

Briefing Paper

EC-2734

16 December 2021

TO:	Minister Hipkins
FROM:	Lesley Hoskin
SUBJECT:	Teaching Council Privacy breach
FOR:	<input type="checkbox"/> Approval <input type="checkbox"/> Discussion <input checked="" type="checkbox"/> Information <input type="checkbox"/> For proactive release

Background

As you will be aware, on 9 December 2021, TVNZ alerted the Teaching Council to a spreadsheet of information they had discovered in a New Zealand-based online technology forum (used mostly by technical experts to solve technical issues). This spreadsheet contained high-level and brief details of general enquiries, correspondence and official information requests received by us. For clarity, this was not information relating to our database for managing teacher conduct matters or any personal contact details. It was from a database used to track general enquiries and correspondence. The spreadsheet did not include any attachments.

Actions taken

I made sure that this spreadsheet was deleted from the online platform and have found that its placement was a result of human error rather than a cybersecurity incident.

I have wholeheartedly and unreservedly apologised to all affected people for this inadvertent disclosure. I have sought confirmation from the media outlet that they are adhering to their privacy obligations and have deleted any copies of the information.

I have notified the Office of the Privacy Commissioner as required by the Privacy Act 2020, and we are keeping them informed of our investigations and actions.

I also wrote a statement to media, below, and advised that I was willing to be interviewed in-person and on-camera for this piece, and this took place on Wednesday 15 December.

It's also important to note that while TVNZ did notify the Teaching Council of this breach, and we have thanked TVNZ for that, we are nevertheless disappointed at the level of detail in which this document appears to have been reviewed by the 1 News team. We are actively investigating the sequence of events that led to the unauthorised disclosure of this information.

Media

Through our legal advisers, we informed TVNZ that when a privacy breach occurs, out of fairness to the responsible agency and the individuals affected, best practice is to delete the document as soon as it's discovered and advise the agency concerned. TVNZ's comments suggest a close analysis of the information has been undertaken either prior to notifying us of the matter or afterwards. Given that TVNZ would appear to have immediately recognised the privacy and confidentiality attaching to the information, TVNZ may be in breach of the Privacy Act and broadcasting standards by reviewing the information in detail.

I was interviewed by 1News reporter, Thomas Mead, yesterday, 15 December 2021. Mr Mead asked a range of questions about the privacy breach. We understand this interview is set to air with a story on Sunday 19 December 2021.

The Teaching Council is seriously concerned that any subsequent use or disclosure of the information would be highly inappropriate and exacerbate the initial breach. TVNZ advised that any planned broadcast “*will not include any personal information or details relating to specific incidents*”.

The journalist’s specific questions are below. The Teaching Council is still carrying out its internal investigation into how the breach occurred.

- **How did this breach take place?**
 - We are still in the process of determining precisely how the breach occurred. However, it was uploaded to a technical forum (to seek assistance with converting the spreadsheet into statistical reporting). This appears to have been accessed by one person on the forum, who provided a response.
- **How long has this information been publicly available for anyone to find through Google?**
 - We understand the spreadsheet information was first accessible online from 20 October 2021. Our investigations (so far) show that we can see that the post (asking for technical assistance) was viewed 79 times, but the spreadsheet itself appears to have been downloaded by one party other than TVNZ. This third party who provided the technical response has provided assurances that all information has been deleted and it was not used for any other purpose.
- **What actions has the Teaching Council taken to remedy this breach?**
 - The Teaching Council has taken steps to have the file and all posts deleted and no longer accessible in the public domain and to eliminate the ability for any of the information to be visible through Google searches.
- **Will the Teaching Council investigate this matter? Has it referred the matter to any other external agency (i.e. Privacy Commissioner, Ministry of Health, Police)?**
 - The Teaching Council is undertaking an urgent internal investigation into this matter. It notified the Privacy Commissioner in accordance with the requirements under the Privacy Act 2020 for mandatory notification of privacy breaches.
 - At this point in time, there has been no necessity to refer the matter to any external agency.
- **Does the Teaching Council offer an apology to those affected by this breach? If so, what is this apology? Does it offer any other remedy to affected persons?**
 - The Teaching Council has been and is continuing to be in direct contact with all parties (43 persons) affected by the breach to apologise and to advise them of action being undertaken. Communications with the persons affected is private to those persons and it would be inappropriate for the Teaching Council to comment further.
- **Will any actions be taken by the Teaching Council against staff, contractors or suppliers (ie Enterprise DNA) involved in this breach? If so, what are these?**
 - The internal investigation is currently proceeding, and your questions are therefore premature. The Teaching Council is required to conduct its investigation in accordance with natural justice and procedural fairness and consistent with its employment obligations. It would be inappropriate to speculate on possible actions before the internal investigation has concluded and any findings and recommendations considered.
- **How will the Teaching Council prevent this from happening again?**
 - Once the internal investigation is concluded and the Teaching Council has determined precisely how the breach occurred, it will take all necessary steps to ensure a similar breach does not occur again. The Teaching Council takes its obligations to protect privacy and maintain appropriate confidentiality of all personal information it holds very seriously and is committed to ensuring all necessary safeguards are in place.

