Privacy Commissioner
Te Mana Matapono Matatapu

Review of statutory authorities for information matching - September 2022

Report by the Privacy Commissioner to the Minister of Justice pursuant to section 184 of the Privacy Act 2020 in relation to a review of the operation of five information matching provisions:

Births, Deaths, Marriages, and Relationships Registration Act 1995, s 78A

Citizenship Act 1977, s 26A

Corrections Act 2004, s 181 and Immigration Act 2009, s 294

Customs and Excise Act 2018, s 310

Immigration Act 2009, s 295

Tax Administration Act 1994, Schedule 7 Part C subpart 2 cl 43

September 2022

Commissioner's Recommendation

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

- Births, Deaths, Marriages, and Relationships Registration Act 1995, s.78A – in respect of the provision of Death information to Immigration New Zealand.
- Citizenship Act 1977, s 26A
- Corrections Act 2004, s 181 and Immigration Act 2009, s 294
- Customs and Excise Act 2018, s 310
- Immigration Act 2009, s 295
- Tax Administration Act 1994, Schedule 7 Part C subpart 2 cl 43

Section 184 of the Privacy Act 2020 requires the Privacy Commissioner to carry out a review of the operation of each information matching provision at intervals of not more than 5 years and consider whether:

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

I consider that the authority conferred by these information matching provisions should be continued without amendment.

I intend to review the utility of Immigration Act 2009, s 295 again in 12 months as it is currently not used.

My detailed assessment of each programme follows. Appendix A gives a brief background to information matching, section 184, and the approach I have taken in undertaking this review.



Michael Webster
Privacy Commissioner
September 2022

1. Births, Deaths, Marriages, and Relationships Registration Act 1995, s 78A - BDM Deaths/INZ Deceased Persons information match

1.1 Programme objective

This provision includes authorisation for the Registrar-General to provide death information to Immigration New Zealand (INZ) so that INZ can identify and remove or update the records of people who are deceased from the INZ database of overstayers and temporary visa holders.

1.2 Recommendation

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

1.3 Programme assessment

Financial cost/benefit and other outcomes

The programme is a cost-effective approach to identifying people who have died so that Immigration NZ can update or remove the records about those individuals.

Compliance/operational difficulties

There have been no compliance issues or operational difficulties with this programme since the last review.

Scale of matching

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

Alternative methods to achieve results

Other methods to update records for deaths are less efficient and more intrusive, and the Department of Internal Affairs (DIA) is the authoritative source for death records.

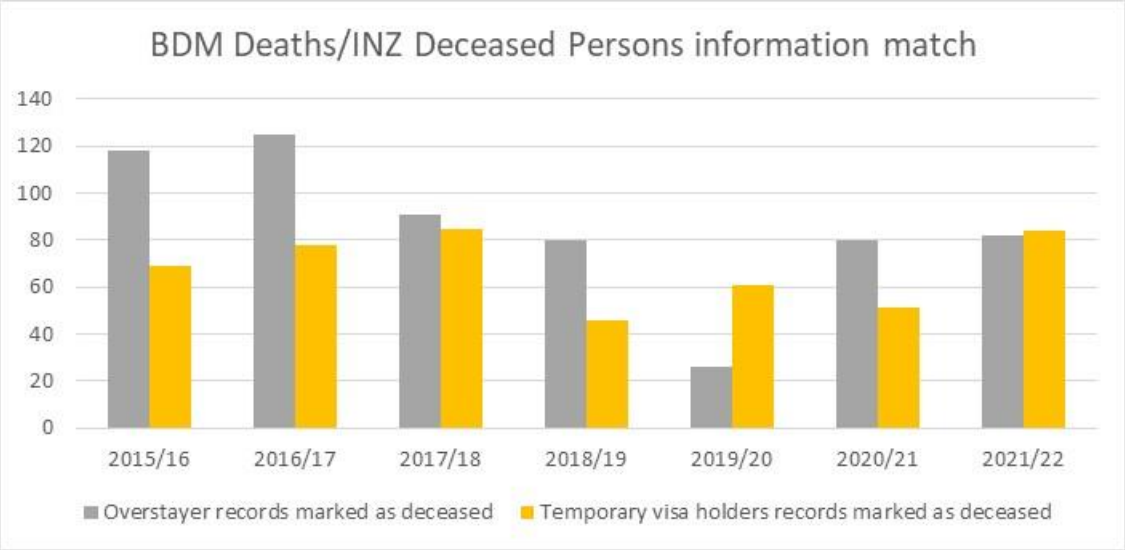
Amendment to the information matching provision

