

**INFORMATION SHARING AGREEMENT BETWEEN THE MINISTRY OF
JUSTICE AND THE CROWN LAW OFFICE**

JULY 2017

This Information Sharing Agreement is made under Part 9A of the Privacy Act 1993, to authorise the sharing of permitted information under section 237 of the District Court Act 2016 and section 174 of the Senior Courts Act 2016. This Agreement also includes Ministry of Justice information.

Acceptance

In signing this Agreement, each party acknowledges that it has read and agrees to be bound by it.

For and on behalf of the **Ministry of Justice**



Andrew Bridgman

Secretary for Justice and Chief Executive

Ministry of Justice

Date: 31/07/17

For and on behalf of the **Crown Law Office**



Una Jagose QC

Solicitor-General

The Crown Law Office

Date: 26/07/17

DEFINED TERMS

1. In this Agreement, unless the context otherwise requires:
 - 1.1. **CLO** means the Crown Law Office.
 - 1.2. **CRI**, in relation to a proceeding, means a criminal reference number given to the proceeding by the Registry of a court.
 - 1.3. **Defendant** has the same meaning in this Agreement as in section 5 of the Criminal Procedure Act 2011.
 - 1.4. **Information Privacy Principles** means any of the information privacy principles set out in section 6 of the Privacy Act 1993.
 - 1.5. **Lead agency** means the lead agency for this Agreement for the purpose of section 96H(2) of the Privacy Act 1993.
 - 1.6. **Ministry** means the Ministry of Justice.
 - 1.7. **Ministry of Justice information** has the same meaning in this Agreement as in item 2 under the heading “Ministry of Justice information” in both schedule 1 of the District Court Act 2016 and schedule 2 of the Senior Courts Act 2016.
 - 1.8. **Permitted information** has the same meaning in this Agreement as in schedule 1 of the District Court Act 2016 and schedule 2 of the Senior Courts Act 2016.
 - 1.9. **Suppressed information** means information that:
 - (a) has been suppressed by or under a court order; or
 - (b) is subject to a provision in any enactment that prohibits or restricts its disclosure.

Commencement

2. This Agreement comes into force on the date specified in the Order in Council approving it under section 96J of the Privacy Act 1993.

The Parties

3. The Parties to this Agreement are:
 - 3.1. the Crown Law Office (acting through the Solicitor-General)And
 - 3.2. the Ministry of Justice (acting through the Secretary for Justice)
4. The Lead Agency is the Ministry of Justice.

Objectives and purpose

5. The objective of this Agreement is to provide a framework that supports the secure sharing of permitted information and Ministry of Justice information between the Ministry and CLO.
6. The purposes of this Agreement are to:
 - 6.1. enable the Ministry to share permitted information and Ministry of Justice information with CLO;
 - 6.2. assist the Solicitor-General to fulfil her statutory responsibility to maintain general oversight of the conduct of all public prosecutions, and assume responsibility for and conduct Crown prosecutions; and
 - 6.3. manage and allocate Crown Solicitor funding for the conduct of Crown prosecutions.
7. CLO will cross-match the information received under this Agreement against information provided about prosecutions from Crown Solicitors and prosecuting agencies, increasing the accuracy of the information it holds. The information will enable CLO to pay Crown Solicitors their fees while maintaining Cabinet's budget constraints through a 'bulk funding' arrangement. It will also allow CLO to get a picture as to the scope and operation of prosecutions conducted by other agencies with a view to achieving greater consistency in approach and higher quality of prosecutions across the system. On both aspects, the sharing of prosecution information between the Ministry and CLO will allow the Solicitor-General to facilitate a public service he or she is statutorily required to facilitate.

Public Services to be facilitated under this Agreement

8. The public services that this Agreement is intended to facilitate are:
 - 8.1. maintaining an efficient and effective criminal justice system;
 - 8.2. improving the quality of public prosecutions; and
 - 8.3. managing the budget for Crown prosecutions.

The information that may be shared under this Agreement

9. In order to achieve the purpose set out in clause 6, the Ministry may share permitted information under this Agreement once it is approved.
10. The Ministry may also share Ministry of Justice information to achieve the purpose set out in clause 6.
11. The information to be shared pursuant to this Agreement includes the following:
 - 11.1. *The CRI* given to any proceeding commenced against a person;
 - 11.2. *Any other information in relation to a proceeding that is permitted information* – Information about people who have faced criminal charges in the District Court or High Court, including details of the case and its outcomes; and
 - 11.3. *Ministry of Justice information* – the Ministry will also provide CLO with Ministry of Justice information. Ministry of Justice information includes generic Australian and

New Zealand Standard Offence Classification (ANZSOC) codes and New Zealand Police charging codes. ANZSOC codes were created by the Australian Bureau of Statistics for statistical analysis. The codes group types of offences together and allow agencies to discuss offences in a consistent manner. As such, the codes are used to support policy formation, statistics and research. As CLO pay Crown Solicitors according to the ANZSOC codes, this information is vital to ensure the purpose of this Agreement is fulfilled.

