 1996, it was to be many years before Australia and the rest of Canada provided similar coverage. The whole of Europe now has comparable law. While our Act remains comprehensive it is now much more in the mainstream of later legislation protecting personal data.

An important factor in bringing about the Privacy of Information Bill was the desire of the government to introduce legislation which would permit data matching between government departments particularly to deal with welfare fraud and abuse. This was controversial and the *quid pro quo* was a comprehensive information privacy law.

The Privacy Commissioner was given three roles in data matching. The first was to assess proposals for information matching which would need to be authorised by Parliament. The Privacy Commissioner is empowered to report to the Minister weighing the costs and benefits of each proposal other than those that had been authorised in the Privacy Commissioner Act.

The Commissioner had also to monitor those authorised information matching programmes which became operative – initially three.

Finally, the Commissioner had to evaluate each programme at periodic intervals to satisfy everyone that it was necessary to have it continue.

Data matching was the cause of serious civil liberties concerns. Those concerns were fully justified. However, the existence of the Commissioner's role has, in my opinion, done much to limit the potential for abuse which existed if there had been no external supervision and review. Thus greater confidence was engendered.

Most of the issues that have arisen have been satisfactorily resolved, but that is not to say that there will not be more and difficult issues to determine in the future. This is particularly so given the recent increase in interest in carrying out data matching programmes. There are now about 50 programmes authorised by law, of which 15 are operational. Others will follow. There are a further 8 – 10 proposals on which work has begun. The cost of increased assessing and monitoring has been difficult to sustain and, where we have been able to do so, it has been at the expense of the other operations of the Office. I have previously signalled my view that the cost incurred by this Office ought to be borne by the operators of each authorised programme. Representations have been made for some years to this effect. With the vast increase of work, it is now evident this Office cannot cope with the volume of work involved. We have already had to slow down the evaluative role. It has not always been able to give timely and effective assistance to departments embarking on an information matching programme proposal.

I believe the Office has responded well to the challenges it has faced over the 10 year period. I believe we have achieved a high level of quality work, both in dispute resolution and assisting compliance as well in the policy, codes and information matching fields. Our education work is highly regarded according to surveys conducted of those who attend our workshops. I merely record that I have been impressed every year with the quality of work turned out and the dedication, efficiency and integrity of the staff who undertake that work in the name of the Commissioner.

VIEWS ON PRIVACY

It is clear that while there have been public criticisms from time to time of some aspect of the Privacy Act – notably its misuse by agencies wishing to avoid responsibility for their own policies - objective polling reveals that people do care about their personal information. In a UMR Research nationwide survey I commissioned in September 2001, high levels of concern were expressed on a number of privacy issues. In dealing with businesses, 95% of respondents rated respect for, and protection of, their personal information as important or very important, the same level as for the quality of the product or service. Although attempts have been made to denigrate individuals' genuine concern for privacy, the polling has convinced many businesses that they should give priority to fair information practices and to taking privacy concerns seriously. The full survey results are on the Office's website (www.privacy.org.nz).

In dealing with businesses, 95% of respondents rated respect for, and protection of, their personal information as important or very important, the same level as for the quality of the product or service.

II. OFFICE AND FUNCTIONS OF THE PRIVACY COMMISSIONER

The Privacy Commissioner is independent of the Executive. This means I am, and can be seen to be, free from influence by the Executive when investigating complaints. This is important because I am from time to time called on to investigate complaints against ministers or their departments and ministries. My independence is also important for some of my other roles, such as examining the privacy implications of proposed new laws and information matching programmes.

I have a responsibility to report to Parliament through the Minister of Justice, and am accountable for my functions as a Crown entity under the Public Finance Act.

When exercising my functions, the Privacy Act requires me to have regard to the information privacy principles and to the protection of important human rights and social interests that compete with privacy. This includes the general desirability of a free flow of information and the recognition of the right of government and business to achieve their objectives in an efficient way. I must also take account of international obligations accepted by New Zealand, including those concerning the international technology of communications, and consider any developing general international guidelines that are relevant to the better protection of individual privacy.

One of my functions is to receive and investigate complaints and provide an independent opinion as to whether there has been an interference with privacy. I do not act as an advocate for either party: my role is impartial and investigative. My role also includes acting as a conciliator to try to resolve complaints. Complaints made to my Office may be referred to the Proceedings Commissioner (appointed under the Human Rights Act), who may bring civil proceedings before the Human Rights Review Tribunal. I refer very few complaints to the Proceedings Commissioner, as most of them are resolved satisfactorily during my investigation process.

I also have a function of promoting by education and publicity an understanding and acceptance of the information privacy principles. I have had an enquiries officer available to answer questions and have for several years maintained a toll free enquiries line so that people may make enquiries without charge from anywhere in New Zealand. This service has had to be restricted and many callers must now leave messages, which are usually responded to within one or two days.

As part of my educative role, I maintain a website from which people may download information about the Privacy Act at no charge. My website contains many publications, including codes of practice, case notes, fact sheets, speeches and reports. It is a powerful tool for my Office, and many enquirers are directed to it for the information they require.

Staff from my Office conduct regular workshops and seminars including half-day introductions to both the Privacy Act and the Health Information Privacy Code and a full-day workshop aimed at the mental health sector. I also offer tailored workshops that are adapted to the organisation involved. I maintain open communication with the news media.

Another of my responsibilities is to monitor government information matching programmes, which must be carried out in accordance with the provisions of the Privacy Act.

I have a function of issuing codes of practice. A code of practice can modify the information privacy principles by:

- prescribing standards that are more or less stringent than those prescribed by the principles;
- exempting any action from a principle, either unconditionally or subject to any prescribed conditions.

A code may also prescribe how the information privacy principles are to be applied or complied with.

One of my functions is to make public statements on matters affecting privacy. Speaking publicly on issues I may act as a privacy advocate, but must have regard to wider considerations. One of my most significant roles is to comment on legislative, policy or administrative proposals that have some impact on the privacy of the individual or classes of individuals. Many of my recommendations are adopted by government departments, cabinet committees or by select committees in the course of their consideration of policy and legislative proposals. In every case I have had to balance privacy interests against the interests that compete with privacy.

Other functions of the Privacy Commissioner are found in section 13 of the Act and include:

- monitoring compliance with the public register privacy principles;
- making suggestions to any person in relation to the need for, or the desirability of, action by that person in the interests of the privacy of the individual;
- reporting to the Prime Minister on any matter that should be drawn to her attention and, particularly, the need for and the desirability of taking legislative, administrative or other action to give protection or better protection to the privacy of the individual.

STAFF

At 30 June 2002 the following staff were employed in the Auckland and Wellington offices.

Susan Allison	Librarian (part-time)
Marilyn Andrew	Support staff (part-time)
Phillipa Ballard	Manager, Investigations
John Blakeley	Data Matching Compliance Officer
Ina de Polo	Support staff
Michael des Tombe	Investigating Officer
Michelle Donovan	Legal Officer Investigations
Antonia Dowgray	Investigating Officer
Gina Drake	Complaints Management Officer
Godfrey Eager	Investigating Officer
Annabel Fordham	Executive Officer
Margaret Gibbons	Support staff
Fred Henderson	Enquiries Officer
Maree Hill	Complaints Management Officer
Eve Larsen	Support staff (part-time)
Sharyn Leonard	Support staff (part-time)
Sebastian Morgan-Lynch	Investigating Officer
Sharon Newton	Support staff
Glenda Osborne	Accounts Clerk (part-time)
Carolyn Richardson	Investigating Officer
Jacci Setefano	Investigating Officer (part-time)
Amir Shrestha	Support staff
Blair Stewart	Assistant Commissioner
Wayne Wilson	Legal and Policy Adviser

I have also been well served by Gary Bulog, Robert Stevens, Terry Debenham, Graham Wear, Rachel Bruce, Shane Clapson, Margo Athy and Bernard Darby who have been variously involved in management, legal, advising, accounting, writing, website and publication projects for me.

III. REPORT ON ACTIVITIES

CODES OF PRACTICE

INTRODUCTION

One feature of the Privacy Act is its provision for codes of practice. Codes are a mechanism whereby the rules for information handling can be adapted to particular circumstances.

A code can modify the application of the information privacy principles by prescribing standards that vary from those in the information privacy principles or by exempting particular actions from the principles. A code may also prescribe how the principles are to be applied or complied with. A code might regulate information matching in the private sector, set guidelines in relation to charging for access to information and prescribe procedures for complaints handling. There is also provision for codes in relation to public registers.

The Act sets down requirements that must be followed before I may issue a code of practice. I am required to do everything reasonably possible to advise people who may be affected by the proposed code, or their representatives, of the proposed terms of the code and the reasons for it, and to seek their views. I am also obliged to give public notice of my intention to issue a code and invite public submissions. I usually work with relevant industry groups or government departments who can disseminate a message more widely within their industry or sector or the community generally. Often I go further than the statutory requirements and seek out the views of interested persons *before* publicly notifying a proposal for a code (as has been the case this year in the areas of telecommunications and credit reporting).

Codes have the status of regulations for the purposes of the Regulations (Disallowance) Act 1989. This means that they are tabled in Parliament and are the subject of routine scrutiny by the Regulations Review Committee.

I issued one new code of practice during the year. No amendments were made to existing codes. The following codes were in force at the end of the year:

- Health Information Privacy Code 1994;
- Superannuation Schemes Unique Identifier Code 1995;
- EDS Information Privacy Code 1997;
- Justice Sector Unique Identifier Code 1998;
- Post-Compulsory Education Unique Identifier Code 2001.

POST-COMPULSORY EDUCATION UNIQUE IDENTIFIER CODE

As reported in last year's report, the Ministry of Education approached me in May 2000 about a proposed national student index. The project raised a number of privacy issues but the Ministry's principal compliance difficulty related to its plan to create a sector-wide unique identifier for tertiary students and to use this in relation to a proposed data warehouse. This aspect of the proposal could not be reconciled with information privacy principle 12(2) which prohibits agencies from assigning a unique identifier that has already been assigned by another agency. This prohibition is designed to inhibit the growth of common identification numbering systems with the significant privacy risks associated with such arrangements.

During 2000/01 my Office worked through the issues with the Ministry. The Ministry was asked to study the issues carefully and to document its position. It did this in a privacy impact assessment (PIA) which it submitted to me in October 2000. Following further discussion with my Office the PIA was reworked and a revised version provided in January 2001. I wrote to the Secretary of Education confirming that I had studied the PIA and agreeing to consider issuing a code of practice.

The proposal was not to create a number to identify students for all administrative purposes. The principal objective was to enable the compiling of statistics about publicly funded tertiary education by facilitating the supply of information to the tertiary data warehouse.

The code was drafted to permit the use of a common student index number by a defined group of education agencies, while tightly limiting the personal information that could be held on the student index database. It also placed controls on the use of the index number to access or disclose personal information contained in the data warehouse or for other purposes.

I publicly notified my intention to issue the code of practice in April 2001. More than 150 copies of the proposed code were mailed to organisations in the education sector and to other interested people. Details were also provided in *Private Word* and on my website. The Ministry's PIA was also made available on my website.

Fourteen submissions were received during the two-month consultation period. These submissions expressed a valuable range of views from a variety of institutions and some changes were made to the proposed code as a result of the suggestions received. Most submissions supported the code although some concern was expressed about the risk of common identifiers being brought into general administrative use.

The code was issued on 14 August 2001 and came into force on 21 September.

PROPOSED TELECOMMUNICATIONS INFORMATION PRIVACY CODE

As noted in my previous annual reports, I recommenced work in 2000 on a longstanding proposal for a code of practice in relation to telecommunications.

During 2001 work continued on refining a draft code and seeking industry comment upon working drafts. Public views were sought in relation to a draft which was placed on my

website and made available to requesters. This draft also formed the basis of presentations and discussion at the Privacy Forum held in Wellington in November. Considerable changes to the drafts were made as a result of comments received in writing and at meetings.

In mid-December I publicly notified my intention to issue a Telecommunications Information Privacy Code. Public notices were placed in newspapers in the main centres. An information paper was prepared and made available with the proposed code on my website and in response to public enquiries. Copies were distributed to organisations that I anticipated might be interested.

I received 34 written submissions on the proposed code. All those who made submissions were given the opportunity to attend a consultation meeting. Eleven meetings were scheduled in Wellington and Auckland.

A number of the submissions focused upon a proposal to modify information privacy principle 9 to limit the retention of traffic data except where such information was needed for billing purposes. The proposed approach was broadly modelled upon that taken in the European Union.

In May I announced to all those who made a submission on the point that I had decided not to proceed with the proposed stringent rules about the retention of traffic data. Instead, a rule identical to principle 9 would be retained. The submission process had been helpful in identifying the legitimate internal non-billing uses of traffic data by telecommunications agencies, such as for traffic analysis. While it would have been possible to redraft the proposed rule to address some of the concerns expressed in submissions, I concluded that it was preferable for the time being to leave the principle unmodified. The issue may need to be considered again at some point in the future.

The code had not been issued at the end of the year.

OTHER PROPOSED CODES OR AMENDMENTS

I also recommenced work in 2000 on a longstanding proposal for a code of practice in the area of credit reporting. Progress has been slow. However, it has been possible to refine the issues and develop drafts of the code with input from a number of stakeholders involved in credit reporting and credit provision. Public views were solicited and a session on the proposal was held at the Privacy Forum in November. The proposed code had not been publicly notified by the end of the year.

An amendment to the Justice Sector Unique Identifier Code has been mooted by the Ministry of Justice. That code allows for the use of a common identifier for persons passing through the justice sector where they are charged with serious crime. The code essentially regularises a well-established practice going back to the 'Wanganui Computer' shared system. The new issue that has been raised concerns the number assigned in respect of minor traffic or infringement offences. Considerable work was undertaken during the period in examining the issues but an amendment had not been notified at the end of the year.

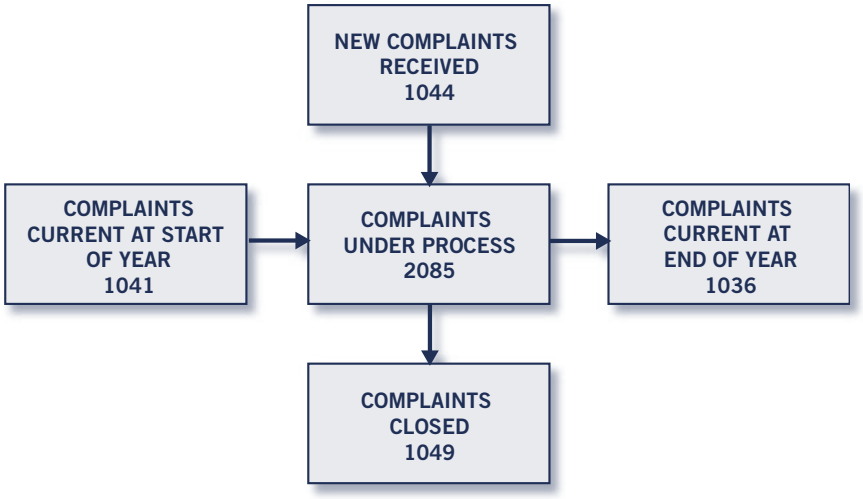
The submission process had been helpful in identifying the legitimate internal non-billing uses of traffic data by telecommunications agencies, such as for traffic analysis.

COMPLAINTS AND ACCESS REVIEWS

It is cost effective for all parties that my staff are able to identify these complaints at an early stage of the complaints resolution process and bring about a resolution.

Most of my Office's human and financial resources are directed to complaints resolution and access reviews. This financial year I have put more emphasis on early complaint resolution and settlement and, as a result, more complaints were closed than in any previous year. However, the number of complaints received was 163 higher than last year so even though my staff are successfully resolving a larger number of complaints (243 more closed this year than last year), there is still a substantial backlog of complaints.

FIGURE 1: COMPLAINTS PROCESSING 2001/02



Of the 1049 complaints closed, 646 were closed in the initial assessment phase, as a result of the mediating efforts of complaints management officers, or while in the queue awaiting investigation. A total of 61.5% of complaints was able to be resolved in this way. The remaining 403 complaints were closed after an investigation was commenced by my investigating officers.

There were 272 complaints resolved after an initial assessment and after contact with the parties. At this stage, complaints tend to be much easier to settle, and there is often a real willingness to resolve them on the part of both complainant and respondent. Sometimes, after an explanation of the relevant provision of the Act or a reminder to an agency of its obligations under the Act, and some negotiations, the matter is resolved and the complainant satisfied.

Of these 272 complaints, 92 involved requests for access to personal or health information or were requests to my Office to review an agency's reasons for withholding some information. A further 104 were complaints alleging that personal or health information had been disclosed without the complainant's knowledge or authorisation. In some cases, complainants were not aware that other legislation may permit a disclosure, or that they had themselves authorised the disclosure complained of when, for example, they had applied for

credit. It is cost effective for all parties that my staff are able to identify these complaints at an early stage of the complaints resolution process and bring about a resolution.

Complaints and access reviews which are not resolved in this initial stage are assigned to one of two complaints management officers who are responsible for further fact-gathering and clarification of the issues. We are able to resolve a significant number of complaints and access reviews after further work with the parties. Of the 252 complaints and reviews closed by the complaints management officers during the year, the majority concerned requests for access to personal or health information (111) or were complaints about disclosure of personal or health information (80).

It was possible to resolve 85% of all complaints without forming a final opinion.

Complaints and access reviews which are not able to be resolved at this stage are assigned to investigating officers who undertake further investigation, clarification and analysis of the issues. Because of the backlog awaiting assignment, complainants may wait in the queue of unassigned complaints for a year or more. I acknowledge that this is unsatisfactory both for the complainant and the agency against which the complaint is lodged. However, I am not adequately resourced to deal with the volume of complaints which are lodged.

At the end of this reporting year, there were 185 complaints awaiting assignment to an investigating officer. These are the complaints which were not able to be resolved after preliminary fact gathering and correspondence. This number is less than the 291 which were queued awaiting assignment to an investigating officer at the end of the previous year, and reflects the success of the strategy I have employed to resolve complaints at an early stage. With fewer resources the backlog will, I predict, increase in the coming year.

TABLE 1: COMPLAINTS RECEIVED AND CLOSED 1997-2002

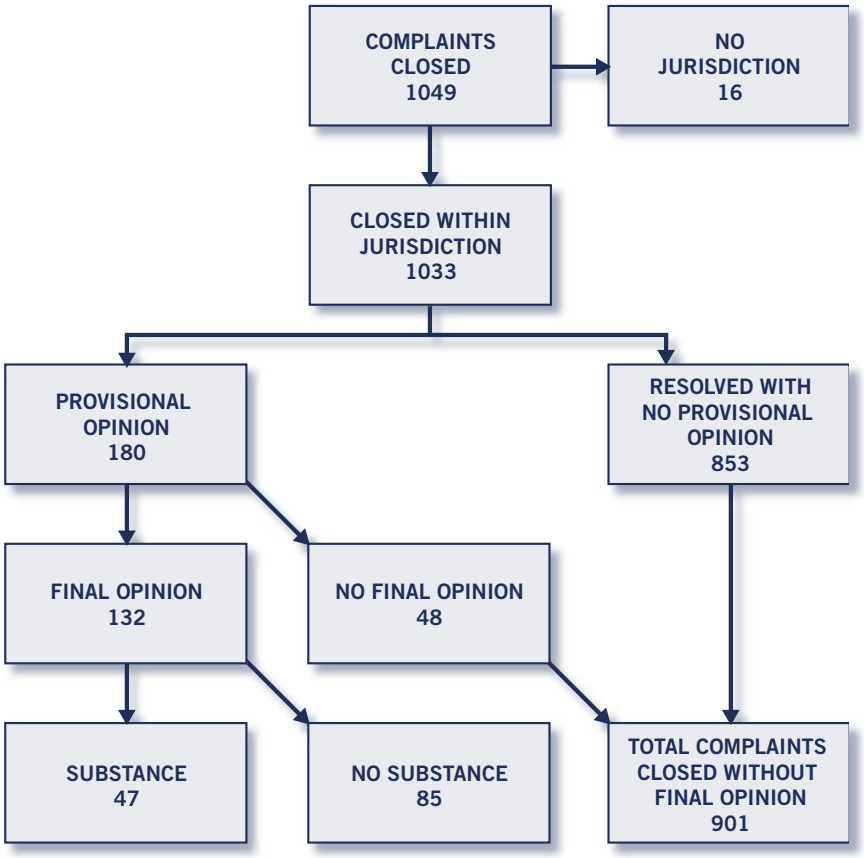
	1997/98	1998/99	1999/00	2000/01	2001/02
Complaints received	1088	1003	798	881	1044
Complaints closed	804	895	956	806	1049

Table 1 shows the substantial increase in complaints received and closed this year over last year.

It was possible to resolve 85% of all complaints without forming a final opinion. These included 48 about which I had formed a provisional opinion but which were settled subsequently, and 853 which had no provisional opinion either because they were settled or because the complainant elected to take no further action, sometimes because of actions taken by the respondent. This is a significant increase over previous years and reflects the skill of my staff in identifying which complaints may be amenable to settlement, and then negotiating an appropriate resolution which satisfies all of the parties.

The number of staff dealing with complaints and access reviews fluctuated during the year. At the beginning of the year there were 11 investigating officers (10 full-time and one part-time) and, in addition, a complaints management officer. At the end of the reporting period, I had seven investigating officers (six full-time and one part-time) and two complaints

FIGURE 2: CLOSED COMPLAINTS BREAKDOWN 2001/02



management officers. One of my senior investigating officers has additional responsibility for preparing submissions and representing my Office when complaints are referred to the Human Rights Review Tribunal. There has been a significantly higher number of referrals to the Tribunal in this reporting period, the consequence of which is that she undertakes fewer investigations. It is a credit to my staff that they have successfully resolved such a high number of complaints and access reviews this year. I am aware of the pressure they are under dealing with almost 1100 current complainants and many agencies, all of whom require individual skilled attention.

INVESTIGATION OF COMPLAINTS AND REVIEWS OF ACCESS REQUESTS

As noted above, I have put more emphasis by way of resources into early resolution of all complaints. My strategy has resulted in an increased number of complaints being resolved within three months of receipt, either because they are settled, or because I have formed a final opinion on the matter. In many instances, resolution is effected where the facts are not in dispute, and a clear breach is acknowledged. Complainants, for the most part, do not seek punitive remedies, and in many instances are satisfied with an apology and an assurance

that the action will not recur. Where the agency is not willing to offer a remedy, I form a final opinion on the matter and advise the complainant of their right to take the matter to the Human Rights Review Tribunal, or I refer the matter myself through the Director of Human Rights Proceedings. In other cases, the matter may be resolved when my staff point out to the complainant that, notwithstanding the complainant's view that there has been some breach which has caused them harm, in similar cases I have formed the view that the matter complained of has not amounted to an interference with an individual's privacy. A complainant in those cases also has the right to refer the complaint to the Human Rights Review Tribunal by way of civil proceedings.

The complaints which are not resolved early are those which require further investigation or where the parties are well apart in their positions. These are, by definition, more difficult complaints and many also raise complex issues. Investigation of these complaints highlights how important it is for my staff to obtain as much information as possible in the initial stage when events are fresh in the minds of the parties and there is some willingness to provide the necessary background. However, many complaints still require extensive investigation to establish the facts and clarify the issues. Where a complaint constitutes a review of an access request, my staff will generally be required to examine the original documents to ascertain whether the agency has complied with its obligations under the Act.

Complaints may be amenable to settlement at any stage of the investigation process. Where there is no dispute about the facts, some can be settled immediately; others may be settled after further fact-gathering has occurred, or after I have formed a provisional opinion that there has been a breach of an information privacy principle and that the breach has caused harm in terms of section 66 of the Act (proof of harm is not required where access has been denied with no proper basis). In some instances, a complaint may be settled after I have formed a final opinion on the matter.

From the outset, parties to a complaint are asked to consider whether it is possible to settle the matter. I invite them to propose terms for a settlement and, where there is agreement to do so, my staff guide them through a mediated process to reach a mutually acceptable resolution. My staff use their experience and knowledge of other similar complaints to assist the parties to an appropriate outcome. There has been a significant increase in the number of mediated settlements this year as I have encouraged my staff to attempt to facilitate settlement wherever possible.

Some examples of successful settlements in the past year include:

- When a woman asked for a final reading on her power account, she asked the power company for a security password so that only authorised people could obtain information about her account. However, the company provided her new address to her former partner against whom she had taken out a protection order. The woman feared for her safety once her whereabouts had been disclosed. The company acknowledged the breach immediately and offered to settle the complaint. The woman accepted $2000 and an apology in settlement.

- A receptionist employed on a casual basis by an agency which provided counselling services accessed the file of a client. She then contacted the client in writing and offered her opinions about his former wife's new relationship. The agency accepted that the disclosure had breached the Privacy Act, but argued that the employee had not been acting in the performance of her duties and that it was therefore not liable. I investigated the matter further and was of the opinion that the agency's security safeguards were wanting. The agency apologised to the client and offered $3000 by way of settlement.

- A health provider employed dictaphone typists who worked from home and emailed their work back to the centre. An employee incorrectly entered the return email address which then reverted to a default setting. As a result, sensitive health information about a number of patients was emailed to a third party. The third party notified the health provider and the individuals concerned. I received a complaint from one of the individuals. The health provider acknowledged that such a mistake was not a remote likelihood and gave an assurance that it would change its systems. It offered the complainant $500 which he accepted in settlement of the complaint.

- A young woman applied for a youth benefit and was required to nominate a referee who could verify her circumstances. She specifically asked that her parents not be contacted. She alleged that details of her application were disclosed to her parents by an employee of the agency, and that its prospects of success were discussed with her referee. The young woman complained to me that these disclosures amounted to an interference with her privacy. The agency acknowledged that a breach of the young woman's privacy had occurred. Its offer of settlement included a change of policy to be more aware of privacy issues when interviewing young people in her position, and a sum of $100.

COMPLAINTS INVOLVING ACCESS

Complaints which come to my Office concerning access requests generally require me to review the agency's decision not to provide the complainant with information they have requested. In some cases, a complainant alleges that although they have received some information, they believe the agency holds additional information which has not been provided to them. In other examples, an agency may have refused to provide some information, relying on one of the grounds set out in the Act to withhold it. When I receive a complaint involving an access request, I will ask the agency to provide me with a copy of the information it holds and, if it wishes to withhold some information from the complainant, to advise which of the withholding grounds it relies upon. After reviewing the documents which the agency holds, I can recommend either that the agency considers releasing them to the complainant, or I will confirm that the grounds under which they were withheld were satisfied.

TABLE 2: COMPLAINTS INVOLVING ACCESS BY SECTOR 1997-2002					
	1997/98	1998/99	1999/00	2000/01	2001/02
Private sector	170	148	142	146	137
Public sector	179	212	241	201	248
Total	349	360	383	347	385
	1997/98 (%)	1998/99 (%)	1999/00 (%)	2000/01 (%)	2001/02 (%)
Private sector	49	41	37	47	36
Public sector	51	59	63	53	64

Some agencies are unaware of their obligation to provide the individual concerned with access to personal information when it is requested.

Some agencies are apparently unaware of their obligation to provide the individual concerned with access to personal information when it is requested. Generally I find that they are willing to comply once the relevant provisions of the Act are drawn to their attention. The Act requires an agency to respond to a request as soon as practicable and no later than 20 working days by informing the requester of its decision on a request. The only reasons for refusing access are those set out in sections 27-29 of the Act or where another statute permits information to be withheld. There are occasions where access requests are refused because the agency does not consider that the information sought is personal information to which the requester is entitled. When I review such requests I will ask the agency to provide me with a copy of the information in order to determine whether the information is personal information as defined in the Act. In some cases deletions are thought by requesters to be personal information about them and are reassured when I can confirm they are not.

Many access requests are made in the context of other proceedings, such as employment disputes, legal proceedings or disputes surrounding the provision of services by a health provider or health insurer. In those circumstances the relationship between the parties is already strained and it may be the reason why an agency either ignores the request, dismisses it on the grounds that the request is vexatious or trivial, or otherwise refuses to comply. In these cases, I review the information sought and advise the agency of my opinion and, if appropriate, make a recommendation that it be released to the requester.

Some examples of requests for access to information include:

- A woman applied to be on the unpublished electoral roll. The supporting documentation she provided with her application was a temporary protection order listing a man as the 'respondent' on the order. As her application satisfied the statutory requirements, her details were not published on the roll. Subsequently, the man wrote to the Electoral Enrolment Centre (EEC), suggesting that the woman should no longer be on the unpublished roll as the protection order was no longer current. Following the man's enquiry, the EEC wrote to the woman about the matter. She provided new material to the agency in support of her position to remain on the unpublished roll of that public register.

  The man then requested access, under principle 6, to the information used by the woman to support her claim to remain on the unpublished roll. The EEC refused to release it, as to do so would be an unwarranted disclosure of her affairs.

I formed an opinion that the agency had a proper basis to withhold some of the supporting documentation from the man because the disclosure of the information would be an unwarranted disclosure of the affairs of the woman. As some of the information was factual information about which the man already had some knowledge, I recommended that it be released in summary form. The EEC followed my recommendation and I closed the file.

- In the context of a man's application to the Environment Court to change a proposed plan developed by a Regional Council, there was a significant amount of correspondence between him and a Council policy analyst. The man subsequently made a request under the Local Government Official Information and Meetings Act 1987 for access to all information the Council held relating to his dealings with it. The Council withheld some of the information on the basis that it was subject to legal professional privilege. The man complained to the Office of the Ombudsmen and, as some of the subject matter constituted personal information, that part of the complaint was transferred to my Office.

  Having examined the withheld information, I formed the view that the Council was entitled to withhold the information from the man as it was a lawyer-client communication between the Council's lawyer and the Council. Further, I considered that litigation in respect of the matter was reasonably apprehended and that the dominant purpose of the communication was to enable the lawyer to provide advice regarding that. I was satisfied that the Council could claim legal professional privilege in relation to it, and I formed the final opinion that its withholding of the document did not amount to an interference with the man's privacy.

COMPLAINTS INVOLVING DISCLOSURE

Complaints concerned with the disclosure of personal information comprise the second largest category of complaints received by my Office. Principle 11 of the Privacy Act and rule 11 of the Health Information Privacy Code place limits on the disclosure of information. Disclosure is permitted if an exception to the principle or rule applies, although an agency may decide not to disclose, even if an exception applies.

As in previous years, private sector agencies are more likely to be the source of complaints about unauthorised disclosure of information than public sector agencies.

Table 3 shows that the number of complaints which allege a breach of principle 11 or rule 11 has increased this year, and the proportion of complaints against public and private sector agencies remains the same as last year.

TABLE 3: COMPLAINTS INVOLVING DISCLOSURE BY SECTOR 1997-2002					
	1997/98	1998/99	1999/00	2000/01	2001/02
Private sector	195	186	161	185	204
Public sector	105	130	103	150	169
Total	300	316	264	335	373
	1997/98 (%)	1998/99 (%)	1999/00 (%)	2000/01 (%)	2001/02 (%)
Private sector	65	59	61	55	55
Public sector	25	41	39	45	45

Many disclosure complaints arise from inadvertent disclosures of information. This demonstrates that I continue to have a role to play through the education function performed by my Office in raising awareness of agencies' compliance responsibilities.

Complaints involving unauthorised disclosure of information include:

- An off-duty police officer observed a man, who had previously been convicted of sexual offences against children, working in an environment with young children. The police officer informed the man's employer about his previous offending and, as a result, he was fired. The man complained to me that his privacy had been breached by the disclosure, and that the disclosure had caused him harm.