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

Previous reviews:

The utility of this provision was previously assessed in the report “Immigration and Justice Matches” (September 2012), and again in a “Review of statutory authorities for information matching” (Sept 2017).

1.4 Programme results



1.5 Programme operation

This programme was authorised in 2001 and operation started in 2007.

Twice a year INZ receives a file of death records for the preceding six months. Each record of a deceased person can include the full name at birth, full name at death, date of birth, gender, birth place, death date, and number of years lived in New Zealand.

The death records are processed through a series of matching cycles where the matching criteria is progressively widened to allow for less exact matches to be considered. Potential matches are written to a match report where they are manually checked before being accepted or rejected.

Where an individual on a temporary visa appears to have died, INZ marks the record as ‘deceased’ and includes an alert stating that the death information is unverified and no action should be taken regarding the person unless independent proof of the death (or to the contrary) is received. Marking the record as ‘deceased’ also prevents the record from passing from the temporary visa list onto the over-stayer list once the temporary visa expires. Where a match identifies a deceased individual already on the over-stayer list, the record is updated to ‘deceased’ so that no further enforcement effort is made to locate that person.

2. Citizenship Act 1977, s 26A - DIA (Citizenship)/INZ Entitlement to Reside information match

2.1 Programme objectives

To remove from the Immigration New Zealand (INZ) over-stayer records the names of people who have been granted New Zealand citizenship.

2.2 Recommendation

I recommend that the authorities conferred by section 26A of the Citizenship Act 1977 should be continued without amendment.

2.3 Programme assessment

Financial cost/benefit and other outcomes

The Ministry of Business, Innovation and Employment, that process the matches involving death and citizenship data for INZ, estimate the matching process requires four person-weeks and incurs direct costs of approximately $10,000 per annum.

Having client records that are correct is essential to efficient and effective administration. The accuracy of INZ records is important for other agencies as well such as the Electoral Commission which uses INZ records to check eligibility to enrol.

The programme is a cost-effective approach to identifying people who were recorded as over-stayers but have become citizens.

Compliance/operational difficulties

No compliance issues or operation difficulties with this programme have been identified since the last review.

Scale of matching

The scale of the programme is appropriate. Only two agencies are involved and the information used is limited to that which is necessary for the match.

Alternative methods to achieve results

As the Department of Internal Affairs is the authoritative source for citizenship records, trying to obtain the information directly or from other sources will be less efficient and more intrusive.

