

Schedule 4 to
NZP / MBIE MOU

New Zealand Police and
Ministry of Business, Innovation and
Employment (Immigration New Zealand)

Information Sharing

In Confidence

RECITALS

- A. This Schedule is made between the Commissioner of New Zealand Police (“**NZP**”) and the Chief Executive of the Ministry of Business, Innovation, and Employment (“**MBIE**”) (individually “**Participant**” and together “**the Participants**”) by their delegates under the Memorandum of Understanding (“**MoU**”) between the Participants signed by MBIE on 27 November 2014 and NZP on 13 January 2015.
- B. Immigration New Zealand (“**INZ**”) is the part of MBIE that administers the Immigration Act 2009. INZ holds Identity Information, and its disclosure of such information must comply with legislation, in particular, the Immigration Act and the Privacy Act 1993.
- C. New Zealand Police (“**NZP**”) is regulated by the Policing Act 2008. NZP holds Police Information, and its disclosure of such information must comply with legislation, in particular, the Policing Act and the Privacy Act.

The Participants have accordingly reached the following understanding.

INTERPRETATION

1. In this Schedule:

Biometric Information means:¹

- a. Any or all of the following –
 - i) a photograph of all or part of the person’s head and shoulders;
 - ii) impressions of the person’s fingerprints;
 - iii) an iris scan; and
- b. includes an electronic record of the personal information that is capable of being used for biometric matching.

Identity Information means a person’s:²

- a. full name;
- b. alias or aliases;
- c. address;
- d. date and place of birth;
- e. gender;
- f. unique identifying number(s) used by MBIE;
- g. biometric information;
- h. contact details (email and phone);
- i. distinguishing features;
- j. details of travel documents;
- k. details of travel movements;
- l. details of identity documents;
- m. immigration status;
- n. country of birth;
- o. citizenship;
- p. nationality.

¹ Section 109C of the Privacy Act

² Section 109C of the Privacy Act

Police Information is information held by NZP and includes:

- a. Police officer identifier;
- b. Police officer assigned station;
- c. Custody Station name;
- d. unique identifying number used by NZP;
- e. ANZOC Level 2 Offence Code (if person is being charged);
- f. prisoner type;
- g. court date (if applicable);
- h. court location (if applicable).

BACKGROUND

1. In December 2014, a Government Inquiry (Inquiry) was established following the illegal departure from New Zealand of a prisoner on temporary release. He was able to leave New Zealand using a passport issued in his birth name having renewed his passport in prison. His birth name was not consistently known in the Justice Sector as his birth name and DIA had no record of his other assumed identity in the Passport System or of the court conditions that had been imposed. A cross-agency programme investigated options to better manage identity information across the Justice Sector.
2. In response to the Inquiry, the then Minister of Justice agreed to three Progressive Steps to improve the quality of the information accessed by Police to more accurately identify individuals. The three Progressive Steps are the provision of:
 - i. New Zealand Transport Agency driver licence images to Police
 - ii. birth, passport, and immigration biographic information and associated images to Police
 - iii. registered deaths and name changes information to Police.
3. Implementation of these steps is expected to reduce the risk of offenders using multiple identities that differ across various Justice Sector agencies and will contribute to the reduction in the number of events relating to misidentified individuals.
4. The Enhancing Identity Verification and Border Processes Legislation Act 2017 inserted Part 10A and Schedule 4A into the Privacy Act to enable the listed agencies to share identity information to verify individuals in specific circumstances.

PURPOSE

5. A vital component of co-operation between NZP and INZ is the effective and timely exchange of information. This is appropriate and necessary to combat organised, transnational, complex, and other crime that impacts upon New Zealand and New Zealand's interests, and to support immigration compliance activities.
6. Information sharing supports the wider purposes of the MoU agreed between the Participants. Information sharing supports the purposes outlined paragraphs 5 and 21 of the MoU.
7. This Schedule is made under paragraph 9 of the MoU and is intended to be read in conjunction with the MoU.
8. The purpose of this Schedule is to:
 - 8.1. further the Participants' cooperation; and
 - 8.2. document the Participants' agreed process to share information in accordance with section 109D of the Privacy Act.

OVERVIEW

9. INZ and NZP exchange information in order to validate the identity and immigration status of persons of interest to NZP, and to assist INZ Compliance Operations carry out their functions under the Immigration Act 2009.
10. The Participants will share information that each collects and stores under current business and operational processes. Information sharing under this Schedule will be in accordance with:
 - 10.1. the Privacy Act 1993;
 - 10.2. the Official Information Act 1982; and
 - 10.3. any other applicable legislation and the rule of law.

