

In Confidence

Office of the Minister of Police
Chair, Cabinet Legislation Committee

Approval of Order in Council: Information Sharing Agreement between the Registrar-General, Births, Deaths and Marriages and New Zealand Police

Proposal

1. I propose that the Order in Council for the Information Sharing Agreement (the Agreement) between the Registrar-General, Births, Deaths and Marriages (the Registrar-General) and New Zealand Police (Police) be authorised for submission to the Executive Council.

Policy

Development of the proposed Agreement

2. The Cabinet of the previous Government agreed that an approved information sharing agreement (AISA) should be developed to enable the Registrar-General to regularly share death and name change information with Police [CAB-17-Min-0414].
3. An AISA is a legal mechanism enabled under the Privacy Act 1993 that authorises through an Order in Council sharing of information between agencies to facilitate the provision of public services. It can authorise information sharing that would otherwise breach the Information Privacy Principles of the Privacy Act.
4. In October 2018, Cabinet agreed to release a draft of the Agreement and an accompanying discussion document for public consultation [CAB-18-MIN-0484]. The draft Agreement also proposed sharing information about non-disclosure directions applied for under the Births, Deaths, Marriages, and Relationship Registration Act 1995 (which restrict access to records to protect the safety of a person) following feedback from the Ministry for Women.
5. In May 2019, Cabinet agreed to the policy proposals contained in the draft Agreement and invited the Minister of Police to instruct the Parliamentary Counsel Office to draft an Order in Council, which will approve the Agreement [CAB-19-MIN-0238].
6. The Agreement is one of the initiatives being implemented as part of the Progressive Steps Project to improve sharing of identity information among certain agencies. The Progressive Steps Project is part of a wider work programme responding to the Government Inquiry into the Escape of Phillip Smith/Traynor (the Inquiry).
7. The Agreement will enable the Registrar-General to proactively supply to Police details relating to registered name changes, deaths, and non-disclosure directions. The Agreement sets out what information will be shared, about whom, the purpose of sharing, and how that information will be protected.
8. The Order in Council has now been drafted by Parliamentary Counsel Office and I am presenting it to Cabinet for consideration.

9. No new policy decisions are required at this time.

Authorisation

10. Part 9A of the Privacy Act 1993 enables the sharing of personal information between or within agencies to facilitate the provision of public services via an AISA. Part 9A of the Privacy Act 1993 also authorises exemptions from, or modifications to, any of the information privacy principles (except principles 6 and 7, which relate respectively to the right to have access to, and correct, personal information).
11. The proposed Order in Council would approve the signed Agreement contained in the attached appendices, making it an AISA. It will ensure that personal information collected by the Registrar-General can be lawfully shared with Police for the purposes described in the Agreement.
12. Operational documentation to support the implementation of the Agreement will be prepared in consultation with the Office of the Privacy Commissioner.

Timing and 28-day rule

13. I propose that the Agreement will come into force 28-days after the approval of the Order in Council.

Compliance

14. The Order in Council complies with:
- the principles of the Treaty of Waitangi;
 - the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 and the Human Rights Act 1993;
 - the principles and guidelines set out in the Privacy Act 1993;
 - the Legislation Design Advisory Committee's LDAC Guidelines: Guidelines on Process and Content of Legislation.

Regulations Review Committee

15. There are no apparent grounds for the Regulations Review Committee to draw the Order in Council to the attention of the House of Representatives under Standing Order 319.

Certification by Parliamentary Counsel

16. The Order in Council has been certified as in order for submission to Cabinet.

Impact analysis

17. A Regulatory Impact Assessment was prepared in accordance with the necessary requirements and was submitted at the time Cabinet approval was sought for the policy relating to the Agreement [CAB-19-MIN-0238 refers].

Publicity

18. The Registrar-General and Police intend to make formal joint public announcements when the information sharing commences.
19. In accordance with the Privacy Act 1993, Police will ensure the Agreement is available at its Head Office and on its website. The Registrar-General will ensure the Agreement is available on the Department of Internal Affairs website.

20. The Registrar-General will make reasonable efforts to ensure individuals with active non-disclosure directions on their birth or name change information are personally notified prior to the commencement of any sharing.

Proactive Release

21. I propose to proactively release this paper within 30 business days, subject to redactions as appropriate under the Official Information Act 1982.

Privacy Commissioner's Statement

22. The Privacy Commissioner has been consulted throughout the development of this Agreement and appreciates the constructive engagement from officials. The Commissioner's report is provided as an appendix and confirms that he is satisfied the Agreement meets the requirements set out in Part 9A of the Privacy Act, and in particular those set out in section 96N. The report does not identify any areas of concern in relation to the policy objectives, purposes for information sharing or the protection of individuals' privacy. The Commissioner is pleased to note that Police will consult with his Office in the development of operational procedures.

Consultation

The requirement to consult

23. Section 96O of the Privacy Act 1993 requires that an agency proposing to enter into an AISA must consult with, and invite submissions on, the proposed Agreement from:
- the Privacy Commissioner;
 - any person or organisation that the agencies consider represents the interests of the classes of individuals whose personal information will be shared under the proposed Agreement; and
 - any other person or organisation that the agencies consider should be consulted; and have regard to any submissions that are received

Public consultation

24. Following Cabinet approval [CAB-18-MIN-0484 refers], Police conducted public consultation on the draft Agreement between 9 October and 6 November 2018.
25. Police released a public discussion document alongside the draft Agreement. Both documents were available on Police's website. In addition, stakeholder groups were advised of the consultation and invited to participate. As previously reported to Cabinet [CAB-19-MIN-0238 refers], Police received five submissions.
26. All matters raised have been considered to determine if amendment to the Agreement was required. Some changes were made in response to the feedback received from submitters.

Ministerial and coalition partner consultation

27. I consulted with Ministerial and Coalition partners on the proposed Agreement and the Order in Council to give effect to it. No issues were raised during the consultation.

Agency consultation

28. Over the course of developing the Agreement, Police has consulted at regular intervals with the following agencies: the Ministry of Justice, Department of Corrections, Department of Internal Affairs, New Zealand Customs Service, Ministry of Business, Innovation and Employment (Immigration New Zealand), New Zealand Transport Agency, Ministry of Transport, Te Puni Kōkiri, Ministry for Women, Ministry for Pacific Peoples, Ministry of Social Development, Inland Revenue Department, Oranga Tamariki—Ministry for Children, Statistics New Zealand, the Treasury, the State Services Commission, the Office of the Privacy Commissioner, Parliamentary Counsel Office, and the Department of Prime Minister and Cabinet (Policy Advisory Group).
29. These agencies were also consulted on this Cabinet paper and the finalised Agreement. No issues were raised during the consultation.

Upcoming Changes in the Privacy Bill

30. A Bill to make substantial changes to the Privacy Act is before the House. It was reported back by the Justice Select Committee on 13 March 2019. The provisions in the current Privacy Act have been largely transferred into the Bill and the Bill makes provision for AISAs in force immediately before the commencement date of the new Privacy Act to continue in force as if made under the new Privacy Act.

Recommendations

The Minister of Police recommends that the Committee:

1. **note** that Cabinet approved the policy approach for the Information Sharing Agreement between the Registrar-General and New Zealand Police [CAB-19-MIN-0238 refers];
2. **note** the attached Order in Council will authorise the Information Sharing Agreement between the Registrar-General and New Zealand Police;
3. **note** the 28-day rule will apply;
4. **authorise** the submission to the Executive Council of the Order in Council to give effect to the Information Sharing Agreement between the Registrar-General and New Zealand Police.

Authorised for lodgement

Hon Stuart Nash
Minister of Police