Amendment to the information matching provision

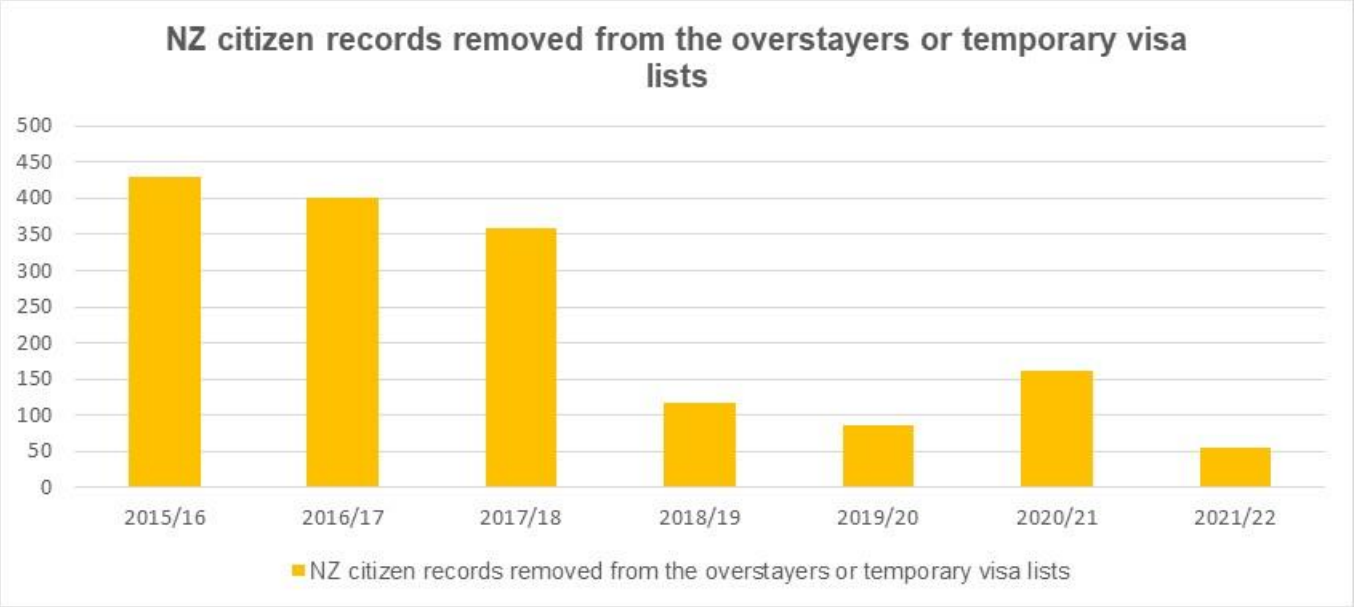
INZ has started to received information from DIA under the Customer Nominated Services AISA, but INZ needs to continue with the current IMA for the foreseeable future due to some cases not meeting the technical requirements under the API and requiring manual investigation. INZ will actively monitor the requirement for the IMA as the API processes change over time.

While the transition to the new system is under action, this provision should be retained without amendment.

Previous reviews:

The utility of this provision was previously assessed in the report “Immigration and Justice Matches” (September 2012), and again in a ”Review of statutory authorities for information matching” (Sept 2017).

2.4 Programme results



INZ and DIA introduced a system in late 2020 under the Customer Nominated Services AISA which allows the sharing of data between DIA and INZ for the purpose of confirming whether an applicant meets the requirements to be granted citizenship. This also included a reciprocal exchange of information for confirming the granting of Citizenship. The results for the 2020/21 and 2021/22 financial years show a decline in the number of updates made through the manual process under the IMA as many of these will now be updating the INZ system through the API process.

2.5 Programme operation

This programme was authorised in 2001 and operation started in 2004.

Twice a year, the Citizenship office provides INZ with records for individuals who have been granted New Zealand citizenship during the six months prior to the extraction date. Each citizenship record includes the full name, gender, date of birth, country of birth, and citizenship person number.

The matching process uses up to seven matching cycles in which the matching criteria are gradually widened to allow for less exact match results to be considered. The match results are written to a match extract report which INZ staff review before accepting or rejecting each match result. No notices of adverse action (s.181) are

sent out because individuals matched successfully benefit from being removed from the overstayers' register and unsuccessful matches do not give rise to any adverse action.

In addition to matching records for the current period, INZ complete one match each year against historical citizenship records previously received. Historical records are used to identify individuals who have been re-added to INZ's temporary visa-holder records because they have returned to New Zealand using their non-New Zealand passport.

3. Corrections Act 2004, s 181 and Immigration Act 2009, s 294 - Corrections/INZ Prisoners information match

3.1 Programme objective

To identify prisoners who fall within the deportation provisions of the Immigration Act 2009 as a result of their criminal convictions.

3.2 Recommendation

I recommend that the authority conferred by section 181 of the Corrections Act 2004 and section 294 of the Immigration Act 2009 should be continued without amendment.

3.3 Programme assessment

Financial cost/benefit and other outcomes

Immigration New Zealand (INZ) report that all costs associated with the programme come from existing baselines. The combined staffing requirement to operate the programme is about one FTE.

Compliance/operational difficulties

There have been no compliance issues or operational difficulties with this programme since the last review.

Scale of matching

The scale of the programme is appropriate. Only two agencies are involved and the information used is limited to that which is necessary for the match.

