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Tēnā koe Marcin

Thank you for your email of 2 May 2022 to the Ministry of Education and for meeting with Ministry representatives on 23 May 2022 to request the following information:

Privacy Foundation New Zealand, as part of its programme for 2022, has commenced a research enquiry into the privacy of children and young people at New Zealand schools with a focus on the shift towards an online learning/teaching environment.

In this regard, we are interested in getting more information about the organisation of the online learning environment, the digital platforms used by New Zealand schools and methods and tools used to protect children and young people's privacy and their personal information. To that end, we have studied the information on the Ministry websites:

- *Learning from home (<https://learningfromhome.govt.nz/>)*
- *Digital technology (<https://www.education.govt.nz/school/digital-technology/>),*

which provide the schools with useful guidance about online teaching and, as well, information about the Ministry's support for the use of educational software from particular software providers. We have also conducted some preliminary research as to what software is used by the schools.

The request detailed below focuses on students' privacy and its protection in:

- *educational software that is used at the New Zealand schools,*
- *Ministry plans or policies related to online learning,*
- *Ministry recommendations for schools,*
- *additional services/products sold to students and schools by the educational software providers.*

We have also asked a few open questions to understand how the Ministry perceives potential privacy problems in online learning.

We would be grateful for providing us, under the Official Information Act, with the following documents / information:



1. *The text of the agreements/contracts concluded between the Ministry and the following educational software providers for the provision of the software and IT services for New Zealand schools (if the Ministry concluded such agreements):*

*Apple,
Google,
Microsoft,
SeeSaw,
Hāpara,
Link-Ed.*
2. *The number of the New Zealand primary and secondary schools that, according to your knowledge, are using the software or services of each of the providers listed in point 1 above and the total number of primary and secondary schools.*
3. *The names of any providers other than those listed in point 1 above that provide educational software to the New Zealand primary or secondary schools. We are interested mainly in providers that cover a significant number of the schools, i.e. more than 5%.*
4. *The information related to the software of the providers listed in point 1, about:*
 - *The compliance of the software with the New Zealand law, in specific with the Privacy Act 2020 (and/or its predecessor – Privacy Act 1993), including the Ministry's analyses and assessments of that compliance,*
 - *Privacy Impact Assessments that have been undertaken by the Ministry or have been used or relied upon by the Ministry,*
 - *Analyses of privacy problems/risks related to that software (if any),*
 - *The content of any discussions with the software providers related to privacy of children and young people or any additional undertakings of those providers (including the discussions during the negotiations of the terms of the relevant agreements/contracts).*
5. *The information whether the agreements/contracts with any of the software providers listed in point 1 above were audited or whether the performance and/or execution of those agreements by the companies listed in point 1 have been verified. If so, the relevant documents and information from the relevant audits and/or analyses.*
6. *The Ministry's analyses, Privacy Impact Assessments, plans and/or policies related to the privacy protections of the New Zealand students (children and young people) in the online learning environment. In particular, we are interested in potential analyses of:*
 - *the purposes of the collection of personal information (e.g. educational, advertising, research, analytics, other commercial purposes),*
 - *types of personal information collected (e.g. demographic, location, behavioural, internet activity, personal contacts, biometric),*
 - *transparency of the software providers about the collection and informing students and their parents or/and legal guardians about the collection,*



