



Privacy considerations when using the information sharing provisions of section 66C of the Oranga Tamariki Act

Jesse Porter

Senior Advisor Privacy

Oranga Tamariki

What is section 66C?

Section 66C allows child welfare and protection agencies to use and disclose personal information about children and young people to other child welfare and protection agencies for the purposes of:

- preventing harm or neglect to a child or young person.
- Family Group Conferences and other Care and Protection work.
- making, carrying out, or reviewing a risk assessment, needs assessment, prevention plan or support plan for a child or young person.
- external services facilitated by Oranga Tamariki for a child or young person and their family or whānau.

What is the Privacy Act?

13 Information Privacy Principles (IPPs)

- **IPP1: Purpose for collection.**
- **IPP2: Source of information.**
- **IPP3: What to tell the individual about collection.**
- **IPP4: Manner of collection.**
- **IPP5: Storage and security of information.**
- **IPP6: Providing people access to their information.**
- **IPP7: Correction of personal information.**
- **IPP8: Ensure accuracy before using information.**
- **IPP9: Limits on retention of personal information.**
- **IPP10: Use of personal information.**
- **IPP11: Disclosing personal information.**
- **IPP12: Disclosure outside New Zealand.**
- **IPP13: Unique Identifiers.**

How the Privacy Act applies to Section 66C of the Oranga Tamariki Act

Section 66Q: Relationship with other enactments

[...]

(2) The collection, storage, and use of information under sections 66 to 66J of this Act must comply with principles 1, 4, 5, 6, 7, 8, 9, and 13 set out in section 22 of the Privacy Act 2020.

(3) Sections 66 to 66P do not limit principles 11 and 12 set out in section 22 of the Privacy Act 2020 (which permit certain disclosures in addition to those authorised under those sections).

(4) However, if there is any other inconsistency between sections 66 to 66P of this Act and any provisions of the Privacy Act 2020, sections 66 to 66P prevail.

[...]

Section 66K consultation requirements

Section 66K: If a child welfare and protection agency [...] proposes to disclose information under section 66C [...] the agency or person must, if it is practicable and appropriate to do so,—

- (a) inform the child or young person concerned, or their representative, about the proposed disclosure, including the purposes and likely recipients of any disclosure; and
- (b) provide the child or young person or their representative any reasonable assistance necessary to—
 - (i) understand the nature of the proposed disclosure; and
 - (ii) express their views about the proposed disclosure; and
 - (iii) understand the consequences of the decision that is taken in relation to the disclosure; and
- (c) take into account any view expressed about the proposed disclosure before deciding whether to disclose the information.

Limitations of Section 66C

A child welfare and protection agency [...] that holds information relating to a child or young person [...] may, irrespective of the purpose for which the information was collected, use that information [or disclose it to another child welfare and protection agency] for the purposes of—

- i. preventing or reducing the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation; or*
- ii. making or contributing to an assessment of risk or need in relation to a child or young person, or any class of children or young persons; or*
- iii. making, contributing to, or monitoring any support plan for a child or young person, where the plan relates to the activities and functions of the department; or*
- iv. preparing, implementing, or reviewing any prevention plan or strategy issued by the department; or*
- v. arranging, providing, or reviewing services facilitated by the department for a child or young person and their family or whānau; or*
- vi. carrying out any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part.*

Some things to watch out for

What is a child welfare and protection agency or independent person?

- The Oranga Tamariki Act
- The Children's Act
- The Education and Training Act
- The Community Housing Management Act
- The record of agencies designated CWPAs by the Governor-General by Order in Council (wherever that is).
- ***Information cannot be shared with parents and guardians under section 66C.***

Some things to watch out for

Similarly, the purposes for use and sharing have explicit definitions in the Oranga Tamariki Act.