Alternative methods to achieve results

Other methods to update records will be less efficient and more intrusive.

Amendment to the information matching provision

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

Previous reviews:

The utility of this provision was previously assessed in the report “Immigration and Justice Matches” (September 2012), and again in a “Review of statutory authorities for information matching” (Sept 2017).

3.4 Programme results



As removals and deportations can take many years to complete and because of the manual nature of the processes associated with this match, INZ advises that it is not realistic for them to update the figures for previous fiscal years. Instead, the removal and deportations recorded as at each year end includes cases initiated in previous years but completed in the current fiscal year. In effect, INZ provide a rolling result of case outcomes from the commencement of the programme.

3.5 Programme operation

This programme was authorised in 2004 and operation started in 2005.

Each week, Corrections provides a file containing details of all newly admitted prisoners to INZ. Each prisoner record (including individuals sentenced to home detention) includes identifying information such as full name (including aliases), date of birth, gender, and citizenship. Also included are details of the prisoner's offence, home detention details (if applicable), length of sentence, and dates of sentence commencement, parole eligibility and statutory release.

INZ matches the prisoner information with information relating to persons who are in New Zealand unlawfully or on temporary and residence class visas. The matching process uses different combinations of information to identify possible matches and the match results are manually checked. Where an individual is determined to have a statutory liability for deportation as a result of the match the relevant sentencing data for that individual is recorded on INZ's Application Management System (AMS). They are then sent a letter (s.181 notice of adverse action) advising that they have been identified as a result of the data matching arrangement with Corrections and giving the individual an opportunity to clarify their identity (by providing INZ evidence of their identity). If the individual believes they are not the person identified by the match, an immigration officer may interview them to establish their identity.

4. Customs and Excise Act 2018, s 310 - Customs/Justice Fines Defaulters Alerts information match

4.1 Programme objective

To improve the enforcement of fines by identifying serious fines defaulters as they cross New Zealand borders, and to increase voluntary compliance through publicity about the programme targeted at travellers.

4.2 Recommendation

I recommend that the authority conferred by section 310 of the Customs and Excise Act 2018 should be continued without amendment.

4.3 Programme assessment

Financial cost/benefit and other outcomes

During the review period, this programme has been successful in providing Justice with contact information enabling it to collect a significant amount in unpaid fines. The Ministry also believes that public knowledge of the programme encourages payments by people planning to travel.

Compliance/operational difficulties

Due to the low number of travellers during the period of January-June 2020 an issue with the way the intercept alert data is compared with the Justice data was identified. The intercept alert data was incomplete and the monetary amounts were being under reported.

The Silent alerts element was discontinued in 2016/17 because of the inefficiency of the subsequent search for the paper record.

There have been no other compliance issues or operational difficulties with this programme since the last review.

Scale of matching

The scale of the programme is appropriate. Only two agencies are involved and the information used is limited to that which is necessary for the match.

Alternative methods to achieve results

This programme is one of a number of initiatives that Justice uses to locate people with outstanding fines. The use of multiple sources of information contributes to the success of Justice's programme to recover outstanding fines. The programme does result in payments towards upaid fines and reparations that Justice have otherwise been unable to resolve.