- *the potential for customisation / limiting the collection of personal information by schools and/or students by changing the software options and analyses of the default software settings,*
 - *the issues related to the storage of personal information and its potential cross-border transfer to a different jurisdiction,*
 - *the potential disclosure of the information to third parties, including the companies cooperating with schools and third parties cooperating with the service providers,*
 - *any third-party privacy issues (such as teachers/parents).*
7. *Any recommendations and/or advice of the Ministry given to the NZ schools and other educational institutions about protecting the privacy and personal information of children and young people in the process of online learning. In specific, the recommendations related to:*
- *creating an educational environment for online learning in which students' personal information is used only for the goals of their education,*
 - *a collection of personal information from students by schools and the software providers and potential for reuse of that information by schools or software providers for goals other than education,*
 - *offering to children / young people other commercial products (software or devices, e.g. other products, separate or upgraded version of the school software, accompanying*
 - *devices like 'Chrome books', laptops, tablets, etc.) or services which are not covered by*
 - *the agreement (e.g. Google email, search services, streaming platforms, etc.),*
 - *implementing mechanisms of audit and or verification of the undertakings of the software providers,*
 - *creating school privacy policies which describe the purposes and limits of collection and use of personal information in online learning,*
 - *security of information including avoiding cyber-attacks,*
 - *the use of Privacy Impact Assessments,*
 - *the storage of personal information and cross-border transfers of personal information,*
 - *the disclosure of the information to third parties, in particular, cloud providers, developers and providers of additional services cooperating with the service providers.*
8. *The information about additional services/products delivered to students or schools by the companies listed in point 1 to schools or students. In particular:*
- a) *Do, according to the Ministry's knowledge, the software providers listed in point 1 or schools require or encourage students (children and/or young persons) or schools to purchase or/and to use additional services or products of the services providers? That includes:*
- *equipment (e.g. Chrome books),*
 - *web browsers (e.g. Chrome, Edge, Safari),*
 - *email services (e.g. Gmail),*
 - *video sharing or streaming services (e.g. YouTube),*
 - *maps (Google Maps, Apple Maps),*



- *search services (e.g. Google Search, Microsoft Bing),*
- *location-based services (other than maps),*
- *business services for schools.*

b) *Are the services listed in point a. above covered by the agreements concluded by the Ministry with those service providers?*

If not, whether the supply of additional services was a subject of analysis by the Ministry either before or after concluding the agreements with those service providers. We would like to receive the content of those analyses.

c) *Has the Ministry analysed the collection of personal information of students (children / young people) during their online learning/teaching by those additional services?*

d) *Has the Ministry analysed the potential 'leak' (or overflow) of personal information of students to those additional services?*

9. *The answer to the following question:*

Has the Ministry provided for creating a protected educational environment in which students are not exposed to:

- *profiling by the service providers,*
- *marketing of other services of the service providers,*
- *commercial advertisement of third parties towards the students and their families,*
- *collection of personal information that is not necessary for the educational goals of the schools?*

If so, how that is reflected in the agreements with service providers, Ministry policies and guidance to schools?

10. *Other information which, in your opinion, might be relevant to the scope of our enquiry.*

We have written this OIA request to cover the scope of our enquiry and, possibly, limit the time and engaged resources on the Ministry's side to collect and reply with the relevant information. If, in your opinion, some of the requested information is difficult to find, we would be grateful for contact to possibly adjust the enquiry and limit subsequent questions and engagement of resources. Also, we would be grateful for a direct contact from you in case of any doubts or uncertainty as to the questions above.

We will be sending similar enquiries to other relevant institutions in New Zealand including schools, Children's Commissioner and Privacy Commissioner. Our plan is that the information collected during our research will be used to write a report about privacy in online teaching/learning context in New Zealand.

About the Privacy Foundation New Zealand

The Privacy Foundation New Zealand was established in 2016 to protect New Zealanders' privacy rights, by means of research, awareness, education, the highlighting of privacy risks in all forms of technology and practices, and through



campaigning for appropriate laws and regulations. Its membership has a diverse range of professional, academic and consumer backgrounds and the Foundation regularly lends its collective expertise to comment on proposed regulation or programmes in the media or by participating in consultation processes.

Your request has been considered under the Official Information Act 1982 (the Act).

