

Sharing information using the Privacy Act 2020

Information Privacy Principle (IPP) 11 permits the sharing of personal information that is held by agencies in certain circumstances.

When you want to share information about wellbeing or safety concerns you should consider [section 66C of the Oranga Tamariki Act](#) before considering whether an IPP 11 exception applies.

When you want to share information about a victim or perpetrator of family violence you should consider [section 20 of the Family Violence Act](#) before considering whether an IPP 11 exception applies.

When using an IPP 11 exception to share personal information you are not limited to sharing with Child Welfare and Protection Agencies, Independent Persons, Family Violence Agencies or Social Services Practitioners. This can be useful for multi-agency meetings where a wider group of agencies and organisations need to be present.

For more general guidance on the Privacy Act 2020 and the Information Privacy Principles see: [Office of the Privacy Commissioner | Privacy Act 2020](#).

Information Privacy Principle 11

Information Privacy Principle (IPP) 11 enables you to share personal information (either proactively or on request) with another agency or person in certain circumstances (exceptions).

IPP 11 requires that an agency believes on reasonable grounds that one of the listed exceptions applies.



Information Privacy Principle 11 Exceptions

IPP 11 contains a number of exceptions. The exceptions that commonly apply within the children's sector include:

- the purpose for sharing is one of the purposes, or directly related to one of the purposes, for which the information was obtained
- the child or young person (or their parent where appropriate) has authorised the sharing of their information
- the information being shared is being used in a way that does not identify the child or young person
- the information is required by law (e.g. section 66 of the Oranga Tamariki Act)
- sharing the information is necessary to prevent or lessen a serious threat to the child or young person's life or health, or public health and safety more broadly
- sharing the information about the child or young person is necessary to uphold or enforce the law.

What you need to consider when applying an IPP 11 exception

When deciding whether an IPP 11 exception applies, the following considerations are important:

- are there reasonable grounds to believe that the exception applies in the circumstances?
- is sharing of the information necessary to achieve the purpose of the exception?
- could harm result from sharing, or not sharing, the information?
- is the recipient the appropriate agency or person to share the information with?
- is the information being shared particularly sensitive in nature?
- is the information you are intending to share current and up to date?
- is sharing the information in the best interests of the child or young person at this time?



The following sections look at some of these considerations in more detail.

You must believe on reasonable grounds that an exception applies

To rely on an IPP 11 exception, you **must**:

- believe that the exception applies at the time you are sharing the information
and
- your belief must be reasonably held.

The means you need to consider whether the exception applies before you share the information, and you must have properly considered all the relevant information in the circumstances.

- Whether there is a reasonable basis will depend on:
 - what you know about the circumstances of the child or young person
 - what you have been told by the requestor about why the information is required
 - what the requestor can do with the information
 - what information is being requested about the child or young person.

When you are sharing a child or young person's information in response to a request, the requestor advising you that an exception applies is not sufficient for believing on reasonable grounds that an exception applies – you need to come to reasonable belief yourself.

If you do not have enough information to decide whether the IPP 11 exception applies you should ask the requestor for additional information. If there is some urgency to the request, it might be quicker to call the requestor and seek the additional information over the phone.



Some exceptions require you to consider necessity

The IPP 11 exceptions for upholding or enforcing the law and preventing or lessening a serious threat also require you to consider whether sharing of the information is necessary in those specific circumstances.

Whether the sharing of the information is necessary is a relatively low threshold - is it needed or required in the circumstances, or required for a given situation?

To help determine whether the sharing of information is necessary you should consider whether not sharing the information could, in the circumstances:

- increase the likelihood of the serious threat occurring (serious threat exception)
- or
- compromise an agency's ability to uphold or enforce the law (maintenance of the law exception).

Can I share sensitive personal information under an IPP 11 exception

Care should be taken when sharing intimate or particularly sensitive personal information about a child or young person. Sensitive information is information that has some real significance to the child or young person, is revealing, or generally relates to matters they might wish to keep private.

However, there may be situations where the sharing of sensitive information is necessary – for example, when there is a serious threat to a child or young person's life or health. The relative sensitivity of the information, and whether it is in the best interests of the child or young person, will be an important consideration when thinking about sharing sensitive information under an IPP 11 exception.

In some cases, some of information being requested may include information of such a sensitive nature that it would be appropriate for that information to be requested using a production order or a search warrant. A production order or search warrant



provides assurance that the sensitive information is relevant and necessary for the purposes for which it is being requested and shared.

Is the information accurate, up-to-date, complete, relevant and not misleading?

IPP 8 requires that you take reasonable steps to ensure information is accurate, up to date, complete, relevant, and not misleading before you share it with another agency or person.