Amendment to the information matching provision

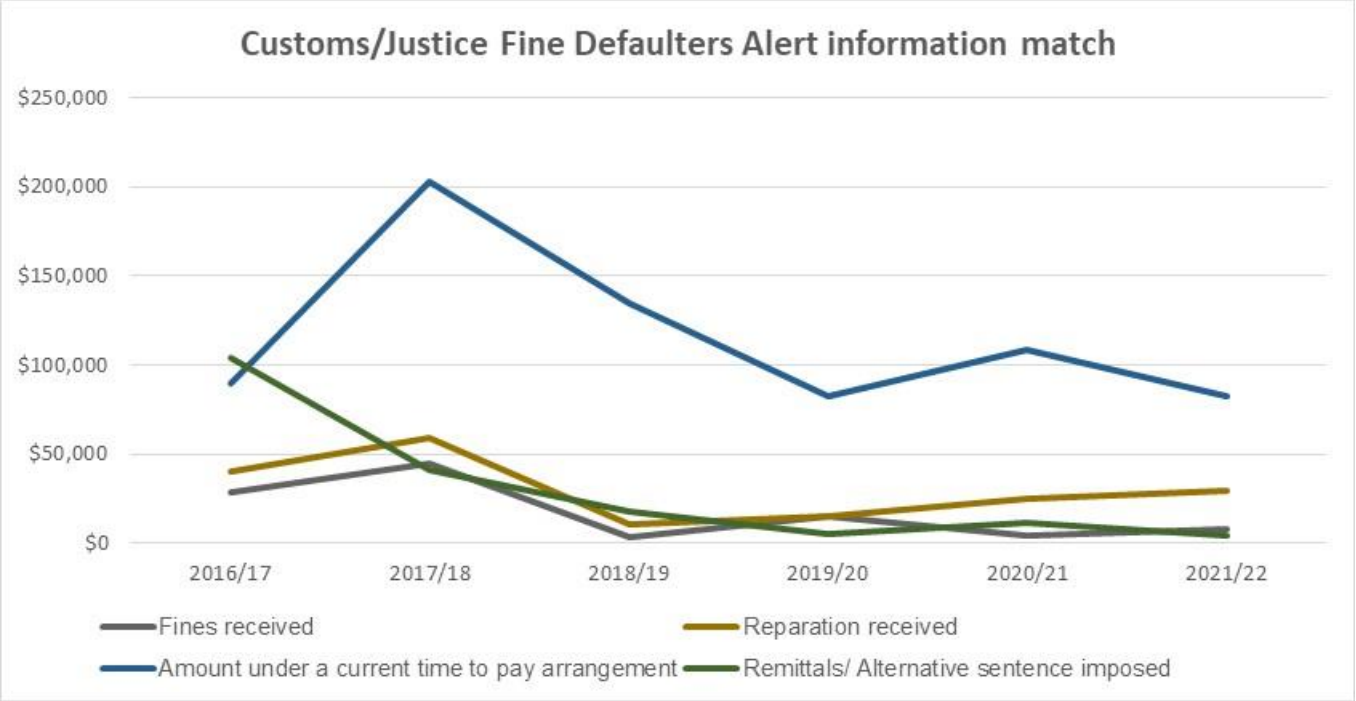
I have not received any advice from Justice suggesting amendments to the provision authorising this programme. I am satisfied that the provision is suitably constrained and does not require amendment.

Previous reviews:

The utility of this provision was previously assessed in the report "Immigration and Justice Matches" (September 2012), and again in a "Review of statutory authorities for information matching" (Sept 2017).

4.4 Programme results

Customs/Justice Interception Alerts Results



As at 26 July 2022, there were 3,914 fines defaulters who had interception alerts recorded against their names in Customs records.

4.5 Programme operation

This programme was authorised in 2006 and operation started in 2006.

Each day Justice sends Customs details of serious fines defaulters for the purpose of creating "interception alerts" in the Customs system (CusMod). These "interception alerts" result in the traveller being intercepted at the airport and required to pay (or make an arrangement to pay) their fine or reparation or face arrest.

Fines defaulters who have interception alerts recorded in CusMod are those where either:

- any amount of reparation is owing and
- a warrant to arrest has been issued and
- the warrant covers at least part of the reparation outstanding;

Or

- court imposed fines greater or equal to $5,000 are outstanding and
- a warrant to arrest has been issued and

- the warrant covers at least part of these court imposed fines.

For each fines defaulter, Justice supply Customs with a Person profile number, Alert type, given and family names, date of birth, and gender.

As an individual passes through the border, a Customs official scans their passport into the CusMod system. The CusMod matching programme converts details from the passport into an alpha-numeric code for matching against alerts. Alerts are generated for “A” matches, which require a 91-100% match outcome based on a weighting system. For instance, date of birth and family name each has a percentage attributed to it which add up to 75% towards the overall weighting score.

Matches triggering an interception alert are directed to a Customs official who notifies NZ Police. A police officer conducts an interview with the individual to confirm their identity and that the individual is the same person as the alert, whether outstanding fines exist, and if a warrant to arrest remains in force.