1. Out of the list provided, the Ministry of Education have current agreements for schools with Microsoft and Google only. The agreement provides schools with useful tools to support teaching and learning. The software licence is Ministry-funded, and free for schools to access. The agreements are commercially sensitive therefore will not be released. However, the Ministry confirms that the standard terms and conditions outlined in the [Google Terms of Service](#) and [Microsoft Services Agreement](#) have been applied. The Privacy Foundation New Zealand can review the terms and conditions including the privacy statements via the links above.
2. The Ministry does not hold the information about the number of the New Zealand primary and secondary schools using the software or services of each of the providers listed in point one. New Zealand schools and kura are self-governing through their boards. School boards are responsible for setting the policies and procedures that impact on the daily operation of the school, this includes choosing the most appropriate IT software and services provided to their school or kura.
3. After clarifying this question with the Privacy Foundation New Zealand, we have excluded student management systems from this question and prioritised software enabling online learning. The Ministry cannot comment on the providers holding significant market share of 5% as we do not hold that information. As stated in the answer to question two above, schools choose their own software. We are aware that some schools use the software bulleted below, however this is not an exhaustive list:
 - Blackboard
 - Brightspace (D2L)
 - Canvas (Instructure)
 - ClassDojo
 - Edsby
 - Educa
 - Google Classroom
 - iQualify
 - ManageBac
 - Microsoft Teams for Education
 - Moodle
 - SchoolBox
 - Schoology
 - Seesaw
 - Storypark
4. The Ministry has not conducted any compliance reviews, privacy impact assessments, privacy analysis or discussions about tamariki or rangatahi privacy



with software providers listed in point one. We have provided the Privacy Foundation New Zealand with the terms and conditions of the agreements and further information on data statements as part of this Official Information Act request.

5. The agreements/contracts with software providers listed in point one (Microsoft and Google) have not been audited against privacy considerations. We do receive reports on activation, utilisation, usage of some components. We do not receive reports on privacy and security. The Ministry has not conducted analysis regarding performance and/or execution of those agreements.
6. After clarifying this question with the Privacy Foundation New Zealand, we have excluded student management systems from this question. We also cannot discuss or pre-empt future plans and/or policy that have yet to be decided by Education Ministers. New Zealand schools and kura are self-governing through their Boards. School Boards are responsible for setting the policies and procedures that impact on the daily operation of the school. The Ministry has not conducted analysis about online learning software utilised by schools as discussed in point six. For research purposes we suggest the Privacy Foundation New Zealand contact the New Zealand School Trustees Association to explore the privacy advice and support provided to schools on the topics discussed in point six.
7. The individual school or kura boards are responsible for setting the privacy policies for their organisation. The New Zealand Schools Trustees Association provides advice, support and professional development to schools boards this includes board compliance with the requirements of the Privacy Act 2020. Schools and kura must appoint a privacy officer to encourage compliance.

The Ministry provides policies for how early childhood education (ECE) centres and schools should manage and protect data. The policy for ECE centres about sharing information¹ refers mostly to the appropriate legislation: the Privacy Act 2020 as well as the Oranga Tamariki Act 1989 and the Family Violence Act 2018. It provides links to guidance on appropriate behaviours for information sharing. There is also a policy on dealing with media enquiries, both if the ECE centre receives the enquiry and if the Ministry receives an enquiry about an ECE centre.² For schools there is information on managing student and teacher data, and this focuses mainly on sharing data between students, teachers and schools.³

There is also information available for ECE centres⁴ and schools⁵ on how to keep information safe from cyber-attacks and protect children and young people from harm while they are interacting with digital devices. Schools and ECE centres are

¹ [Information sharing – Education in New Zealand](#)

² <http://education.govt.nz/early-childhood/running-a-service/media-enquiries-information-for-early-learning-services/>

³ <http://education.govt.nz/school/digital-technology/managing-data/>

⁴ <http://education.govt.nz/early-childhood/running-a-service/protection-from-risk-of-cyber-security-attack/>

⁵ <http://education.govt.nz/school/digital-technology/protect-your-school-from-cyber-attacks-and-cyber-security-breaches/>



referred to the Computer Emergency Response Team (CERT) NZ and their website. CERT NZ has the role of improving cyber security for government agencies and organisations in New Zealand.⁶

As discussed in the meeting on 23 May, the Ministry provides privacy recommendations and/or advice to schools and kura via a range of channels including but not limited to the [School Bulletin](#), [Education Leaders](#), [Te Kete Ipurangi](#), [Education.govt.nz](#) or if the schools contact the Ministry directly for specific advice. We are unable to provide all recommendations provided to schools due to the substantial collation required to filter through relevant requests. We do suggest The Privacy Foundation New Zealand browse through the general guidance published on Ministry websites.