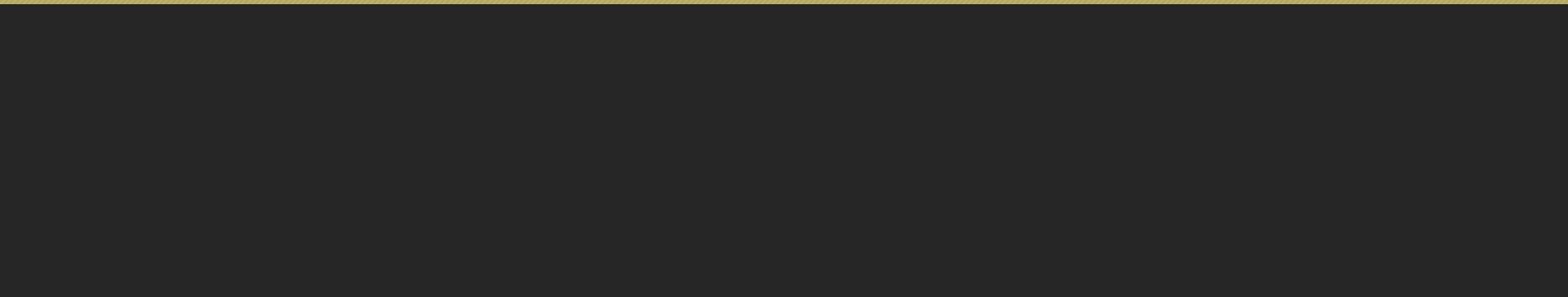
- i. preventing or reducing the risk of a child or young person being subject to harm, ill-treatment, abuse, neglect, or deprivation; or*
- ii. making or contributing to an assessment of risk or need in relation to a child or young person, or any class of children or young persons; or*
- iii. making, contributing to, or monitoring any support plan for a child or young person, where the plan relates to the activities and functions of the department; or*
- iv. preparing, implementing, or reviewing any prevention plan or strategy issued by the department; or*
- v. arranging, providing, or reviewing services facilitated by the department for a child or young person and their family or whānau; or*
- vi. carrying out any function in relation to family group conferences, children or young persons in care, or other functions relating to care or protection under this Part.*

Some of things to watch out for

What is considered “bad faith”?

“The well-being and best interests of the child or young person are the first and paramount consideration.”

- Oranga Tamariki Act



A large orange circle on the left side of the slide, partially cut off by the edge.

Questions to ask before sharing

How will sharing this information benefit the child or young person?

Who can help if they're given this information?

Are there any risks, either to the person whose information is being shared or to any other people?

What do people need to know to help? What *don't* they need to know?

Is the information accurate and up-to-date?

How can the information be shared safely?

What should we tell the people whose information we are sharing?

A series of four yellow curved dashes in the bottom right corner, pointing towards the bottom right.



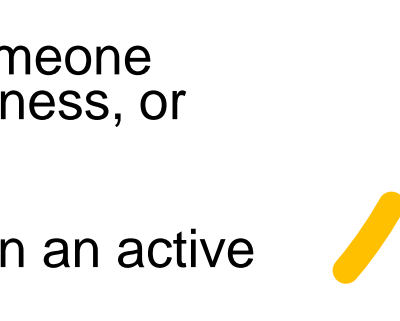
Questions to ask:

Are there any risks?

Are there any safety risks, either to the person whose information is being shared or to any other people?

Harm to people can occur in a number of ways, from physical harm to things more subtle such as embarrassment or reputational harm.

The sorts of questions we can ask ourselves here are:

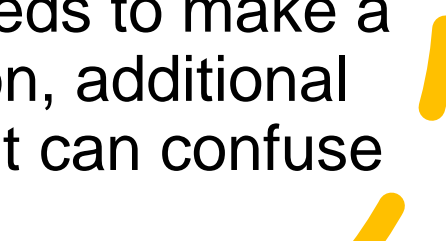
- Could someone's physical safety be at risk if their home address, workplace, or school was known?
 - Could sharing this information lead to someone being harassed, losing their job, or being alienated from family, friends, and community?
 - Could sharing this information cause someone embarrassment, anxiety, fear, sleeplessness, or uncertainty?
 - Could sharing this information interfere in an active investigation or have a chilling effect?
- 



What do people need to know to help?

What *don't* they need to know?