Fines and warrant to arrest information is obtained by phoning the Justice Contact Centre. If the Police are satisfied that the individual is not the person on the alert, they are left to continue on their journey and a report is filed.

If the facts are verified, the individual, through a phone call with a Justice official, is given an opportunity to pay the outstanding amount or to enter into an arrangement to pay. If no payment is made, or arrangement entered into, the Police have discretion to execute the arrest warrant, in which case the individual will be stopped from travelling and brought before a court.

After an interception, the alert is usually removed from CusMod in the next daily update.

5. Immigration Act 2009, s 295 - INZ/Justice Fines Defaulters Tracing information match

5.1 Programme objective

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

5.2 Recommendation

I recommend that the authority conferred by section 295 of the Immigration Act 2009 should be continued without amendment, but I intend to review this again in 12 months.

5.3 Programme assessment

This programme was one of a number of initiatives that Justice have used to locate people with outstanding fines. The use of multiple sources of information contributes to the success of Justice's programme to recover outstanding fines. This programme was authorised, and operation commenced in 2006.

Justice stopped operating this programme on 28 September 2016 because of the significant level of manual work involved in retrieving the paper records and the relatively low return. In order for Justice to use the information on the arrival / departure cards efficiently, Justice would need electronic access to this source of information.

Justice would prefer to continue to retain this provision while they consider possible approaches to make the match cost effective.

I consider that Justice need to show progress on develop options to make this match efficient and effective. I intend to review this provision again in 12 months.

Previous reviews:

The utility of this provision was previously assessed in the report "Immigration and Justice Matches" (September 2012), and again in a "Review of statutory authorities for information matching" (Sept 2017).

6. Tax Administration Act 1994, Schedule 7 Part C subpart 2 cl 43 - IRD/Justice Fines Defaulters Tracing information match

6.1 Programme objective

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

3.2 Recommendation

I recommend that the authority conferred by Schedule 7 Part C subpart 2 cl 43 of the Tax Administration Act 1994 should be continued without amendment.

3.3 Programme assessment

Financial cost/benefit and other outcomes

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

Compliance/operational difficulties

During 2017/18 a programming error resulted in IR sending incorrect information to Justice. Based upon this information Justice sent 3,448 adverse action letters in error. The programme was suspended until the error was corrected. Letters of apology were sent to the affected individuals by IR.

Scale of matching

The scale of the programme is appropriate. Only two agencies are involved and the information used is limited to that which is necessary for the match.

