Sharing personal information of families and vulnerable children

The Escalation Ladder
Sharing information involves both the collection and disclosure of personal information. Deciding which laws apply and what information to share can be complicated, but there are some guiding rules.

How to use the Escalation Ladder
Work through from question 1 to question 5 and stop when you can answer ‘yes’. If the answer to all of the five questions is ‘no’, then disclosure should be unnecessary, and should be avoided, at least for now.

Remember that the proportionality principle always applies – you should only provide as much information as is reasonably necessary to achieve your objectives.

1. Can we get by without naming names?
   - Yes: Use anonymous information where practical.
   - Yes: Disclosing anonymous information is always OK. (For example, if you have professional supervision, you might be able to discuss a case without referring to any names.)

2. Have they agreed?
   - Yes: If information is not able to be used anonymously, the next best thing is consent from the parties concerned.
   - Yes: Consent does not need to be written.
   - Yes: Always record the fact that parties have agreed. Record any limitation or qualification of consent e.g. "please don’t involve the church".

3. Have we told them?
   - Yes: If it is not practicable or desirable to obtain consent, the information may be used or disclosed if it is in line with the purpose for which it was obtained.
   - Yes: Inform the person affected of this where possible – ideally at the time the information was first collected from them, or soon after that.
   - Yes: If informing the person would prejudice the purpose of collection, or would be dangerous to any person, then telling the person concerned may be waived in that instance.

4. Is there a serious threat here?
   - Yes: Information may be used or disclosed where there is a serious threat.
   - Yes: ‘Serious’ depends on: how soon the threatened event might take place, how likely it is to occur, and how bad the consequences of the threat eventuating would be.

5. Is there another legal provision we can use?
   - Yes: Many different laws allow personal information to be shared. For instance:
     - Information about the health/safety of a child or young person can always be disclosed to a police officer or social worker
     - Health information can be requested by someone who needs it to provide health services
     - Information can be disclosed where necessary to avoid prejudice to the maintenance of the law

If the answer to all of the five questions is ‘no’, then disclosure should be unnecessary, and should be avoided, at least for now.

The Privacy Commissioner operates a free phone line (0800 803 909) that can be used to help with questions around disclosing information.