PROCEDURE

11. Information may be exchanged between the Participants by various means including:
 - 11.1. by technological means, including access to the information via an Application Programming Interface ("API"); or
 - 11.2. on an ad-hoc basis, including exchange via telephone or via secure email.
12. The Participants may develop implementing arrangements under this Schedule, such as a Service and Operating Manual. The implementing arrangements may relate to the operational procedures to be followed and technical arrangements concerning the exchange of information between the Participants under this Schedule. The implementing arrangements shall be subject to the obligations set forth in this Schedule and the MoU.

OWNERSHIP OF INFORMATION

13. The disclosing Participant retains control of the use and further disclosure of the information. Information will not be used or disclosed other than in accordance with this Schedule without the prior written consent of the disclosing Participant, or otherwise as required by law.

INFORMATION USE, ACCESS AND DISCLOSURE

14. Both agencies shall ensure that any information shared under this Schedule is managed in accordance with the respective security and privacy policies, practices, and procedures applicable to the Participants, including New Zealand Government security protocols such as the New Zealand Information Security Manual.
15. The Participants will ensure that information shared under this Schedule will only be used and accessed by appropriately trained and authorised staff or third parties.
16. Any third party contracted to carry out any work in relation to this Schedule will be subject to the obligations set out in the MoU and this Schedule. These obligations will be reflected in any contract for services with the third party.
 - 16.1. Any contract for services referred to in clause 16 will include specific obligations which prohibit unauthorised access to, or use, or disclosure of, personal information which is shared under this Schedule.
17. Any information shared under this Schedule that is provided to any third party will be provided on the basis of any relevant restrictions or conditions.
18. Nothing in this Schedule is intended to affect the ability of the Participants to exchange or access information pursuant to any other agreement, arrangement or enactment.

NZP requests for information

19. NZP may request identity information from INZ under section 109D of the Privacy Act to verify the identity of a person:
 - 19.1. whose identifying particulars have been taken under section 32 or 33 of the Policing Act either when in custody or by summons;
 - 19.2. whose identifying particulars have been taken under section 11 of the Returning Offenders (Management and Information) Act 2015 as they were a returning offender; or
 - 19.3. who has breached, has attempted to breach, or is preparing to breach a condition of any sentence, or order imposed under any enactment, that the person not leave New Zealand.
20. Where the circumstances above are not met, NZP may request identity information from INZ and INZ may disclose Identity Information:
 - 20.1. to avoid prejudice to the maintenance of the law (Information Privacy Principle 11(e)(i)); or
 - 20.2. for the conduct of court or tribunal proceedings (Information Privacy Principle 11(e)(iv)); or
 - 20.3. to prevent or lessen a serious threat to public health or public safety or the life or health of an individual (Information Privacy Principle 11(f)).
21. If INZ considers it is unable to fulfil NZP's request for information for legal or operational reasons, it may decline to provide all or part of the Identity Information requested by NZP, or offer to provide all or part of the Identity Information subject to terms and conditions that INZ may specify. Before declining to provide all or part of the Identity Information, INZ may request further details from NZP regarding its request for Identity Information.

INZ requests for information

22. INZ may request identity information from NZP under section 109D of the Privacy Act to verify the identity of a person who:
 - 22.1. an immigration officer has good cause to suspect has either committed an offence against the Immigration Act or has obtained a visa under a fraudulent identity;
 - 22.2. is liable for deportation or turnaround;
 - 22.3. is unlawfully in New Zealand.
23. Where INZ requires Police Information from NZP in order to avoid prejudice to the maintenance of the law, INZ may request NZP to disclose Police Information under Information Privacy Principle 11(e)(i) of the Privacy Act.
24. If NZP considers it is unable to fulfil INZ's request for information for legal or operational reasons, it may decline to provide all or part of the Police Information requested by INZ, or offer to provide all or part of the Police Information subject to terms and conditions that NZP may specify. Before declining to provide all or part of the Police Information, NZP may request further details from INZ regarding its request for Police Information.

ONWARD DISCLOSURE OF INFORMATION

25. Information that is provided to any third party as authorised by or under law will be provided on the basis of any relevant restrictions or conditions.