  The Police acknowledged that the disclosure had occurred, and relied on one of the exceptions to principle 11, that the disclosure was necessary to avoid prejudice to the maintenance of the law.

  In the circumstances, I considered that the degree and type of past offending by the man justified the police officer's concerns about the man working with young children. I advised the man of my views, and the file was closed.

OTHER PRINCIPLES

Allegations about disclosure of personal information and access request reviews constitute the largest number of complaints. The next largest group of complaints include complaints about the accuracy of information (8.7%) and those concerned with correction of personal information (7.3%). There were also a significant number of complaints received alleging a breach of principle 2 and rule 2 (7.0%), many of which were complaints from individuals about agencies making unauthorised credit checks of them.

Table 4 lists all alleged breaches. As some complainants alleged a breach of more than one principle or rule, the total exceeds the total number of complaints received.

TABLE 4: ALLEGED BREACHES 2001/02		
Alleged Breach	Total	Percentage
Information Privacy Principle (IPP) 1 – Purpose	86	6.41
IPP 2 – Source	89	6.63
IPP 3 – Collection	48	3.58
IPP 4 – Manner	34	2.53
IPP 5 – Storage	19	1.42
IPP 6 – Access	308	22.95
IPP 7 – Correction	66	4.92
IPP 8 – Accuracy	87	6.48
IPP 9 – Retention	6	0.45
IPP 10 – Use	31	2.31
IPP 11 – Disclosure	288	21.46
IPP 12 – Unique identifier	2	0.15
Section 35 – Charge	2	0.15
Health Information Privacy Code (HIPC) Rule 1	9	0.67
HIPC Rule 2	5	0.37
HIPC Rule 3	5	0.37
HIPC Rule 4	2	0.15
HIPC Rule 5	11	0.82
HIPC Rule 6	78	5.81
HIPC Rule 7	32	2.38
HIPC Rule 8	30	2.24
HIPC Rule 9	3	0.22
HIPC Rule 10	6	0.45
HIPC Rule 11	85	6.33
Health Act, section 22F	9	0.67
HIPC Clause 6 – charges	0	0
N/A	1	0.07
Total	1342	

Some examples include:

- A landlord set up a camera with the intention of monitoring activities in adjoining premises which he leased. During routine maintenance work in those premises, cables were found which led to the office of the landlord next door and to the camera. Patrons of the business were informed that they had been secretly filmed by the landlord. A number of these patrons complained to me that the landlord had interfered with their privacy by collecting information about them.

  The complaint raised issues under principle 1, which requires that an agency which collects information must have a lawful purpose for doing so and the collection must be necessary for that purpose.

  While there was no dispute that the landlord intended to collect information with the camera, in fact, due to technical difficulties it apparently did not record any activities in the adjoining premises. I was therefore unable to form the opinion that there had been a

breach of the privacy of the complainants as there had been no collection of information about them. On this basis, I closed the file.

AGENCY TYPE

Consistent with previous years, government agencies received the largest number of complaints. This group includes agencies such as New Zealand Police, Ministry of Social Development, Inland Revenue Department and Accident Compensation Corporation. The health sector is the second largest grouping and includes hospitals, medical centres and other health providers such as dentists, physiotherapists and counsellors. The next group is credit reporting and debt collection agencies, a group which has attracted a significant increase in complaints. Table 5 identifies the agency types.

TABLE 5: AGENCY TYPE 2001/02

Agency type	Total	Percentage
Government	356	34.1
Other (business)	158	15.13
Hospital	74	7.09
Medical centre (GP)	67	6.42
Health (other)	50	4.79
Credit reporting agency	49	4.69
Education	45	4.31
Banking	40	3.83
Local authority	31	2.97
Individual	25	2.39
Law firm	19	1.82
Insurance	18	1.72
Telecommunications	17	1.63
Unspecified	14	1.34
Debt Collection agency	12	1.15
Industry association	11	1.05
Landlord/Tenant	9	0.86
Trust	9	0.86
Club	8	0.77
Real estate	6	0.57
Religious organisation	6	0.57
Voluntary organisation	5	0.48
Incorporated societies	4	0.38
Accountant	3	0.29
Insurance (health)	3	0.29
Private investigator	2	0.19
Direct marketing	1	0.10
Political party	1	0.10
Trade union	1	0.10
Total	1044	

TOP 10 RESPONDENTS

The increased use of credit data for purposes other than providing credit demonstrates the need for clarity in this area. My staff are working to develop a code of practice which will address the issues.

Government agencies which hold and process personal information are predictably the source of the largest numbers of complaints. These include New Zealand Police, Ministry of Social Development, Department of Corrections, Department for Courts and Accident Compensation Corporation. The two private sector agencies in the top 10 list – Baycorp/Baycorp Advantage and Telecom – are also large collectors and holders of personal information. Between them, the top 10 agencies account for almost 30% of all complaints received in the reporting period.

TABLE 6: TOP 10 RESPONDENTS 2001/02

Agency	Number of Complaints
NZ Police	57
ACC	52
Baycorp/Baycorp Advantage	41
CYFS	34
Ministry of Social Development	32
Department of Corrections	29
IRD	23
NZIS	17
Department for Courts	13
Telecom	12

As Table 6 shows, the agency which has attracted the third largest number of complaints is Baycorp Advantage. The number of complaints against Baycorp Advantage is significantly higher than in any previous year. Many of the complaints are concerned with unauthorised disclosure of credit information by Baycorp Advantage. I have expressed my concerns to Baycorp Advantage that some of its clients, including news media, which are not subject to the Privacy Act, use its data as a means to establish the contact details of a person in whom they have an interest. When that person subsequently obtains a credit report, they are surprised to discover that an agency with which they have had no dealings has made an enquiry about them and this is cited on the credit report. I have been assured by Baycorp Advantage that its contractual agreement with its clients requires the client to obtain an individual's authorisation before collecting information about them from their credit report. However, this is clearly not happening in every case. The increased use of credit data for purposes other than providing credit demonstrates the need for clarity in this area. To this end my staff are working with Baycorp Advantage and other credit industry agencies to develop a code of practice which will address the issues.

HUMAN RIGHTS REVIEW TRIBUNAL

I may refer complaints which cannot be settled and which have substance to the Director of Human Rights Proceedings with a view to instituting proceedings before the Human Rights Review Tribunal. If I decide not to do this, I advise complainants of their right to take proceedings themselves. During the year, 22 complainants have done so, and I have referred none. There were eight complaints before the Tribunal which had been held over from the previous year, bringing the total to 30.

Table 7 shows that only one matter was struck out, in comparison with 13 matters which were struck out the previous year. Several matters are pending or awaiting a decision. This is a result of the interregnum between the retirement of the former chairperson and the new chairperson taking up his appointment.

Table 7 also shows the Tribunal dismissed the proceedings in five cases. Of those cases, I had earlier decided to take no further action on two under section 71 of the Privacy Act. In another two, I formed the final opinion that there was no substance, and in one case formed the final opinion that there was partial substance.

TABLE 7: TRIBUNAL OUTCOMES 2001/02	NUMBER
Carried over from 2000/01	8
Initiated by complainant in 2001/02	22
Total	30

Pending	10
Struck Out	1
Closed/Withdrawn	7
Adjourned	1
Settled	3
Decision awaited	3
Proceedings dismissed	5
Breach held	0
Interference found	0
Total	30

As the following table shows, three cases were taken on appeal to the High Court by the plaintiffs in the Tribunal. In each case, the matter had been dismissed by the Tribunal. At the end of the year, one case was still pending, one had been dismissed by the Court (on different grounds than in the Tribunal) and one had been settled.

TABLE 8: APPEALS TO THE HIGH COURT	2001/02
Dismissed (on other grounds)	1
Settled	1
Pending	1
Total	3

EDUCATION AND PUBLICITY

SEMINARS, CONFERENCES AND WORKSHOPS

I consider workshop and seminar presentation to be an important adjunct to their complaints-handling role as it enables them to hear first-hand what issues are facing privacy officers in organisations. My staff also have a breadth of knowledge acquired from dealing with complaints that they can share with workshop participants.

Seventy-eight seminars and workshops were presented during the year by qualified and experienced staff from my Office. This is a considerable increase over previous years and reflects the skills of my investigating officers, complaints management officers and enquiries officers who are involved in the presentation of workshops. I consider workshop and seminar presentation to be an important adjunct to their complaints-handling role as it enables them to hear first-hand what issues are facing privacy officers in organisations. My staff also have a breadth of knowledge acquired from dealing with complaints that they can share with workshop participants.

Two kinds of workshops are offered. Standard workshops are offered on a regular basis during the year. These include half-day introductions to both the Privacy Act and Health Information Privacy Code and a full day workshop aimed specifically at the mental health sector. Twenty-eight of these workshops were offered this year, 13 in Auckland, 13 in Wellington and two in Christchurch. I have also offered the standard workshop to agencies that have a number of staff wishing to attend.

In addition, I offer tailored workshops, designed as introductions to the Privacy Act or Health Information Privacy Code, but specifically adapted to the organisation involved. Agencies such as hospitals find this type of workshop useful as it enables them to train a number of staff at a time and also ensures that the training is relevant to the work carried out by the agency. In addition to the health sector, this year I have provided tailored workshops to agencies such as insurance companies, local authorities and retailers. During the course of the year, my staff offered 50 workshops designed specifically for the agency concerned.

The workshops have been very successful in terms of participant satisfaction. My staff consistently receive very good or excellent evaluations and the workshops consistently meet participants' expectations. Of those attending, 80% said that the workshop had met their expectations and over 19% of participants said their expectations had been exceeded.

Training carried out in the workplace enables my staff to meet with frontline staff who are required to deal with Privacy Act requests or to make decisions on disclosures. This has increased our rapport with outside agencies and has increased understanding on both sides. Likewise, the success of our workshops is partly explained by the participation of staff whose practical experience informs the educative process. There are distinct advantages in having the same body provide both compliance advice and investigative services.

My Office ran a one-day Privacy Forum in Wellington in November 2001. It was well attended with a cross-section of individuals, public and private sector agencies present. The Forum had a particular focus upon mental health issues. Other speakers contributed to panel discussions of draft credit and telecommunications privacy codes; developments in e-government; and an update on recent Complaints Review Tribunal privacy decisions. Audio recordings of all sessions are available from the Office.

INTERNATIONAL SYMPOSIUM ON FREEDOM OF INFORMATION AND PRIVACY

At the end of March I convened a symposium on freedom of information and privacy to take advantage of other international privacy events being held in Auckland that week. The Symposium enabled New Zealanders to hear from a range of international speakers and allowed international guests to hear more of New Zealand's Official Information Act 1982 and Privacy Act 1993, both of which are well regarded internationally.

Several countries have recently given freedom of information review responsibilities to their existing privacy or data protection commissioners (including the UK and the German states of Berlin and Brandenburg). In a number of other jurisdictions a single commissioner, or commission, performs both the privacy and access review functions (for instance Hungary, Thailand and the Canadian provinces). On the other hand, there are many jurisdictions that keep the relevant laws and institutions separate as we do in New Zealand (for example Canada at federal level, most European countries, Hong Kong and Australia). We were fortunate at this gathering to have speakers and participants with experience with each of the various arrangements.

The Symposium canvassed:

- the origins, background and scope of freedom of information, personal access and data protection law;
- the interrelationship between freedom of information and privacy laws;
- proactive dissemination of publicly held information;
- dispute resolution;
- special access regimes;
- perspectives from users;

and concluded with a roundtable question and answer session and a discussion of future developments.

The response to the Symposium exceeded expectations. More than 160 people attended with participation from 16 countries. Some 23 speakers and panellists contributed to a most successful event. Audio recordings of all sessions have been made available and a compilation of all papers has been published. The papers on the Office website have attracted considerable interest (www.privacy.org.nz).

PRINTED RESOURCES

The Ministry of Health will assist district health board units to develop information policies to encourage appropriate sharing of health information.

During the year I released 19 case notes on complaints I had investigated. The objective of the case notes is to report some of the opinions I have reached on complaints, or to illustrate the types of complaints I receive and the approach I took on them. Some record a conclusion I reached for the first time on an interpretation of the Act. In other cases, the application of the law might have been quite straightforward but the principles were being applied to a new set of facts, or in a setting that demonstrated a facet of the application of the Act that may not otherwise have been understood. Other case notes have been issued to provide a representative illustration of the opinions I have reached. My case notes are widely distributed to law journals, media, privacy officers and others interested in privacy issues. Summary versions of the case notes are often published in *Private Word* and are available free of charge from my Office and on my website.

In March 2002 I published a compilation of all case notes that have been released by my Office between July 1993 – December 2001. The compilation includes an updated index.

PRIVACY ISSUES IN THE MEDIA

Mental health-related issues attracted particular media attention throughout the year. Several tragic incidents in the last few years in New Zealand have highlighted the difficulties that face health professionals, families and the wider community in balancing the needs and rights of the individual with those living around them. Coroners' reports into the deaths have questioned the way the legislative framework has been applied by health agencies and practitioners delivering mental health services. There have been assertions that had clinical details been disclosed more widely, the deaths may have been prevented.

These incidents provided some of the impetus for the Minister of Health to request a review by the Mental Health Commission of the application of the Privacy Act and the Health Information Privacy Code by mental health units of district health boards. The review's findings were released to the media in February 2002. The report noted that the Privacy Act is being wrongly used to prevent sharing information that could or should be shared, when in fact the refusal is being made for clinical or other reasons. I was pleased that the Minister of Health accepted the recommendations which will result in the Ministry of Health assisting district health board units to develop information policies to encourage appropriate sharing of health information.

Internet privacy issues continue to attract a good deal of media attention. As the Internet expands and develops, there is a growing awareness of the multifarious ways in which personal information on the web is collected, stored, used and disclosed. Email practices have also generated a number of media calls to my Office. Typically, the media interest has centred on the monitoring and use of email in an employment context.

Once again, the use of security and surveillance cameras struck a chord with media. There were enquiries about the practice of installing surveillance cameras in rest homes.

A number of media enquiries were received relating to the proposed Telecommunications Information Privacy Code which I made available for public consultation. There was particular interest in the length of time that telecommunications traffic data might be retained. The proposed code is discussed elsewhere in this report.

My office logged 136 media enquiries during the year.

NEWSLETTER

Private Word, the newsletter, is an effective forum to discuss privacy issues and publicise the activities of the Office. It continues to prove a popular way for agencies and individuals to keep up-to-date with privacy concerns and developments. During the year, the newsletter mailing list was culled in an effort to reduce the increasing distribution costs and to ensure the newsletter was reaching interested readers. The print run of 5,500 has reduced to approximately 3,500 copies. Four issues were released during the reporting period including two double issues.

Current and past issues of *Private Word* are available on my website. I am happy for *Private Word* to be copied and for the written content to be republished in other magazines providing the source is acknowledged. I have recently begun releasing *Private Word* on my website first, enabling faster access for readers.

My Data Matching Compliance Officer continues to circulate the Information Matching Bulletin to assist those agencies involved in the process of data matching and to inform other interested parties.

WEBSITE

The website maintained by my Office is updated regularly and is a valuable source of information about the application of the legislation and the operation of my Office. It includes fact sheets, case notes, reports on proposed legislation, speeches and our newsletter *Private Word*.

My enquiries staff, along with the investigating officers and complaints management officers, are also involved with the education function of the office, particularly in contributing to the popular workshop series.

ENQUIRIES

My staff also provide advice to agencies who are unsure of their compliance responsibilities. An agency may seek advice or direction on how it should respond to a complaint, or may clarify what constitutes best practice to avoid complaints being made against it.

For most of the year my Office was served by two full-time enquiries officers but in the latter part of the year, this work was managed by a single enquiries officer. As Table 8 shows, my enquiries officers handled a total of 6772 enquiries, most of which were by telephone. This is an average of about 25 calls per working day to the 0800 freephone telephone number. Many of these calls require some kind of follow up by my enquiries staff, who send out information packs, case notes and other relevant information to callers. There are a lesser number of enquiries in writing, with an increasing trend to email.

The enquiries staff perform a very valuable role in providing information to the public about the rights and responsibilities conferred by the Privacy Act. Although the majority of callers are individuals aggrieved about a possible breach of the Act, my staff also provide advice to agencies who are unsure of their compliance responsibilities. An agency may seek advice or direction on how it should respond to a complaint, or may clarify what constitutes best practice to avoid complaints being made against it.

ENQUIRIES RECEIVED

TABLE 9: ENQUIRIES 1997-2002

	1997/98	1998/99	1999/00	2000/01	2001/02
Telephone	10,606	6,356	5,232	6,104	6,417
Written	535	615	571	428	321
Visitor	*	*	*	31	34
Total	11,141	6,971	5,803	6,563	6,772
Av. per month	928	580	484	547	564

*figures not available

Table 9 demonstrates that the number of enquiries received continues to increase, following a low in the 1999/00 year. Calls to the 0800 number which cannot be taken live are diverted to a voice mail system and callers are invited to leave a message and their contact details. This enables my enquiries staff to spend as much time as necessary for each enquiry and also gives them time to deal with the correspondence generated. Generally calls are responded to on the same day. There were fewer written enquiries this year than last year, and many of these were by email (198 of the 321 written enquiries). The enquiries phone message refers callers to our website and, in some cases, this may provide them with sufficient information so that they do not require further assistance from the Office.

ENQUIRY TOPICS

As I reported last year, a recurring topic dealt with by my enquiries staff is credit reporting and the use of credit information, particularly when a debt is disputed. There was a case where a young man, recently returned to New Zealand, wanted to buy his first home. He decided to shop around for the best mortgage rate as he knew very little about the mortgage market. He made a list of seven agencies to call in order to compare what was on offer. He explained to each one that he was only enquiring about available options and the rates of interest he would have to pay. By coincidence, the seventh agency had the deal that best suited his financial situation, so he prepared to apply for a mortgage. At this point, the agency told him that it was sorry, but it would not lend to him because of his credit rating.

The man was surprised at this and asked for an explanation. He was told that the agency had carried out a credit check on him (of which he was unaware) and that because of the number of 'hits' on his record at Baycorp Advantage, it was not prepared to take a risk with him. It transpired that each of the other agencies he had visited had also completed a credit check on him, when in fact he had only been making enquiries about the available rates. None had told him that they were doing a credit check. Each credit check was registered as a 'hit' by Baycorp Advantage. My enquiries officer told the man that he could make a complaint to my Office.

Each of the agencies he visited had completed a credit check on him, when he had only been making enquiries about the available rates. None had told him that they were doing a credit check.

Another enquiry along the same lines came from a woman who had called 10 different agencies about their mortgage rates and only one had asked her if she minded if it checked her credit report.

There is always a steady number of requests from tertiary students for information to assist them with assignments. While my staff will not do their work for them, we can usually direct them to the website or elsewhere to assist their research. In addition, my staff give information and advice to privacy officers of various agencies to help them ensure that their agency complies with the Act.

Other types of enquiries include homeowners seeking advice about what they perceive as a breach of their physical privacy when, for example, a neighbouring property is modified in such a way that they can be observed by the neighbours. Surprisingly, my staff still receive calls from parents aggrieved because they have been told that their child's school is prevented from checking children for head lice 'because of the Privacy Act'. In another case, a woman asked a real estate agent for the address of a house that was offered for sale but was told that she could not be given the address 'because of the Privacy Act.' My staff informed her that she could go to the privacy officer of the organisation and make a complaint.

FUNCTIONS UNDER OTHER ENACTMENTS

A number of functions, powers and duties are conferred upon me by enactments other than the Privacy Act. The functions tend to be of five types:

- scrutiny or approval of information sharing arrangements;
- consultation on rule making or standard setting;
- a complaints investigation role;
- consultation on privacy complaints handled by other agencies;
- my appointment to other bodies.

Parliament may find it convenient to confer functions on the Privacy Commissioner in another law for several reasons. For example, a proposal in that law might raise public concerns. Conferring a special 'watchdog' role upon the Commissioner may allay public concern and allow the proposal to proceed. Typically, this might involve requiring a public agency to consult with the Privacy Commissioner when implementing a new statutory scheme. Placing a complaints function with the Privacy Commissioner will be more cost effective than creating a special new procedure or complaints body, especially when disputes are expected to arise only rarely. A complaints role might be conferred upon the Commissioner if there is concern that new powers might be used in an unexpected or unreasonable way.

SCRUTINY OF INFORMATION SHARING AGREEMENTS

Section 35 of the **Passports Act 1992** requires my approval to be obtained in relation to agreements to supply information from the passports database by the Department of Internal Affairs to the New Zealand Customs Service. The purpose of the disclosure of information is to facilitate border security and the processing of passengers at international airports and seaports *in New Zealand*. As reported in last year's annual report, I gave my approval to such an agreement in July 2001.

Section 36 of the Passports Act requires my approval in relation to an agreement between the Department of Internal Affairs and the Department of Immigration, Multicultural and Indigenous Affairs in Australia for the supply of information from the New Zealand passports database. Such a disclosure would be for the purpose of facilitating border security and the processing of holders of New Zealand passports at international airports and seaports *in Australia*. Disclosure of such information has been taking place since 1992 without the required authority of an approved agreement. Despite regular enquiries from my Office, little progress has been made during the year towards preparing an agreement for approval. This is a matter of significant concern to me.

The **Customs and Excise Act 1996** requires the Chief Executive to consult with me regarding any agreement entered into with an overseas agency to disclose personal information for the purposes of law enforcement, border security, international passenger processing, the protection of public revenue or the enforcement of pecuniary penalties. These agreements can only be entered into by the Chief Executive personally and only

a limited range of information can be disclosed overseas. Each of these agreements must be reviewed annually and the results of the review must be reported to me. Since the Act came into force in 1996, agreements have been entered into with Chile and Canada but no annual reviews have been reported to me.

As a result of the Transnational Organised Crime Bill, the **Immigration Act 1987** was amended to permit the disclosure of certain personal information to overseas agencies. Disclosure is permitted for the purposes of law enforcement, border security and the processing of international passengers. The Chief Executive of the Department of Labour must consult with me before entering into any formal agreements although one-off disclosures do not require consultation provided the limitations and controls in the legislation are observed. No such agreements have yet been entered into.

CONSULTATIONS ON RULE MAKING

There are several provisions which require the Privacy Commissioner to be consulted when another statutory body is making rules, or setting standards, which will affect the privacy of individuals. Such rules or standards may allow for the disclosure of personal information, to the detriment of individual privacy, or establish privacy protections in relation to certain activities. Consultation with the Privacy Commissioner seeks to ensure that such rules and standards properly take into account the effect on privacy. In many cases, the resultant rules have the force of delegated legislation and may prevail over the information privacy principles. This consultation takes the place of the Cabinet Office procedures designed to identify privacy problems and ensure compliance with the privacy principles in relation to primary legislation.

Examples of such consultation provisions include:

- **Broadcasting Act 1989** – the Broadcasting Standards Authority is to consult in relation to the development and issue of codes of broadcasting standard practice in relation to the privacy of the individual;
- **Financial Reporting Act 1993** – the Accounting Standards Review Board is to consult, or to ensure that the Institute of Chartered Accountants of New Zealand has consulted, in relation to the approval of any financial reporting standard which is likely to require the disclosure of personal information;
- **Financial Transactions Reporting Act 1996** – the Commissioner of Police is to consult before issuing any suspicious transaction guidelines in relation to moneylaundering;
- **Health and Disability Commissioner Act 1994** – the Health and Disability Commissioner is to consult in relation to the preparation and review of a code of health and disability consumers' rights;
- **Social Security Act 1964** – the Chief Executive of the Ministry of Social Development is required to consult in relation to the issue, amendment or revocation of a code of conduct applying to obtaining information under certain statutory powers.

Although there were a number of dealings during the year with most of the bodies mentioned, there were no active consultations except in relation to the social security code of conduct.

A right to complain about the effect on privacy from the exercise of another statutory function can lead to additional care being taken by officials in the exercise of their statutory powers

The Director-General of Social Welfare issued a code of conduct under section 11B of the Social Security Act 1964 in December 1997. The code governs the way in which the Ministry of Social Development (through Work and Income) can demand the supply of information or documents about beneficiaries and others under section 11 of that Act. I have the statutory function of receiving and investigating complaints made about breaches of the code of conduct.

The need for the code of conduct was identified by a parliamentary inquiry into the privilege provisions of section 11 of the Social Security Act in 1994. This arose from public concern about the obtaining of sensitive information about beneficiaries from educational and medical institutions. Although the statute required the code to be developed in consultation with the Privacy Commissioner, it was prepared by the Department in some haste and there was little or no time for meaningful input from my Office or any other interested quarter. Accordingly, the Department agreed to my suggestion that the code include a provision requiring it to be reviewed in 12 months.

A public review was duly conducted by WINZ and submissions closed in February 1999. Slow progress was made over the following two years as officials and staff from my Office identified deficiencies in the code and discussed possible changes.

At the request of the Ministry, my staff prepared a plain language draft of a replacement code incorporating all of the agreed changes. Preparing such a draft was a major undertaking for my Office and was intended to quickly bring the review process to a positive conclusion. The draft was submitted for consideration by Ministry officials in November 2001 and I am disappointed that no further progress has been made. It is now more than three years since the review was undertaken. The original code, which has been acknowledged to contain some serious deficiencies, remains in place. I have taken the matter up with the Chief Executive of the Ministry of Social Development and trust that it may be possible to progress the matter in the near future.

COMPLAINTS INVESTIGATION AND RESOLUTION

Although comparatively few complaints were received under my alternative complaints jurisdictions, each fulfils an important check on the exercise of particular statutory powers. The mere existence of a right to complain about the effect on privacy from the exercise of another statutory function can lead to additional care being taken by officials in the exercise of their statutory powers - including developing processes and safeguards to ensure that complaints do not arise.

I am empowered to receive complaints under section 22F of the **Health Act 1956** about a failure or refusal to act upon a request to transfer health records between health agencies or to an individual's representative. This function has been discussed in more detail in earlier annual reports. Nine complaints alleging refusal to provide health records under section 22F were received this year. Of those, two were requests by parents for access to information relating to their children's medical files, four were requests by individuals seeking health information about a deceased parent or partner, one was a request for information about another relative and two were requests for the transfer of patient files made under section 22F of the Health Act.

The **Domestic Violence Act 1995** gives me jurisdiction to investigate complaints against refusals by registrars to suppress residential details on certain public registers following an application from someone who has had a protection order and fears for his or her personal safety if those details were to be released. No complaints under the Domestic Violence Act were received this year.

I received no complaints under section 11B of the **Social Security Act 1964**. This section provides that a person may complain to the Privacy Commissioner about a breach of a code of conduct issued under that section by the Chief Executive of the Ministry of Social Development. The Privacy Act applies to such complaints as if the code of conduct were a code of practice under the Privacy Act. The code of conduct governs demands under section 11 by officers of the Department requiring the supply of information or documents about beneficiaries and others.

CONSULTATIONS ON COMPLAINTS HANDLED BY OTHER AGENCIES

Several statutes provide for consultation with the Privacy Commissioner on particular complaints. It may be necessary to consult to determine whether a complaint more properly falls within one statutory jurisdiction rather than another, or in order to enable joint investigations to be carried out. The statutory consultation provisions also allow for the sharing of the information which might otherwise be required by statute to be kept secret. Sometimes other officials must take decisions within their jurisdiction on complaints which have a bearing upon the privacy of individuals. For example, in complaints under the official information statutes, an opinion rendered by the Ombudsman may effectively require disclosure of personal information about an individual to a requester. The consultation process in such cases ensures that not only a privacy perspective is clearly articulated, but also that the approach taken in different statutory complaints processes is compatible in approach as far as possible.

Complaints consultation provisions are found in the:

- **Health and Disability Commissioner Act 1994**;
- **Inspector General of Intelligence and Security Act 1996**;
- **Local Government Official Information and Meetings Act 1987** and the **Official Information Act 1982** (each involving complaints handled by the Ombudsmen).

The privacy interests in exact salary details are fairly high. In balancing that against the public interest, I accept that the accountability of senior management brings with it a greater public interest than exists in relation to less senior staff.

Undoubtedly, the majority of complaints-related consultations with the Ombudsmen arise under the access to information statutes. The Official Information Act 1982 and the Local Government Official Information and Meetings Act 1987 require the Ombudsmen to consult the Privacy Commissioner before forming a final view of official information access requests where privacy is a possible ground for withholding information. During the year, there were 54 consultations completed under the two Acts.

TABLE 10: CONSULTATIONS WITH THE OMBUDSMEN 1997-2002

Year	Number of consultations
1997/98	77
1998/99	66
1999/00	52
2000/01	50
2001/02	54

I have seen my role to endeavour to 'add value' to the work of the Ombudsmen in reviewing the withholding of information under the freedom of information legislation. In some cases I agree with the Ombudsman's preliminary assessment. In many cases, my comments and suggestions have been adopted in whole or part by the Ombudsman in his final opinion. My role is a consultative one and I do not see it as narrowly advocating a privacy viewpoint. In some cases I recommend making some further information available than the Ombudsman's initial assessment proposes.

A number of requests were received for salary-related information. Approximately half of the requests came from media. Although the majority of requests relate to senior management positions within the public sector – in one case seeking performance pay details of all chief executives – requests were also made for the salaries of other staff. Generally, I take the view that the privacy interests in exact salary details are fairly high. In balancing that against the public interest, I accept that the accountability of senior management brings with it a greater public interest than exists in relation to less senior staff. In most cases the public interest in the information can be met by the release of banded rather than exact salary figures.

In a similar vein, there have been requests for copies of individual employment contracts. In some instances, it may be that the requester has made the request for a copy of the entire document, when in fact he or she is not seeking particular details, or is interested in only one clause. The privacy interest arising from detailed information tends to be greater than that in generalised or summary information. Releasing the general contractual obligations or terms of employment can be a way of balancing competing interests.

The Official Information Act is regularly used by individuals seeking employment-related information, such as the curriculum vitae of other job applicants, the notes of an interview panel, or the report of a selection process. The requester is often hoping to compare themselves with other candidates or to gain an understanding of why they were not selected for a position. The Act is sometimes used as a means of gathering information for personal grievances proceedings or other employment disputes.

I advised on requests during the year from individuals who were seeking information about birth parents or siblings. In many of these cases, the individual has searched a variety of sources for information about birth relatives and family health information such as inherited diseases. In some instances, the Official Information Act is a last resort. In the several cases I considered this year the birth relative had already died. Although there can still be privacy interests involved in these requests, the passing of time and significant public interest in the requester receiving some information about birth relatives tends to favour release.

APPOINTMENT TO OTHER BODIES

From April 1993 until 31 December 2001, I was, by virtue of my appointment as Privacy Commissioner, also a Human Rights Commissioner. From 1 January 2002 the membership of that Commission was reconstituted by a statutory amendment to the **Human Rights Act 1993**. I attended 5 of the 6 formal meetings of the Commission during 2001. It is planned that my Office and the Human Rights Commission will continue to liaise over matters of mutual interest.

Currently, no other laws appoint me to other bodies.

INTERNATIONAL DIMENSION

Information privacy law focuses on the way organisations handle personal information both within and beyond national boundaries. If privacy is to be effectively protected it is necessary to lift the vision beyond the nation state.

New Zealanders are great travellers and their information travels along – often arriving before them and remaining as a guest in foreign parts.