Media statements

Our media statement, due to be sent to reporters via press release, is as follows (any further changes to the layout will be sent to the Minister prior to the release).

Press Release

Wellington 16 December 2021 - On 9 December 2021, TVNZ alerted the Teaching Council to a spreadsheet of information they had discovered on a New Zealand-based online technology forum (used mostly by technical experts to solve technical issues).

Teaching Council Chief Executive, Lesley Hoskin says, “for clarity, this was not a breach of information relating to our teacher conduct and competence database. It related to general enquiries and correspondence data. The number of people whose privacy was breached, is approximately 43, and I’m working with them directly to mitigate the impact of the breach.”

The Teaching Council has unreservedly apologised and continues to work with the affected parties on the ongoing actions. Communications with the persons affected are private and confidential, and it would not be appropriate for the Teaching Council to comment any further.

“The inadvertent and unintentional breach was a result of human error rather than a cybersecurity incident. TVNZ inadvertently discovered the breach—by typing specific details into Google that were contained in the spreadsheet. I am grateful to TVNZ for alerting me and the Office of the Privacy Commissioner, so urgent action could be taken. I am extremely disappointed that this has happened, and I wholeheartedly and unreservedly apologise for this breach of privacy. I have made sure the information can no longer be publicly accessed, and we’re working urgently to rectify this matter”, says Hoskin.

The Teaching Council is also in contact with the Office of the Privacy Commissioner who has advised that any information arising from this breach could cause a great deal of anxiety to the people affected and that journalists should not be accessing this information or contributing to its more widespread dissemination.

Hoskin added, “our legal advisers confirmed that TVNZ understands that when a privacy breach occurs, out of fairness to the responsible agency and the individuals affected, it is best practice is to delete the document as soon as it’s discovered and advise the agency concerned. It would be a breach of privacy for any person or organisation who finds information to use the information in any way.”

The Teaching Council has started conducting an internal investigation into their processes to ensure this doesn’t happen again, and details of the investigation will remain confidential. Appropriate comment on the outcome of the internal investigation, consistent with the Teaching Council’s employment obligations may be made when the investigation is concluded.

Once the internal investigation is concluded and the Teaching Council has determined precisely how the breach occurred, it will take all necessary steps to ensure a similar breach does not occur again. The Teaching Council takes its obligations very seriously—to protect privacy and maintain appropriate confidentiality of all personal information. The Teaching Council is committed to ensuring all necessary safeguards are in place.

The Office of the Privacy Commissioner supports the Teaching Councils actions to date noting they were pleased to see the Council took the necessary steps to minimise and prevent further harm to individuals concerned.

End

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Media statement by the Office of the Privacy Commissioner as follows:

This statement can be attributed to Liz MacPherson, Deputy Privacy Commissioner:

Privacy breaches of this nature can cause a great deal of distress for those affected.

The Teaching Council of Aotearoa New Zealand did the right thing by notifying us as soon as they became aware of the breach. This enabled us to act as a sounding board for them as they worked through their breach response plan.

We were pleased to see the Council took the necessary steps to minimise and prevent further harm to individuals concerned including removing the information from the internet as soon as possible, contacting the affected individuals to apologise and advise them of steps being taken, and ensuring that the agency that found the information also securely disposed of it.

We are also pleased that the Council is focusing on learning the lessons from this breach to help ensure it doesn't happen again.

A year into mandatory breach reporting, the majority of breaches reported to our office - including this breach - are due to human error. Many of which are preventable through good systems and processes. We strongly encourage all agencies to continually review and improve their systems and processes for managing personal information.

See our [latest insights report](#) for further information.

Note for the editor:

It should be noted that it is essential that people – including media - respect the personal information of others. Any information which has come from this breach could cause a great deal of anxiety to the people affected. Journalists should not be accessing this information and should not contribute to its more widespread dissemination.