26. Where any information is incorporated into reports or documents for further disclosure then that information will be dealt with in accordance with any relevant caveats and legislation relating to its lawful distribution.
27. NZP may disclose the identity information supplied by INZ:
 - 27.1. to the individual;
 - 27.2. to a person authorised to act on behalf of the individual;
 - 27.3. in accordance with an international disclosure instrument made under section 95B of the Policing Act 2008;
 - 27.4. in accordance with directions issued by the Commissioner under section 95C of the Policing Act 2008; and
 - 27.5. as otherwise authorised by, or under, law.
28. INZ may disclose the Police Information supplied by NZP:
 - 28.1. to the individual;
 - 28.2. to a person authorised to act on behalf of the individual;
 - 28.3. in accordance with an agreement under sections 305 and 306 of the Immigration Act 2009; and
 - 28.4. as otherwise authorised by, or under, law.

STORAGE AND DISPOSAL OF INFORMATION

29. Both Participants shall ensure that any information shared is stored and managed in accordance with mandated security and privacy policies, including the Participants' privacy, data and information retention, and security policies, practices, and procedures.
30. The Participants will comply with New Zealand Government security protocols regarding storage, retention and destruction of information.
31. Information shared under this Schedule will be deleted from the Participants' systems as soon as it is no longer required for the purposes specified in this Schedule, or as otherwise required by law.
32. Information will be retained by the Participants in accordance with public record keeping requirements, including the Public Records Act 2005.
33. Information received under this Schedule will be stored by each Participant in a secure system that protects the information against unauthorised use, modification, destruction, access and disclosure.

RESPONSIBILITIES

34. The Participants will take reasonable steps to ensure that the information being shared under this Schedule is of adequate quality, including via application of appropriate data cleansing techniques.
35. The Participants will cooperate on any request received by either Participant for correction of, or access to, information exchanged under this Schedule.
36. The Participants will ensure that their staff and third party contractors who will have access to information shared under this Schedule will have undertaken appropriate training, have appropriate authorisation, and will be subject to contractual obligations and codes of conduct that prohibit the unauthorised access to, or use, modification, destruction, and/or disclosure of, personal information.

BREACHES OF SECURITY OR CONFIDENTIALITY

37. A Participant will notify the other Participant as soon as possible in relation to any actual or suspected unauthorised access to, or use, modification, destruction, and/or disclosure of information shared under this Schedule.
38. The Participants will investigate any actual or suspected unauthorised access to, or use, modification, destruction, and/or disclosure of information that is shared under this Schedule.
39. If a Participant has reasonable cause to believe that a breach of any security provision in this Schedule has occurred, that Participant may undertake such investigation as it deems necessary.
40. The Participants agree to reasonably cooperate with each other in any investigation commenced under clauses 38 and 39.

QUALITY ASSURANCE AND AUDIT

41. The Participants agree to cooperate to conduct a review of the operation of this Schedule within 12 months of the date it is signed, and to share the results of the review with each other. Further reviews will be undertaken as part of a review of the MoU.
42. The Participants agree to assist and support each other with review, quality assurance and/or audit activities related to this Schedule that may arise, including any review of the operation of this Schedule and any other activities that may arise from time to time.
43. The Participants will consult with each other regarding the scope of assistance and support to be provided to each other.

VARIATION AND TERMINATION

44. This Schedule shall continue in force until the Participants agree to terminate it.
45. Amendment or termination of this Schedule will be in accordance with the relevant section(s) of the MoU.
46. If extraordinary circumstances arise (including but not limited to acts of God, earthquake, eruption, fire, flood, storm or war or industrial action, strike, or lockout) which prevent either Participant from performing its obligations under the Schedule, the performance of that Participant's obligations shall be suspended for as long as those extraordinary circumstances prevail.

OPERATIONAL CONTACTS

47. The Participants intend to designate persons to administer this Schedule and any implementing arrangements made under this Schedule.
48. The initial contact persons are as follows:

Party	Contact
Police	Detective Superintendent Tim Anderson National Manager: Criminal Investigations
MBIE (Immigration NZ)	Greg Patchell Deputy Chief Executive - Immigration

49. All notices and other communication between the Participants under the Schedule shall be sent to the operational contacts.
50. The operational contacts may be updated from time to time by notice (which may be sent by secure email) to the other Participant.

DISPUTE RESOLUTION

51. Should any dispute or differences relating to the application or interpretation of this Schedule arise, the Participants will meet in good faith with a view to resolving the dispute or difference as quickly as possible. The Participants will not raise any dispute or difference through the news media.
52. Where there is any dispute between NZP and INZ, the matter shall initially be referred to the District Manager: Criminal Investigations of the NZP District where the information was exchanged or sought and the Assistant General Manager Intelligence and Risk at INZ.
53. Where the dispute remains unresolved, the matter will be referred to the National Manager: Criminal Investigations, at NZP National Headquarters and the General Manager, Compliance, Risk and Intelligence Services at INZ.
54. Nothing in this Schedule shall make either party liable for the actions of the other or constitute any legal relationship between the parties.