Few New Zealanders can transact their daily activities without sharing their personal details with foreign organisations operating in New Zealand, whether they be Australian or Hong Kong-owned banks, international airlines or merely one's multi-national employer. The handling of personal details by many organisations is heavily influenced by the practices of their foreign owners or partners. The details themselves may be transmitted to a database in another country. None of this is sinister; globalisation is merely a fact of modern life.

As well as foreign organisations operating in New Zealand there are, of course, New Zealand companies operating overseas. These organisations share information with branches and affiliates overseas. Similarly, New Zealanders are great travellers and their information travels along – often arriving before them and remaining as a guest in foreign parts.

Even if individuals stay at home, their information may leave New Zealand. The Internet is an obvious example, with a message from one town in New Zealand to another quite likely to detour through the United States before arriving. One remarkable transformation in social life in the last decade has been the ease with which people can now communicate information about themselves to others in far flung places. This expanded transfer of personal information at a personal and social level is replicated many times over in terms of consumer-to-business and business-to-business dealings and, increasingly, citizen-to-government and government-to-government dealings.

Added to the globalisation of organisations and their practices and the explosion of transborder data flows, are huge advances in information technology. New Zealand is not insulated from this and would not wish to be. New technologies from foreign countries, and their various applications, quickly reach New Zealand and often have profound implications for privacy. For example, CCTV surveillance schemes have proliferated throughout urban areas in the United Kingdom. Scaled down, but expanding, versions are now found in many New Zealand cities. Will newer technologies like face recognition be added to such schemes? If they are adopted overseas the answer is most likely yes. If New Zealand is to avoid others' mistakes, and to reap the benefits of new technology with least cost to individual privacy, dignity and other human values, it is necessary to keep track of what is happening overseas.

Through international networks, privacy commissioners seek to better understand the coming issues and learn from regulatory strategies and safeguards developed through experience elsewhere. A few examples of the sort of technologies and applications under discussion might include biometric authentication, DNA testing, person-location through cellular telephone technology and GPS, web-bots, electronic medical records, and e-numbering. Many other examples could be mentioned in this rapidly developing environment.

At its most basic, keeping abreast of developments involves receiving a range of specialist journals, official and NGO reports, and considering the implications. Material is catalogued for my specialist library which provides the premier collection of privacy reference materials in New Zealand. A range of such material is shared with some of those who may be interested. Sometimes this involves sending a specialist report to officials and others working in an area who may not otherwise have seen it. In other cases, a précis of key issues may be included in *Private Word* for dissemination more generally to the public and news media. The material may also inform general work that my Office undertakes in investigations, policy development, legislative scrutiny, public education and the development of codes of practice.

In addition, I am involved in formal cooperation with other privacy and data protection commissioners. This is a fruitful way to understand and address some of the issues arising from globalisation, transborder flows of personal information and new technologies and their applications. This year has been a notable one for my Office in terms of international cooperation, with commissioners from around the world travelling to Auckland for a series of meetings.

INTERNATIONAL CO-OPERATION

At the international level, privacy and data protection commissioners meet and exchange information once a year in an international conference. In recent years this has been combined with a major conference open to the public.

At the 22nd International Conference of Data Protection and Privacy Commissioners in 2000, I was elected to a working group together with the commissioners from France and the United Kingdom. The 23rd conference in Paris adopted a resolution proposed by the working group to establish accreditation principles based upon privacy and data protection authorities' legal status, autonomy and independence, powers, and compatibility with international instruments. I was elected with my colleagues from France and the UK to comprise the first credentials committee. During the year the committee, and an associated subgroup of senior staff, developed a methodology for soliciting, receiving and processing accreditation applications from a potential group of 60 to 70 authorities. Some 52 applications were received and at the end of the year the committee was well advanced in considering all of them with a view to making recommendations to the 24th conference.

The adoption of the accreditation principles, and the work of the credentials committee, are small but important steps in the setting and implementation of international standards in terms of the protection of privacy. The institution of a privacy or data protection commissioner has been found to be a suitable body for dealing with privacy issues in more than 35 countries.

The International Working Group on Data Protection in Telecommunications (IWGDPT) is an association of commissioners interested in the privacy issues arising in telecommunications and the Internet. The IWGDPT meets twice a year alternating between Berlin, where its secretariat is based, and other cities. I was honoured that the working group accepted my invitation to hold its 31st meeting in New Zealand in March.

In addition to commissioners and staff from Europe and elsewhere the meeting attracted a number of invited academics, researchers, officials and experts from throughout the Asia Pacific region. The meeting received reports from each jurisdiction on relevant national developments and discussed a variety of subjects including telecommunications surveillance after 11 September, the Budapest Convention on Cybercrime, privacy implications of proposals to combine telephone numbers and email addresses, taxation of on-line activities, copyright management, e-government, public key infrastructure and electronic intelligence gathering.

As a contribution to international understanding of privacy and data protection and to promote best practice, the IWGDPT issues brief documents known as 'common positions' or 'working papers'. At the Auckland meeting working papers were adopted on:

- telecommunications surveillance;
- childrens' privacy on-line: the role of parental consent;
- use of unique identifiers in telecommunications terminal equipment;
- web-based telemedicine.

In recent meetings positions have been adopted on a variety of matters such as on-line voting in elections, location information in mobile communication services, databases of images of buildings, search engines and reverse directories. A reprint of the common positions is available from my Office.

REGIONAL CO-OPERATION

In conjunction with the IWGDPT meeting, I organised the 3rd Asia Pacific Forum on Privacy and Data Protection (ASPAC Forum). The Forum drew representation from:

- Australia
- Canada
- Hong Kong
- Japan
- Korea
- Malaysia
- New Zealand
- Singapore
- Thailand

with further observers from Australia, France and Germany.

In addition to reports from each jurisdiction the programme touched upon:

- new initiatives to engage the private sector in privacy compliance and education;
- privacy impact assessment;
- terrorism, national security and privacy;
- EU assessment of adequacy of data protection laws.

The Asia Pacific region is relatively dynamic at present. Both Australia and Canada are in the implementation phases of new legislation covering the private sector, with other notable developments at state/provincial level. Thailand, Malaysia and Singapore are well advanced on their own initiatives.

As a precursor to the ASPAC Forum, a half-day meeting was held of PANZA+ (Privacy Agencies of New Zealand and Australia plus Hong Kong). This meeting continued the close collaboration with trans-Tasman colleagues. In recent years this meeting has been strengthened by the participation of state privacy commissioners from New South Wales and Victoria.

MEETINGS IN AUCKLAND, MARCH 2002

The events just mentioned, and several others, came together in the most intensive series of international privacy meetings yet held in New Zealand. The events organised by my Office ran from Sunday morning until Thursday evening, although the Canadian Privacy Commissioner and I spoke on the preceding Friday to a government conference in Wellington on the integration of employment-related administrative data.

The complete programme of events over the week was:
- Working Group to the International Credentials Committee;
- 14th PANZA+ meeting;
- 3rd ASPAC Forum;
- Field trip to National DNA Databank (non-ASPAC participants);
- 31st IWGDPT meeting;
- International Symposium on Freedom of Information and Privacy.

Woven into this programme were opportunities for international delegates to learn something of New Zealand's history and culture and enjoy Auckland's harbour and gulf. The public also got to benefit from the presence of so many international experts through their presentations to the International Symposium (noted elsewhere in this report). The opportunity was also taken to facilitate a meeting between a senior visiting European Commission official and government officials in Wellington on the question of the adequacy of New Zealand's law in terms of the European Union Data Protection Directive.

CHINESE MINISTER OF JUSTICE

China's Minister of Justice, Mr Zhang Fusen, visited New Zealand in early September 2001. The Minister and his delegation visited the Auckland Office, enabling him to meet my staff and to be briefed on the role of this Office, its independence and the complaints resolution function.

LEGISLATION

Officials welcome the points raised in consultation and are keen to ensure that a balance is struck so that government objectives are secured without unnecessarily diminishing privacy.

The process followed when developing new law is of critical importance to the protection of privacy. The need to preserve the delicate balance between privacy and other competing interests has been recognised by Parliament, Government and the Privacy Commissioner. Parliament conferred on the Privacy Commissioner a variety of statutory functions under the Privacy Act to inquire into and report upon existing and new legislation. The Government, in its Cabinet processes, requires confirmation of compliance with the principles in the Privacy Act. Parliamentary select committees are acutely interested in the adverse effects of new laws on citizens.

Specific requirements in particular statutes prevail over provisions in the information privacy principles. However, it has been the policy of successive governments to ensure, wherever possible, that new legislation complies with the principles in the Privacy Act. The Government seeks to achieve this by requiring ministers who propose new legislation to draw attention to any aspects that have implications for, or may be affected by, the Privacy Act's principles. Cabinet Office procedures require an indication to be given that a bill or regulations complies with the principles and guidelines in the Privacy Act. If the legislation raises privacy issues ministers must indicate whether or not the Privacy Commissioner agrees that it complies with all relevant principles.

My policy staff, particularly the Assistant Commissioner and the Policy and Legal Adviser, spend much of their time being consulted by departments over proposed new legislation touching upon personal information. That can involve working with officials in the development of new legislation from an early stage right through to the Cabinet committee and parliamentary stages. In the vast majority of cases officials welcome the points raised in consultation and are keen to ensure that an appropriate balance is struck so that government objectives are secured without unnecessarily diminishing privacy. I do not hesitate to act in the independent manner that is required of my statutory appointment and take matters up both through departmental and ministerial channels and, where necessary, by speaking out publicly.

The following material touches upon a small sample of the much larger number of measures on which my Office has commented. Since it would not generally be appropriate for me to reveal government initiatives that have not yet been publicly announced, the list tends to be of older measures that have already been made public through introduction or completion of the parliamentary stages of a bill. The examples give a flavour of some of the issues that have arisen in the legislative process and examples of the solutions or compromises that sometimes emerge to strike a balance between privacy and competing interests.

ARCHIVES ACT

For some time Archives New Zealand has been reviewing aspects of archives law with a view to replacing existing legislation with a new public records bill. Archives New Zealand had undertaken public consultation with both private and public bodies. I contributed some views to the consultation processes, particularly on the interaction of the new law with the Privacy Act and the question of whether the existing exemptions from archives law for sensitive categories of records, such as individual tax files, should be continued. At the end of the year a bill had not been introduced into Parliament.

During the year my Office was represented on an Archives New Zealand working party developing a standard for provision of archival access to public records and archives. The resultant access standard was included in a presentation at the International Symposium on Freedom of Information and Privacy.

CITIZENSHIP LEGISLATION

Since at least January 1996 my Office has been involved in looking at some of the privacy issues associated with the citizenship legislation and associated re-engineering projects. The matter has taken some time as changes that the Department of Internal Affairs wished to make depended upon IT changes, policy decisions and amendments to primary and secondary legislation. A number of matters came together and were completed in the last year.

My Office focused mainly upon the registers maintained in association with citizenship processes. There are several registers, not all of which are maintained under explicit statutory authority. Some issues arose from the merging of the registers, changing from a paper to an electronic register, establishing a legislative framework applicable to all the registers and the associated question of access to the registers.

There is some sensitivity in the information on the registers. While proving one's citizenship is essential for some official purposes, in many circumstances it is unlawful to discriminate on the basis of citizenship or national origin. During the period in which my Office was studying the issues, a matter was drawn to our attention by a foreign national intending to seek New Zealand citizenship. That person feared for his safety and property if the fact of his application (or grant of citizenship) were to become known to his home government, which had a poor human rights record.

There were two principal legislative developments during the year. Amendments to the Citizenship Act 1977 provided for various new information matching programmes utilising the electronic databases (mentioned elsewhere). The other development was the making of the Citizenship Regulations 2002. These provide for registers of:

- citizenship by descent;
- persons granted citizenship;
- persons renouncing or deprived of citizenship.

My Office questioned the breadth of the powers and explored whether it was possible to refine the scope and processes.

The regulations allow for linkages between these registers so that, for example, a certificate of grant of citizenship will be annotated if there is a subsequent renunciation. The regulations allow the Secretary for Internal Affairs to restrict access to certain entries on the registers if satisfied, on application, that not to do so would risk the safety of the applicant or any other person. That restriction does not prevent the person from allowing a third party to see their particulars or access by a government department for the purposes of carrying out its statutory functions.

CIVIL DEFENCE EMERGENCY MANAGEMENT BILL

This bill was introduced in 2000 and will replace the Civil Defence Act 1983. My Office was consulted by the Ministry for Emergency Management prior to the bill's introduction in relation to new powers for officials to require the supply of information (with additional powers and offence provisions to deal with non-cooperation). While acknowledging the need for powers to achieve the prevention and mitigation of emergencies, my Office questioned the breadth of the powers and explored whether it was possible to refine the scope and processes. For example, the recipient of a demand for information could challenge it before the District Court. However, it was first proposed the information would have to be supplied notwithstanding that an appeal had been filed in court. During an actual emergency that may be perfectly appropriate. However, if there was no emergency declared it seemed feasible to allow the court hearing to take place before requiring the information to be supplied. I was, of course, concerned only with personal information and not, for example, information that might be demanded about particular hazards (such as, say, the location of LPG tanks). My staff pointed out that the powers would enable information which was subject to confidentiality (such as the records of lawyers or doctors) or held on behalf of third parties to be demanded.

The powers were recast so that an appeal could act as a stay except in urgent cases and that medical records, and those subject to legal professional privilege, were exempt from disclosure. I was satisfied by the way in which the resultant bill was drafted and did not raise any concerns with the select committee.

EDUCATION STANDARDS BILL

The Education Standards Bill proposed a number of amendments to the Education Act 1989, some of which had significant impacts on privacy. One notable change was the extension of the existing police 'vetting' of teachers to cover others working in schools and early childhood services. Concerns were expressed to officials about the lack of clarity about the nature of the vetting process and the privacy risks arising from the subsequent handling of the information. Enquiries to my Office following the enactment of the bill seem to confirm that there has been confusion about a number of the new requirements – for instance whether building contractors' labourers constructing new school facilities need to be vetted.

Concern was also expressed about the last minute decision to amend the statistical data gathering powers in the Education Act to permit the Secretary for Education to require schools to disclose identifying information about individual students for administrative purposes. A further late inclusion requiring reporting of principals' remuneration left little opportunity for consultation on the privacy issues. There seemed little justification for requiring the publication of principals' salaries, and the privacy intrusion may be keenly felt by the principals and their families, particularly in small communities.

ELECTORAL AMENDMENT ACT 2002

In my last annual report I expressed some concerns about the proposal to allow the secondary use of electoral information to provide an address-updating service to private bodies establishing iwi affiliation registers. I also noted that a lot of the policy work surrounding the proposal had not been completed before the legislation was passed.

During the last year, my Office has been consulted on several matters relating to the implementation of the new legislation. Particular attention has been given to the ministerial designation process for the bodies that will establish and maintain the registers of iwi affiliations. I have continued to urge the need for a clear definition of the 'Maori organisations' that will be able to receive the personal information that is to be drawn from the electoral rolls and for the use of a privacy impact assessment as part of the designation process.

ENTRY, SEARCH AND SEIZURE POWERS

Having officials enter and leave premises by stealth is the antithesis of open and accountable law enforcement. It is not to be lightly contemplated in a free country.

Entry upon private premises under statutory power can raise privacy issues both in relation to the collection of personal information and in terms of the intrusion into personal space. In submissions to a Law Commission review of statutory powers of entry, search and seizure I welcomed the opportunity to improve the position for personal rights by further strengthening minimum procedural safeguards.

As it happens, when our privacy legislation was introduced into Parliament as a bill in 1991 it contained a power for the Privacy Commissioner to enter upon land to conduct investigations. On my advice to the select committee, the power was dropped. I took the view that the power did not seem essential. Over the following years I have not found the absence of the coercive entry powers to have been a problem. However, I suspect that the position I took was atypical. It is perhaps more usual to ask for powers 'just in case'. Whatever the outcome of the current review, there will remain an important question to be asked in respect of each new law. Are the new powers of entry justified – that is, are they *essential* to achieve a statutory purpose rather than merely *useful?* This is an issue that my Office considers in scrutinising such powers in bills.

In my submissions to the Law Commission, I continued a theme that I have raised in previous reports which is that, where an intrusive investigatory power is exercised covertly, the affected individual should be advised at the earliest appropriate time. In this context this means that where a statutory power of entry upon land is exercised in the absence of the occupier, a notice should be left explaining that the search has been conducted. Having officials enter and leave premises by stealth is the antithesis of open and accountable law enforcement. It is not to be lightly contemplated in a free country.

In addition to various matters of detail, I submitted that:

- careful controls on search upon arrest are necessary and that strip searches should be delayed until a suspect is in the controlled environment of a police station and not undertaken on a public street as has reported to have happened on occasion;
- a special warrant should be developed to authorise and control the use of covert video-surveillance;
- the standards in the New Zealand Bill of Rights Act 1990 should not be weakened in relation to search and seizure.

HOUSING CORPORATION AMENDMENT BILL

This bill included two clauses providing for disclosure of information by the newly created Housing New Zealand Corporation. Both raised significant privacy issues although for some reason they were not identified by the department concerned as warranting consultation with my Office during the Cabinet committee processes. However, the select committee studying the bill requested my comments notwithstanding that the time for public submissions had closed. In my report to the Committee I commented on several aspects of the bill. The two main ones I note below.

Annual Reporting

The first provision of concern would have required certain information to be published in the annual report. Part of this was uncontroversial and concerned board members' fees and benefits. I supported such publication and the privacy and public interests involved in disclosure of board members' details can easily be distinguished from those pertaining to employees. However, the clause would also have required the annual report to state:

> Every amount paid to every person who is or has been a member, officer, employee, or agent of the Corporation in respect of:
> i. the termination of the person's appointment as a member, officer, employee, or agent of the Corporation; or
> ii. a personal grievance arising in the course of the person's employment or appointment as an officer, employee, or agent of the Corporation; or
> iii. the person's becoming redundant;
> iv. the person's keeping confidential the terms of the settlement of a personal grievance arising in the course of the person's employment or appointment as an officer, employee, or agent of the Corporation (whether relating to redundancy or supposed redundancy or not); or
> v. a dispute within the meaning of section 129 of the Employment Relations Act 2000; or
> vi. the person's entering into a restraint of trade agreement with the Corporation.

In respect of each amount, the report would have been required to include:

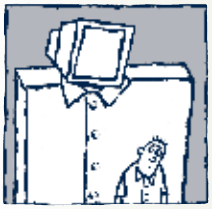
- a statement of whether the person to whom it was paid was a member, officer, employee, or agent of the Corporation; and
- a brief description of the matter in which it was paid.

I found these provisions to be seriously objectionable from a privacy perspective and without precedent. I was concerned that it should have been introduced without the privacy issues having been the subject of very careful study. I recommended that this part of the provision should be struck out.

Had the provision been enacted it would not only have been an affront to individual privacy but provided a field day for lawyers in the structuring of settlements to keep sensitive matters private. For instance, set-offs against other monies held or claims made would likely not be included. Similarly, a settlement might not involve the payment of money but might allow something of value like a motor vehicle to be retained.

In making my report to the committee I was informed by my experience in dealing with privacy issues in the employment area, including many formal consultations with Ombudsmen on reviews under the Official Information Act where privacy was given as a reason for withholding information. A significant number of those consultations have involved reviews of requests for details of public employees' remuneration, redundancy arrangements, personal grievance settlements and other similar matters.

Had the provision been enacted it would have been an affront to individual privacy and provided a field day for lawyers in the structuring of settlements to keep sensitive matters private.



The provision did not require the individuals concerned to be named. However, the details required to be reported meant that it would often be obvious to co-workers to whom those details related. It was also likely that employees and others deducing the identity of people to whom the published information related would gossip to others. The publication of a report itself might prompt media requests to obtain further details fleshing out the picture. Thus details of sensitive aspects of people's employment relations would become known to colleagues, or even the public generally, which could be quite humiliating.

I raised 14 specific observations and questions in relation to the provision that I believed needed to be answered if the provision was to be justified as a new imposition. The Social Services Committee agreed that the degree of detail concerned went beyond the level of reporting required. It took the view that the privacy concerns could be resolved by requiring the Corporation to report only the aggregate of various kinds of termination payments made during the year. It recommended a replacement provision requiring reporting on:

- the total value of any compensation payment or other benefits received during the relevant financial year by people who cease to be members or employees; and
- the number of people who received payment of that total.

I was satisfied that this would resolve some of the privacy issues while still allowing for the kind of publication desired by the government and select committee.

Disclosure to Minister

The other provision in the bill that I commented upon concerned a provision allowing for disclosure of information to the Minister by members of the Board. The provision was subject to no restrictions, limitations or guidance. I had particular concerns about the privacy implications for tenants of the Corporation. There might also be implications for staff. One might imagine circumstances where information could be disclosed for purely partisan political purposes. In other cases there might simply be excessive and unreasonable disclosure of staff information where more focused and limited disclosures would meet any necessary accountability purposes. I made several suggestions about how the clause could be redrafted to enable all necessary disclosures while providing constraints and processes whereby privacy would be properly protected.

The Social Services Committee agreed that the provision should be amended to restrict the type of personal information about individuals that may be disclosed to the Minister. The Committee recognised, naturally, that ministerial responsibility for the Corporation will in some cases require the Minister to receive personal information about an individual. The clause was amended so that personal information about an identifiable individual is able to be disclosed to the Minister only in response to a general or particular request from the Minister, or where disclosure is otherwise in the public interest.

INJURY PREVENTION, REHABILITATION AND COMPENSATION BILL

The further reform of the ACC legislation raised a number of issues about the handling of injury information. My Office was consulted by officials prior to the introduction of legislation to Parliament. Due to the speed with which matters progressed, consideration of the issues was not complete when the bill was introduced and consultation continued during the period that it was before a select committee.

Examples of issues worked through included:

- the consolidation and continuation of information matching provisions;
- new arrangements for the sharing of information about medical mishap and medical misadventure with the Health and Disability Commissioner and the Director-General of Health;
- legislative provisions underpinning a proposed injury data warehouse involving ACC and a variety of other statutory bodies;
- consultation requirements on the making of regulations touching upon personal information;
- inter-relationship between a proposed new code of claimants' rights and the information privacy principles.

The issues, principally of a technical nature, were largely addressed to my satisfaction.

LOCAL GOVERNMENT (RATING) BILL

Privacy concerns are often raised about personal information held on public registers such as the district valuation rolls and rates records. I receive regular complaints about the practice of Quotable Value New Zealand buying information from the public registers held by territorial local authorities and selling it to other organisations such as direct marketers. The Rating Valuations Act 1998 authorises the making of regulations to prohibit the bulk provision of district valuation roll information for non-valuation purposes but these regulations have never been made.

I was pleased therefore when the Department of Internal Affairs contacted my Office in May 2001 during preparation of the Local Government (Rating) Bill. The resulting discussions identified a certain tension:

- between land-information and people-information – the extent to which it is sensible or possible to divorce information about particular parcels of land from the people associated with that land;
- between the desirability of open public records and the desirability of controlling the disclosure of information consistently with purpose – at its simplest, is it necessary to publish personal information to the public at large merely because some segments of the public will need access to the information?

The Department worked carefully through the issues and I was reasonably satisfied with the way the privacy concerns were addressed in the bill introduced to Parliament. The district valuation rolls and the rating information databases would continue to be public registers, although the copies made available for public inspection would no longer include the name of any person (unless it was necessary to identify the rating unit) or any address other than the street address of the rating unit. Rates records maintained by local authorities would no longer be public registers under the bill because public access would be limited to the ratepayer or any person authorised by the ratepayer.

After the careful work done by the Department in balancing the competing interests it was disappointing to find that the balance was somewhat undermined by changes made to the bill by the Committee of the whole House. The legislation as enacted permits any member of the public to inspect the rates record with respect to rates assessed (but no other information) even though the rates records are no longer public registers.

NEW ZEALAND PUBLIC HEALTH AND DISABILITY (ARCHIVES) REGULATIONS

These regulations clarify which information held by District Health Boards must be dealt with as public records or public archives under the Archives Act 1957. The regulations defined certain information as 'health information' in a way that is fairly similar to the Health Information Privacy Code 1994 (which was itself derived from a definition in the Health Act 1956). Health information in the regulations means:

- information about the health of an individual, including that individual's medical history;
- information about any disabilities that individual has, or has had;
- information about any services that are being provided or have been provided, to that individual;
- information provided by that individual in connection with the donation, by that individual, of any body part or any bodily substance.

Essentially, personal health information must not be regarded as public records or public archives under the Archives Act 1957. The information must continue to be dealt with in the manner prescribed in the Health (Retention of Health Information) Regulations 1996 (which generally requires health information to be retained by health agencies for at least 10 years from the last treatment episode).

I was consulted in relation to these regulations. Other than a small suggestion for clarification, I was satisfied that they appropriately dealt with the matter.

TERRORISM (BOMBINGS AND FINANCING) BILL

The Terrorism (Bombings and Financing) Bill was introduced into Parliament in April 2001, to implement two international conventions. Following the 11 September terrorist acts in the USA the select committee studying the bill proposed a number of amendments to give effect to UN Security Council Resolution 1373. I made submissions to the select committee on a number of the proposed changes and expressed concerns at denying accused persons access to certain classified security information which might be necessary for their defence. The clause in question was modelled upon a provision inserted into the Immigration Act 1987. I had submitted a report in 1998 expressing concern about aspects of that earlier amendment which would allow significant decisions to be taken against an individual based on information which was to be withheld from him or her.

I did not oppose the bill or the committee's proposed changes in principle, but was mainly concerned that the breadth of the language might have inadvertently captured more than was intended. For example, the UN Security Council resolution had required states to take certain steps in relation to 'financial or other related services'. This had been changed in the bill to 'any' financial or business or professional services. I questioned, for instance, whether the right to legal representation and advice might be adversely affected by the change in terminology.

The bill had not been enacted by the end of the year. However, the Government's appropriate resolve to take urgent action was satisfied by the making of the United Nations Sanctions (Terrorism Suppression and Afghanistan Measures) Regulations 2001 pursuant to the United Nations Act 1946. These regulations take measures against the Taliban, Usama bin Laden [sic] and Al-Qaida, including banning collection or providing funds, dealing with property, recruitment, participation or providing certain services. They also create a duty to report suspicions relating to property. These special measures will be replaced in due course by a more general regime once the Terrorism (Bombing and Financing) Bill has been enacted. The making of the regulations therefore allowed for a further period of reflection on the bill. This is appropriate given the need for Parliament to study with great care legislation which, while targeted at terrorists, affects the liberties of us all.

The regulations therefore allowed for further of reflection on the bill. This is appropriate given the need for Parliament to study with great care legislation which, while targeted at terrorists, affects the liberties of us all.

TRANSNATIONAL ORGANISED CRIME BILL

This bill was introduced in February 2002 and enacted in July making a variety of amendments to the Crimes, Extradition, Immigration, Mutual Assistance in Criminal Matters, Passports, and Proceeds of Crime Acts. The bill implements the UN Convention against Transnational Organised Crime and its protocols on the smuggling of migrants and trafficking in persons. Extra-territorial jurisdiction is taken for some offences. One area with data protection implications is the provision for disclosure of information to overseas agencies. Increased employer checking of employee immigration status is also anticipated.

The amendments to the Immigration Act 1987 now permit the Chief Executive to disclose specified information to overseas law enforcement agencies and to those agencies whose functions include the processing of international passengers or border security. Before entering into any agreements with overseas agencies, the Chief Executive is required to consult with me. I have been concerned to ensure that as far as possible the legislation and the administrative practices relating to disclosure overseas should mirror the existing requirements for handling personal information inside New Zealand. It was also important that the legislation should clearly define the purposes for which the information could be disclosed and place limits on the ability of the overseas agencies to further disclose the information.

The select committee studying the legislation recommended the inclusion of further provisions giving greater protection to New Zealanders, including independent monitoring of the disclosure of information to overseas agencies, particularly in respect of the one-off disclosures made outside an agreement, and a process for redress. These recommendations were not adopted.

PRIVACY IMPACT ASSESSMENT

In recent years privacy impact assessment (or 'PIA') has commanded attention internationally as a process for identifying and addressing privacy and data protection issues in the development of new projects or systems. PIA has been recommended by various governments and organisations. For example:

- the Canadian government has adopted PIA as a mandatory process in the development of new government systems;
- PIA is a mandatory process in the development of new government systems in Ontario;
- PIA is a statutory requirement for new information systems in the health sector in Alberta;
- the Hong Kong Privacy Commissioner has recommended PIA as part of a management strategy for companies involved in e-commerce;
- the Australian Commissioner has recommended PIA for Public Key Infrastructure initiatives;
- the UK Cabinet Office has recently recommended PIA as a feature in new government data sharing initiatives; and
- the US Federal Chief Information Officers Council has also endorsed PIA.

During the year I published a *Privacy Impact Assessment Handbook* which draws upon these international developments and reflects several years of New Zealand experience. A number of assessments have been carried out in New Zealand since 1997 in areas such as driver licensing, insurance claims, pharmaceutical dispensing, immunisation, medical databases and numbering systems in the education and law enforcement sectors. The agencies which have undertaken or commissioned these privacy impact reports are to be commended for taking a proactive stance. Nonetheless, the standard of assessment and the resulting reports can be enhanced and the *Handbook* is a practical tool to achieve this. I see significant benefits to all parties from well-executed privacy impact reports on major new systems and will continue to encourage PIA where appropriate.

Interest in the *Privacy Impact Assessment Handbook* has been high. A series of seminars held in Auckland, Wellington and Christchurch just after the end of the year introduced the concept to a wide range of managers and policy and technical staff in the public and private sectors.

A number of assessments have been carried out in areas such as driver licensing, insurance claims, pharmaceutical dispensing, immunisation, medical databases and numbering systems in the education and law enforcement sectors.

SECTION 54 AUTHORISATIONS

This provision is important because it allows me to authorise actions that might otherwise be a breach of principles 2, 10 or 11. It can be useful when some disclosure ought to be made in the public interest but there is a duty under the Act not to disclose, and the agency has not formulated a clear policy enabling disclosure. Section 54 allows for an unanticipated collection, use or disclosure that is in the public interest or in the interests of the person concerned. It exists as a 'safety valve' to address rare and unexpected problems.

In considering applications I evaluate whether, in the special circumstances of the case, any interference with the privacy of an individual that could result is substantially outweighed by either the:

- public interest in that action; or
- clear benefit to the individual concerned.

Guidelines for any agency considering applying for an authorisation are available on my website (www.privacy.org.nz/comply/comptop.html).

Four new applications were received during the reporting period. For differing reasons, I did not grant any authorisations. In two of the applications, I came to the view that the application was not necessary because the agency's proposed actions would be unlikely to breach either the Privacy Act or the Health Information Privacy Code. In a third application, I was not satisfied that the circumstances warranted an authorisation. The fourth application was essentially a request for access to personal and official information and other legal avenues exist to handle such requests.

In one instance, a health agency made an enquiry about research that it was overseeing and whether or not the research would require an authorisation. The researcher sought access to a personal file held by the health agency. The personal file related to a woman who had died, and so the Privacy Act would not generally cover that information. However, there was a question of whether the information in the file was 'health information'. Unlike other sorts of personal information, health information is protected against disclosure – even after death. The file contained administrative information such as details of the woman's professional registration. Although the agency was a health agency it was not, in this instance, holding health information and so no authorisation was necessary.