8. The suite of tools provided to schools within the Google and Microsoft agreements along with other useful information are listed in the links below:
 - [Google Workspace for Education | / Cloud services | / Technologies / enabling e-Learning - enabling eLearning \(tki.org.nz\)](#)
 - [Google software for schools – Education in New Zealand](#)
 - [Microsoft Office 365 | / Cloud services | / Technologies / enabling e-Learning - enabling eLearning \(tki.org.nz\)](#)
 - [Microsoft software for schools – Education in New Zealand](#)

The individual school or kura board of trustees will choose which hardware and software to use within their schools or kura. The boards may buy, lease or loan devices for student use. In some cases, schools and kura may provide device purchasing guides to their schooling communities to ensure student owned devices are compatible with the schooling environment. Schools and kura may purchase or use additional services or products of service providers at their discretion.

Some of the services listed in point a. are covered by the agreements with Microsoft and Google, we refer the requestor to the links above. The Ministry has not analysed the supply of additional services. The Ministry has not analysed the collection of personal information of students during their online learning/teaching by additional Microsoft or Google services. The Ministry has not analysed any leak or overflow of personal information of students to additional Microsoft or Google services.

9. Further information on the privacy statements within the wider education environments can be found in the links below:
 - [Privacy & Security Center | Google for Education](#)
 - [Google Workspace Terms of Service – Google Workspace](#)
 - [Data Protection with Microsoft Privacy Principles | Microsoft Trust Center](#)

We refer the requestor to guides provided to schools via the links provided. The Ministry of Education provides support and guidance through our websites and ICT helpdesk (0800 CALLICT/0800 225 542 or callict@tki.org.nz).

⁶ <https://www.cert.govt.nz/about/>



10. As discussed at the meeting with Ministry representatives on 23 May 2022, the Ministry of Education are open to meeting with the Privacy Foundation New Zealand throughout the research project. We can connect the Privacy Foundation New Zealand to Google and Microsoft representatives if required. We also suggested that the Privacy Foundation New Zealand contact Te Kura, The Office of the Privacy Commissioner, The New Zealand Schools Trustees Association and CERT NZ to find out more about the data and privacy advice provided to the education sector. At the meeting we agreed to provide additional links as part of the Official Information Act scoping discussion and have provided these links below:

- [Google Terms of Use](#)
- [Microsoft Services Agreement](#)
- [Impact Summary: Code of conduct for School Boards of Trustees](#)
- [NZSTA Knowledge Hub](#)
- [OECD Survey Education at a Glance 2020 Report](#)
- [Data Protection and Use Policy \(DPUP\)](#)
- [Informed Consent Guidelines \(education.govt.nz\)](#)
- [Quality learning environments | / Technologies / enabling e-Learning - enabling eLearning \(tki.org.nz\)](#)
- [Software | / Ministry initiatives / enabling e-Learning - enabling eLearning \(tki.org.nz\)](#)
- [Google Workspace for Education | / Cloud services | / Technologies / enabling e-Learning - enabling eLearning \(tki.org.nz\)](#)
- [Microsoft Office 365 | / Cloud services | / Technologies / enabling e-Learning - enabling eLearning \(tki.org.nz\)](#)

Thank you again for your email. You have the right to ask an Ombudsman to review this decision. You can do this by writing to info@ombudsman.parliament.nz or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Nāku noa, nā



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