What's the risk of sharing more information than is strictly necessary? Isn't more information better?

- We know that sharing certain information may put children, young people, or others (such as notifiers) at risk of harm.
 - We know that sharing certain information may make children and young people feel uncomfortable or even unsafe.
 - It simply isn't helpful – if someone needs to make a decision about a child or young person, additional information that is not directly on point can confuse the issue.
- 

A large orange circle on the left side of the slide.

**Document,
Document,
Document.**

Document the information that you're sharing, who you're sharing it with, and your reasons for sharing.

If you're not consulting with the people whose information you are sharing, note why.



Privacy Act

Is there an immediate and serious risk to the safety of a child or to anyone else, including family, whānau, caregivers, notifiers, or ourselves and our colleagues?

If so, you can share the information under the Privacy Act.

| Are you sharing with one or more of these Child Welfare and Protection agencies ... |
|--|
| Registered practitioners providing health or disability support services to children and/or young people. |
| Some (but not all) Government agencies. |
| School boards and early childcare services. |
| Other agencies and individuals providing regulated support services to children and/or young people, including registered community housing providers. |

| ... for one or more of these reasons? |
|---|
| To prevent harm or neglect to a child or young person. |
| For Family Group Conferences or other care and protection work. |
| To make, carry out, or review a risk assessment, needs assessment, prevention plan or support plan for a child or young person. |
| In relation to external services facilitated by Oranga Tamariki for a child or young person and their family or whānau. |

If so, you can share the information under s66C of the Oranga Tamariki Act.


Privacy Act

Are you sharing information for any of these reasons?

- *To prevent a serious threat to any person, or to public health and safety;*
- *For maintenance of the law;*
- *It is legally required; or*
- *You have consent.*



Will the information be shared for another reason?


- *Are you sure you still want to share the information?*
 - *If so, you may want to seek further advice.*
- 



**Don't feel
pressured
to share
information**

We can almost always share information when it is for the safety and wellbeing of a child or young person.

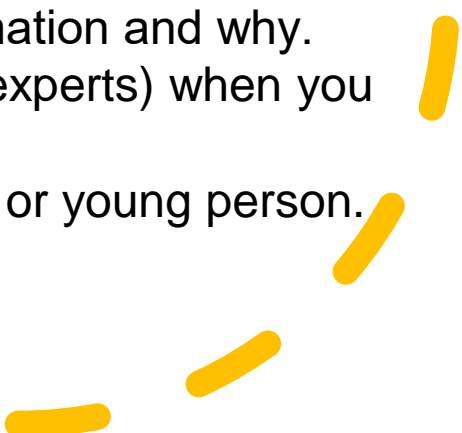
However, we don't usually *have* to share information when we don't think it is in their best interests.





Bottom line

When faced with a difficult decision regarding sharing information, do what is in the best interests of the child or young person.

- Do ask the good faith questions before sharing information.
 - Do clearly document when you're sharing information and why.
 - Do seek advice (e.g. from your privacy or legal experts) when you need to.
 - Then do what is in the best interests of the child or young person.
- 

The Hard Calls (Examples)

- A paternal grandmother with an interest in the wellbeing of her grandchild asks for a copy of a recent Report of Concern, which includes the mother's address. The father, who is supposedly out of the picture, has a history of violence against the mother and she has a protection order against him.
- A parent's lawyer requests details of allegations of abuse against the parent. However, the allegations contain details that could only have been provided by someone who had been in the home on a particular day.
- A young person requests a copy of their own file to try and better understand their history. Their file contains disturbing information that the young person may not be aware of, and they have a history of self-harm and/or suicide attempts.
- A child has been placed with new caregivers who have not been told about certain disturbing events in the child's past. Sharing additional information to "fill in the gaps" could help the caregivers understand and respond to the child's challenging behaviour.

That's all folks

More guidance on the information sharing provisions of section 66C of the Oranga Tamariki Act are available on the public-facing Oranga Tamariki Practice Centre:

[Guidance for sharing information | Oranga Tamariki — Ministry for Children](#)