In the second instance, the application was declined because it became clear that one of the exceptions in the Health Code could apply and so an authorisation under section 54 was not necessary. A government department sought the authorisation to allow patient records to be disclosed for the purposes of review and quality audit. Before I could grant an authorisation, I needed to be certain the disclosure would otherwise breach rule 11. The application raised certain jurisdictional issues since there is legislation enabling the Medical Council to require patient records. In fact, the practitioner was willing to make the records available. I took the view that the disclosure was 'directly related to one of the purposes in connection with which the information was obtained' (rule 11(2)(a)). Because of this, there was no need for an authorisation.

An application was received from a district health board that wished to disclose information about a former patient to the New Zealand Immigration Service (NZIS). The agency believed that the patient, who was not a New Zealand resident, may return to New Zealand in the future and again require hospitalisation. The cost of hospitalisation was significant. For this reason, the health agency sought an authorisation to disclose sufficient information to NZIS in the expectation that NZIS would 'flag' the patient's file and prevent him from re-entering New Zealand.

The NZIS currently requires a health declaration to be made on extended-stay visitors' permits. No similar requirement exists for short-term visitors' permits. The patient had entered New Zealand under a short-term permit.

I was satisfied that if the district health board were to disclose the patient's health information to NZIS without an authorisation, the disclosure would breach the Health Information Privacy Code.

I accepted that a public interest argument existed for limiting unnecessary public expenditure and that this supported making the disclosure. However, I could also see a further public interest factor which did not support the disclosure. The provisions in the current immigration law permit enquiries to be made by NZIS when an individual is intending to stay in New Zealand for an extended period. Presumably part of the reason for that is that the time it would take immigration staff to pursue matters would not, in the majority of cases, be outweighed by the benefit that the information would deliver. I also presumed that it is only relatively infrequently that short-term visitors place significant costs upon the health system. There is a well-established administrative process to deal with applications by visitors and immigrants to New Zealand and I was not inclined to think it appropriate for a section 54 authorisation to circumvent that process, albeit for sound reasons.

I did not form a final view on whether or not there were 'special circumstances' warranting an authorisation. I noted that a great number of visitors to New Zealand have health problems which have an unpredictable aspect. This alone would not satisfy the requirement for special circumstances. The district health board believed the patient would be a regular visitor to New Zealand. However, there was no certainty of that fact and the reason for his return was speculative. On this basis, I declined the application. I did, however, suggest to the district health board that it may be appropriate to examine the immigration procedures in light of this matter and, if necessary, to pursue legislative change.

IV. INFORMATION MATCHING

INTRODUCTION

The work has grown in ten years from overseeing three operating matches with no new proposals to assess and no periodic reviews to undertake, through to 16 operating programmes, dozens of proposals to assess and an annual workload of periodic reviews of existing matches.

These last 12 months have seen the completion of 10 years of my oversight of authorised information matching programmes. In the last year there has been a vast expansion in authorised information matching programmes. Less dramatic, but nonetheless significant, has been the growth in operating programmes. They have crept up from 12 operating programmes last year to 16 this year.

The upsurge in new programmes has meant that a significant portion of the resource which I have been able to devote to oversight of information matching has been spent this year on assessing proposals and working with departments on issues raised in the authorisation and initial implementation processes. The resource consists of one full time Data Matching Compliance Officer, approximately 10% of the time of the Assistant Commissioner and the occasional services of an experienced contractor on particular projects.

I have never been granted additional funds specifically for monitoring information matching. Yet the work has grown in ten years from overseeing three operating matches with no new proposals to assess and no periodic reviews to undertake, through to 16 operating programmes, dozens of proposals to assess and an annual workload of periodic reviews of existing matches. The level of resource I have devoted to these tasks, which is itself not sufficient, has been diverted from complaints handling, scrutiny of legislation and development of codes of practice. The pressure has also affected information matching oversight itself: my staff have not been able to undertake the proactive work with departments, including site visits, that I would have preferred. It has not always been possible to scrutinise new proposals in quite the depth that has been the case in previous years and, in particular, one casualty has been the submission of full assessment reports on each programme for the benefit of ministers and select committees.

While 2001/02 may be exceptional in the number of new programmes authorised, there is every indication of continuing steady growth in programmes being authorised and coming into operation. If the independent oversight is to remain credible for the public, affected individuals and Parliament, the question of resourcing this role needs to be urgently addressed and this may appropriately involve contribution from departments benefitting from matching. The issues are no less important now than they ever have been. The cost benefit of many new proposals, and even existing programmes, often remains in real doubt while the adverse impact on privacy is unquestionable. The scale, complexity and variety of programmes continues to increase.

The information matching section of the report is structured three parts as follows:

This introduction:
- general remarks on the overall concept of information matching,
- controls and safeguards,
- new information matching initiatives,
- s.106 reviews undertaken, and
- observations on the changes in information matching in the last ten years.

This is followed by programme by programme reports:
- overall observations and comments on the major matches conducted by the National Data Match Centre of the Ministry of Social Development
- matches where the Ministry of Social Development is the user agency,
- matches where other organisations are the user agencies,
- the two matches that are used to write off student loan interest,
- authorised matches that did not operate this year,
- matches which have ceased operation.

Concluding comment is also made about likely future matches.

NATURE OF INFORMATION MATCHING AND CONTROLS

Information matching generally involves the comparison of one set of computerised records with another, to find records in both sets of data that belong to the same person. Examples would be people receiving a benefit who have gone overseas or who have been imprisoned. In some matches it is the absence of a person in one set of records that is of interest. The process is commonly used to detect fraud in government programmes, though there are cases where the technique is used to assist individuals (e.g. to identify someone who has not claimed an entitlement).

Information matching is perceived to have negative effects on privacy by, among other things:
- using information obtained for one purpose for an unrelated purpose;
- 'fishing' in government records concerning innocent citizens with the hope of finding some wrongdoing by someone;
- taking automated decisions affecting individuals;
- requiring innocent people to prove their lack of guilt;
- multiplying the effects on individuals of errors in some government databases.

To address these risks, Part 10 of the Privacy Act authorises and regulates the practice of information matching in the public sector. It does this through controls directed at:
- *authorisation* – ensuring that only programmes which appear to be well justified in the public interest are approved;
- *operation* – ensuring that programmes are operated consistently with fair information practices;
- *evaluation* – subjecting programmes to periodic reviews and possible cancellation.

Information matching generally involves the comparison of one set of records with another, to find records in both sets that belong to the same person. The process is commonly used to detect fraud in government programmes.

OPERATIONAL CONTROLS AND SAFEGUARDS

Figure 1 illustrates something of the processes involved in typical authorised information matching programmes. The flowchart shown is simplified and generalised. Nonetheless, it illustrates the common steps in the process and some of the safeguards to ensure fairness and data quality.

The process starts with two databases, one at the source agency and the other with the user agency (in more complicated programmes there may be more databases or agencies involved). From the source agency database certain records are selected, typically only those records relating to people who have been involved in a recent transaction or activity (e.g. departing the country or being incarcerated). Certain information is extracted from the records that have been selected. For example, the agency may have 20 items of data relating to individuals who have claimed a benefit or left the country but only five of these may need to be extracted for the programme.[1]

The extracted information is sent by one agency to the other for matching. Sometimes an outside computer bureau may perform this function on the user agency's behalf. The matching is an automated process which compares the lists of data. The information being matched is kept physically separate from operational records until checking processes are complete. It is important that unverified information not be added to an individual's file until it is confirmed that the data do indeed relate to that individual and are accurate and relevant.[2]

An algorithm is developed and used to establish what constitutes a successful match or 'hit'.[3] For example, the algorithm may establish as a match cases where the full name, date of birth and address are all the same.

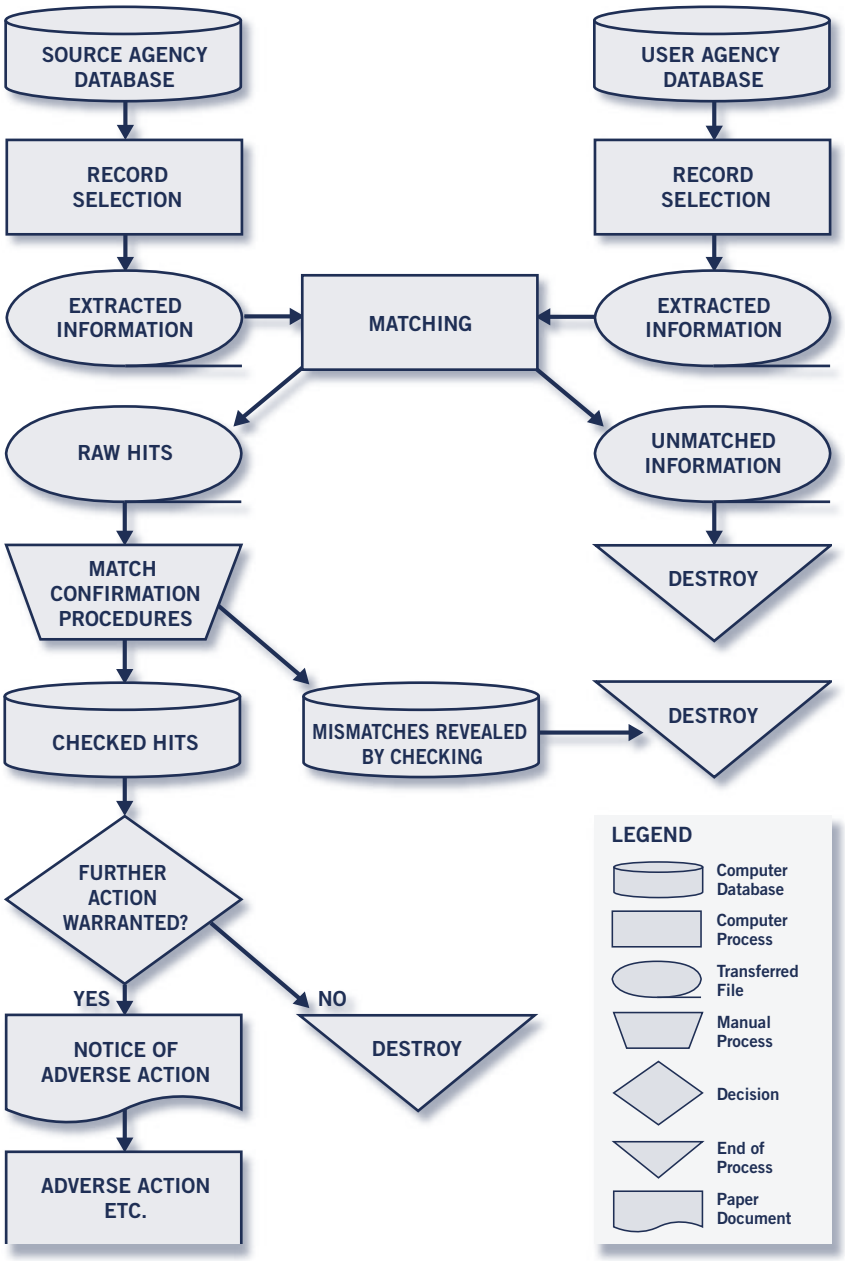
The algorithm may also allow for the identification of 'likely' matches even when all data do not exactly correspond (e.g. where the surname and date of birth are the same even though the first name differs). It may allow for differences in the spelling of names, or it may only use a specified number of letters from the stem of a word without requiring the whole word (such as the name) to match completely. The process will normally produce pairs of records which are judged *likely* to relate to the same person, but that cannot be said to be *certain* without further confirmation. The algorithm to be used requires careful thought and practical trialling before implementation; too 'tight' an algorithm will miss many matches of records which are actually about the same individual, and too 'loose' an algorithm will pair an unacceptably high proportion of records which are really about different individuals.

1 The statutory information matching provision and the Technical Standards Report (required by information matching rule 4) limit the information which may be utilised in an authorised programme.

2 The use of on-line computer connections in matching programmes is prohibited without the express approval of the Privacy Commissioner: matching must be carried out "off line" and not be used to update live data on an agency's database - information matching rule 3.

3 An algorithm is a process or set of rules used for problem solving. Information matching rule 4 requires the matching algorithm to be documented in a Technical Standards Report. Other aspects of the match are also documented there or in the information matching agreement required under Privacy Act, s.99.

FIGURE 1: TYPICAL INFORMATION MATCHING PROCESS



The matching results in a list of raw hits to be followed up. The information that does not show a hit of interest must be destroyed.[4]

The raw hits are put through confirmation procedures.[5] Typically, there will be a manual check of the original records held by the user agency. The confirmation procedures may reveal some mismatches which are then also destroyed.[6]

People should not be presumed guilty solely on the basis of inferences drawn from a matching process.

If the resultant checked hits are to be used as a basis for taking action against individuals, they should be acted upon in a timely fashion. The Act sets maximum time limits.[7] The information must not be allowed to become out of date since this may prejudice the individuals concerned. Unverified information derived from matching must not be added to administrative files.[8]

It is not advisable to act on the basis of an apparent discrepancy produced by a match, even with some in-house checking completed. In fairness, the information should be given to the individual concerned before action is taken. This allows an opportunity for the data to be challenged. People should not be 'presumed guilty' solely on the basis of inferences drawn from a matching process. Notice is an especially important safeguard where the matching process might have wrongly associated records relating to different individuals.[9]

NEW INFORMATION MATCHING INITIATIVES

In my last annual report I observed that 'more than 30 new information matches have been mooted'. As predicted, a substantial number of new matches have now been authorised by Parliament and a further number are still being progressed to the point of parliamentary approval.

The single largest number of information matching programmes authorised in the last 12 months involve various units of the Department of Internal Affairs as the source agency. Units responsible for the records of births, deaths, marriages and citizenship were involved in some 21 matches under the Births, Deaths and Marriages Registration Amendment Act 2001 and five under the Citizenship Amendment Act 2001.

The Electoral Amendment Act 2002 authorised four new matches to find people who have not enrolled to vote.

4 Where the matching does not reveal a discrepancy, information matching rule 6 requires the relevant information to be destroyed.

5 The agencies involved in a programme are required to establish reasonable procedures for confirming the validity of discrepancies before any agency seeks to rely on them as a basis for action in respect of an individual - information matching rule 5.

6 Information disclosed pursuant to a match which reveals a discrepancy but is no longer needed for taking adverse action against an individual must be destroyed as soon as practicable - information matching rule 6(2).

7 The information matching controls require that a decision as to whether to take action must be taken within 60 days or the information must be destroyed – Privacy Act, s.101.

8 Nor may separate permanent databases of programme information be created – information matching rule 7.

9 If it is intended to take adverse action based upon a discrepancy revealed by a programme, the user agency must first serve written notice on the individual under s.103 of the Privacy Act giving details of the discrepancy and the proposed adverse action and allowing the individual 5 working days from receipt of the notice to show reason why such action should not be taken - Privacy Act, s.103.

The implementation plans for a significant number of the information matching programmes involving units of the DIA may be at least a year or so away as the systems infrastructure required to support them does not yet exist within the department.

The first trans-border information matching programmes were authorised this year. They involved Australia and commenced operation on 1 July 2002. The coming year will likely see the introduction of programmes with the Netherlands.

The first trans-border information matching programmes were authorised this year.

Figure 2 illustrates the growth in authorised information matching programmes for the last ten years with estimates towards 2005.

Figure 3 shows the growth in active information matching programmes. Estimates are offered for the number of programmes likely to commence operating in the coming years.

SECTION 106 REVIEWS – REVIEW OF FOUR PROGRAMMES

Periodically I am required to review the operation of each programme to consider whether it ought to be continued. Given the number of operating matches, I undertake these reviews in batches. The first was completed in 1999. In May, I submitted my report of the second batch of information matching programme reviews under section 106 of the Privacy Act 1993.

The programmes reviewed were:

- Corrections/MSD Inmates Match authorised by the Penal Institutions Act 1954, s.36F;
- IRD/ACC Earners Match authorised by the Tax Administration Act 1994, s.82;
- IRD/MSD Community Services Card Match authorised by the Tax Administration Act 1994, s.83;
- NZIS/MSD Immigration Match authorised by the Immigration Act 1987, s.141A.

My conclusions and recommendations with respect to these matches include:

CORRECTIONS/MSD INMATES MATCH

'I am of the opinion that the authority conferred by s.36F of the Penal Institutions Act 1954 should be continued. However, I am not entirely comfortable with the evidence of the quantifiable benefits and continue to hope that improvements might be possible so that they could be more accurately assessed for the next s.106 review. At the very least, it may be necessary to attempt a credible apportionment of NDMC costs to this match. There also remains the issue of the quantification of recoveries as against simply debts established. A Commissioner might not be so easily persuaded in the future of the need to continue this match in the absence of cogent and reliable evidence of recoveries significantly outweighing costs.'[10]

10 Review of statutory authorities for information matching, 16 May 2002, para. 2.4.2.

FIGURE 2: AUTHORISED INFORMATION MATCHING PROGRAMMES 1991-2005

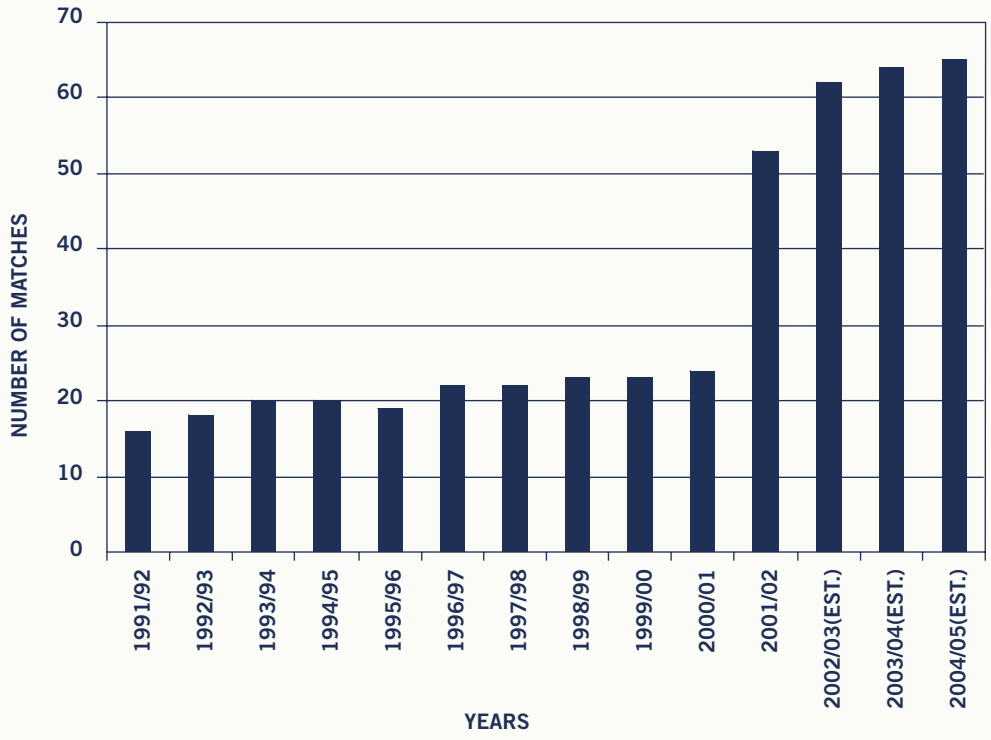
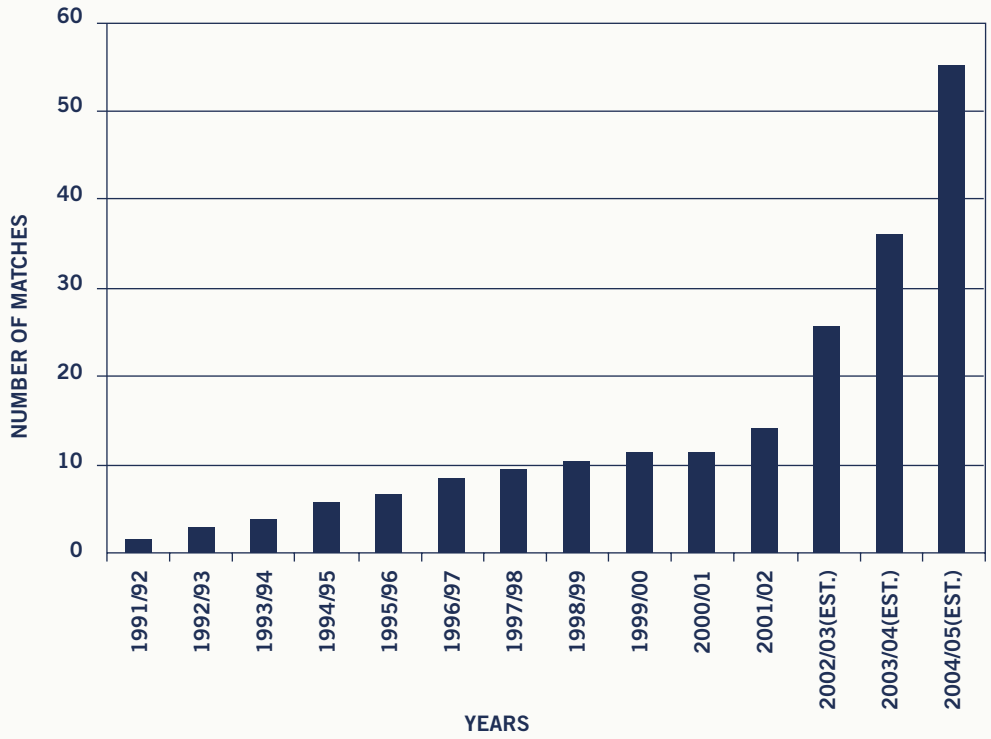


FIGURE 3: ACTIVE INFORMATION MATCHING PROGRAMMES 1991-2005



IRD/ACC EARNERS MATCH

'I am advised that the ACC wishes to implement this match as the provision by IRD of additional earnings data, not previously available, will now be available and will not require replacement authorising legislation. I am also assured that a new pilot will be undertaken prior to its full implementation, and that information from such a pilot could go a long way to assuring me as to the match's costs and benefits and effectiveness.

'I am disappointed to note that the earlier planning of this match seemed to exhibit insufficient or poor initial analysis by the ACC, as the actual information supplied by the IRD and the consequential additional work that needed to be undertaken by them to establish a "discrepancy" should not have come as a surprise.

'I am of the opinion that the authority conferred by s.82 of the Tax Administration Act 1994 should, at present, be continued.'[11]

IRD/MSD COMMUNITY SERVICES CARD MATCH

'This review has highlighted for me that the programme is used for taking "adverse action", even though that is not its principal focus. The programme is used as basis to withdraw a CSC renewal. I will take a closer look at compliance issues with this match in the future. In the meantime, I have no information to suggest that the programme has not been operated in compliance with the information matching rules.

'I am of the opinion that the authority conferred by s.83 of the Tax Administration Act 1994 should be continued.'[12]

NZIS/MSD IMMIGRATION MATCH

'In this particular case it is evident that the information matching provision has not been used for the last 10 years. Enquiries in July [2001] with MSD revealed an intention to activate this programme within the next 12 months and this was confirmed by correspondence from the NDMC as recently as December 2001.

'Given the time that has passed since Parliament considered and enacted the authorising legislation, in the event that this information matching programme is to be reactivated I believe it would be appropriate for MSD to update its original documentation including the relevant technical documentation (so as to ensure that the difficulties encountered with the second run of the match do not reoccur) and to bring any justification of the match up to date. Further, I consider that the public interest in allowing the programme to proceed does not outweigh the public interest in adhering to the information privacy principles that the programme contravenes. If a case is to be made out for implementing

11 Ibid, 16 May 2002, para. 3.3.
12 Ibid, 16 May 2002, paras. 4.3.6 and 6.4.1.

and operating this matching programme, in my opinion that case should be made anew and any authorising legislative provisions should reflect today's perception of how such a programme ought to operate. Accordingly I recommend that the authorising s.141A of the Immigration Act 1987 be repealed.'[13]

The recommendation to repeal Immigration Act 1987, s.141A, remained with the Minister of Justice at the end of the year.

CHANGING PROFILE OF AUTHORISED PROGRAMMES

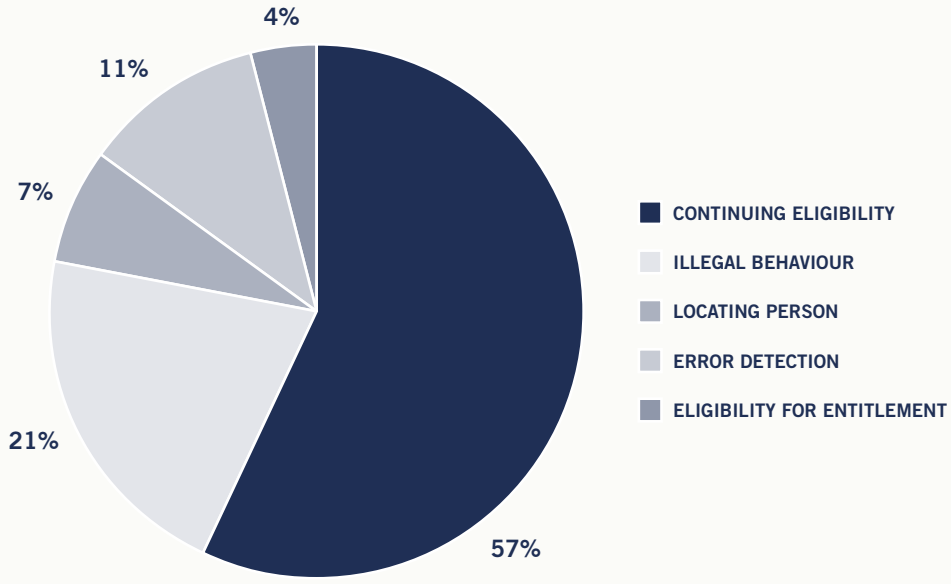
I have classified each programme by one or more of eight primary purposes. The currently authorised programmes can be characterised as:

- *confirmation of eligibility or continuing eligibility* for a benefit programme, or compliance with a requirement of a programme –30 programmes;
- *updating of data* in one set of records based on data in another set – 21 programmes;
- *detection of illegal behaviour* by taxpayers, benefit recipients, government employees etc (e.g. fraudulent or multiple claims, unreported income or assets, impersonation, omissions, unauthorised use, improper conduct, conflict of interest) – 8 programmes;
- *identification of persons eligible for an entitlement* but not currently claiming that entitlement (this might be a monetary benefit, such as medical subsidies available to a Community Services Card holder, or a right such as the ability to cast a vote as in the case of the unenrolled voters matches) – 5 programmes;
- *detection of errors* in programme administration (e.g. erroneous assessment of benefit amounts, multiple invoicing) – 3 programmes;
- *location of persons* with a debt to a government agency – 3 programmes;
- *data quality audit* – 1 programme;
- *monitoring* of grants and contract award processes – 0 programmes.[14]

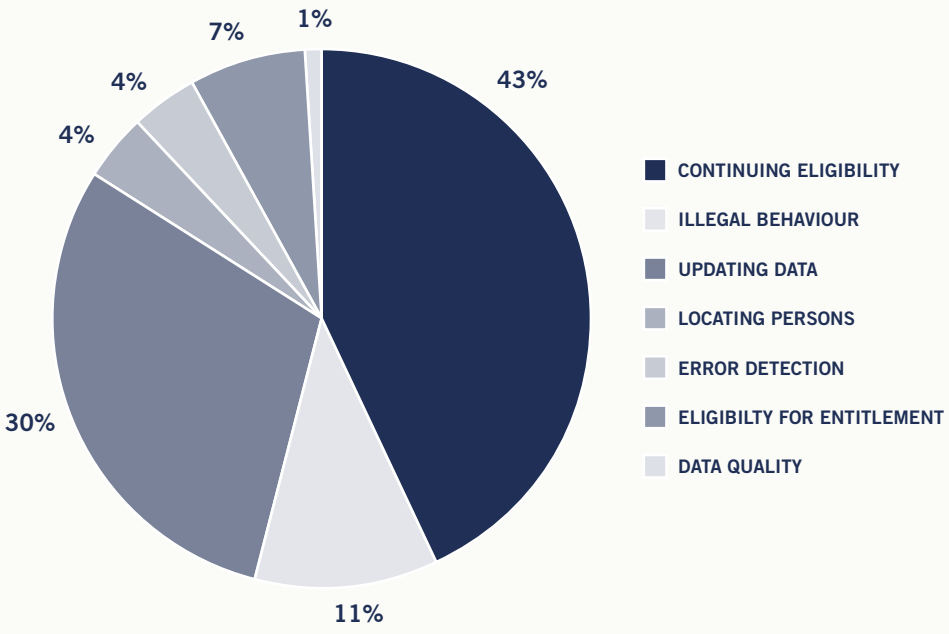
Figures 4 gives a breakdown of classification types of the initial authorised programmes and compares them to those existing now, 10 years on.[15] The single most significant category in 1993 was confirmation of eligibility or continuing eligibility. This continues to be the largest class but has reduced from 57% in 1993 to 43% in 2002. The noticeable new feature has been the growth in programmes used to update data. Also of interest is the increasing use of information matching to ensure that people eligible for an entitlement get the chance to receive it.

13 Ibid, 16 May 2002, para. 5.4.
14 Dr Roger Clarke an Australian commentator suggested the 8 categories. I have included the final category, for which there are no local examples, to show another use to which matching may be put.
15 The starting date I have used is 30 June 1993 which was the last day of the Privacy Commissioner Act 1991.

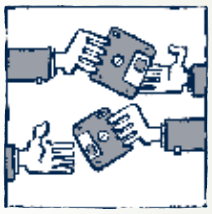
FIGURE 4: INFORMATION MATCHING CLASSIFICATION
30 JUNE 1993



INFORMATION MATCHING CLASSIFICATION
30 JUNE 2002



PROGRAMME BY PROGRAMME REPORTS



INTRODUCTION

I am required by s.105 of the Privacy Act to report annually on each authorised programme carried out in that year. In order to present a more complete picture, I also provide brief details of the information matching programmes that are authorised but have not been carried out in the past year. This year's report covers more than 50 matches, of which 16 operated during the year.

Each programme bears the names of the specified agencies involved followed by a description. The agency whose role is principally to provide information is named first. The agency making use of the discrepancies produced by the match is named second. For instance, in the 'IRD/MSD Commencement/Cessation Match' IRD is given first as the source agency. MSD as user agency is given second. This programme name is completed with a brief description. 'Commencement/cessation' indicates something of its nature and distinguishes it from the 'debtors address' programme involving the same agencies.

Each entry in the report commences with a brief description of the purpose of the programme and an indication of the manner in which it is carried out, followed by a commentary on the operation of the programme during the year and, in most cases, a table of some results and some commentary on aspects of interest from those results. As required by the Privacy Act, I give my assessment of the extent to which each operating programme complied during the year with ss.99 to 103 and with the information matching rules.