Sharing inaccurate, out of date, incomplete, irrelevant or misleading information can result in prejudicial information about the child or young person being used to make decisions about them. This can have significant short- and long-term impacts for them and potentially their family or whānau.

Make sure you take the time to review the information and actively assess whether it is accurate, up to date, complete, relevant and not misleading before you share it.

Do I need consent to share under an IPP 11 exception?

One of the IPP 11 exceptions is the authorisation (consent) of the individual. This means that you can obtain the authorisation (consent) of the learner (or their parents where appropriate) to share their personal information for a secondary purpose. When relying on another IPP 11 exception, you **do not** need the consent of the learner (or their parent where appropriate) to share their information.

Can I decline a request to share information?

If, after considering the circumstances of the request, you are not satisfied that there are reasonable grounds to share the information under one of the IPP 11 exceptions, you should decline the request.

However, there may be another legal authority that permits you to share the information (e.g. section 66C of the Oranga Tamariki Act 1989 or section 20 of the



Family Violence Act 2018). You should always consider whether these provisions apply in the circumstances, especially when the purpose for sharing the information is to keep a child or young person safe.

While an IPP 11 exception may permit you to share a child or young person's personal information that doesn't always mean you should. You can also decline the request to share information for other reasons, such as:

- sharing at this time may not be in the best interests of the child or young person (sharing the information may put them at risk of harm)
- you may have assured the child or young person (and/or their parents where appropriate) that you will keep their information confidential
- you may be subject to other legal, ethical or professional standards that require you to maintain confidentiality.

When you decide to decline a request, you should record your reasons. It is also helpful to explain to the requestor why you are declining the request.

Confidentiality obligations

Obligations of confidence protect information deemed to be confidential from unauthorised access and disclosure.

Obligations of confidentiality may restrict access to, and disclosure of, confidential information further than the exceptions set out in the Privacy Act 2020 (IPP 11).

Common exceptions to confidentiality include:

- where there is a risk to a child or young person's health or life
- where the information is required by law
- where the child or young person has authorised (consented) to the sharing.

Your professional code of ethics, industry code of conduct or employment agreement will set out what information is considered confidential, under what circumstances



that information may be shared and what you need to advise the child or young person when you are collecting their information.

When advising a child or young person (or their parents where appropriate) that specific information, or categories of information, will be kept confidential you should always clearly inform them of the exceptions to that confidentiality i.e. the circumstances in which you may share that information.

Keep good records

It is good practice to keep good records of your information sharing activities.

At a minimum you should record:

- the request you received and from whom (including receipt and response date)
- any additional information you requested from the requestor
- your decision whether, or not, to share the information requested
- the IPP 11 exception you relied on to share the information, including the information you considered to form the reasonable belief that the exception applied in the circumstances
- the information that you shared.

An easy way to do this is to create an Information Sharing Register. This can be as simple as an excel spreadsheet. Registers will contain personal information, and in some cases sensitive information. It is important to keep your Register secure and limit access to only those that need to have access.

Practical Examples

This section provides some examples of sharing a child or young person's personal information for wellbeing and safety purposes using the following Privacy Act IPP 11 exceptions:

- Authorisation (consent)



- Serious threat
- Maintenance of the law

Authorisation (consent) exception

IPP 11 provides an exception where personal information held about a child or young person can be shared if the child or young person (or their parent where appropriate) provides authorisation.

For a child or young person (or their parent or legal guardian where appropriate) to provide authorisation to share their personal information you will need to ensure that they have sufficient information to make an informed decision.

Obtaining authorisation can be done through:

- a **consent form** (where a child or young person or their parent where appropriate can explicitly authorise (consent to) the intended sharing) or
- an **opt out form** (where information about a child or young person will be shared for a specified purpose unless the child or young person (or their parents where appropriate) opts out).

You should attach the collection privacy statement to the consent or opt out form. The privacy statement will provide the child or young person (or their parents where appropriate) with the information they need to make an informed decision to authorise the sharing of their information. You should also provide a link to your privacy policy in your consent or opt out form so that child or young person (or their parents where appropriate) can have confidence in how you collect, use, share and protect personal information more generally.

Authorisation is not a 'one and done' thing. If it has been some time since they have provided authorisation for their information to be shared you should check whether they are still comfortable with the information being shared for that purpose.



Where authorisation has been provided, a child or young person (or their parent where appropriate) can withdraw that authorisation at any time.

Where you have concerns about a child or young person's wellbeing or safety, the Oranga Tamariki Act or the Family Violence Act you do not require the consent of the child or young person to sharing their information to keep them child safe from harm.