Alternative methods to achieve results

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

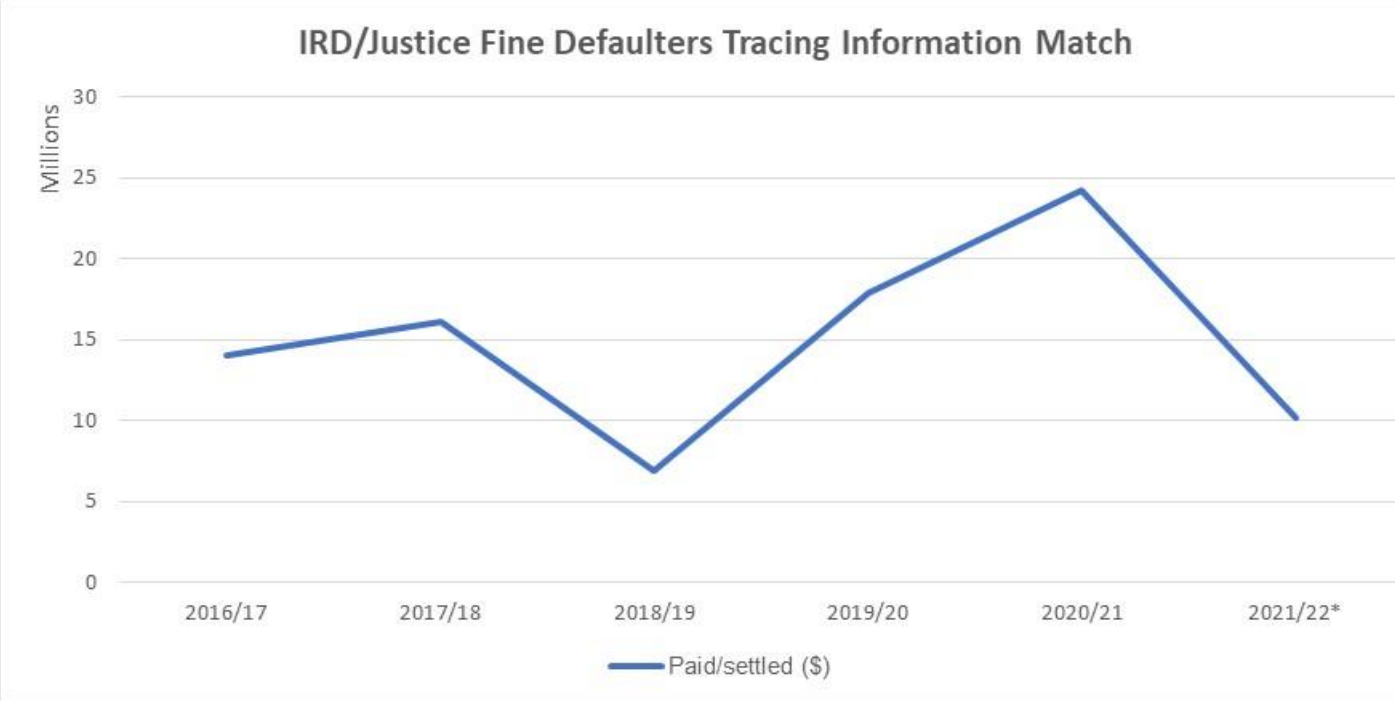
Amendment to the information matching provision

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

Previous reviews:

The utility of this provision was previously assessed in the report "Immigration and Justice Matches" (September 2012), and again in a "Review of statutory authorities for information matching" (Sept 2017).

6.4 Programme results



* The figures for the most recent year are provisional figures and will be updated after the next reporting period.

Data matching was suspended for the period 23 March 2020 - 14 May 2020. The decision to suspend data matching was in response to the New Zealand wide COVID-19 Lockdown (Alert Level 4 and Alert Level 3).

6.5 Programme operation

This programme was authorised in 1998 and operation started in 2002.

On a daily basis Justice send details of fines defaulters whom they have lost contact with to Inland Revenue. Justice sends the full name, date of birth, (and a unique identifier which is generated and used solely in this programme) about the selected fines defaulters. IR attempts to match the fines defaulter information with taxpayer information using the full name and date of birth. A maximum of 20,000 records is allowed per supply.

For matched records, IR provides Justice with details of the current address and all known telephone numbers for the person, the name, address, and contact numbers of the person's employer or employers, and the unique identifier originally provided by Justice. Each match record supplied by IR includes a match indicator code that represents how well the records matched.

Appendix A: Background to Information matching

Information matching involves the comparison of one set of records with another, usually to find records in both sets that belong to the same person. Matching is commonly used to detect fraud in social assistance programmes, or to trace people who owe debts to the Crown but can also be used ensure people get entitlements as in the case of the unenrolled voters programmes.

Oversight of this activity is important to safeguard individuals and maintain transparency and trust in government. The Privacy Act regulates information matching through controls directed at:

- authorisation – ensuring that only programmes clearly justified in the public interest are approved;
- operation – ensuring that programmes operate within the information matching framework; and
- evaluation – subjecting programmes to periodic review.

Section 184

Section 184 of the Privacy Act requires the Privacy Commissioner to undertake periodic reviews of the operation of each information matching provision and to consider whether:

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

A periodic review is necessary to assess the ongoing value and suitability of a programme in light of experience operating the programme. A programme may lose effectiveness over time if hit rates have peaked or the wider context has changed.

To conduct these reviews I consider, in particular, whether each provision:

- continues to achieve its objective by providing significant monetary benefits or other comparable benefits to society;
- raises concern because of the scale of matching (because of the number of agencies involved, the frequency of matching, or the amount of personal information being disclosed); and
- is operating within the information matching controls in the Privacy Act.