I use the following abbreviations and acronyms:

ACC	Accident Compensation Corporation
AIR	Accident Insurance Regulator
BDM	Registrar of Births, Deaths and Marriages (DIA)
Citizenship or DIA(C)	Citizenship Branch of the DIA
Corrections	Department of Corrections
Courts	Department for Courts
CSC	Community Services Card
Customs	New Zealand Customs Service
DIA	Department of Internal Affairs
DIMIA	Department of Immigration & Multicultural & Indigenous Affairs (Australia)
EEC	Electoral Enrolment Centre
IMPIA	Information Matching Privacy Impact Assessment
IRD	Inland Revenue Department
Institution	Post-compulsory education service provider
Labour	Department of Labour
MoE	Ministry of Education
MoH	Ministry of Health

MoT	Ministry of Transport
MSD	Ministry of Social Development
NDMC	National Data Match Centre of MSD
NZIS	New Zealand Immigration Service
Passports or **DIA(P)**	The Passport Office of the DIA
SWIFTT and **SAL**	MSD databases for beneficiaries and students respectively
VOS	Verification of study

The reports are set out in the following order:

Active matches with MSD as user agency:

1. Corrections/MSD Inmates Match
2. Customs/MSD Arrivals/Departures Match
3. Educational Institutions/MSD Student Loans & Allowances Match
4. Employers/MSD Section 11A Social Security Act Match
5. IRD/MSD Commencement/Cessation Match
6. IRD/MSD Community Services Card Match
7. IRD/MSD Debtors Tracing Match

Active matches with other departments as user agency

8. Corrections/ACC Eligibility & Entitlement Match
9. IRD/Courts Fines Defaulters Tracing Match
10. MSD/Courts Fines Defaulters Tracing Match
11. Citizenship/EEC Unenrolled Voters Match
12. MSD/EEC Unenrolled Voters Match
13. NZIS/EEC Unqualified Voters Match
14. MSD/IRD Family Support Double Payment Match

The Student Loan Interest Write-Off Matches

15. MoE/IRD Student Loans Interest Write-Off Match (No 1)
16. MoE/IRD Student Loans Interest Write-Off Match (No 2)

Previously active matches that have ceased operation

17. IRD/AIR Employer Compliance Match
18. IRD/AIR Sanction Assessment Match
19. NZIS/MSD Immigration Match

Authorised matches which did not operate this year

20. IRD/ACC Earners Match
21. The ACC Section 280(2) Matches
    (a) Customs/ACC Eligibility and Entitlement Match
    (b) Labour/ACC - Eligibility & Entitlement Match
    (c) MoH & DHB/ACC - Eligibility & Entitlement Match
    (d) MSD/ACC - Eligibility & Entitlement Match
22. IRD/ACC Residual Levies Match

23. BDM/Courts Jury List Purge Match
24. BDM/Courts Deceased Fines Defaulters Match
25. BDM/Courts Fines Defaulters Name Change Match
26. BDM/DIA(C) Citizenship Application Match
27. BDM/DIA(P) Passport Application Processing Match
28. DIA(C)/DIA(P) Passport Eligibility Match
29. LTSA/EEC Unenrolled Voters Match
30. MoT/EEC Unenrolled Voters Match
31. ACC/IRD Child Tax Credit Match
32. BDM/IRD Tax File Number Allocation Match
33. BDM/IRD Deceased Taxpayers Match
34. BDM/IRD Parental Liability Match
35. Citizenship/IRD Child Support Applicant Identity Match
36. Citizenship/IRD Tax File Number Applicant Match
37. BDM/LTSA Deceased Licensed Drivers Match
38. BDM/LTSA Licensed Drivers Name Change Match
39. ACC/MSD Benefit Eligibility Match
40. BDM/MSD Eligibility for Benefits & Pensions Match
41. BDM/MSD Deaths Confirmation Match
42. Centrelink/MSD Change in Circumstances Match
43. Centrelink (DIMIA)/MSD Periods of Residence Match
44. Customs/MSD Periods of Residence Match
45. DIA(C)/MSD Citizenship Confirmation Match
46. BDM/NZIS Deceased Permits and Visas Match
47. BDM/NZIS Entitlement to Reside Match
48. Citizenship/NZIS Entitlement to Reside Match.

It should be noted that a number of the matches in this last category are actually combinations. For instance, I anticipate that several matches will compare certain records with both birth and marriage registers in a single operation but deal with death information separately (if at all). The information I have on the implementation plans of some of the matches with BDM/Citizenship records is rather sketchy and these match titles are merely informed guesses at this stage.

In 2001 the Births, Deaths, and Marriages Registration Act 1995 and the Citizenship Act 1977 were amended to include provisions authorising disclosure of information recorded under those Acts to specified agencies for certain purposes. While those provisions are not yet listed in the Third Schedule of the Privacy Act 1993 as information matching provisions, both the departments involved and I have treated the matches authorised by these statutes as 'authorised information matching programmes'. The Statutes Amendment Bill (No 2) currently before Parliament contains the required amendments to the Third Schedule.

GENERAL COMMENTS ABOUT THE MAIN MSD MATCHES

Before addressing each programme individually, I make some global comments on the conjoined information matching programmes run by MSD's NDMC, namely:

- Customs/MSD Arrivals & Departure Match
- IRD/MSD Commencement/Cessation Match
- MSD/IRD Family Support Double Payment Match
- Corrections/MSD Inmates Match
- MSD/Courts Fines Defaulters Tracing Match.

The costs of operating the NDMC have again been reported to me in global terms as opposed to being broken down programme by programme.

TABLE 1: COMBINED TOTALS FOR THE MAIN NDMC PROGRAMMES: 2000-2002

	2000/01	2001/02
Overpayments established	$34,772,993	$35,849,101
Value of penalties applied	$1,502	$16,706
No. of penalties applied	9	34
Cost of matching operation	$6,110,145	$7,877,057
Debt recovery costs[1]	$1,102,517	$1,087,665
Debts recovered	$10,422,889	$14,208,910

The substantial increase in debts recovered from $10.4 million to $14.2 million is largely due to a doubling in the amount of recoveries assigned to current benefit recoveries.[2] Analysts of the National Office Debt Management Unit calculate this figure. I have been advised that the increase is the result of a revision in the proportion of recoveries that are attributed to overpayments established by the NDMC. The sampling used to determine the percentage of recoveries to be attributed to the various units within MSD had not been 'refreshed' for a number of years. The sample for the year ending 30 June 2002 resulted in 3.32% of debts recovered being attributed to the NDMC. This is in contrast to 1.58% attributed for the previous three years. I have been told that this key figure will be the subject of annual sampling in the future.

There has been a substantial percentage increase in the penalties applied of over $15,000 compared to last year, although absolute numbers remain small. I am advised that these penalties are imposed by the Area Benefit Control Teams and the NDMC has not changed its policy in respect of penalties. The penalties are imposed by other units of the Ministry, not the NDMC itself. Since 1997, total penalties imposed have ranged between $1,502 and $16,938. Prior to that penalties of between $4.9 million and $9.9 million had been imposed. I have commented on this startling variance in previous annual reports.

Since 1997, total penalties imposed have ranged between $1,502 and $16,938. Prior to that penalties of between $4.9 million and $9.9 million had been imposed. I have commented on this startling variance in previous annual reports.

1 Debt recovery cost is an estimate provided by MSD that applies only to the non-current debt recovery activity, i.e. obtaining payment of debts owed by individuals who are not currently receiving any social welfare benefit. I assume that the cost of recovering debts by deduction from current benefit payments is a much cheaper process than pursuing the non-current debtors.

2 'Current benefit recoveries' refers to recoveries of debts from people currently on a benefit, that is, generally by way of deduction from a benefit before payment. As well as recoveries from overpayments caused by departmental or beneficiary error or claimant fraud this also covers repayments of special needs grants and advances etc.

AUTHORITY TO REQUEST INFORMATION FROM THIRD PARTIES

I reported last year on the need for system changes resulting from a Crown Law opinion that s.11 rather than s.12 of the Social Security Act 1964 should be used as the authority when requesting information about clients from third parties.

The automated production of s.11 client letters was put into effect in February. However, this letter was not exactly as specified by the NDMC and a new version meeting all the NDMC's specifications was tested and implemented in July 2002, after the end of the reporting year. The system has only been recording s.11 letters issued since February and as a consequence the NDMC is unable to supply a full year's figures for the issue of such letters.

The statistics which are available (for commencement/cessation match runs since 28 December 2001) show that for 10,422 clients for whom s.103 notices were issued, 8,131 or 78% were subsequently issued with s.11 notices. The remaining 22% requested that their employment details be obtained directly from their employers.

The NDMC has plans to upgrade some existing matches and to update programme documentation. These have resulted in the following advances in the IRD/MSD Commencement/Cessation Match:

- Progress has been made on creating a stand-alone information matching agreement and technical standards report. Currently there is an omnibus report that covers all matches with IRD that involve the NDMC and it is complex and difficult to use.
- Identifying the changes and enhancements that MSD wish to make to the match including obtaining additional information from IRD, such as actual income information.

NDMC SYSTEM UPGRADE

A set of requirements for a replacement system is being developed. These will reflect a 'case management' approach as opposed to a system that just records outcomes of nominated events in the life cycle of a matching run. All going to plan, the NDMC upgraded systems will be implemented in mid-2003.

Active Matches with MSD as User Agency

1. CORRECTIONS/MSD INMATES MATCH

CORRECTIONS/MSD INMATES MATCH	
Information matching provision	Penal Institutions Act 1954, s.36F
Year authorised	1991
Commencement date	April 1995
Match type	• Confirmation of continuing eligibility • Detection of illegal behaviour • Detection of errors
Unique identifiers	None
On-line transfers	None

Purpose: This match is designed to detect people receiving income support payments who are imprisoned and are thereby ineligible for such payments.

System: The programme operates by a weekly transfer of information about all newly admitted inmates from the Department of Corrections to MSD. The information advised to MSD includes names (including known aliases), date of birth, date of imprisonment and name of prison.

The information is compared by name and date of birth. Matched individuals are sent a notice advising them that, unless they produce proof to the contrary, the benefits that they are receiving from MSD will cease and any overpayment found to have been made would be established as a debt to be repaid to MSD. From April 2001 notices are sent to the beneficiary at their home address with a duplicate addressed to the prison.

The programme operates by a weekly transfer of information about all newly admitted inmates from the Department of Corrections to MSD. Individuals are sent a notice advising them that, unless they produce proof to the contrary, the benefits that they are receiving from MSD will cease.

2001/02 RESULTS

TABLE 2: CORRECTIONS/MSD INMATES MATCH 1999-2002 RESULTS			
	1999/00	2000/01	2001/02
Number of runs	53	51	51
Number of records compared	13,640	74,331	82,768
Number of "positive" matches	5,771	24,639	24,228
Legitimate records (no adverse action taken)	3,118	16,706	17,189
Notices of adverse action issued	2,658	7,813	7,164
Debts established (number)	2,545	4,094	4,854
Overpayments established	$1,129,452	$2,238,017	$2,799,211
Challenges	4	44	44
Challenges successful	3	25	26

'Legitimate records' plus the 'notices of adverse action taken' do not equal 'number of positive matches' due the fact that files may be received in one reporting year but action not taken until the next.

There is an increase in the number of records compared in this programme (up by 8,547 or about 10% from last year). This increase is in spite of the fact that the 2000/01 figures were themselves abnormally high. As reported last year, a global run was undertaken because the earlier Corrections extract program was found to be 'under reporting'.

The increase in the number of records received from Corrections is attributed to an increase in the number of aliases being reported. However, the number of positive matches dropped by 411 to 29% of the records compared (last year 33%). In spite of this drop in the positive matches and a similar decrease in the number of notices of adverse action issued (649 less than last year), the number of debts established increased by 18% and the amount of debt established increased by $561,194 (35%).

The numbers of challenges received and successful challenges were similar to last year's figures. I have made enquiries about the source of the successful challenges (i.e. are they in response to s.103 notices being sent to home addresses or to those sent to the prison?), but am advised that such statistics are not kept. For next year I will seek more information from MSD about the source and nature of the challenges.

As noted above, this programme was this year the subject of a periodic review under s.106 of the Act. I concluded that the programme ought to be continued.

On the basis of the information supplied I am satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

2. CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH

CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH	
Information matching provision	Customs and Excise Act 1996, s.280
Year authorised	1991
Commencement date	June 1992
Match type	Confirmation of continuing eligibility
Unique identifiers	None
On-line transfers	None

Purpose: The purpose of this match is to detect persons who leave for and return from overseas while receiving a social security benefit.

System: Once a week Customs sends to MSD a data tape of passenger arrivals and departures extracted from the 'CusMod' database. The information is compared with MSD's database of beneficiaries by name, date of birth and gender. The actual match is undertaken on the basis of a 'search string' created by linking the surname, first three characters of given name(s), date of birth and gender. The information provided to MSD also includes passport number, flight number, country of citizenship and date of arrival or departure.

MSD then checks its records to determine whether there has been an explanation given for the overseas travel. If there is no explanation, the matched individual is sent a notice advising that, unless they produce good reason to the contrary, their benefit may cease and any overpayment will be recovered from the individual. Where a benefit may be paid for a certain period while the individual is overseas, a notice of adverse action is not issued until the requisite period passes and no information has been received to indicate that the individual has returned to New Zealand.

This match has the unique distinction of a partial statutory dispensation from s.103 of the Privacy Act. Section 103 requires that before any adverse action is taken as the result of an authorised information matching programme, the individual concerned be advised of the discrepancy revealed by the match and of the action proposed to be taken. This safeguard ensures that adverse action is not taken against the wrong person and is one of the key protections afforded by the information matching provisions. The dispensation is provided to MSD for cases where the match reveals a departure date for a recipient of sickness, training, unemployment, independent youth, or emergency benefit, or a job search allowance. It effectively allows such a benefit or allowance to be suspended immediately.

This dispensation, which I opposed at the time, was enacted into law in 1993. I recommended its repeal in my 1999 review of this programme. I am advised that the NDMC has never used this dispensation.

This match has the unique distinction of a partial statutory dispensation from s.103 of the Privacy Act. Section 103 requires that before any adverse action is taken, the individual concerned be advised of the discrepancy revealed by the match and of the action proposed to be taken.

2001/02 RESULTS

TABLE 3: CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH 1999-2002 RESULTS

	1999/00	2000/01	2001/02
Number of runs	52	53	52
Number of records received from Customs	6,086,485	6,719,388	6,685,465
Number of "positive" matches	26,989	29,760	24,841
Legitimate records (no adverse action taken)	7,183	8,695	10,551
Notices of adverse action issued	19,797	20,304	14,577
Debts established (number)	12,203	16,843	9,773
Overpayments established	$5,972,158	$8,263,699	$4,501,003
Challenges	84	99	82
Challenges successful	64	72	69

The proportion of 'positive matches' obtained from the number of records received has dropped slightly from the results obtained in previous years.

The weekly runs mean that this year's number is one down on last year (52 versus 53) and the total number of records received from Customs is also down slightly (by 33,923 records). The percentage of 'positive matches' (i.e. raw hits indicating that a recipient of a benefit or pension has departed) has declined to 24,841, a drop basically in line with the reduction in records received.

The number of notices of adverse action issued dropped from 20,304 to 14,557 (72% of the previous year). The actual number of debts established dropped to 9,773 (58% of the previous year).

The amount of the debt established has dropped substantially from approximately $8,250,000 to $4,500,000. This is largely due to a change of policy implemented by the MSD on 1 July 2001 that significantly increased the number of clients who were entitled to receive income support payments while overseas. In particular, those receiving the '2 weekly' benefit became eligible to receive their payments while overseas for up to 28 days. For beneficiaries receiving supplementary assistance, a debt is now established from the 29th day of absence.

There has been no significant movement in either the number of challenges received, or the number of successful challenges.

TABLE 4: CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH 2001/02 BREAKDOWN BY BENEFIT TYPE

	Number	Total overpayments $	Median overpayment $
Unemployment	8,242	2,926,765	309
Sickness	317	115,153	314
Training	70	18,387	206
DPB	856	1,199,799	1,497
Invalids	137	128,067	938
Widows	106	67,252	414
Orphans	42	31,141	444
Superannuation	3	14,434	n/a
Total	9,773	$4,501,003	n/a

This year's total overpayments of $4,501,003 is a reduction of $3,762,696 from the $8,263,689 established last year. The differences are shown in Table 5.

TABLE 5: CUSTOMS/MSD ARRIVALS & DEPARTURES MATCH – OVERPAYMENTS BY BENEFIT TYPE 2000-2002

Benefit Type	2000/01	2001/02	Difference	
Unemployment	$4,976,665	$2,926,765	$2,679,899	53.85%
Sickness	$628,116	$115,153	$512,963	81.67%
DPB	$1,989,044	$1,199,799	$789,244	39.68%
Superannuation	$330,724	$14,434	$316,290	95.64%

The dramatic drops between this and last year in the case of '2 weekly' benefit is primarily because of the MSD's change in policy from 1 July 2001, described above. This change has not had an impact of the number of 'positive matches' but has increased the number of such records that are regarded as 'legitimate' and not requiring any adverse action.

The overall incidence of travel, as indicated by the number of records received from Customs is not significantly different from last year (down by about 1%) in spite of the terrorist attacks of 11 September 2001 in the USA.

On the basis of the information supplied I am satisfied that this programme has generally been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

3. EDUCATIONAL INSTITUTIONS/MSD LOANS & ALLOWANCES MATCH

EDUCATIONAL INSTITUTIONS/MSD STUDENT LOANS AND ALLOWANCES MATCH	
Information matching provisions	Education Act 1989 • s.226A - Institutions • s.238B - Private training establishments
Year authorised	1998
Commencement date	• 1998 - Allowances • 1999 - Loans
Match type	• Confirmation of eligibility and continuing eligibility • Updating of data
Unique identifiers	• MSD customer number • Student identification numbers
On-line transfers	Yes

There are innumerable qualifying courses, offered by over 700 separate institutions. Rather than requiring the student to produce proof of enrolment, MSD uses the information matching process to verify enrolment.

Purpose: This programme operates between MSD and post compulsory educational service providers (referred to as 'institutions'). The purpose of the programme is to enable MSD to obtain the enrolment information required to assess a student's entitlement to receive a student allowance, student loan or both. The data provided by institutions enables MSD to:

- verify that a student is undertaking a programme of study which has been approved by the Ministry of Education for student allowance and loans purposes;
- determine whether the student is full time;
- confirm start and end dates of the student's programme; and
- confirm any vacation periods exceeding three weeks during the student's period of study;
- identify the amount of the compulsory tuition fees payable from a loan account to a provider.

After receiving data from an institution, MSD decides whether to grant an allowance or loan, or decline an allowance or loan on the grounds that:

- the student is not enrolled in an approved programme of study; or
- the student is not studying full-time.

This part of the matching programme is known by the participants as Verification of Study (VOS).

System: With both student allowances and student loans, one of the criteria for granting them is enrolment in an approved post-compulsory education course. There are innumerable qualifying courses, offered by over 700 separate institutions that range from universities, polytechnics and colleges of education through to small private training establishments. Rather than requiring the student applying for a loan or allowance to produce proof of enrolment, MSD uses the information matching process to contact the institution directly for verification of study enrolment.

MSD sends to the institution the details of those applicants who claim to be enrolled with that institution for a course that qualifies for an allowance or loan. The institutions match the details of those applicants with their enrolment records and report back to the Department. Thus the matching is actually carried out by the institutions, with results fed back to MSD for action.

Each institution has entered into a standard form of information matching agreement with MSD. The larger institutions, as may be expected, carry out the information matching process in an automated routine, whereas the smaller ones make a manual check of their enrolment records and fax the results back. Of the 720 or so institutions involved, around 30 have fully computerised systems for doing so. They account for some 78% of all the verifications.

If an institution does not respond with matching details within a week, a further VOS is sent out by MSD. Sometimes the failure to match and advise MSD is because the student has not enrolled (as yet), sometimes it is because the student name does not match, and sometimes because the course enrolled for is not shown as having been approved for loan or allowance eligibility. After a number of VOS attempts have proved unsuccessful, the student applicant is notified pursuant to s.103 of the Privacy Act that the application is going to be turned down, and is given opportunity to show why that should not happen.

The requests for verification of study records generated by MSD are batched for each institution and placed on a stand-alone server at MSD. Institutions with the appropriate equipment draw down the batches of requests which they are required to verify, using on-line computer connection, via a dial up link. Match results are sent back to MSD in the same way. The process for those institutions involved in the fully computerised system is illustrated in **Figure 5**.

In the past, as the actual matching was not being undertaken in an on-line manner, I had not considered this match to involve 'on-line computer connections' which are prohibited by information matching rule 3. After some discussion with MSD it now appears that the arrangements do involve on-line links. Shortly after the end of the year, MSD submitted an application for my approval to undertake this match using on-line data transfers as allowed for by rule 3.

This year has seen the first real test of the system, when the peak enrolments were processed in the first quarter of 2001.

2001/02 Results: To show the effect of the inclusion of student loan application verifications as well as the annual workload peak, table 6 sets out the key indicators of the programme for each quarter, and totals for the year for both 1999/00 and 2000/01.

FIGURE 5: EDUCATIONAL INSTITUTIONS/MSD LOANS & ALLOWANCES MATCH

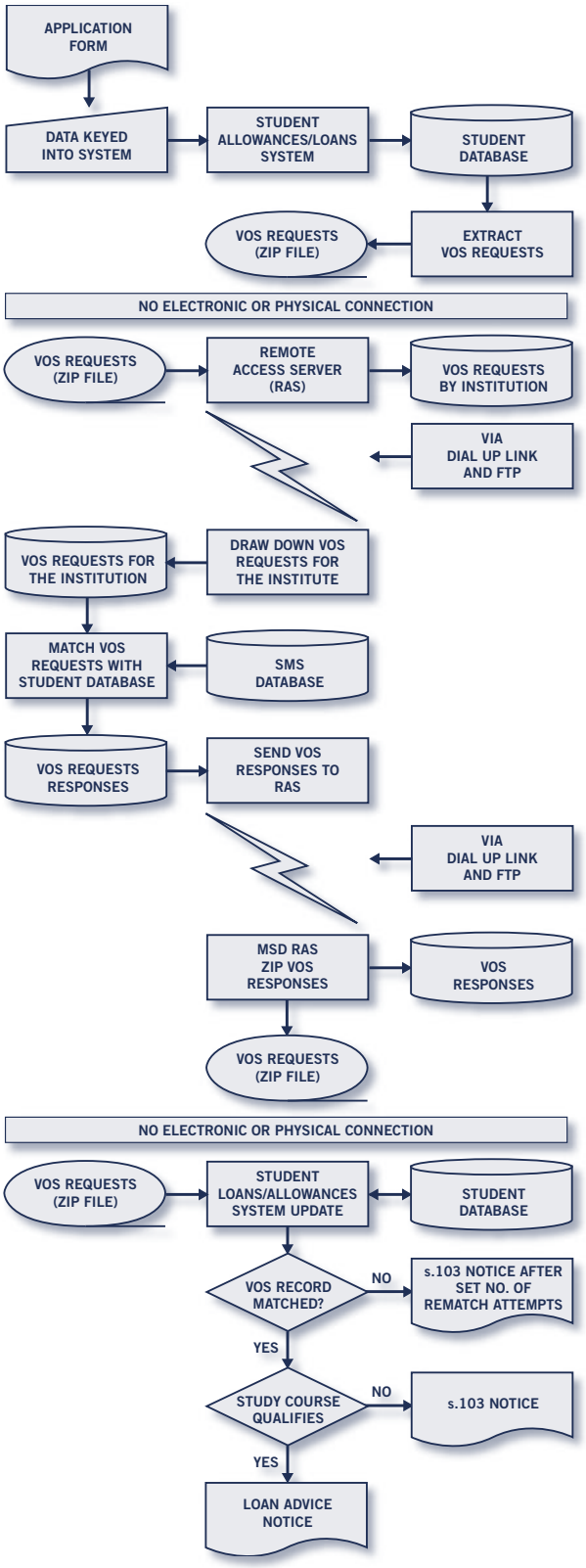


TABLE 6: EDUCATIONAL INSTITUTIONS/MSD LOANS AND ALLOWANCES MATCH VOS RESULTS 2000/01 (TOTALS ONLY) & 2001/02 (BY QUARTER)

	Jul-Sep2001	Oct-Dec 2001	Jan-Mar 2002	Apr-Jun 2002	2000/01 Totals	2001/02 Totals
Total VOS requests made	101,098	120,849	496,678	130,213	732,508	848,838
Individual applicants involved	45,348	36,289	126,677	46,153	239,950	254,467
Positive matches achieved	79,4562	100,367	397,428	90,867	664,596	668,118
Confirmed eligibility	84,616	67,758	274,630	93,172	396,603	520,176
Number of providers involved	519	511	513	482	556	2,025
VOS successful first time	60%	39%	37%	57%	51.30%	48.25%
More then 5 VOS attempts	7%	16%	24%	13%	15.30%	15%

I cannot report that I am satisfied that the programme complies with the matching rules.

There was, at one time, a plan to also use this matching process to confirm Results of Study (ROS). Although the framework for the ROS was put in place, this part of the match was not implemented in the way it had been designed. I understand that there are now no plans to implement ROS matching with the current system.

Information about this programme is given to students when they apply for loans or allowances.

When a match results in a student allowance being declined, I am told that applicants sometimes respond by providing further or corrected information. I have, since October 1999, requested statistics concerning the number of s.103 notices issued, challenges received and their outcomes. For some time now I have been advised that 'work is continuing to develop ways to record and collate this information' but I have been given no detailed concrete information.

There is a separate review and appeal process entitling students who believe that a decision in relation to their application is incorrect to request a 'review of decision'. If they disagree with the review they may appeal to the Student Allowance Appeal Authority. In the past year, 159 reviews of decision were lodged, resulting in:

- 73 reviews allowed
- 8 reviews partially allowed
- 11 reviews were withdrawn
- 64 reviews declined
- 3 not finalised at the end of the period under report.

In the past year seven appeals were lodged. One appeal was allowed, five were declined and the other was not finalised at the end of the year.

I cannot report that I am satisfied that the programme complies with the matching rules. As already noted the use of on-line computer connections for the transfer of information breaches rule 3. Further, the lack of information on the number of s.103 notices and challenges received, other than a general assurance that such notices are sent, does not allow me to gauge whether there are other systemic operational issues. I do expect that the provision of more detailed information on s.103 notices and challenges received will allow me to report in greater detail in future annual reports.

4. EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH

EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH	
Statutory authorisation	Social Security Act 1964, s.11A
Year authorised	1993
Match type	Detection of illegal behaviour
Unique identifiers	Tax file number
On-line transfers	None

The system is initiated if there is suspicion that people employed in a particular workforce have received benefits

Purpose: Section 11A of the Social Security Act 1964 authorises MSD to request information from employers about their employees or a specified class of employees (including former employees). The information may include names and addresses and tax file numbers. Section 11A(3) prevents MSD requesting information from the same employer within a 12 month period. The information obtained is compared with records of social security benefits paid out. Any discrepancies found are dealt with in terms of section 11A. Sections 11A(6) and (7) effectively bring the operation of the information matching programme under Part 10 of the Privacy Act for most purposes.

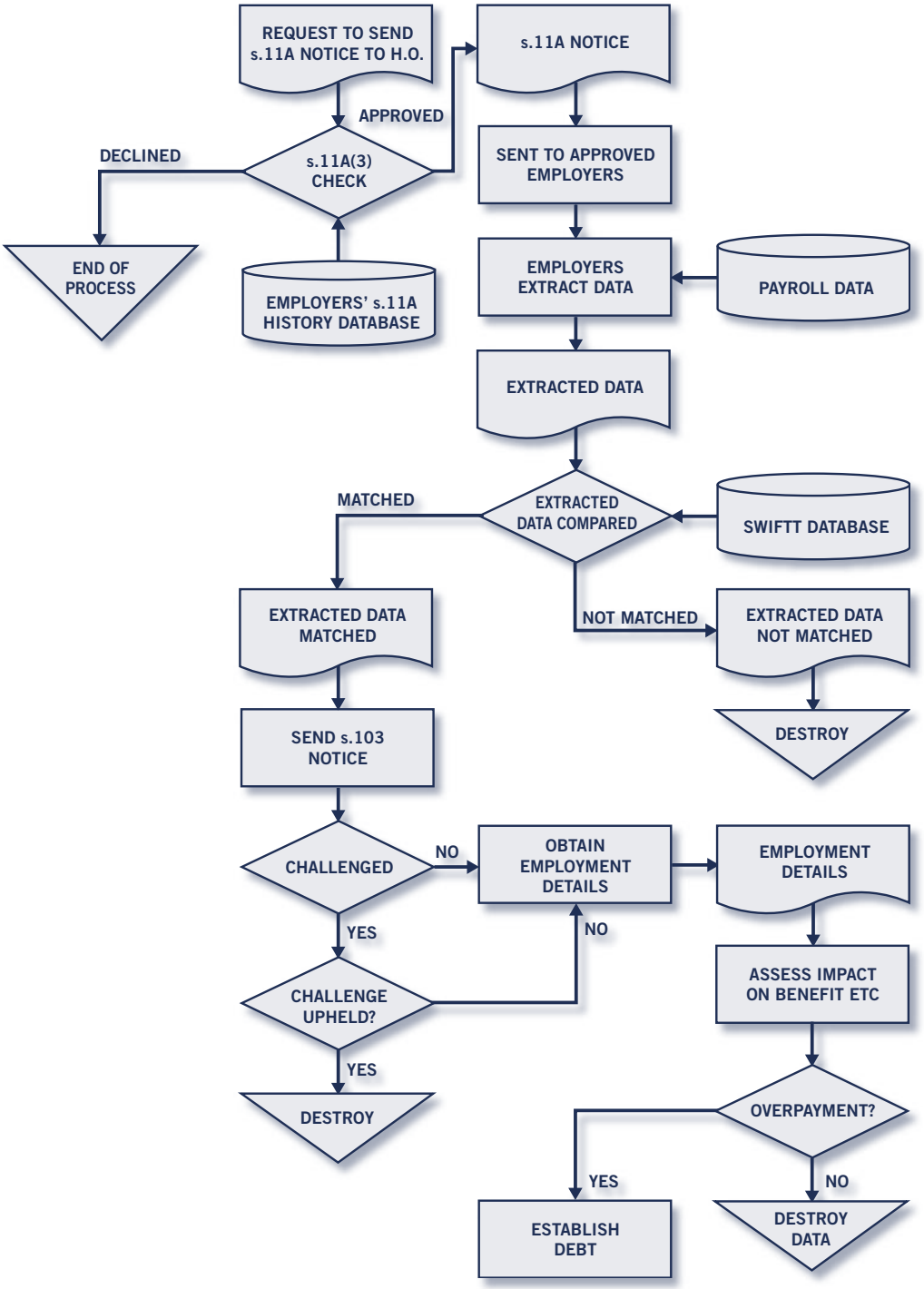
System: The system is initiated by 10 district Benefit Control Units if there is suspicion that people employed in a particular workforce have received benefits (or possibly that their spouses may have). These units request authority from Head Office to submit a request for information to particular employers. The Head Office register is checked to ensure that the employer in respect of whom authority is being requested has not been subject to a notice within the last 12 months since s.11A(3) prohibits more frequent approaches. If approval is granted, the employer is served with a notice by the district unit.

Employers extract the required information (names, addresses and tax file numbers) and forward it to the Benefit Control Unit, which then matches the data with the SWIFTT database to establish whether there are any 'cases of interest'. The individuals constituting cases of interest are sent the equivalent of a s.103 notice. They are told details of the discrepancy and that their employer will be approached concerning the details of their employment or, alternatively, that they may supply this information themselves.

If a person challenges the match that has been made and can satisfactorily prove that they were not the person identified, the information is destroyed. When details of the employment have been obtained (i.e. commencement/cessation dates, earnings etc.) an assessment is made and, if appropriate, an overpayment debt is established.

This process is illustrated in **Figure 6**.