Read more information about sharing [under the Oranga Tamariki Act](#).

Read more information about the [Family Violence Act](#).

When a child or young person withdraws authorisation (consent)

A child or young person (or their parent or legal guardian where appropriate) can withdraw authorisation they have **previously provided** for their information to be shared for specified purposes.

When a previously provided authorisation is withdrawn, you must stop sharing their information for the purpose to which the authorisation applied. For example, due to a change in family circumstances, a child or young person (or their parent or legal guardian where appropriate) may withdraw authorisation for their information to be shared with a healthcare provider for the purpose of providing counselling services.

When you are relying on one of the other IPP 11 exceptions, section 66C of the Oranga Tamariki Act or section 20 of the Family Violence Act, to share a child or young person's personal information, the child or young person will not be able to withdraw their authorisation (consent). This is because their authorisation (consent) was not the basis for sharing their information.



Serious threat exception

If you believe a child or young person is in immediate danger, call the Police on 111.

To rely on the serious threat exception, you must be satisfied that a serious threat exists **and** believe on reasonable grounds that the information requested is necessary to prevent or lessen that threat.

The exception provides for two types of threats:

- to public health or safety
or
- the life or health of a child or young person or another person

When is a threat serious?

There are three factors that need to be considered when deciding whether a threat is serious:

- the likelihood of the threat occurring
- the severity of the consequences if the threat occurs
- the time at which the threat might occur

All three factors don't need to be present to reach the threshold of serious threat. For example, if there is a high likelihood of the threat occurring and the severity of the consequences are significant (factors 1 and 2), but it is unclear when the threat may eventuate (factor 3), the serious threat threshold will likely be met. The test is what a reasonable person would consider to be serious in the circumstances.

A serious threat assessment will be situation specific and should consider all relevant circumstances, including those of the child or young person concerned. A serious threat can arise for one child or young person based on the relevant risk factors to them but may not meet the threshold in relation to a different child or young person.



For example, a threat of harm to a child or young person may more readily meet the threshold of serious harm due to their age or ability to act independently and make their own decisions.

Is sharing necessary to lessen the threat?

Once you have decided that a serious threat exists, you need to determine whether sharing the child or young person's personal information is necessary to prevent or lessen that threat. You should ask yourself whether not sharing the information requested would increase the likelihood of the serious threat occurring – for example:

- is the information requested relevant or needed to address and lessen the serious threat?
- how will sharing the information do this?
- is the person receiving the information in a position to use the information to respond to and lessen the serious threat?

When there is a serious threat, you may need to make your decision to share a child or young person's information under urgency. In these cases, share the information and then record your reasons for believing it was the right thing to do in the circumstances.

For more information about using the Privacy Act to share information with Police or other law enforcement agencies see:

- [Serious threat exception decision tree](#)
- [Office of the Privacy Commissioner | Releasing information to Police and law enforcement agencies.](#)

Serious threat example – infectious disease outbreak

An outbreak of measles has been declared by Health NZ in a region of New Zealand. There are several children and young people who have contracted measles within the regions, all of whom were attending school or an early learning centre.



The National Public Health Service (NPHS) is contacting all schools and ECE services within the region requesting the names, dates of birth and immunisation information of all learners currently enrolled. The NPHS has advised the schools and ECE services that the enrolment information will be used for the purposes of identifying the number of vaccinated and unvaccinated children and young people. This information will assist the NPHS determine the level of risk in the community and ensure prevention and containment resources are allocated effectively and in a timely manner.

Can the schools or ECE services share the information with the NPHS?

Measles is a highly contagious disease that can cause harm to the health of children and young people. When an outbreak is declared by Health NZ it confirms that measles has been circulating in the community creating a serious threat to the health of individuals, particularly children and young people. Therefore, the threat is already occurring (factors 1 and 3), and the severity of the consequences are high (factor 2). In this case, a serious threat exists.

When there is a declared outbreak, local health authorities need to take actions to prevent or lessen the spread of the disease. To do that, they need information about children in the affected area, including immunisation information. Obtaining names and dates of birth of children attending the schools and ECE services in the affected area will enable NPHS to match the information against the immunisation register. This information will help them determine the level of risk across the community and ensure appropriate containment and prevention measures are implemented. In this situation, the serious threat threshold has been met. There are reasonable grounds to believe that sharing the names and dates of birth of children in the affected area is necessary to help prevent or lessen the serious threat, and the NPHS (the requestor) is able to use the information to prevent or lessen that threat.



Serious threat example – missing child

The Police are trying to locate a year 10 child who has been reported missing by their family after failing to return home from school. The child has a history of mental health challenges and has been missing over 48 hours. They do not have their phone with them, so Police have been unable to obtain location data from the telecommunications provider.