12. The Ministry will provide suppressed information to CLO pursuant to this Agreement. The only suppressed information provided will be the names of defendants. CLO requires this information to cross-reference with other information relating to defendants. The Solicitor-General, as the junior law officer for the Crown, is a party to all Crown prosecutions and has a general oversight duty with regards to all public prosecutions (Crown and non-Crown alike) pursuant to section 185 of the Criminal Procedure Act 2011. Suppression orders in criminal prosecutions do not prevent reporting the prosecution to the Solicitor-General. Suppressed information held by CLO is subject to the safeguards to protect privacy as set out below.

Exemptions from Information Privacy Principles

13. Under this Agreement, exemptions from Information Privacy Principles 2 and 11 which are set out in section 6 of the Privacy Act 1993 are made (by the Order in Council) as follows:

Principle 2: Source of Personal Information

It is not a breach of Information Privacy Principle 2 for CLO to collect Ministry of Justice information from the Ministry of Justice under this Agreement.

Principle 11: Limits on disclosure of Personal Information

It is not a breach of Information Privacy Principle 11 for the Ministry to disclose Ministry of Justice information to CLO under this Agreement.

How the information will be used

14. The information CLO receives pursuant to this Agreement will be loaded into a database designed and maintained by CLO. The information will be linked to other information CLO receives from Crown Solicitors and prosecution agencies, enabling CLO to analyse public prosecutions. This information and subsequent analysis will enable CLO to fulfil the purposes of this Agreement.

Operational details as to how information will be shared

15. The information sharing will involve the following high level steps:
 - 15.1. Permitted information will be extracted from the relevant court and Ministry information systems by Ministry staff and prepared for transfer;
 - 15.2. Information will be securely transferred to CLO;
 - 15.3. The information supplied to CLO will be processed and linked to other information relating to defendants;
 - 15.4. CLO will store the information in a secure system that protects the information against unauthorised use, modification, access and disclosure.

Safeguards to protect privacy

16. The Parties will:

- 16.1. Create a Memorandum of Understanding (MOU) which details roles and responsibilities of each Party for the information sharing under this Agreement;
- 16.2. Ensure careful design and implementation of the extraction process to ensure that only information pursuant to this Agreement is shared;
- 16.3. Develop detailed plans for responding if a mistake is made;
- 16.4. Ensure the information is transferred to CLO via secure mechanisms that are consistent with the requirements of the New Zealand Information Security Manual (NZISM). Mechanisms will be reviewed and updated when the NZISM, or any new equivalent manual, is updated;
- 16.5. Monitor access to the information; and
- 16.6. Regularly report on the operation of this Agreement as required by section 96S(1)(b) of the Privacy Act 1993.

Adverse actions

17. No action, adverse or otherwise, will be taken against any identifiable individual as a result of the sharing of information under this Agreement.

Viewing this document

18. This document is available to the public online at www.justice.govt.nz and at the Ministry of Justice, 19 Aitken Street, Thorndon, Wellington.

Assistance statement

19. Both Parties will nominate a person who is responsible for receiving complaints about any interference with privacy connected with the operation of this Agreement.
20. Both Parties must ensure that at all times they have a complaints procedure that provides for:
 - 20.1. The acknowledgement of receipt of a complaint;
 - 20.2. The provision of information about any internal and external complaints procedures;
 - 20.3. The investigation of complaints;
 - 20.4. Reporting the results of the investigation to the complainant, and any actions that will be taken as a result of that investigation; and
 - 20.5. Providing the complainant with information about their right to complain to the Privacy Commissioner.
21. Both Parties will provide any reasonable assistance that is necessary in the circumstances to allow the Privacy Commissioner or an individual who wishes to make a complaint about an interference with privacy to determine the Party against which the complaint should be made.

Breaches

22. If either Party has reasonable cause to believe that any breach of any provision in this Agreement has occurred, or may occur, they shall comply with the Office of the Privacy Commissioner's Privacy Breach Guideline where relevant. They shall also notify the other Party.
23. Both Parties shall ensure that reasonable assistance is provided to the other Party in connection with all inspections and investigations. The investigating Party will ensure that the other Party, and if appropriate the Privacy Commissioner and the Government Chief Privacy Officer, are kept informed of any developments.

Dispute resolution

24. Should any dispute or differences relating to the interpretation or application of this Agreement arise, the Parties will meet in good faith with a view to resolving the dispute or difference as quickly as possible.
25. If the Parties are unable to resolve any dispute within 60 days, the matter shall be referred to the Chief Executive of the Ministry and the Solicitor-General or their delegated representatives for resolution.
26. Both Parties shall continue to fully comply with their obligations under this Agreement despite the existence of any dispute.

Review of this Agreement

27. As the Lead Agency, the Ministry shall conduct periodic reviews of the operation of this Agreement. The results of any review will be included in the Ministry's Annual Report.
28. CLO will co-operate with the Ministry in any review and will take all reasonable actions to make the required necessary resources available.

Costs

29. Each Party shall bear its own costs of meeting its obligations under this Agreement.