FIGURE 6: EMPLOYERS/MSD S.11A SOCIAL SECURITY ACT MATCH



2001/02 RESULTS

TABLE 7: EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH 1999-2002 RESULTS (AS AT 21 OCTOBER 2002)			
	1999/00	2000/01	2001/02
Matches approved	86	51	34
Matches completed	86	51	23
Matches not completed	0	0	11
Details of completed matches			
Total employees checked	24,070	12,724	5,739
Cases investigated	1,694	1,674	682
Benefits cancelled or adjusted	1,194	924	350
Total cost	$44,562	$64,067	$12,495
Total savings*	$2,249,657	$1,798,858	$759,774
Net savings*	$2,205,094	$1,734,791	$747,279
* 'Savings' includes estimated prospective savings as well as overpayments actually established.			

The 1999/00 figure for matches approved has been reduced to 86 from the previously reported 89. I am advised that where MSD has difficulty obtaining information from employers they may cancel the authorisation completely so as not to inhibit their ability to investigate that employer again within 12 months.

Although this year's figure for costs may look quite low, costs tend to be greater for the matches completed last as they have more work carried out on them than matches completed quickly. Hence the costs increase more dramatically towards the end of the year as that last few matches are completed and their costs added to the evolving total.

Table 7 shows the results of the programme for the last three years. It is difficult to compare the three years' results as the current year is at a different stage of completion. About half of the matches approved in 2001/02 remain current and had not been completed by July. Accordingly, Table 8 sets out results for the previous three completed years and enables a clearer comparison.

TABLE 8: EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH: 1998-2001 COMPARABLE RESULTS			
	1998/99 (Finalised)	1999/00 (Finalised)	2000/01 (Finalised)
Matches approved	74	86	51
Matches completed	74	86	51
Employees checked	18,278	24,070	12,724
Total cost	$121,977	$44,562	$64,067
Total savings*	$1,853,846	$2,249,657	$1,798,858
Net savings*	$1,731,868	$2,205,094	$1,734,791
Net savings per completed match*	$23,403	$25,640	$34,015
* 'Savings' includes estimated prospective savings as well as overpayments actually established.			

The rate of challenges declined (actions confirmed) and successful challenges (actions overturned) are shown in Table 9.

TABLE 9: EMPLOYERS/MSD SECTION 11A SOCIAL SECURITY ACT MATCH: ANALYSIS OF CHALLENGES BY COMPLETED PROGRAMMES 1999-2002 (AS AT 23 OCTOBER 2002)

	1999/00	2000/01	2001/02
Section 103 notices sent	1019	983	678
Challenges declined	49	185	59
Challenges upheld	12	30	9

On the basis of the information supplied, I am satisfied that the programme has generally been operated in accordance with requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

5. IRD/MSD COMMENCEMENT/CESSATION MATCH

IRD/MSD COMMENCEMENT/CESSATION MATCH	
Information matching provision	Tax Administration Act 1994, s.82
Year authorised	1991
Commencement date	March 1993
Match type	• Detection of errors • Confirmation of continuing eligibility • Detection of illegal behaviour
Unique identifiers	Tax file number
On-line transfers	None

Purpose: The IRD/MSD Commencement/Cessation Match is designed to detect those who are receiving a benefit and working at the same time.

System: The programme operates by an exchange of information approximately six times a year (the current information matching agreement provides for up to 12 matches a year) between the Inland Revenue Department and MSD. MSD provides the names of selected individuals receiving income support to IRD to compare with those people recorded on its database. Where a match is found, the matched individual's details of employment and the commencement and cessation dates of that employment are passed to MSD. Any matched individuals are then investigated further by MSD to determine whether MSD records already explain the apparent discrepancy. If not, the matched individual is sent a notice advising that, unless they produce good reason to the contrary, the presumed employer will be contacted to confirm dates of employment and amounts earned. If the details of employment and the amounts earned are verified, either by the employer or the person themselves, then the impact on the MSD benefit is assessed and any calculated overpayment will be established as a debt to be recovered from the individual.

In the course of 12 months all MSD beneficiaries will have their records matched with IRD at least once.

Individual names are selected for the programme in one of three ways:

- all those individuals who cease receiving a benefit in the period since the last match;
- any Area Benefit Control Team nominating specific individuals about whom they have suspicions;
- one sixth random selection of current MSD benefit clients.

This last group will be a different sixth for each match per year, so that in the course of 12 months all MSD beneficiaries will have their records matched with IRD at least once.

2001/02 RESULTS

TABLE 10: IRD/MSD COMMENCEMENT/CESSATION MATCH 2000-2002 RESULTS

	2000/01	2001/02
Number of runs	5	6
Number of records compared	380,418	346,459
Number of "positive" matches	195,140	172,063
Legitimate records (no adverse action taken)	108,538	193,610
Notices of adverse action issued	30,557	37,453
Debts established (number)	16,843	16,709
Overpayments established	$24,271,276	$28,565,593
Challenges	707	710
Challenges successful	239	288

During the year six matches were run. However, NDMC staff have also worked on runs that started in previous years. Consequently, the sum of the different categories of records reported may exceed the number of records matched during the year. This is one reason for the high number of 'legitimate records' in 2001/02

This year has seen a major step in automating the preliminary processing of the results of this match. Essentially the file returned by IRD is pre-processed by automated scripts that identify and filter out the legitimate records not requiring any adverse action to be taken. These scripts, which apply to all records except those that are responses to Benefit Control Unit requests, identify the following:

- Records where the name of the employer and the commencement and cessation dates are the same as previously advised by recent prior runs. These are classified as 'previously selected'.
- Records where the number of days between the commencement and cessation dates does not exceed a specified period (earlier 14 days, but now set at 7 days). These are classified as 'no impact on assistance'.
- Records where the benefit end date is a specified number of days or less (now set at 7) after the commencement date. These are classified as 'no impact on assistance'.

- Records that are multiple records for an employer name and for the same Social Welfare Number (effectively beneficiary) within the same match run. The record with the earliest start date is left for manual processing. All other records for the same employer and beneficiary are classified as 'previously selected'.

The substantial increase in the number of records classed as 'legitimate' (meaning no adverse action is required) from 108,538 to 193,610 has been ascribed to the number of runs increasing from five to six, and the fact that 'auto-filter' scripts were run also on a 7th match.

In spite of undertaking one more run than last year, there has been a 9% drop in the number of records matched. However, there has been an increase in the number of notices of adverse action issued (from about 30,500 to 37,500).

This information matching programme is easily the most valuable of the anti-fraud matches carried out in New Zealand, measured in terms of the overpayment amount discovered. It has been going for over nine years now in more or less the same form, and appears to have reached a relatively high level of efficiency and control.

This programme is easily the most valuable of the anti-fraud matches, measured in terms of the overpayment amount discovered.

On the basis of the information which has been supplied to me, I am satisfied that this information matching programme has been conducted in accordance with ss.99 to 103 of the Privacy Act and the information matching rules.

6. IRD/MSD COMMUNITY SERVICES CARD MATCH

IRD/MSD COMMUNITY SERVICES CARD MATCH	
Information matching provision	Tax Administration Act 1994, s.83
Year authorised	1991
Commencement date	1992
Match type	Identifying persons eligible for an entitlement
Unique identifiers	Tax file number
On-line transfers	None

Purpose: To identify people who, by virtue of their level of income and number of children, qualify for a Community Services Card entitling them to subsidised health care.

System: Tax credit information provided by IRD to MSD is matched against the income limits qualifying for the card. The income limits vary depending upon the number of dependent children. Each exchange generates:

- a letter to a person matched advising that he or she is over the income threshold for a card; or
- a letter advising that the person is within the threshold for the card and enclosing an application form for a card which may be completed and returned; or

- if a current CSC is already held, a renewal flag is placed upon SWIFTT, MSD's computer system, for records on current beneficiaries: when the existing card expires a new card is automatically generated for eligible cardholders.

2001/02 Results: I have not, in the past, required MSD to supply me with detailed returns on this programme, having been under the impression that no adverse action was taken as a result of matching. I recently established that there are occasions when the results of the match may be lead MSD to decide not to re-issue a CSC because of the income level disclosed by IRD. I have since asked MSD now to provide me with quarterly reports. These reports will start with matches undertaken after 1 July 2002.

On the basis of the information which has been supplied to me, I am satisfied that this information matching programme has been conducted in accordance with ss.99 to 103 of the Privacy Act and the information matching rules.

7. IRD/MSD DEBTOR TRACING MATCH

IRD/MSD DEBTOR TRACING MATCH	
Information matching provision	Tax Administration Act 1994, s.85
Year authorised	1993
Commencement date	November 1994
Match type	Location of persons
Unique identifiers	Tax file number
On-line transfers	None

Purpose: The IRD/MSD Debtor Tracing Match is designed to provide MSD with up to date addresses from IRD for those who owe money to MSD. These debts arise due to benefit overpayments having been established.

System: The debtors located through the programme are debtors who are not currently receiving a benefit and with whom MSD has lost contact. The programme is one part of MSD's process for collecting debts established by the other MSD information matching programmes, as well as from other MSD operations.

2001/02 RESULTS

TABLE 11: IRD/MSD DEBTOR TRACING MATCH 1999-2002 RESULTS			
	1999/00	2000/01	2001/02
Number of runs	5	6	5
Debtors sent for matching (A)	293,057	348,448	318,804
Average number of debtors per run	58,611	58,075	63,671
Matched by IRD (B)	261,672	313,731	279,312
% of debtors sent (B/A)	89.2%	90.0%	87.6%
Matches found useable (C)	57,485	70,045	60,434
% of debtors sent (C/A)	19.6%	20.1%	19%
% of those matched by IRD (C/B)	22%	22.3%	21.6%
Letters sent out (D)	3,444	3,132	2,855
% of those matched by IRD (D/B)	1.3%	1.0%	1.0%
% of matches found useable (D/C)	6.0%	4.5%	4.7%
Letters not returned (presumed delivered) (E)	3,199	2,932	2,702
% of matches found useable (E/C)	5.6%	4.2%	4.5%
% of letters sent out (E/D)	92.9%	93.6%	94.6%

This matching programme has been surprisingly consistent over the last three years. Some decrease in 'matches found useable' may be expected in future years because IRD no longer requires annual returns from the majority of taxpayers: many of the addresses IRD holds will increasingly become out of date.

On the basis of the information reported to me, I am of the opinion that the programme has been operated in accordance with ss.99 to 103 of the Act and the information matching rules.

Active Matches with Other Departments as User Agency

8. CORRECTIONS/ACC INMATES MATCH

CORRECTIONS/ACC INMATES MATCH	
Information matching provision	Injury Prevention, Rehabilitation, and Compensation Act 2001, s.280(2)
Year authorised	1992
Commencement date	2000
Match type	• Confirmation of continuing eligibility • Detection of illegal behaviour • Detection of errors
Unique identifiers	None
On-line transfers	None

Purpose: The purpose of this match is to ensure that prison inmates are not receiving earnings-related accident compensation payments.

System: The Department of Corrections provides a file of all new prison admissions to ACC. This is compared with the records of people receiving earnings related accident compensation. This match started in September 2000. Quarterly returns are now being received regularly.

It is quite common for departments to fall back on assertions of perceived deterrence when matches fail to produce significant financial savings. The number of claimants who have been found to receive payments to which they are not entitled is tiny.

2001/02 RESULTS

TABLE 12: CORRECTIONS/ACC INMATES MATCH – 2000-2002 RESULTS (AS AT 30 JUNE 2002)

	2000/01	2001/02
Number of runs	42	50
Number of records compared	27,425	82,444
Number of 'positive' matches	8,756	11,339
Debts established (number)	121	45
Overpayments established	$39,851	$20,403
Challenges	3	4
Challenges successful	0	1

ACC reports the costs for this match as $26,000 for the last year or $520 per each of the 50 weekly runs.

The source data for this match is identical to the source data for the Corrections/MSD Inmates Match. The reported total of 'records compared' differs slightly from that shown by MSD due to a difference in timing between when the two source tapes are created.

Despite tripling the number of records compared, this year there has been a substantial drop in both the number of debts established (121 last year and 45 this year) and the total value of the debt established ($39,851 versus $20,403). The average debt, however, increased to $453. The average number of debts established per run is now less than one. In spite of the small numbers of discrepancies being identified by this programme, ACC believes the match acts as a significant deterrent and suggests 'it is becoming more common that claimants advise ACC when they are being imprisoned'. Unfortunately, there are no statistics to back this impression up nor any evidence of awareness levels among ACC recipients to show that knowledge of the match has led to a change in behaviour. It is quite common for departments to fall back on assertions of perceived deterrence when matches fail to produce significant financial savings. I note that the number of claimants identified is not small (11,339) but rather the number who have been found to receive payments to which they are not entitled is tiny (45 or 0.40% of the claimants identified). There must be considerable work involved in culling the 45 from the 11,000.

I am pleased to note that the ACC has produced flyers which are sent to prisons for issue to every inmate at the time of their admission. The flyers describe the matching process and state what type of ACC payments are not receivable while in prison. While this will not inform all ACC recipients of the existence of the match it may have a particular value in informing people on remand prior to any conviction and longer-term imprisonment.

On the information provided to me I am satisfied that the programme has been operated in accordance with ss.99 to 103 of the Privacy Act and with the information matching rules.

9. IRD/COURTS FINES DEFAULTERS TRACING MATCH

IRD/COURTS FINES DEFAULTERS TRACING MATCH	
Information matching provision	Tax Administration Act 1994 s.85A
Year authorised	1998
Commencement date	2002
Match type	Location of persons
Unique identifiers	Department for Courts number
On-line transfers	None

Purpose: To enable the Courts (Collections Unit) to locate people who are outstanding fines defaulters in order to enable the recovery of outstanding amounts.

System: Courts selects a range of its outstanding fines defaulters and sends the following information on a CD ROM to the IRD:

- DfC (Department for Courts) number
- Client indicator ('I' for an individual, 'N' for non individuals i.e. companies)
- Family name
- First name
- Second name(s)
- Date of birth.

The IRD attempts to match these records on the basis of last name, first name, second name and date of birth. For matched records the following is returned to Courts, also on a CD-ROM:

- DfC number
- Match Indicator (ranging from '1' for a full valid match on all fields compared to '8' a full match on all fields with the exception of family name, to a series of codes for such things as '10' match but no valid address held by IRD, '95' matched data but date of birth not verified etc.)
- Client address (up to 3 lines)
- Address date
- Telephone numbers.

2001/02 Results: Only one run of this match was undertaken this year, in May 2002, when 19,707 names were sent to the IRD. This returned 8,667 useable matches. Normally the statistical results of a match are not reported to me until 6 months have elapsed, by which time much of the follow-up action can be expected to have been taken and a meaningful proportion of outcomes collated, and again at 12 months when all reportable action should be completed. I will report more fully on this run in next year's annual report.

Subject to the caveat that I have not yet had full reports on the year's run, I am of the opinion that the programme has been operated in accordance with ss.99 to 103 of the Privacy Act and with the information matching rules.

10. MSD/COURTS FINES DEFAULTERS TRACING MATCH

MSD/COURTS FINES DEFAULTERS TRACING MATCH	
Information matching provision	Social Security Act 1964, s.126A
Year authorised	1996
Commencement date	1998
Match type	Location of persons
Unique identifiers	None
On-line transfers	None

Purpose: To locate outstanding fines defaulters in order to enable the recovery of outstanding amounts.

System: The Department for Courts selects a range of its outstanding fines defaulters and sends these via electronic media to MSD. MSD supplies address information for any matched records in its database.

2001/02 Results: Only one match run occurred during the year, in August 2001, although three test runs followed (with the data destroyed in each case).

Match runs are reported at six months (interim report) and at 12 months (final report). Accordingly, the final return for an earlier run in January 2001 became available this year together with an interim return for the August 2001 run.

Table 13 sets out the basic statistics for the single run undertaken in 2001/02, with comparable figures for the runs of the previous two years.

TABLE 13: MSD/COURTS FINES DEFAULTERS TRACING MATCH: 2000-2002 RESULTS (BY RUN DATE)			
Run date	24/4/00	6/01/01	20/8/01
Names sent for matching	45,161	47,581	43,760
Names matched	7,650	11,822	14,689
Useable matches	7,616	11,782	14,650
Cleared before notice	3,108	4,239	2,520
Successfully challenged	1,103	715	465
% of useable matches challenged	14%	6%	3%
Collection instituted	1,424	3,014	2,709

It is pleasing to see that the number of successful challenges as a percentage of useable matches has been reduced from 14% to a more acceptable level of 6% in the January 2001 run. The

department advises that it believes the changes to be the combined result of improved source data and training for its staff (there is now a dedicated trainer). I hope that this reduction can be confirmed as a trend rather than a one-off result. I will continue to monitor the number of successful challenges that arise from this match.

On the basis of the information supplied to me, I am satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

11. CITIZENSHIP/EEC UNENROLLED VOTERS MATCH

CITIZENSHIP/EEC UNENROLLED VOTERS MATCH	
Information matching provision	Electoral Act 1993, s.263B
Year authorised	2002
Commencement date	2002
Match type	• Identifying persons eligible for an entitlement • Updating data
Unique identifiers	None
On-line transfers	None

This is one of four new programmes with the objective of identifying people who appear to be entitled to enrol as voters, but who have not done so.

Purpose: This is one of a series of four new programmes with the objective of identifying people who appear to be entitled to enrol as voters, but who have not done so. This programme compares the names of people who have been granted citizenship with names on the electoral roll.

System: The Citizenship Branch of Identity Services of DIA extracts from the computerised Citizenship Register subsets of data for individuals who have been granted citizenship in a period specified in the EEC request. The information is sent to EEC on a CD-ROM and is validated to ensure that all the fields contain data.

The validated records are matched with the electoral database on the basis of surname and given name(s) and date of birth. This results in one of three possible outcomes:
- matched
- possibly matched
- not matched.

The addresses for 'matched' records are compared. If the addresses are the same, the records are destroyed. Should the addresses differ, the date of Certification of Citizenship is compared with EEC's 'update date'. If the 'citizenship date' is later than the update address for the EEC then the individual is sent an invitation to update their details on the electoral roll and entered into a 'correspondence database' to ensure that they are not written to repeatedly.

'Possibly matched' records are examined manually. Where records appear to correspond, the process detailed in the previous paragraph is followed.

'Not matched' records are sent an invitation to enrol and added to the 'correspondence database'.

This process is similar to the process illustrated in Figure 7 for the MSD/EEC Unenrolled Voters Match.

EEC costs for this match totalled $7,303 representing an average of $11.18 per new elector.

2001/02 Results: On 22 May, EEC received the extract from the Citizenship Register with a total of 9,609 records reflecting those people granted citizenship from October 2001 to March 2002.

Matching the citizenship extract file with the electoral roll revealed 1,865 (or 19.4% of the extract file) of those people were not currently on the electoral roll but appeared eligible to vote. On 17 June 2002 they were sent a letter inviting them to enrol, an enrolment form and pre-paid reply envelope.

From this mailing, 71 letters (3.8% of the letters mailed) were returned to EEC marked as incorrect or outdated addresses. A total of 1,794 letters (or 96.2% of those mailed) appeared to have been delivered.

Some 653 people responded to the letter. The balance of 1,141 letter recipients had not contacted EEC in any manner by 27 July 2002. The responses received by EEC were as follows:

- new enrolments by 27 July 635
- already enrolled 18

Those already enrolled had typically done so with a slight variance in their forename or surname.

The figure for new enrolments (635) represents 0.024% of the final electoral roll and 6.6% of the names provided by DIA in the extract file.

The total cost of operating this match has not been reported as DIA has not sought to recover any fee from EEC. Reported EEC costs for this match totalled $7,303 representing an average of $11.18 per new elector.

On the basis of the information supplied to me I am satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act.

12. MSD/EEC UNENROLLED VOTERS MATCH

MSD/EEC UNENROLLED VOTERS MATCH	
Information matching provision	Electoral Act 1993, s.263B
Year authorised	2002
Commencement date	2002
Match type	• Identifying persons eligible for an entitlement • Updating data
Unique identifiers	None
On-line transfers	None

Purpose: This seeks to identify people who are entitled to be enrolled as voters, but who have not enrolled. This programme compares details of persons, aged 17 years and older, in the MSD beneficiary and student databases with the electoral roll.

System: At the request of EEC, MSD extracts from its databases subsets of data for all people 17 years and older, whose records are not 'locked'. 'Locked' records are those where the client has asked for their details to be kept confidential or are those records relating to MSD staff members. These are sent as two separate files:

(i) an extract from the SWIFTT database which covers people who are receiving or have received a benefit, pension or grant, and

(ii) an extract from the SAL database which covers all those people receiving a student loan or allowance.

In the initial match a large number of records were sent to EEC. For the second and subsequent extracts, records will only be included if added since the last run, or where some key item of information (surname, given name or address) changed since the last extract. The resulting file is then passed to EEC on a CD-ROM and is validated to ensure that all the fields contain data.

The validated records are then matched with the electoral database on the basis of surname and given name(s) and date of birth. This will result in one of three possible outcomes:

- matched
- possibly matched
- not matched.

The addresses for 'matched' records are compared, and if the addresses are the same the records are destroyed. Should the addresses differ, the date of the 'update dates' are compared. If the update date from MSD is later than the update date for the EEC, the individual is sent an invitation to update their details on the electoral roll and entered into a 'correspondence database' to ensure that they are not written to over and over again. It should be noted that the 'update date' supplied by the MSD is the date of the last time the record was updated in any form, not just the address.

Matching the electoral roll with the SWIFTT extract file revealed 78,529 people appeared not to be on the electoral roll but eligible to vote.

'Possibly matched' records are examined manually to establish whether or not they should be matched. Where records appear to match, the process detailed in the previous paragraph is followed.

'Not matched' records are sent an invitation to enrol and added to the 'correspondence database'.

This process is illustrated in **Figure 7**.

This programme is to be run no more than twice a year.

2001/02 Results: On 29 May the EEC received the extract from the SWIFTT database with 904,577 records and the SAL extract file with 123,688 records. The June announcement of the early General Election meant that there was no matching of the latter file due to a lack of time and competing calls upon resources.

Matching the electoral roll with the SWIFTT extract file revealed 78,529 people (or 8.7% of the file) appeared not to be on the electoral roll but eligible to vote. On 17 June 2002 they were sent a letter inviting them to enrol, an enrolment form and a pre-paid reply envelope.

From this mailing, 3,565 letters (4.5% of the letters mailed) were returned to the EEC marked as incorrect or outdated addresses. A total of 74,964 letters appeared to be successfully delivered.

Responses were received from or on behalf of some 22,745 persons, leaving 52,219 letter recipients who had not enrolled or contacted the EEC in any manner by 27 July 2002. The responses received by the EEC were as follows:

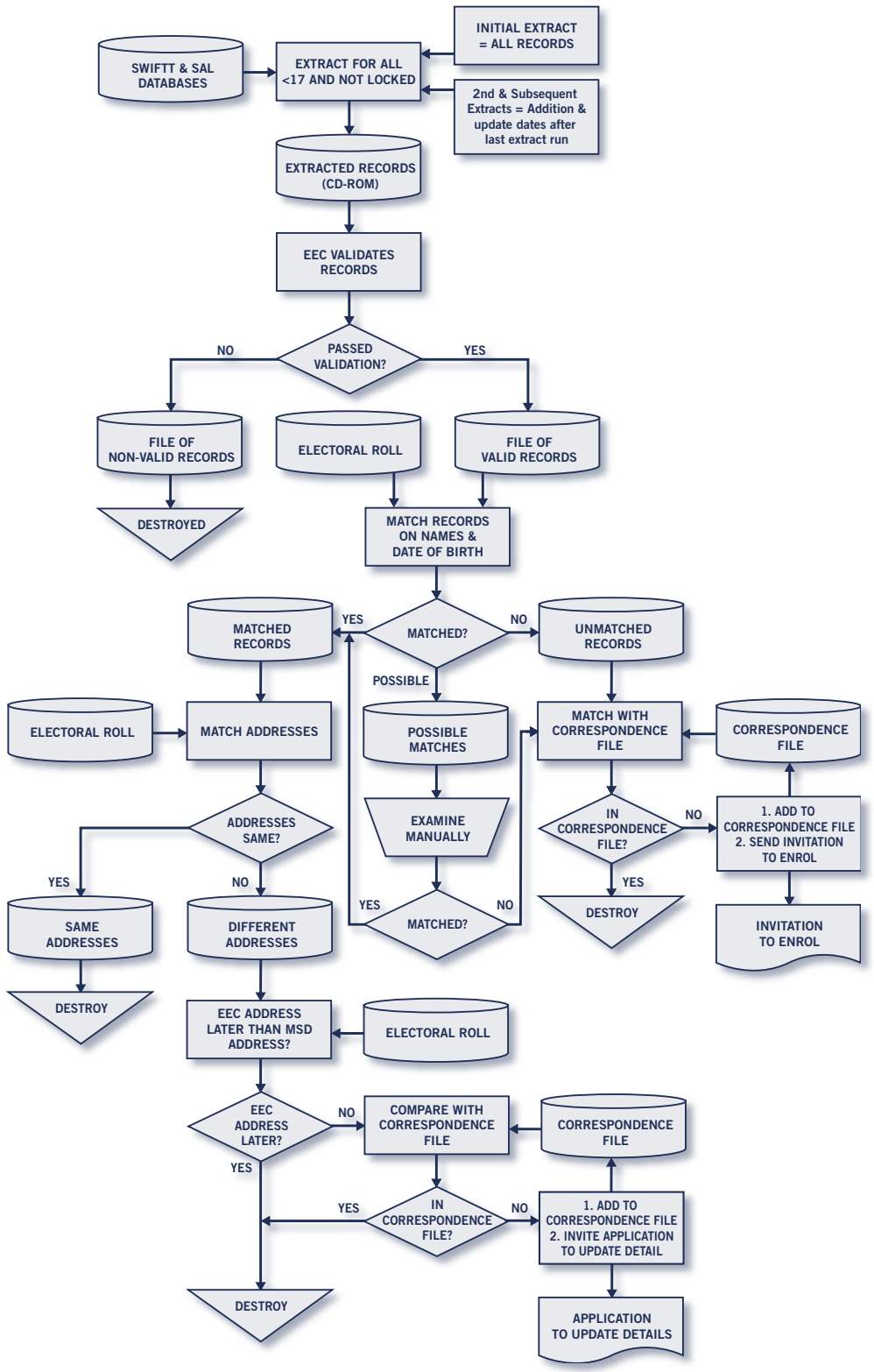
- New enrolments by 27 July 2002 — 22,574
- Already enrolled — 125
- Not eligible to enrol (Immigration status) — 18
- Not eligible (deceased) — 7
- Not enrolled (mentally handicapped) — 21

Those 'not eligible to enrol' on account of their immigration status were those cases where documentation was produced that indicated they were not entitled to be considered as permanent residents or citizens of New Zealand. Those who chose not to enrol on account of their being mentally handicapped were not exempted from enrolling under s.80(1)(c) of the Electoral Act 1993.[3]

The figure for new enrolments (22,574) represents 0.87% of the final electoral roll and 2.5% of the names provided by MSD on their SWIFTT extract file.

3 Section 80(1)(c) concerns persons detained under the Mental Health (Compulsory Assessment and Treatment) Act 1992. Electoral Act 1993, s.86, has special registration requirements for mentally incapable people to enable them to be enrolled to vote.

FIGURE 7: MSD/EEC UNENROLLED VOTERS MATCH



MSD has not submitted an invoice for its work in relation to this match, in spite of being entitled to do so. EEC costs for this match have totalled $103,436, an average of $4.58 per new elector.

On the basis of the information supplied to me I am satisfied that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act.

13. NZIS/EEC UNQUALIFIED VOTERS MATCH

NZIS/EEC UNQUALIFIED VOTERS MATCH	
Information matching provision	Electoral Act 1993, s.263A
Year authorised	1995
Commencement date	August 1996
Match type	• Confirmation of eligibility • Detection of illegal behaviour
Unique identifiers	None
On-line transfers	None

Purpose: To enrol to vote in elections an individual must be a citizen or permanent resident of New Zealand. The object of this match is to identify and remove from the electoral roll any individual who is enrolled and does not meet the conditions for enrolment.

System: NZIS begins the process by sending electronic files to EEC of all people known to be in New Zealand on the basis of limited duration residence permits or visas and overstayers. The match is usually run once a year. The information about an individual that is provided by NZIS is surname, given names (and any known aliases), date of birth and address (if known). EEC matches these records against the electoral master database on the basis of surname, given names, date of birth and, if available, address. If a person appears in both the NZIS file and the electoral roll their details are written to a 'raw hits' file that is then sent by EEC to NZIS for verification procedures. After NZIS has verified an individual's status, a list of 'checked hits' is returned to EEC. The checked hits file is used as the basis for generating the notices required under s.103 of the Privacy Act.

If a person responds to this notice the question of his or her entitlement to be on the electoral roll is usually able to be resolved on the basis of that response. If a response is not received then a second notice, prepared under auspices of the Electoral Act, is hand delivered. People not located during the hand delivery process are placed on the dormant roll. For those who *are* contacted, the matter of their enrolment is considered individually upon the evidence that the individual produces.

2001/02 Results: In 2002, the match was run just prior to the closing of the electoral rolls for the general election. The EEC received the initial files from NZIS in June. While the entire matching process was not completed until 1 August, after the end of the year, I nonetheless include a complete report here.

On 7 June the EEC received from the NZIS 165,251 records in four files:
- Students: 43,572 records
- Overstayers: 50,308 records
- Visitors: 37,063 records
- Work permits: 34,308 records.

After matching against the master electoral roll database the 'raw hits' or matches of interest (746 records) were placed in four separate files, corresponding to the categories mentioned above, and returned to the NZIS on 11 June to undertake the verification check.

The files were returned to EEC on 17 June with NZIS having verified 542 entries. The next day 542 notices of adverse action (under s.103 of the Privacy Act) were prepared by the EEC and posted to the individuals concerned.

The report supplied to me indicates that the EEC assumed, in its timetable of events, that the letters would have been delivered on the next day, 19 June, and that the period allowed for individuals to respond to the letter began on that day. However, the Privacy Act provides that, in the absence of proof to the contrary, notice is deemed to have been delivered on the fourth day after the day it was posted. This would mean that the period in which an individual had to respond should have been 5 working days after 22 June, that is by Friday 28 June. The letter advised people that they had until 26 June to respond. In the event, the timetable indicates that the actual cut-off date operated by EEC was Wednesday 26 June. It also states that the identification of people who did not respond did not begin until Tuesday 2 July 2002. At that time there were 495 failures to respond, making a total of 47 individuals who did respond to the initial notices.

Although the notice wrongly gave 26 June as the cut off date, the actual date on which adverse action was taken was 2 July which was within the timeline set by the Privacy Act.

Of these 47 responses, six provided evidence of their eligibility to be on the roll, 39 requested that their names be removed from the roll and the remaining two provided evidence that deemed them ineligible to be on the roll.

A second notice (issued under the Electoral Act) was sent by the relevant District Registrar to the 495 people who did not respond to the initial notice. These letters, noting that no response had been received to the earlier notice, were hand delivered by a document server between Friday 5 July and Monday 8 July. The letter allowed a further 14 days to respond.

On 23 July, after the 14 days had expired, a list of 446 registered electors was sent to the Registrar of Electors with instructions to remove them from the roll. The list contained:
- 61 electors who consented to be deleted from the electoral roll;
- 381 electors who were successfully served the second letter but did not reply;
- 4 electors who replied with evidence that was insufficient or deemed them ineligible to remain on the roll.