The child's school has an online learning platform which enables learners to message each other and their teachers. The missing child also has a school email address which they use as their main email account. Police make a request to the missing child's school principal for the learner's messaging and email history over the last month. The Police advise the principal that the email and messaging history will help them to determine where the missing child might be. The Police have made the request to the school relying on IPP 11(1)(f)(ii) – serious threat to an individual.

Can the school principal release this information to the Police?

While the Police have advised the request is being made under the IPP 11(1)(f)(ii) of the Privacy Act, it is for the school principal to determine whether the information requested is necessary for that purpose – preventing or lessening a serious threat to the life or health of the missing child.

To rely on the serious threat exception, the school principal needs to have a reasonable belief that there is a serious threat to the missing child's life or health and that the sharing of the information is necessary to prevent or lessen that threat. To do that the principal first needs to determine whether there is a serious threat by considering the likelihood of the threat occurring, the severity of the consequences if the threat occurs, and the time at which the threat might occur.

Given the missing child's age, the mental health concerns and the length of time they have been missing, there are reasonable grounds to believe that there is a serious threat to their life or health if they cannot be located.



Next, the school needs to determine whether sharing this missing child's email and messaging information is necessary to prevent or lessen that threat. The emails and messages may provide information about why the child has not returned home, and where they may be. This information could help Police locate them. The request is also limited to emails and messages in the previous month – recent emails and messages are likely to be more relevant to locating the child. Not sharing the information could delay the Police locating the missing child which could lead to serious harm to their health and safety.

In this case, it would be reasonable for the school principal to rely on the serious threat exception to share the missing child's emails and messaging from the past month with Police.



Maintenance of the law exception

To rely on the maintenance of the law exception, you must believe on reasonable grounds that sharing information is necessary to avoid prejudice to the maintenance of the law including prevention, detection, investigation, prosecution and punishment of offences.

This exception supports the maintenance of criminal and regulatory enforcement processes. It does not give Police or other law enforcement agencies the right to access just any information. The exception applies to situations where **not** providing specific and relevant information would prejudice or be detrimental to maintaining the law.

In the early stages of an investigation into an offence, Police or a law enforcement agency may not have sufficient information to apply for a production order or a search warrant. This can make it difficult to progress a criminal or regulatory investigation. A request for information using the maintenance of the law exception



may be the only practical means of obtaining the information necessary to effectively investigate the offending, particularly during the initial stages of an investigation.

Police or a law enforcement agency requesting information must show a link between the offence(s) being investigated and the relevance of the information being requested - simply asserting that the information is needed for an investigation is not sufficient. Without this information, you will not be able determine that the maintenance of the law exception applies.

To help decide whether sharing the information is necessary, you should ask yourself what the effect would be if the information requested by the Police or law enforcement agency was not provided – for example, would not sharing the information compromise the ability of the Police or law enforcement agency to do their job?

For more detailed guidance on the law enforcement exception see our guidance:

[Releasing-personal-information to Police and law enforcement agencies.](#)

Maintenance of the law example

A mental health counsellor receives an email from Constable A from the local police station requesting the home address and parent contact details for a child they are providing services to. The email has come from Constable A's police email address. Constable A advises that the information is being requested under IPP 11(1)(e)(i) of the Privacy Act (the law enforcement exception).

Can the counsellor share the information requested with the Constable?

While Constable A has advised the request is being made under the IPP 11(1)(e)(i) of the Privacy Act, it is for the counsellor to determine whether the information requested is necessary for the purpose under IPP 11(1)(e)(i) – upholding or enforcing the law.



In this case, Constable A has not provided sufficient information about the offence being investigated and the relevance of the information being requested to investigating that offence. Without this information, the counsellor cannot be satisfied that the information is necessary for upholding or enforcing the law.

The counsellor should ask the Constable for more information to help them determine whether the law enforcement exception applies in the circumstances. For example, they could ask what offending is being investigated, and why the home address and contact details of the child's parents are relevant and necessary for purposes of investigating that offence. Once the counsellor has received this information, they will then be able to determine whether not sharing the information requested would prevent the investigation into the offence(s) commencing or continuing. Police do have an information request form that includes all relevant information to support the request – if they haven't provided the form, the counsellor could ask them to do so.

If the Constable advises that Police are investigating on-going thefts of vehicles in the area by a group of youth, and up to date address and contact information for the child's parents is necessary to enable Police to contact the parents as part of the investigation, it would be reasonable for the counsellor to rely on the law enforcement exception to share that information with the Constable. Not providing the information would impact Police being able to continue its investigation into the offending.

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