

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE
DEPARTMENT OF INTERNAL AFFAIRS
PO Box 805, Wellington 6140

AND

MATATŪ AOTEAROA | TEACHING COUNCIL OF AOTEAROA NEW ZEALAND
Level 11
7 Waterloo Quay, Pipitea
Wellington 6011

Dated: this day 1 October of 2024

PARTIES

The parties to this Memorandum of Understanding (MoU) are (jointly, the Parties):

- a) Matatū Aotearoa | Teaching Council of Aotearoa New Zealand (The Council) and
- b) The Sovereign in right of New Zealand acting by and through the Digital Safety Group of the Department of Internal Affairs (Digital Safety Group).

BACKGROUND

A. The purpose of The Council is to ensure safe and high-quality leadership, teaching, and learning for children and young people in early childhood, primary, and secondary schooling in English-medium and Māori-medium settings, and settings of other languages, through raising the status of the profession.¹ The Council holds jurisdiction over registered teachers and holders of limited authorities to teach.² Its statutory purpose is to ensure safe and high-quality leadership, teaching and learning for children and young people in early learning, primary and secondary schooling in English-medium and Māori-medium settings, and settings of other languages, through raising the status of the profession. . Under the Education and Training Act 2020, among other things, the Council is responsible for establishing and maintaining a code of conduct for teachers; and for performing disciplinary functions relating to teacher misconduct, reports of teacher convictions and responding to reports relating to teacher competence. The Council also must make rules providing for the procedures for dealing with reports received under the mandatory reporting provisions within the Act ([sections 489 to 493](#)).

B. The Digital Safety Group (Digital Safety) is a directorate within Toi Hiranga, Regulatory Services in the Policy, Regulation and Communities branch of the Department of Internal Affairs (DIA). The Digital Safety Group contributes to the reduction of harm in online spaces, using a range of regulatory tools. Digital Safety is responsible for enforcing the offence provisions in the Films, Videos, and Publications Classification Act 1993 (FVPCA), particularly in regard to online objectionable publications as defined in that Act, including but not limited to child sexual abuse and exploitation and violent extremist content.

¹ Education and Training Act 2020 section 478

² The term “teacher” includes registered teachers and holders of limited authorities to teach. The disciplinary processes overseen by the Teaching Council can also deal with formerly registered teachers and former holders of limited authorities to teach (LATs), provided the relevant conduct occurred when the person was a “teacher”, as defined in Section 10 of the Education and Training Act 2020. References to “Teacher” in this memorandum should be read as including registered teachers and LAT holders.

C. The Council is responsible for ensuring appropriate checks have been done under the requirements of Schedule 3, section 2 of the Education and Training Act 2020 and that a teacher's registration should remain current. [The Children's Act 2014](#) (Children's Act) contains a list of specified offences which exclude a person from being employed in a capacity that involves working with children. If a teacher has been charged with any of the specified offences within schedule 2 of the Children's Act, the Teaching Council may take steps to ensure an agreement is reached with the teacher not to teach, or refer the matter to a disciplinary body for consideration of an interim suspension of their current practicing certificate, pending the outcome of court proceedings, regardless of any bail conditions put in place. Offences under the FVPCA are included in the list of specified offences.

D. In the course of its investigations, aiming to minimise the distribution, production and possession of objectionable materials, Digital Safety may identify members of teaching profession who are in breach of the FVPCA. Digital Safety does not currently have a basis for making direct reports to notify The Council of potential offending specified by Schedule 2 of The Children's Act 2014.

F. The Parties have accordingly decided to enter into a Memorandum of Understanding (MoU) to enable them to share information to achieve these joint objectives.

1. BASIS OF THIS MOU

- 1.1. This MoU sets out the manner the Parties will interact with each other in respect of any matters related to objectionable material online.
- 1.2. This MoU is entered on the basis of mutual respect, in a spirit of goodwill and cooperation.
- 1.3. This MoU is not legally binding on the Parties and is not enforceable against either Party. Instead, it sets out the agreed basis for the relationship between the Parties.

2. PURPOSES

- 2.1. The purposes of this MoU are to:
 - a) formally establish the relationship between the Parties;
 - b) record the Parties' agreement of notification of any charge relating to offences against the FVPCA involving a registered or previously registered teacher.

- c) enable the exchange of information and intelligence between the Parties involving current investigations;
- d) record the Parties' agreement of their understanding of what information will be shared, the justifications for the information sharing, and how that information will be used by the Parties; and
- e) enable the Parties to work together in other areas of cooperation and assistance that the Parties decide to consult on and agree to pursue together.

2.2. The Parties will work together to achieve these purposes in a spirit of cooperation including through the:

- a) use of technical expertise, data and tools;
- b) exchange of intelligence, where practicable, gathered from enforcement activities;
- c) facilitation of any necessary investigative assistance; and
- d) any other lawful strategy deemed necessary and appropriate by both Parties.

3. INFORMING OTHER PARTIES

3.1 To comply with the Children's Act 2014 and to enable both Parties to meet their statutory obligations, when either Party receives allegations about offences against any of the following sections of the FVPCA:

- a) Section 124 (offences relating to objectionable publications, including knowledge):
- b) Section 127(4) (exhibition to persons under 18):
- c) Section 131A (offences relating to possession of objectionable publications, involving knowledge).

The Parties' agree that, following respective legal consultation, they will notify the other party's authorised representatives of the allegations in accordance with Information Privacy Principle 11, (1)(a), (e) and/or (f), contained in s 22 of the Privacy Act 2020.