A list of 446 registered electors was sent to the Registrar of Electors with instructions to remove them from the roll.

A further list containing 86 electors who were identified as 'Gone No Address' was sent to the Registrar of Electors with instructions to transfer them to the dormant roll.

On 30 July, the of final items of correspondence were despatched:
- 10 letters of 'confirmation of eligibility';
- 61 letters of 'confirmation of removal', and
- 4 letters of 'ineligible to remain on roll'.

The reported costs of running this programme were $32,822. NZIS charged $2,684 and EEC $4,684. The remaining $25,453 were costs incurred by the document service company that hand delivered the second notice (a requirement of the Electoral Act).

TABLE 14: NZIS/EEC UNQUALIFIED VOTERS MATCH: 1999-2002 RESULTS (BY IMMIGRATION STATUS)

	1999			2001			2002		
Immigration Status	Records Matched	Checked Hits	Checked Hit Rate	Records Matched	Checked Hits	Checked Hit Rate	Records Matched	Checked Hits	Checked Hit Rate
Visitor	76,723	65	0.08%	53,831	62	0.12%	37,063	41	0.11%
Student	15,340	41	0.27%	33,220	310	0.93%	43,572	167	0.38%
Work Permit	12,748	54	0.42%	26,975	264	0.98%	34,308	263	0.77%
Overstayers	1,186	16	1.35%	46,901	59	0.13%	50,308	71	0.14%
Totals	105,997	176	0.17%	160,927	695	0.43%	165,251	542	0.33%

On the basis of the information supplied, I am satisfied that this programme, with one notable exception, has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules. The exception was the s.103 notice which indicated that individuals had less time to challenge the discrepancy than was their statutory due. Normally this defect would have been compounded by the EEC's plan to promptly act on the results on 26 June. However, as it happens, EEC's delay in taking action for a few days allowed time for late challenges and the position of affected individuals was further protected by the subsequent processes required to be followed under the Electoral Act.

14. MSD/IRD FAMILY SUPPORT DOUBLE PAYMENT MATCH

MSD/IRD FAMILY SUPPORT DOUBLE PAYMENT MATCH	
Information matching provision	Tax Administration Act 1994, s.84
Year authorised	1993
Commencement date	1995
Match type	Confirmation of continuing eligibility
Unique identifiers	Tax file number
On-line transfers	None

Purpose: To identify individuals who have wrongly received family tax credits from both MSD and IRD.

System: The IRD sends an extract of their Family Support records to the MSD who match this against their file of Family Support recipients. Where a person is found in both files, the details of that person are sent back to the IRD to have their Family Support Credits from IRD cancelled and, if appropriate, establish a debt for the amounts overpaid.

2001/02 RESULTS

TABLE 15: MSD/IRD FAMILY SUPPORT DOUBLE PAYMENT MATCH: 1999-2002 RESULTS

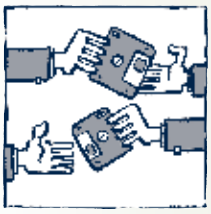
	1999/00 Runs 42-50	2000/01 Runs 51-59	2001/02 Runs 60-68
Cases sent by IRD to MSD for matching	935,176	1,031,512	1,006,896
Cases matched by MSD	8,019	10,202	8,243
Cases of adverse action taken	6,506	8,846	7,319
Costs incurred by IRD	$226,569	$539,381	$153,488
Savings (estimated)[1]	$15,055,335	$21,754,920	$19,197,317

This year the costs of operating the match appear to have dropped substantially from well over $500,000 to $153,000. IRD explains that there has been a change in the way costs are assigned rather than any significant variation in the effort or expense to undertake this match. IRD also note that the costs advised to me 'do not include our Information Technology overheads or National Office time … as these are reported separately as an output class'. The figure is therefore not comparable with previously reported figures and does not represent the full cost. In order to monitor the effectiveness of the programme, in the coming year I will explore the basis upon which the cost and benefit information is supplied to me.

The figures for estimated savings in this match are more an indication of cash flow savings rather than real losses avoided. The figures estimate the extra money which would have been paid out (or not collected in) if the 'double dipping' had gone on until the end of the tax year.

1 Calculated by determining the amount of the payments stopped, multiplied by the number of fortnights left in the customer's tax year, ie to the end of March (when the payment ought normally be stopped/reviewed because of filing a tax return).

The true savings achieved by this programme would depend upon, among other things, the cost of government borrowing and the costs and delays involved in recovering individual tax debts. It would probably be less than 10% of the figures shown by IRD.



The true savings achieved by this programme would depend upon, among other things, the cost of government borrowing and the costs and delays involved in recovering individual tax debts. It would probably be less than 10% of the figures shown by IRD. Even so, as I observed in last year's report, it seems likely that the real monetary savings achieved by the programme comfortably exceed its present level of costs.

The number of s.103 notices sent is 7,319. IRD has reported that no challenges were received. I am asking IRD to confirm that this is correct and that a satisfactory system is operated to note and report any such challenges

On the basis of the information supplied, I am satisfied that this programme has been conducted in general accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

THE STUDENT LOAN INTEREST WRITE-OFF MATCHES

The Student Loan Interest Write-off Matches are used to enable the interest that has accrued on a student loan to be written off for periods when a student is:

- studying full time, or
- on a low income and is studying part time.

Over the last two years this programme has been operated as two separate and distinct matches:

- MoE/IRD Student Loan Interest Write-off Match (No 1)
- MoE/IRD Student Loan Interest Write-off Match (No 2).

For the first year of the programme's operation, students would apply for their interest write-off by sending a completed application form direct to IRD. IRD would send a record to MoE to match up with a student's enrolment record. The enrolment records were consolidated from information supplied to MoE by tertiary study institutions. This is called the 'No 1' match and is reported on as programme 15 below.

For the second and subsequent years, students who seek the interest write-off are invited to supply their tax file number to their tertiary institutions. The institutions pass this on to MoE with their enrolment details. MoE then pass this information to IRD where it is matched up with the student's loan record. This is known as the 'No 2' match and is described as programme 16.

To an extent, both matches will continue. The original No 1 match will continue to be used for those students who do not supply their tax file number to their institution but submit a separate application form.

The next two sections describe and provide the 2001/02 results for the No 1 and the No 2 matches respectively.

The Student Loan Interest Write-Off Matches

15. MoE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 1)

MoE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 1)	
Information matching provision	Tax Administration Act 1994, s.85D
Year authorised	2000
Commencement date	2001
Match type	• Confirmation of entitlement • Updating data
Unique identifiers	• Tax file number • Institution Student Number
On-line transfers	None

Purpose: To enable interest that has accrued on a student loan to be written off in respect of periods where a student is studying full time or is on a low income and studying part time.

System: The match operates by a student borrower applying to IRD for the appropriate interest write-off by completing an application form giving their tax file number and student identification (a combination of the student and tertiary provider number). This information is entered into the IRD system and a file is created consisting of that information before passing on to MoE. MoE matches the data with the returns of enrolment records supplied to it by the providers, thus establishing the enrolment details (whether full or part time or not studying) for a particular applicant. A record with result of the match encoded is then returned to IRD. Where a student claims to be enrolled at more than one provider, the process of sending the application details (multiple student identifiers and provider codes) is by hard copy and the matching process is by manual enquiry of the MoE enrolment database.

IRD processes the results of the match by either updating its records to indicate whether the borrower is a part time or full time student or, in cases where the MoE return indicates that a borrower is not studying (no match or course of study does not qualify), a letter is sent to the applicant (the s.103 notice).

The letter advises the student that MoE was not able to confirm study status under the student number and provider code provided by the student. The student number and provider code as sent to MoE is shown in the notice.

In the event that either the number is incorrect or because the borrower is studying at more than one provider and consequently there are additional numbers or codes to provide, the student is requested to:

- provide correcting or additional information via one of two 0800 numbers (depending on whether the information is purely numerical or alphanumerical), or
- advise IRD through a form on the IRD website (numerical responses only).

In the event that the borrower has no corrections to make or additional numbers to provide then the applicant is told 'you'll need to ask the Ministry of Education to check their records with your tertiary provider'. A study confirmation form IR 887 is included with the s.103 notice to enable this enquiry to be made. The enquiry can be initiated via the Internet.

Students are advised that a reply from the Ministry will be forthcoming within four weeks of receipt of the study confirmation form and, if nothing has been heard by then, they can contact the Ministry on an 0800 number.

If full time student borrowers have their study status confirmed by the match or the study confirmation form process, the interest write-off is calculated and an updated loan account statement issued. The interest write-off for part-time students is calculated when their income level has been confirmed either by the filing of a tax return or the issue of a personal tax summary, after which an updated statement is issued.

Figure 8 illustrates the processes involved in this particular match

Results 2001/02: Over the last year the programme was operated in 10 runs from December to June, with some runs covering just single-site enrolments and others also covering multi-site enrolments. Table 16 shows the results of these runs:

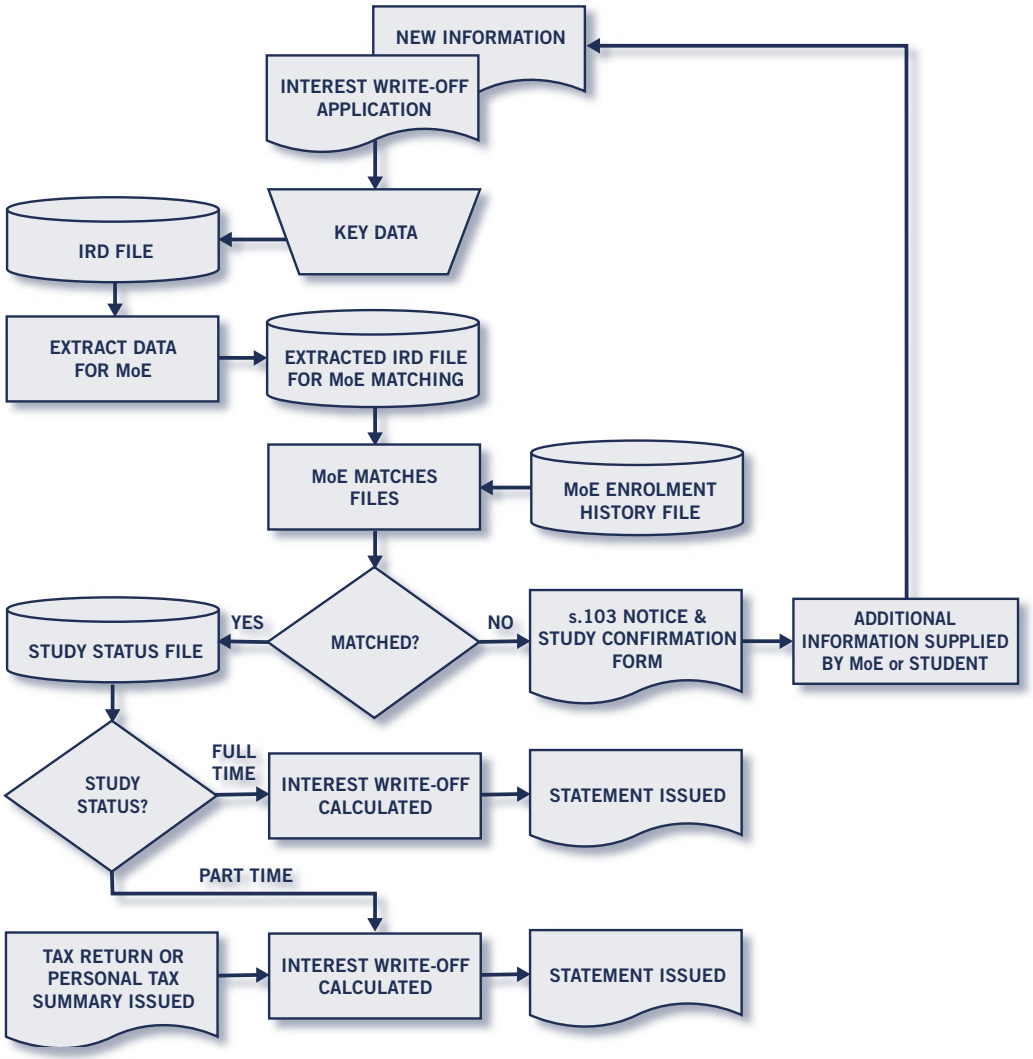
TABLE 16: MoE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH: 2001-2002 RESULTS

	Academic Year 2001	Academic Year 2002
IRD records sent	89,187	18,896
Records matched	81,559	12,385
Unmatched records	7,238	3,202
Confirmed full time students	58,395	9,080
Confirmed part time students	23,164	2,677
Failed matches[2]	390	4,245

On the basis of the information supplied, I am satisfied that this part of the programme has, in general, been conducted accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

2 'Failed Matches' are, for automated matches, where the data on the IRD file has altered between the time it was extracted and when the response from the Ministry is processed so the result cannot be updated. Alternatively, and for manual matches, it is those where the IRD tax file number has been incorrectly provided by the Ministry. Remedial action is instigated within 2 days.

FIGURE 8: MoE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 1)



16. MoE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 2)

It appears to me that this match is not operating as intended.

MoE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 2)	
Information matching provision	Education Act 1989, s.307C
Year authorised	2001
Commencement date	2001
Match type	• Confirmation of entitlement • Updating data
Unique identifiers	• Tax file number • Student Number
On-line transfers	None

Purpose: To enable interest that has accrued on a student loan to be written off in respect of periods where a student is studying full time or is on a low income and studying part time.

System: This system was to apply for the second and subsequent years of the interest write-off programme. The operation differs significantly from the No 1 Match that is discussed in the preceding section.

Under this system, instead of a student applying to IRD for the write-off, the student supplies his or her tax file number to the institution at enrolment. The institution, which has no other purpose in receiving the tax file number, passes it along to MoE in their student returns.

This match operates by MoE extracting a record (including tax file number) for every student who has supplied their tax file number. These records are passed to IRD which matches them against their student loan records.

2001/02 Results: This match only began operation for enrolments for the 2002 academic year and two runs occurred in April and May.

TABLE 17: MoE/IRD STUDENT LOAN INTEREST WRITE-OFF MATCH (NO 2): 2002 RESULTS	
Records received by IRD	124,487
Matched full time students	43,909
Matched part time students	35,176
Failed matches	47,988

The figure of 47,988 'failed matches' was given to me only whilst this annual report was being compiled, and as a result of my requiring further explanations from IRD. The figure initially given to me was much higher and turned out upon enquiry to be less meaningful. 'Failed matches' are now said to chiefly comprise cases in which the IRD number supplied (by students, via the MoE) was invalid, or it related to an individual who is not recorded as having a student loan at all. It appears to me that this match is not operating as intended

and the very large number of 'failed matches' means that it is impracticable to follow them up in order to identify cases where the failure may be due to some administrative error. Furthermore, the design of the procedure precludes IRD from reporting the failure back to the individual concerned. I intend to continue my enquiries into this matching programme.

I am concerned that IRD will not issue s.103 notices for unsuccessful matches. The statutory requirement is to give notice if adverse action is to be taken as a result of a discrepancy produced by an authorised information matching programme. There is no legislative exemption from this. IRD takes the view, based upon legal advice, that where the match does not indicate that a student has a loan and is enrolled for the requisite course of study and therefore no interest write-off is made, this is not an 'adverse action' in respect of the student. I do not share this view. I have communicated my views to IRD from the outset, and I commented in the same vein in my last annual report.

IRD takes the view that where the match does not indicate that a student has a loan and is enrolled for the requisite course of study and therefore no interest write-off is made, this is not an 'adverse action' in respect of the student. I do not share this view.

It troubles me that so much faith is placed in the computer systems getting things done perfectly without human intervention. Processes should be designed, as they were in the earlier version of this match, to enable a person who has sought but not been granted an entitlement, to be told directly of the reasons and to be able to challenge the decision at that time. The fact that, when the student finds out months or years later that the interest write-off to which they are apparently entitled has not occurred, they can apply for and obtain a retrospective adjustment does not achieve the same protection against errors as a s.103 notice. As noted above, students do still have the option of using the No 1 match procedure, although I am not sure that this option (with the advantage to the student of receiving notification if the match does not confirm their eligibility for the interest write-off) is sufficiently publicised.

Combined results: In combination the two matches have provided the mechanism to write-off some $64,233,800 in interest owed by 67,870 students for the year ending 31 March. Notwithstanding the huge sums of money involved, the lack of s.103 notices and the outstanding concerns in respect of 'failed matches' mean that I am unable to monitor some aspects of the match I consider important. I cannot say whether, for instance:

- fully entitled students, who provided correct information, got the write-off to which they are entitled;
- false matches or mismatches have occurred.

For these reasons I feel unable to state that this programme has been conducted in accordance with the requirements of ss.99 to 103 of the Privacy Act and the information matching rules.

Previously Active Matches that have Ceased Operation

17. IRD/AIR EMPLOYER COMPLIANCE MATCH

IRD/AIR EMPLOYER COMPLIANCE MATCH	
Information matching provision	Accident Insurance Act 1998, s.370
Year authorised	1998
Commencement date	1999
Match type	• Detection of illegal behaviour • Updating of data
Unique identifiers	• Tax file number • Insurance number
On-line transfers	None

Purpose: Initiated as a part of the privatised workplace accident insurance in mid-1999, the purpose of this programme was to monitor the entry of every employer into workplace accident insurance with one of the seven insurers approved for that purpose.

Status: The match has not operated in the last 24 months and there seems no likelihood of it doing so again. Section 370 remains on the statute books as an authorised information matching provision.

18. IRD/AIR SANCTION ASSESSMENT MATCH

IRD/AIR SANCTION ASSESSMENT MATCH	
Information matching provision	Accident Insurance Act 1998, s.371
Year authorised	1998
Commencement date	2000
Match type	Updating of data
Unique identifiers	Tax file number
On-line transfers	None

Purpose: To advise the Accident Insurance Regulator of the payroll value and industry classification of specified employers for the purpose of assessing a notional insurance premium and a penalty sum payable by the employer.

Status: The match has not operated in the last 24 months and there seems no likelihood of it doing so again. Section 371 remains on the statute books as an authorised information matching provision.

Authorised Matches that Did Not Operate this Year

19. NZIS/MSD IMMIGRATION MATCH

NZIS/MSD IMMIGRATION MATCH	
Information matching provision	Immigration Act 1987, s.141A
Year authorised	1991
Commencement date	1991
Match type	• Detection of illegal behaviour • Confirmation of continuing eligibility
Unique identifiers	None
On-line transfers	None

Purpose: To detect people who are in New Zealand unlawfully, or here lawfully by way of a temporary or limited purpose permit, and who receive a social welfare benefit or other payment to which they are, for that reason, not entitled.

Status: I am advised that this information matching provision has been used twice in 1991 and has not operated since. The match was included in my latest review of statutory authorities completed in May in which I observed: 'If a case is to be made out for implementing and operating this matching programme, the case should be made anew and accordingly I recommend that the authorising s.141A of the Immigration Act 1987 be repealed.'

AUTHORISED MATCHES THAT DID NOT OPERATE THIS YEAR.

No approvals for on-line computer connections have been granted by me for any of the following programmes, although it is anticipated that approvals may be sought for some of the BDM and citizenship matches. Unique identifiers are not expected to be used except where noted.

20. IRD/ACC EARNERS MATCH

INLAND REVENUE DEPARTMENT/ACCIDENT COMPENSATION CORPORATION EARNERS MATCH	
Information matching provision	Tax Administration Act 1998, s.82
Year authorised	1991
Commencement date	1997 (later suspended)
Match type	Confirmation of continuing eligibility

Purpose: The objective of the match is to identify people who are engaged in employment while at the same time receiving earnings related compensation from ACC.

System: The system consists of ACC providing a file of claimants receiving weekly compensation payments and IRD matching with their files and passing back information about employer and periods of employment. Matching is based on IRD's tax file number (primary matching field) and surname, initial of first given name and date of birth

(secondary matching fields). ACC then makes enquiries with the identified employer to establish what, if any, earnings the claimant received during these periods of employment.

Status: Despite plans for this programme to commence operation in December 2001, this match did not run during the year. ACC explained that policy and resourcing issues on IRD's part had delayed implementation. Indicative costings had led ACC to contemplate reassessing the programme's potential cost-effectiveness.

21. THE INJURY PREVENTION, REHABILITATION, AND COMPENSATION ACT ELIGIBILITY MATCHES

ACC ELIGIBILITY MATCHES	
Information matching provision	Injury Prevention, Rehabilitation, and Compensation Act 2002, s.280(2)
Year authorised	1992
Match type	Confirmation of continuing eligibility

Purpose: The purpose of these matches is to supply ACC with information about people for the purposes of verifying entitlement to an ACC benefit or to assist in the calculation of the amount. The specified agencies authorised to supply the information are:

- Customs
- Corrections
- Labour
- Ministry of Health
- any health funding organisation
- district health boards.

The information that may be requested is biographical information (sufficient to identify individuals, including their addresses) and any other information held by the agencies necessary for the purposes of the programme.

Status: Though these matches have been authorised since 1992, only one programme (Corrections/ACC Inmates Match) has been activated.

22. IRD/ACC RESIDUAL LEVIES MATCH

IRD/ACC RESIDUAL LEVIES MATCH	
Information matching provision	Injury Prevention, Rehabilitation, and Compensation Act 2002, s.246
Year authorised	2000
Match type	Updating of data
Unique identifiers	Tax file number

Purpose: The purpose of this match is to transfer from IRD to ACC the information required to identify ACC levy payers (all employers, including close companies with less than 25 shareholder employees, self employed persons and private domestic workers) and the IRD income and earnings information to calculate and collect premiums and residual claims levies. Where a record does not exist within the ACC database one will be created. Where a record already exists it will be updated with the changed or new data.

Status: This match started operating shortly after the end of the year in July 2002.

23. BDM/COURTS JURY LIST PURGE MATCH

BDM/COURTS JURY LIST PURGE MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	• Updating of data • Data quality audit

Purpose: To remove the names of deceased persons from jury lists. This is one of a number of matches authorised under s.78A. Schedule 1A of the Births, Deaths, and Marriages Registration Act sets out a table listing six departments authorised to match with three databases for some 16 purposes.

Status: The Department for Courts has advised that it no longer intends to implement this programme. It will instead obtain the base information for jury lists more frequently from the Electoral Enrolment Centre. Information from EEC forms the basis of jury lists. EEC already purges its records with information on deceased people. However, the legal authority would enable it, if it so wished, to occasionally match with the deaths index as a data quality audit.

24. BDM/COURTS DECEASED FINES DEFAULTERS MATCH

BDM/COURTS DECEASED FINES DEFAULTERS MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Updating of data

Purpose: To identify and locate deceased fines defaulters with a view to writing-off outstanding fines or to pursue collection against an estate.

Status: An Information Matching Privacy Impact Assessment has been received from the departments. The programme is planned to be implemented in the coming financial year.

25. BDM/COURTS FINES DEFAULTERS CHANGE OF NAME MATCH

BDM/COURTS FINE DEFAULTERS CHANGE OF NAME MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Updating of data

Purpose: To identify a fine defaulter's change of name resulting from marriage in order to assist in debt recovery processes.

Status: The Department for Courts plans to implement this match in 2003.

26. BDM/DIA(C) CITIZENSHIP APPLICATION MATCH

BDM/DIA(C) CITIZENSHIP APPLICATION MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To verify from the births, deaths and marriages registers, whether a person is eligible for New Zealand citizenship.

Status: An implementation date has not been set by DIA.

27. BDM/DIA PASSPORT APPLICATION PROCESSING MATCH

BDM/DIA PASSPORT APPLICATION PROCESSING MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	1992
Match type	Confirmation of eligibility

Purpose: To verify whether a person is eligible for a passport from the births, deaths and marriages registers.

Status: Planned for implementation during 2003.

28. DIA(C)/DIA(P) PASSPORT ELIGIBILITY MATCH

DIA(C)/DIA(P) PASSPORT ELIGIBILITY MATCH	
Information matching provision	Citizenship Act 1977 s.26A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To verify, from the citizenship registers, a person's eligibility to hold a New Zealand passport.

Status: Currently planned for implementation during 2003.

29. LTSA/EEC UNENROLLED VOTERS MATCH

LTSA/EEC UNENROLLED VOTERS MATCH	
Information matching provision	Electoral Act 1993, s.263B(3)(b)
Year authorised	2002
Match type	• Identification of persons eligible for an entitlement • Updating of data

Purpose: The purpose of this match is to compare the drivers licence register with the contents of the electoral roll to:

- identify people who are qualified to apply to register to vote but who have not done so;
- encourage people so identified to enrol; and
- update the addresses of people whose names are already on the roll.

The information to be passed to the EEC on registered drivers (17 years or older) is:
- full name;
- date of birth;
- residential address (if known);
- postal address (if different);
- preferred honorific (if known);
- the date at which the above information was last provided.

Status: It is expected that this match will start later in 2002.

30. MoT/EEC UNENROLLED VOTERS MATCH

MOT/EEC UNENROLLED VOTERS MATCH	
Information matching provision	Electoral Act 1993, s.263B(3)(b)
Year authorised	2002
Match type	• Identification of persons eligible for an entitlement • Updating data

Purpose: To compare the motor vehicle register with the contents of the electoral roll to:
- identify people who are qualified to apply to register to vote but who have not done so;
- encourage people so identified to enrol; and
- update the addresses of people whose names are already on the roll.

The information to be passed to the EEC is in respect of persons of or over the age of 17 years and who are registered as owners of motor vehicles and consists of:
- full name;
- date of birth;
- residential address (if known);
- postal address (if different);
- preferred honorific (if known);
- the date at which the above information was last provided.

Status: This is one of four information matching programmes authorised at the same time for the same purpose (the others are with MSD, LTSA and the citizenship register). Only two programmes were implemented prior to the general election in July 2002: those with MSD and the citizenship register. It is expected that this match will start later in 2003.

31. ACC/IRD CHILD TAX CREDIT MATCH

ACC/IRD CHILD TAX CREDIT MATCH	
Information matching provision	Tax Administration Act 1994 s.46A
Year authorised	1996
Match type	Confirmation of eligibility
Unique identifier	Tax file number

Purpose: To provide IRD with information from ACC to verify entitlement to child tax credit.

For this match ACC would provide IRD the following information:

- the name and address of a person who has been in continuous receipt of weekly compensation for the continuation period or longer; and
- the tax file number of the person; and
- the date of birth of the person; and
- the dates of the periods where the person has received weekly compensation for a continuous period of three months or more.

Status: There are no plans to implement this match in the foreseeable future.

32. BDM/IRD TAX FILE NUMBER ALLOCATION MATCH

BDM/IRD TAX FILE NUMBER ALLOCATION MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To confirm identity and change of name details from the birth and marriages registers respectively when allocating or updating tax file numbers details.

Status: There are no firm plans yet for implementation.

33. BDM/IRD DECEASED TAXPAYERS MATCH

BDM/IRD DECEASED TAXPAYERS MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Updating data

Purpose: To identify deceased taxpayers and verify their details.

Status: This is intended to be the first of the BDM and IRD matches to be implemented. An IMPIA is being prepared.

34. BDM/IRD PARENTAL LIABILITY MATCH

BDM/IRD PARENTAL LIABILITY MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To verify the details of an applicant for child support from the births and marriages registers.

Status: IRD are waiting for DIA to advise how the information is going to be made available.

35. CITIZENSHIP/IRD CHILD SUPPORT APPLICANT MATCH

DIA/IRD CHILD SUPPORT MATCH	
Information matching provision	Citizenship Act 1977, s.26A
Year authorised	2001
Match type	Confirmation of continuing eligibility

Purpose: To establish the details of an applicant for child support from the citizenship registers.

Status: IRD are waiting for DIA to advise how the information is going to be made available.

36. CITIZENSHIP/IRD TAX FILE NUMBER APPLICANT MATCH

DIA/IRD TAX FILE NUMBER APPLICANT MATCH	
Information matching provision	Citizenship Act 1977, s.26A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: The purpose is to confirm a person's identity from the citizenship registers when applying for a tax file number.

Status: IRD are waiting for DIA to advise how the information is going to be made available. DIA began that work late in 2002.

37. BDM/LTSA DECEASED LICENSED DRIVERS MATCH

BDM/LTSA DECEASED LICENSED DRIVERS MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Updating of data

Purpose: To identify deceased holders of driver's licences.

Status: Work on implementation has been deferred until 2003/04.

38. BDM/LTSA LICENSED DRIVERS NAME CHANGE MATCH

BDM/LTSA LICENSED DRIVERS NAME CHANGE MATCH	
Information matching provision	Births, Deaths and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Updating data

Purpose: The purpose is to confirm details of identity of people applying for a driver's licence from the births and marriages registers.

Status: LTSA advises that work on this programme has been deferred due to the higher priority assigned to the electoral enrolment match and other priorities for e-government projects.

39. ACC/MSD BENEFIT ELIGIBILITY MATCH

ACC/MSD BENEFIT ELIGIBILITY MATCH	
Information matching provision	Injury Prevention, Rehabilitation, and Insurance Act 2001, s.281
Year authorised	1991
Match type	• Detection of illegal behaviour • Confirm eligibility

Purpose: To enable ACC to disclose information to MSD to verify the entitlement to a benefit or to assist in the calculation of any benefit.

The information that may be disclosed about people who are receiving compensation based on weekly earnings includes:

- biographical information sufficient to identify individuals (including addresses);
- details of payments made by ACC as compensation based on weekly earnings.

Status: Though this match has never operated, MSD have indicated that it is among a set of benefit fraud detection initiatives that have been proposed to their Minister. MSD expect to be resourced to activate this match.

40. BDM/MSD ELIGIBILITY FOR BENEFITS & PENSIONS MATCH

BDM/MSD ELIGIBILITY FOR BENEFITS & PENSIONS MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To enable MSD to confirm details of births and marriages so as to verify a person's eligibility or continuing eligibility for benefits, war pensions, grants, loans, or allowances.

Status: There are no current plans to implement this match. This is understood to be, at least in part, because DIA does not yet have the systems infrastructure to support on-line enquiries.

41. BDM/MSD DEATHS NOTIFICATION MATCH

BDM/MSD DEATHS NOTIFICATION MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Updating of data

Purpose: To enable deaths to be verified so as to confirm a person's eligibility or continuing eligibility for benefits, war pensions, grants, loans, or allowances.

Status: It is intended that this will be the first match with BDM to be implemented. An IMPIA is being prepared.

42. CENTRELINK/MSD CHANGE IN CIRCUMSTANCES MATCH

CENTRELINK/MSD CHANGE IN CIRCUMSTANCES MATCH	
Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss. 19C & 19D and Social Welfare (Reciprocity with Australia) Order 2002, Article 18
Year authorised	2002
Match type	Updating of data
Unique identifiers	Australian and NZ social welfare numbers
On-line transfers	Approval expected to be sought

Although not an authorised information matching programme, it is required to be treated as if it were for most purposes.

Purpose: This match is the automated transfer of advice of change in circumstances between Centrelink (the Australian federal government agency administering social welfare payments) and MSD. The changes in client circumstances that are included in this transfer are changes of:

- name
- address
- marital status, spouse or partner
- bank account details
- death of spouse or partner
- residential status
- suspensions and reason for suspension
- cancellation and reason for cancellation
- grant or changes of rate of any third country pension
- rate of benefit or pension payable (notional Australian benefit rate, actual rate and rate excluding third country pension, as required).

Status: This match started on 1 July 2002.