MEDIA AND INFORMATION REQUESTS

55. The Parties are responsible for complying with their respective obligations under the Privacy Act 1993, the Official Information Act 1982, and any other applicable legislation.
56. If either Participant receives a disclosure request, including under the Privacy Act 1993 or Official Information Act 1982, that relates to information exchanged under this Schedule, the Participant that received the request will consult with the other Participant as soon as practicable regarding the request.
57. The Participants will consult with each other before responding to any media enquiry relating to this Schedule.

SIGNATORIES

Signed for and on behalf of the Ministry of Business, Innovation and Employment (Immigration New Zealand) on the 23rd day of August 2018



Name: Greg Patchell
Designation: Deputy Chief Executive - Immigration

Signed for and on behalf of the New Zealand Police on the 22nd day of August 2018



Name: Detective Superintendent Tim Anderson
Designation: National Manager: Criminal Investigations

Peter READ
Detective Superintendent.

Annex 1 - Process for identity information sharing – New Zealand Police and Immigration New Zealand

Introduction

1. This annex sets out the agreed process for sharing [Identity Information](#) and [Police Information](#) between New Zealand Police (NZP) and Immigration New Zealand (INZ) in accordance with Schedule 4 of the Memorandum of Understanding. The process involves:
 - a) Police providing [identifying information](#) of persons of interest and INZ, if satisfied with the Police request, disclosing [Identity Information](#) about that person; and
 - b) Police disclosing [Police Information](#) about a non-New Zealander to INZ for compliance purposes.

Police querying Identity Information with INZ

2. There are two ways Police may query [Identity Information](#) with INZ:
 - a) Using the National Intelligence Application (NIA) on the Police Enterprise Network that provides a direct link to INZ (electronically); or
 - b) Contacting an INZ employee directly (manually, e.g. phoning INZ's s9(2)(g)(ii) number).

Police query criteria

3. The criteria for querying [Identity Information](#) about a person of interest with INZ varies whether done electronically or manually. The manual query criteria are wider than the electronic criteria.

Electronic queries (Using 'OnDuty' or 'NIA')	Manual query criteria also extends to:
<ul style="list-style-type: none"> ➤ verification is sought of a person of interest's identity; and Either ➤ the person: <ul style="list-style-type: none"> • has had their identifying particulars taken under section 32 or 33 of the Policing Act 2008 (custody or summons); or • has had their identifying particulars taken under section 11 of the Returning Offenders (Management and Information Act 2015 (as a returning offender); or • has breached (or attempted) a sentence or order not to leave New Zealand. Or ➤ Police requires the information: <ul style="list-style-type: none"> • for the purpose of maintaining the law; or 	<ul style="list-style-type: none"> ➤ verification is sought of a person of interest's identity ➤ the person: <ul style="list-style-type: none"> • is liable to an infringement notice; or • may be a victim or witness; or • is of interest to Police And ➤ INZ receiving the query is satisfied that Police has a need for the information either: <ul style="list-style-type: none"> • for the purpose of maintaining the law; or • to prevent or lessen a serious threat to the health and safety of a person or the public; or • for the conduct of court or tribunal proceedings.

Annex 1 to Schedule 4 of NZP/MBIE MOU – Identity information sharing, Continued...

Identity Information may include:

full name	date of birth	gender
travel document details	client ID	identity ID
client status	photograph ID	profile photo
profile photo date	travel movement details	address details
visa details	contact details (email and phone)	country of birth
Nationality/citizenship	other name/s	

Note: A defined set of information is provided by INZ (if available) in response to an electronic query by Police. For information outside these set fields, Police should request manually by contacting an INZ employee directly (e.g. phoning INZ's s9(2) s9(2)(g)(ii) number – help desk).

Police use of INZ information

6. Information received from INZ may be used by Police:
 - (a) to identify a person of interest;
 - (b) to check matters relating to a person of interest;
 - (c) as authorised by law, e.g. as part of a criminal investigation or to disclose to an agency for the purposes of maintaining the law; or
 - (d) to disclose to a corresponding overseas agency under either an international disclosure instrument made under section [95B](#) of the Policing Act 2008 or directions issued by the Commissioner under section [95C](#) of the Policing Act 2008.

7. Where information is incorporated into reports or documents for further distribution either within Police or to other agencies, this information is to be dealt with in accordance with any relevant caveats, including relevant restrictions or conditions, and legislation relating to its lawful distribution (e.g. Information Privacy Principle [11\(e\)\(i\)](#) of the Privacy Act 1993 to avoid prejudice to the maintenance of the law).