4. EXCHANGE OF INFORMATION

- 4.1. It is understood that the exchange of information between the Parties will be consistent with the disclosing Party's legal disclosure requirements under the Privacy Act 2020.
- 4.2. A Party may request or share any information consistent with the purpose of this MoU with the other Party. This may include charging documents, court dates or any other documentation that may assist The Council to perform its statutory purpose set out at A above in determining whether there are safety and wellbeing concerns for students and/or reputational risks for the profession and to take action against teachers charged with a specified offence under the Childrens Act 2014.
- 4.3. In requesting or sharing information, the Parties will comply with all applicable New Zealand laws, including the Privacy Act 2020, the Official Information Act 1982, the Criminal Disclosure Act 2008, the Children's Act 2014 and the Films, Videos, and Publications Classification Act 1993.
- 4.4. Any written request for, and provision of, information under this MoU may be made using any format (including electronic means or meetings between the Parties), as the Parties consider appropriate in the circumstances between the Authorised Representatives specified in section 10.1 of this MoU
- 4.5. A request for information under this MoU may be declined:
 - a) where compliance would require either Party to act in a manner that would be contrary to or be in breach of applicable New Zealand law(s);
 - b) where the provision of information would interfere with an ongoing investigation or prosecution in circumstances where prejudice to the investigation or prosecution is likely to result; and/or
 - c) in any other circumstances set out in a written notice to the other Party.

5. CONFIDENTIALITY

- 5.1. Any information shared by the Parties in accordance with this MoU must be used by the receiving Party for the purposes specified in this MoU.
- 5.2. Where personal information is shared by the Parties in accordance with this MoU it

must be shared through secure email or file-sharing software. The information must be password protected and securely stored on the Parties managed computer systems. Access must be confined to employees doing work directly related to the purpose for which the information was shared, if portably shared, must be properly guarded (encrypted) against unauthorised sources.

- 5.3. Where information is shared in confidence by a Party, this must be advised in writing by the sharing Party at the time of disclosure to the other Party. This information will be held in confidence by the other Party unless disclosure is required by or under law, including under the Official Information Act 1982, Privacy Act 2020, and the Criminal Disclosure Act 2008.
- 5.4. In particular, and for the avoidance of doubt, disclosure by one Party to the other Party of any personal information under this MoU will be managed consistently with the Privacy Act 2020 or any other applicable law relevant to each Party.
- 5.5. The Parties will, prior to responding to any request for disclosure of either Party's confidential information, consult each other on such disclosure and respectively seek advice from their own legal counsel.
- 5.6. A Party must immediately notify the other Party of any actual or suspected unauthorised access, use, or disclosure of any information exchanged under this MoU.

6. PARTIES' OBLIGATION TO PROVIDE TRAINING

- 6.1. The Parties will undertake to provide relevant training, guidelines, and frameworks needed for all staff dealing with information sharing that occurs in accordance of this MoU.

7. COMMENCEMENT, AMENDMENT AND TERMINATION

- 7.1. This MoU will come into effect when signed by both Parties and will remain in effect until terminated by either organisation by giving 30 days' written notice or by mutual consent.
- 7.2. It is important that this MoU and any subsidiary agreements remain consistent, relevant and current.

7.3. Clause 5 (Confidentiality) will remain in effect despite any termination of this MoU.

7.4. This MoU may be amended, modified, or supplemented by mutual written agreement of the Parties.

8. MONITORING

8.1. The Parties will conduct a joint review of this MoU every two years while it remains in effect in order to ensure its continued operational effectiveness.

9. PUBLICITY

9.1. The Parties will consult and coordinate with each other before either Party issue any public statements or media releases concerning this MOU.

10. DISPUTE RESOLUTION

10.1. Where there is any dispute arising from the exercise or implementation of this MoU, the Parties will cooperate to resolve the dispute in good faith.

11. PROACTIVE RELEASE

11.1. The Parties agree to proactively release this MoU on their respective websites.

12. AUTHORISED REPRESENTATIVES

12.1. For purposes of communication or notices with respect to this MoU, the following are the Parties' authorised representatives:

Teaching Council: [REDACTED] Or person fulfilling the Senior Advisor – Privacy, Government & Information role.

Email: [REDACTED]

Address: Level 11, 7 Waterloo Quay, Wellington 6011

Phone: [REDACTED]

DIA: [REDACTED]

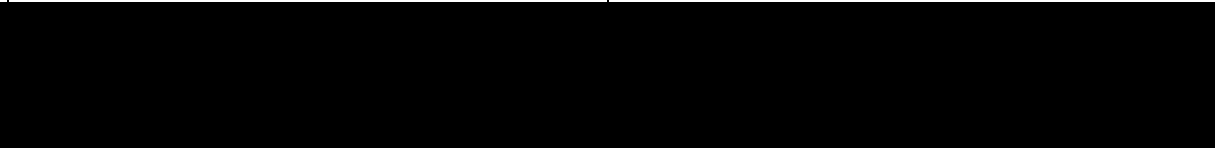
Email: [REDACTED]

Address: 45 Pipitea Street, Thorndon, Wellington 6011

Phone: [REDACTED]

12.2. The Parties may change their authorised representatives at any time by notice to

the other Party.

Signed for and on behalf of the Teaching Council of Aotearoa New Zealand	Signed for and on behalf of the Department of Internal Affairs
	
Clive Jones Pou Kaiāwhā Deputy Chief Executive Teaching Council	Jared Mullen Digital Safety Director Department of Internal Affairs

1 October 2024