43. CENTRELINK(DIMIA)/MSD PERIODS OF RESIDENCE MATCH

CENTRELINK (DIMIA)/MSD PERIODS OF RESIDENCE MATCH	
Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss. 19C & 19D and Social Welfare (Reciprocity with Australia) Order 2002, Article 18
Year authorised	2002
Match type	Confirmation of eligibility
Unique identifiers	Australian and NZ social welfare numbers
On-line transfers	Approval expected to be sought

Although not an authorised information matching programme, it is required to be treated as if it were for most purposes.

Purpose: This match enables MSD to confirm past periods of residence in Australia for people receiving New Zealand benefits and pensions. While the request is made by MSD to Centrelink, Centrelink in turn requests the information from the Department of Immigration and Multiracial and Indigenous Affairs (DIMIA).

Status: This match started on 1 July 2002.

44. CUSTOMS/MSD PERIODS OF RESIDENCE MATCH

CUSTOMS/MSD PERIODS OF RESIDENCE MATCH	
Authorising provisions	Social Welfare (Transitional Provisions) Act 1990, ss. 19C & 19D and Social Welfare (Reciprocity with Australia) Order 2002, Article 18
Year authorised	2002
Match type	Confirmation of continuing eligibility
Unique identifiers	Australian and NZ social welfare numbers
On-line transfers	Approval expected to be sought

Purpose: This match is to enable MSD to confirm periods of residence within or outside New Zealand for applicants for New Zealand or Australian benefits or pensions. The matches are of two types:

- where a person is unable to be precise about their periods of residence at the time of application;
- to test the accuracy of information provided by applicants by matching a sample 10% of applicants for specified benefits and pensions.

The Customs system will be able to supply departure and arrival dates and MSD will be able to deduce periods of residence in New Zealand.

Status: This match started on 1 July 2002.

45. DIA(C)/MSD CITIZENSHIP REGISTER MATCH

DIA(C)/MSD CITIZENSHIP REGISTER MATCH	
Information matching provision	Citizenship Act 1977, s.26A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To verify a person's eligibility or continuing eligibility for benefits, war pensions, loans, or allowances.

Status: There are no current plans to implement this match, at least in part, because DIA does not yet have the systems infrastructure to support on-line enquiries.

46. BDM/NZIS DECEASED PERMITS AND VISAS MATCH

BDM/NZIS DECEASED PERMITS AND VISAS MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	1992
Match type	• Confirmation of continuing eligibility • Updating data

Purpose: To identify deceased holders of limited term visas and permits.

Status: I have not been advised of any plans to implement this match.

47. BDM/NZIS ENTITLEMENT TO RESIDE MATCH

BDM/NZIS ENTITLEMENT TO RESIDE MATCH	
Information matching provision	Births, Deaths, and Marriages Registration Act 1995, s.78A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To verify citizenship and entitlement to reside in New Zealand by matching with births and marriages registers.

Status: I have not been advised of any plans to implement this match.

48. CITIZENSHIP/NZIS ENTITLEMENT TO RESIDE MATCH

DIA/NZIS ENTITLEMENT TO RESIDE MATCH	
Information matching provision	Citizenship Act 1977, s.26A
Year authorised	2001
Match type	Confirmation of eligibility

Purpose: To verify a person's right to reside in New Zealand by matching with the citizenship registers.

Status: I have not been advised of any plans to implement this match.

LIKELY FUTURE PROGRAMMES

There are a number of authorised matching programmes that have not yet come into operation. Many of these are likely to commence within the next two to three years.

In addition, there are a number of new programmes under consideration. Some of these amount to little more than a departmental idea that has been shared with my Office. Others have moved into evaluation or testing. Some have reached the point of a Cabinet paper dealing with the policy or the proposed legislation. In a few cases bills have actually been introduced into Parliament.

To give a proper account of my activities for the year I need to mention these proposed matches since they can account for a considerable amount of work for my staff. However, it would not be appropriate for me to reveal departmental or governmental plans before they had otherwise been made public. Accordingly, I only mention those proposals which have been made public by the introduction of a bill into Parliament or where the department or Minister concerned has already made a public statement.

The current proposals exhibit an interesting variety. One involves court records, another has international implications with transborder transfers. Matching is also proposed to underpin occupational or trade licensing requirements for motor vehicle dealing.

An illustrative selection of matches under consideration includes the following:

- **BDM/Maori Land Court Title Succession Match** – to regularly update Maori Land Court records with death information – see Statutes Amendment Bill (No 2). That bill would also separately establish matching involving the entry of tertiary students' information onto a national student index.
- **Motor Vehicle Dealers Matches** – two programmes proposed to be authorised by the Motor Vehicle Sales Bill which will identify people who have in a period imported three or more vehicles, or who have sold more than six vehicles, to check whether or not that person is properly licensed.
- **SVB/MSD and IRD/MSD (SVB) Matches** – to be authorised by an Order in Council made under the Social Welfare (Transitional Provisions) Act in similar terms to the matches with Centrelink in Australia, reported above. SVB is the Netherlands agency administering social welfare payments (Sociale Verzekeringsbank).
- **Customs/Courts matching at international airports** – the Government is examining matching arrival/departure cards with lists of fines defaulters so that people may either be intercepted at the border or be located on their return to New Zealand.

Further details of these proposed programmes will be given later in reports if they progress to the stage of being authorised.

The current proposals exhibit an interesting variety. One involves court records, another has international implications with transborder transfers. Matching is also proposed to underpin occupational or trade licensing requirements for motor vehicle dealing.

Privacy Commissioner
Te Mana Matapono Matatapu

V. FINANCIAL AND PERFORMANCE STATEMENTS

CONTENTS

STATEMENT OF RESPONSIBILITY FOR THE YEAR ENDED 30 JUNE 2002

The Privacy Commissioner accepts responsibility for the preparation of the annual Financial Statements and the judgements used in them.

The Privacy Commissioner accepts responsibility for establishing and maintaining a system of internal control designed to provide reasonable assurance as to the integrity and reliability of financial and non financial reporting.

In the opinion of the Privacy Commissioner the annual Financial Statements for the year ended 30 June 2002, fairly reflect the financial position and operations of the Privacy Commissioner.

B H Slane
PRIVACY COMMISSIONER
16 October 2002

REPORT OF THE AUDITOR-GENERAL

TO THE READERS OF THE FINANCIAL STATEMENTS OF THE PRIVACY COMMISSIONER FOR THE YEAR ENDED 30 JUNE 2002

We have audited the financial statements on pages 128 to 145. The financial statements provide information about the past financial and service performance of the Privacy Commissioner and its financial position as at 30 June 2002. This information is stated in accordance with the accounting policies set out on pages 128 to 130.

Responsibilities of the Privacy Commissioner

The Public Finance Act 1989 requires the Privacy Commissioner to prepare financial statements in accordance with generally accepted accounting practice which fairly reflect the financial position of the Privacy Commissioner as at 30 June 2002, the results of its operations and cash flows and the service performance achievements for the year ended on that date.

Auditor's responsibilities

Section 15 of the Public Audit Act 2001 and Section 43(1) of the Public Finance Act 1989 require the Auditor-General to audit the financial statements presented by the Privacy Commissioner. It is the responsibility of the Auditor-General to express an independent opinion on the financial statements and report that opinion.

The Auditor-General has appointed J R Smaill, of Audit New Zealand, to undertake the audit.

Basis of opinion

An audit includes examining, on a test basis, evidence relevant to the amounts and disclosures in the financial statements. It also includes assessing:

- the significant estimates and judgements made by the Privacy Commissioner in the preparation of the financial statements; and

- whether the accounting policies are appropriate to the Privacy Commissioner's circumstances, consistently applied and adequately disclosed.

We conducted our audit in accordance with the Auditing Standards published by the Auditor-General, which incorporate the Auditing Standards issued by the Institute of Chartered Accountants of New Zealand. We planned and performed our audit so as to obtain all the information and explanations which we considered necessary in order to provide us with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatements, whether caused by fraud or error. In forming our opinion, we also evaluated the overall adequacy of the presentation of information in the financial statements.

Other than in our capacity as auditor acting on behalf of the Auditor-General, we have no relationship with or interests in the Privacy Commissioner.

Unqualified opinion

We have obtained all the information and explanations we have required.

In our opinion the financial statements of the Privacy Commissioner on pages 128 to 145:

- comply with generally accepted accounting practice in New Zealand; and
- fairly reflect:
  - the Privacy Commissioner's financial position as at 30 June 2002;
  - the results of its operations and cash flows for the year ended on that date; and
  - its service performance achievements in relation to the performance targets and other measures adopted for the year ended on that date.

Our audit was completed on 16 October 2002 and our unqualified opinion is expressed as at that date.

J R Smaill
AUDIT NEW ZEALAND
On behalf of the Auditor-General
Wellington, New Zealand

STATEMENT OF ACCOUNTING POLICIES FOR THE YEAR ENDED 30 JUNE 2002

REPORTING ENTITY

These are the financial statements of the Privacy Commissioner, a Crown entity in terms of the Public Finance Act 1989.

These financial statements have been prepared in accordance with section 41 of the Public Finance Act 1989.

MEASUREMENT BASE

The financial statements have been prepared on an historical cost basis.

ACCOUNTING POLICIES

The following particular accounting policies which materially affect the measurement of financial performance and financial position have been applied:

BUDGET FIGURES

The budget figures are those approved by the Privacy Commissioner at the beginning of the financial year.

The budget figures have been prepared in accordance with generally accepted accounting practice and are consistent with the accounting policies adopted by the Privacy Commissioner for the preparation of the financial statements.

REVENUE

The Privacy Commissioner derives revenue through the provision of outputs to the Crown, for services to third parties and income from its investments. Such revenue is recognised when earned and is reported in the financial period to which it relates.

GOODS AND SERVICES TAX (GST)

All items in the financial statements are exclusive of GST, with the exception of accounts receivable and accounts payable which are stated with GST included. Where GST is irrecoverable as an input tax, then it is recognised as part of the related asset or expense.

TAXATION

The Privacy Commissioner is a public authority in terms of the Income Tax Act 1994 and consequently is exempt from income tax.

ACCOUNTS RECEIVABLE

Accounts receivable are stated at their expected realisable value after providing for doubtful and uncollectable debts.

PLANT AND EQUIPMENT

All fixed assets, or groups of assets forming part of a network which are material in aggregate are capitalised and recorded at cost. Any write-down of an item to its recoverable amount is recognised in the statement of financial performance.

DEPRECIATION

Depreciation is provided on a straight line basis on all fixed assets, other than freehold land and items under construction, at a rate which will write off the cost of the assets to their estimated residual value over their useful lives.

The useful lives and associated depreciation rates of major classes of assets have been estimated as follows:

Furniture and fittings	5 years
Computer equipment	4 years
Office equipment	5 years

EMPLOYEE ENTITLEMENTS

Provision is made in respect of the Privacy Commissioner's liability for annual, long service and retirement leave. Annual leave and other entitlements that are expected to be settled within 12 months of reporting date, are measured at nominal values on an actual entitlement basis at current rates of pay.

Entitlements that are payable beyond 12 months, such as long service leave and retirement leave, have been calculated on an actuarial basis based on the present value of expected future entitlements.

LEASES

OPERATING LEASES

Leases where the lessor effectively retains substantially all the risks and benefits of ownership of the leased items are classified as operating leases. Operating lease expenses are recognised on a systematic basis over the period of the lease.

FINANCIAL INSTRUMENTS

The Privacy Commissioner is party to financial instruments as part of its normal operations. These financial instruments include bank accounts, short-term deposits, debtors, and creditors. All financial instruments are recognised in the statement of financial position and all revenues and expenses in relation to financial instruments are recognised in the statement of financial performance.

STATEMENT OF CASH FLOWS

Cash means cash balances on hand, held in bank accounts, demand deposits and other highly liquid investments in which the Privacy Commissioner invests as part of its day-to-day cash management.

Operating activities include all activities other than investing and financing activities. The cash inflows include all receipts from the sale of goods and services and other sources of revenue that support the Privacy Commissioner's operating activities. Cash outflows include payments made to employees, suppliers and for taxes.

Investing activities are those activities relating to the acquisition and disposal of current and non-current securities and any other non-current assets.

Financing activities are those activities relating to changes in equity and debt capital structure of the Privacy Commissioner and those activities relating to the cost of servicing the Privacy Commissioner's equity capital

CHANGES IN ACCOUNTING POLICIES

There have been no changes in accounting policies since the date of the last audited financial statements.

All policies have been applied on a basis consistent with previous years.

STATEMENT OF OBJECTIVES AND SERVICE PERFORMANCE

OUTPUT 1 – CODES OF PRACTICE

To issue and, as appropriate, review codes of practice.

QUANTITY	ACHIEVEMENT
1. Release draft telecommunications code for formal consultation and subsequent issue	Achieved. Proposed Telecommunications Information Privacy Code publicly notified for consultation on 13 December 2001.
2. Release draft credit reporting code of practice for formal consultation and subsequent issue	Not achieved. A draft Credit Information Privacy Code has been the subject of further informal public and industry consultation.
3. Release draft post compulsory education unique identifier code for formal consultation and subsequent issue	Achieved. Post-compulsory Education Unique Identifier Code 2001 publicly notified in April 2001 and issued on 14 August.
4. Consider any other application for a code or any which the Commissioner should initiate (including CCTV surveillance in public places)	No application for a code was received during the year. Interested persons did seek amendments to several codes but no decisions were taken during the year to formally initiate such amendments.

QUALITY	ACHIEVEMENT
1. All proposals for codes of practice will be the subject of public consultation and consultation with stakeholders	Achieved. The proposed Telecommunications Information Privacy Code has been the subject of formal public and industry consultation. The draft Credit Information Privacy Code has been subject to informal industry consultation and some informal public consultation.
2. All issued codes are referred to the Regulations Review Committee of the House of Representatives	Achieved.

TIMELINESS	ACHIEVEMENT
Draft Telecommunications Code of Practice released for formal consultation not later than October 2001 with a view to issue by June 2002	Not achieved. The proposed code released for formal consultation in December 2001. It had not been issued by the end of the year.
Draft Credit Reporting Code of Practice released for formal consultation not later than October 2001 with a view to issue by June 2002	Not achieved. Wide industry consultation was sought, feedback from industry groups has taken longer than expected.

OUTPUT 2 – LEGISLATION

To peruse and report upon proposed legislation.

QUANTITY	ACHIEVEMENT
1. Review of the Privacy Act	
(i) To pursue white list status from the European Union	Continue to pursue white list status. The Office has supplied answers to questions from European Commission. Facilitated meeting between senior EC official and NZ Government officials in conjunction with international meetings hosted in Auckland in 2002.
(ii) To progress changes to the Act particularly to progress recommendations for efficiency objectives and lower compliance costs and to make changes urgently to public register provisions to provide greater personal security for individuals in their homes	No progress was achieved. The Office has provided recommendations to the Ministry of Justice and to date has received no further action upon which the Office may act.
(iii) To support Minister of Justice work on the review of the Act	No further work undertaken as the Minister has not sought to progress the matter at this time.
2. To complete reports to Minister on new bills, to meet the requirements of the Parliamentary process	Four reports were completed and provided to the Minister (three of these were information matching matters). Three reports or submissions were made directly to select committees and in doing so met the requirements of the Parliamentary process. All reports presented were completed within the time requirements stated by the Ministry of Justice.
3. To continue to provide first class practical advice to departments on privacy issues and fair information practices arising in proposed legislation and in administrative proposals. Where requests are made for substantial and urgent advice to seek departmental contributions to cost of employment of contractors	Advice was provided to departments through correspondence, consultations and general enquiries. Departmental contributions to offset the cost of providing this advice have not been requested this year, except for travel costs on occasions.

QUALITY	ACHIEVEMENT
1. All advice provided by the Commissioner or by suitably qualified staff	Achieved. Presentation to Select Committees is made by either the Privacy Commissioner or Assistant Privacy Commissioner.
2. To act on feedback obtained from recipients of advice.	Advice tailored to particular circumstances. Feedback from recipients is included in discussion papers and considered for inclusion reports prepared by the Privacy Commissioner.

TIMELINESS	ACHIEVEMENT
Within the resources of the office, to give advice within a time span that will enable it to be useful to the recipient	Achieved. Submissions, reports or comments were made within target times as prescribed by the Ministry of Justice on all legislative proposals on which the office could usefully comment. If advice is not provided within the specified timeframe then that advice cannot be presented within the parliamentary process. Pressure on resource has meant that in some cases extended deadlines have been negotiated with departments.

OUTPUT 3 – INFORMATION MATCHING

To monitor and report on information matching, and
To review statutory authorities for information matching

QUANTITY	ACHIEVEMENT
1. New information matching programmes	
(i) To consider and prepare reports and assist departments in relation to two new information matching programmes	Assistance to departments was given with respect to at least 10 new proposals in terms of scrutinising information matching privacy impact assessments.
(ii) To examine and report to Parliament in accordance with section 13(1)(f) on proposed information matching programmes Note: Due to the influx of 23 new matching programmes it may not be possible to carry out the examination and reporting on the proposed new programmes without recovery of costs from the relevant department	No reports were given to the Minister under s.13(1)(f) due to pressure created by 35 new matching programmes Efforts were concentrated on working through matters of detail with departments. One report was submitted under s.19(2A) of the Social Welfare (Transitional Provisions) Act 1990 (which is the equivalent to s.13(1)(f) in relation to transborder social security matches).
2. To endeavour to monitor and report on 12 authorised information matching programmes Note: The Commissioner may not be able to comply with statutory duties in respect of reporting on programmes for which no baseline funding has been approved	Exceeded. Monitored and reported upon 16 operating programmes.
3. To publish two information matching bulletins	Achieved. Two information matching bulletins were produced and sent to information matching agencies.
4. To complete section 106 reviews in respect of 3 authorised information matching programmes	Exceeded. Completed reviews in respect of 4 programmes as reported in the annual report.
5. To continue to seek funding from departments benefiting from information matching programmes so that the monitoring is regarded as an auditing function paid for by the department conducting the match. Performance standards will not be attained in this area until with core funding	Ongoing representations. The Commissioner has made the Minister aware of the issue of funding from departments within his quarterly reports. Some representation has been made with individual departments and the Ministry of Justice has had discussions on this matter.
6. To pursue implementation of recommended changes to information matching rules	Co-operated with Ministry of Justice on implementation work.

QUALITY	ACHIEVEMENT
1. All parties to authorised information matching programmes will receive an information matching bulletin at least twice per year	Achieved.
2. Reports to be published will be submitted to relevant departments for comment before publication	Achieved. The reports submitted during the year under s.106 of the Privacy Act and s.19(2A) of the Social Welfare (Transitional Provisions) Act were shown to the departments before being submitted to the Minister.

TIMELINESS	ACHIEVEMENT
Section 106 reviews will be undertaken on no less than 3 matches before 30 June 2002	Achieved. The report of section 106 reviews is contained in the annual report.
A report on all information matching programmes will be included in the Annual Report for the period ending 30 June 2002	Achieved. The report of authorised information matching programmes is contained in the annual report.

OUTPUT 4 – COMPLAINTS RESOLUTION AND COMPLIANCE

To handle complaints of interference with privacy, and
To consult with the Ombudsman under the Official Information Act and the Local Government Official Information and Meetings Act.

COMPLAINTS RESOLUTION AND COMPLIANCE

	QUANTITY	ACHIEVEMENT
Number of complaints received	875	1,044
Commissioner initiated investigations and s.13 inquiries	5	3
Total current matters requiring investigation	880	1,036
Number of current complaints and backlog processed to completion or settled or discontinued	915	1,049
Number of s.13 inquiries completed	8	4

QUALITY	ACHIEVEMENT
1. The investigation of complaints will meet or exceed the internal standards as stated in the document, "Qualitative and Quantitative Standards for the Investigation of complaints"	Achieved. All complaints were handled to the specified internal standards.
2. All complaints received by the Office are handled by suitably qualified staff working under supervision and each complaint is subject to full review by the Privacy Commissioner prior to its completion	Achieved.

TIMELINESS	ACHIEVEMENT
Correspondence from parties to be answered effectively within 20 working days or, alternatively, if the response is substantive, i.e. a provisional opinion, within 10 working days each party will be advised that a report is being prepared for the Commissioner	Achieved. In some cases time limits would have been exceeded due to limitations of resources.

CONSULTATION WITH OMBUDSMEN

	QUANTITY	ACHIEVEMENT
Provide advice under Official Information Act and Local Government Official Information and Meetings Act to Ombudsmen on references by them	60	54

QUALITY	ACHIEVEMENT
1. The advice is provided by the Commissioner	Achieved.
2. The advice provided is perused by the Ombudsmen and can be challenged by them	Achieved.

TIMELINESS	ACHIEVEMENT
To provide advice within 20 working days or within 20 days advise the Ombudsmen that a particular matter will require longer consideration	Achieved. Staff between the offices liaise over matters requiring further consideration. In some cases time limits would have been exceeded due to limitations of resources.

OUTPUT 5 – EDUCATION

To increase awareness and understanding of the Privacy Act.

	QUANTITY	ACHIEVEMENT
Education workshops and conference presentations	20	78
Publication of case notes	15	20
Publication of newsletters	6	4 Including 2 double issues
Presentation at conferences/seminars	10	14
Maintenance of website	Monthly	Monthly
To continue privacy help-line on reduced basis. Anticipated number of enquiries	6,000	6,772

QUALITY	ACHIEVEMENT
1. All enquiries received by the Office are handled by suitably qualified staff working under supervision.	Achieved.
2. All workshops undertaken by the Office incorporate a participants' evaluation form. In 90% of cases the evaluation will show that the expectations of participants were met or exceeded.	Achieved. In 100% of cases the evaluations show that the expectations of participants were met or exceeded.
3. All enquiries are processed to meet or exceed the internal standards.	Achieved.

TIMELINESS	ACHIEVEMENT
A timetable for workshops to be conducted by the Office will be kept current and distributed to potential participants at least four times per year.	Achieved.
Education workshops will be available in Wellington and Auckland each calendar month. Other regions as demand requires.	Achieved.
Telephone enquiries will be responded to at the time of the call within 3 working days thereafter.	Achieved.
Written, facsimile and email enquiries will be responded to within 10 working days.	Achieved.

STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2002

	Note	Actual 2002 $000	Budget 2002 $000	Actual 2001 $000
Crown revenue		1,954	1,954	1,954
Other revenue		218	137	157
Interest income		13	20	25
Gain on sale of fixed assets		1	-	-
Total operating revenue		***2,186***	***2,111***	***2,136***
Marketing		111	71	95
Audit Fees		8	9	8
Depreciation		73	78	72
Rental Expense		213	210	252
Operating Expenses		460	461	552
Staff Expenses		1,371	1,292	1,336
Total Expenses		***2,236***	***2,121***	***2,315***
Net deficit for the period	**1**	**(50)**	**(10)**	**(179)**

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

STATEMENT OF MOVEMENTS IN EQUITY FOR THE YEAR ENDED 30 JUNE 2002

	Note	Actual 2002 $000	Budget 2002 $000	Actual 2001 $000
Public equity as at 1 July 2001	**2**	**124**	**126**	**303**
Adjusted opening Equity				
Net surplus/(deficit)		(50)	(10)	(179)
Total recognised revenues and expenses for the period		**(50)**	**(10)**	**(179)**
Public equity as at 30 June 2002		**74**	**116**	**124**

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

STATEMENT OF FINANCIAL POSITION AS AT 30 JUNE 2002

	Note	Actual 2002 $000	Budget 2002 $000	Actual 2001 $000
PUBLIC EQUITY				
General funds		74	116	124
TOTAL PUBLIC EQUITY		**74**	**116**	**124**
Represented by:				
ASSETS				
Current assets				
Cash and bank		125	188	85
Receivables and prepayments	3	30	18	25
Inventory		44	36	36
Total current assets		***199***	***242***	***146***
Non-current assets				
Fixed assets	4	79	63	141
Total non-current assets		***79***	***63***	***141***
Total assets		**278**	**305**	**287**
LIABILITIES				
Current liabilities				
Payables	5	135	136	103
Employee entitlements	6	69	53	59
Total current liabilities		***204***	***189***	***162***
Total liabilities		**204**	**189**	**162**
NET ASSETS		**74**	**116**	**124**

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

STATEMENT OF CASH FLOWS FOR THE YEAR ENDED 30 JUNE 2002

	Note	Actual 2002 $000	Budget 2002 $000	Actual 2001 $000
CASH FLOWS FROM OPERATING ACTIVITIES				
Cash was provided from:				
Supply of outputs to the Crown		1,954	1,954	1,954
Revenues from services provided		212	143	150
Interest received		13	20	25
Cash was applied to:				
Payments to employees		849	787	900
Payments to suppliers		1,362	1,298	1,330
Net Goods and Services Tax		(82)	(71)	11
Net cash flows from operating activities	**7**	**50**	**103**	**(112)**
CASH FLOWS FROM INVESTING ACTIVITIES				
Cash was provided from:				
Sales of fixed assets		1	-	-
Cash was applied to:				
Purchase of fixed assets		11	-	20
NET CASH FLOWS FROM INVESTING ACTIVITIES		**(10)**	**-**	**(20)**
Net increase (decrease) in cash held		40	103	(132)
Plus opening cash		85	85	217
Closing cash balance		**125**	**188**	**85**
Cash and bank		125	188	85
Closing cash balance		**125**	**188**	**85**

THE ACCOMPANYING ACCOUNTING POLICIES AND NOTES FORM AN INTEGRAL PART OF THESE FINANCIAL STATEMENTS.

STATEMENT OF COMMITMENTS AS AT 30 JUNE 2002

	2002 $000	2001 $000
Capital commitments approved and contracted		
Non-cancellable operating lease commitments, payable		
Not later than one year	175	199
Later than one year and not later than two years	175	157
Later than two years and not later than five years	524	410
Later than five years	52	137

OTHER NON-CANCELLABLE CONTRACTS

At balance date the Privacy Commissioner had not entered into any other non-cancellable contracts.

STATEMENT OF CONTINGENT LIABILITIES AS AT 30 JUNE 2002

Quantifiable contingent liabilities are as follows:

	2002 $000	2001 $000
Total contingent liabilities	Nil	Nil

NOTES TO THE FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2002

NOTE 1: OPERATING SURPLUS/(DEFICIT)

	2002 $000	2001 $000
The net deficit is after charging for:		
Fees paid to auditors		
▲ external audit	8	8
Depreciation:		
Furniture & Fittings	-	3
Computer Equipment	54	51
Office Equipment	19	18
Total Depreciation for the year	***73***	***72***
Rental expense on operating leases	213	252

NOTE 2: PUBLIC EQUITY

▲ General funds

	2002 $000	2001 $000
Opening balance	124	303
Net surplus/(deficit)	(50)	(179)
Closing balance	**74**	**124**

NOTE 3: RECEIVABLES AND PREPAYMENTS

	2002 $000	2001 $000
Trade debtors	20	15
Prepayments	10	10
Total	**30**	**25**

NOTE 4: PLANT AND EQUIPMENT

	Cost $000	Accumulated Depreciation $000	Net Book Value $000
2002			
Furniture and fittings	35	34	1
Computer equipment	335	269	66
Office Equipment	172	160	12
Total	**542**	**463**	**79**
2001			
Furniture and fittings	35	34	1
Computer equipment	333	215	118
Office Equipment	163	141	22
Total	**531**	**390**	**141**

NOTE 5: PAYABLES AND ACCRUALS

	2002 $000	2001 $000
Trade creditors	20	71
Accrued expenses	115	32
Total payables and accruals	135	103

NOTE 6: EMPLOYEE ENTITLEMENTS

	2002 $000	2001 $000
Annual leave	69	59
Long service leave	-	-
Retirement leave	-	-
Total	**69**	**59**
Current	69	59
Non-current	-	-

NOTE 7: RECONCILIATION OF THE NET SURPLUS FROM OPERATIONS WITH THE NET CASHFLOWS FROM OPERATING ACTIVITIES

	2002 $000	2001 $000
Net (deficit) from operations	(50)	(179)
Add (less) non-cash items:		
Depreciation	73	72
Total non-cash items	73	72
Add (less) movements in working capital items:		
Decrease/(Increase) in inventory	(8)	(13)
Decrease/(Increase) in receivables	(5)	(7)
(Decrease)/Increase in trade creditors	(52)	15
(Decrease)/Increase in employee entitlements	10	-
(Decrease)/Increase in accrued expenses	83	-
Working capital movements - net	28	(5)
Add (less) items classified as investing activities:		
Net loss (gain) on sale of assets	(1)	-
Total investing activity items	(1)	-
Net cash flow from operating activities	**50**	**(112)**

NOTE 8: RELATED PARTY INFORMATION

The Privacy Commissioner is a wholly owned entity of the Crown. The Government is its major source of revenue.

The Privacy Commissioner has entered into a number of transactions with government departments, Crown agencies and state-owned enterprises on an arm's length basis. Where those parties are acting in the course of their normal dealings with the Privacy Commissioner, related party disclosures have not been made for transactions of this nature.

There were no other related party transactions.

NOTE 9: FINANCIAL INSTRUMENTS

The Privacy Commissioner has a series of policies providing risk management for interest rates, operating and capital expenditures and the concentration of credit. The Privacy Commissioner is risk averse and seeks to minimise its exposure from its treasury activities. Its policies do not allow any transactions which are speculative in nature to be entered into.

CREDIT RISK

Credit risk is the risk that a third party will default on its obligation to the Privacy Commissioner, causing the Privacy Commissioner to incur a loss. Financial instruments which potentially subject the company to risk consist principally of cash, short term investments, and trade receivables.

The Privacy Commissioner has a minimal credit risk in its holdings of various financial instruments. These instruments include cash, bank deposits, and accounts receivable.

The Privacy Commissioner places its investments with institutions that have a high credit rating. It also reduces its exposure to risk by limiting the amount that can be invested in any one institution. The Privacy Commissioner believes that these policies reduce the risk of any loss which could arise from its investment activities. The Privacy Commissioner does not require any collateral or security to support financial instruments.

There is no significant concentration of credit risk.

The maximum amount of credit risk for each class is the carrying amount in the Statement of Financial Position.

FAIR VALUE

The fair value of other financial instruments is equivalent to the carrying amount disclosed in the Statement of Financial Position.

CURRENCY RISK

Currency risk is the risk that the value of a financial instrument will fluctuate due to changes in foreign exchange rates.

The Privacy Commissioner has no exposure to currency risk.

INTEREST RATE RISK

Interest rate risk is the risk that the value of a financial instrument will fluctuate due to changes in market interest rates. There are no interest rate options or interest rate swap

options in place as at 30 June 2002 (2001 nil). The Privacy Commissioner has no exposure to interest rate risk.

NOTE 10: EMPLOYEES' REMUNERATION

The Commission has been requested to implement a Cabinet decision seeking Crown entities to disclose certain remuneration information in their annual reports. In essence, the information to be reported is the number of staff and Commissioners receiving total remuneration of $100,000 or more.

The Office of the Privacy Commissioner, the Race Relations Office and the Human Rights Commission have combined to produce the table below, which is in $20,000 bands to preserve the privacy of individuals.

Remuneration of Commissioners and Staff Over $100,000 pa.

TOTAL REMUNERATION AND BENEFITS	NUMBER OF EMPLOYEES	
	2002 $000	2001 $000
180 - 200	2	1
160 – 180	2	1
140 – 160	0	1
120 – 140	2	0
100 - 120	2	2

The Commissioner's remuneration and benefits is $182,900 (in 2001 $174,275).

NOTES

NOTES

NOTES