

Chief Social Worker practice note

Meeting professional and legal obligations through the careful management of personal information concerning tamariki, rangatahi and whānau (December 2024)

Practice notes are not intended to replace our practice policy and guidance, standards and tools. They provide us with a prompt around specific areas of practice as they relate to current practice trends and findings.

“Take care of our children. Take care of what they hear. Take care of what they see. For how the children grow, so will the shape of Aotearoa.” Dame Whina Cooper

Summary

This practice note reminds us of our obligations to work within legal, professional and organisational requirements to safeguard the personal information of tamariki, rangatahi, their whānau, caregivers and other individuals including victims.

Oranga Tamariki holds an extraordinarily large amount of personal and often intimate information about thousands of tamariki and rangatahi and the people in their lives. Being able to access and share that information is vital to the protection of tamariki and to respond appropriately to offending behaviour. However, before we share, we must be confident that we understand our professional and legal obligations and how they apply.

Personal information is a taonga and must always be treated with respect and care. A thoughtful and cautious approach to collection, use, sharing and storing of tamariki, rangatahi, whānau and victim information upholds their mana and ensures we meet our legislative, professional and organisational requirements.

Personal information is defined by the Privacy Act 2020 (Privacy Act) as **any** information about an identifiable individual. In relation to the children and young people we work with, this includes (but is not limited to) information about their birth, health status, mental health, where they are living and have lived, their schooling, their interactions with adults, and details about trauma they experienced and how they responded to it.

Your professional judgement is key. Situations for tamariki, rangatahi and their whānau are all different, and the professionals and organisations who are already, or could be, working alongside us varies. Factors such as the unique culture, whakapapa and identity of those we are working with is also significant. So, deciding whether to share information or not, what should be shared, with whom and why will

differ as well. The decisions we make around requesting and disclosing information can have a profound impact on the safety and wellbeing of te tamaiti and their whānau. We cannot meet our obligations to keep the wellbeing and best interests of children paramount if we are not also safeguarding the information we hold about them and those who are part of their lives.

If you come across a potential privacy issue that you are not sure about, or one that causes you unease, seek guidance from your supervisor, practice leader, legal advisor or our [Privacy Team](#).

Key messages

- Sharing the right information, with the right people at the right time, can make a huge difference to the outcomes for tamariki and their whānau.
- All Oranga Tamariki kaimahi have professional, organisational and legal obligations that clearly guide how we collect, use, share and store information.
- We are enabled by legislation to collect, use and share relevant personal information to support tamariki, rangatahi and whānau safety and oranga, and to support children and young people involved in offending behaviour.
- Personal information is a taonga. The thoughtful and careful management of personal information ensures safety and oranga and upholds the mana of tamariki, rangatahi and whānau.
- Use professional judgement when you are considering what information is relevant and appropriate to request or disclose and seek advice if you are unsure.
- It is important that we accurately record all casework, including decisions about the use or sharing of personal information.
- Protect personal information by ensuring that it is not discussed in open spaces and that we do not have personal information visible or accessible to others. This includes in our office spaces, when we are working in the community, when sending emails and when storing information electronically, including on our devices.
- You must complete the privacy training modules on myLearn and be familiar with policy and guidance on the Practice Centre.
- If you think you may have inadvertently breached someone's privacy or otherwise become aware of a potential privacy breach, please immediately advise your manager and contact the Privacy Team for support.
- If you need advice, please contact the Privacy Team.

What children and young people have told us about information sharing and privacy

Tamariki and rangatahi have views and concerns about how their information is shared and used. Groups of tamariki and rangatahi were asked what is important to them when their information is going to be shared. We need to take these insights into account when considering what information we share about them, and most importantly how it is shared, always ensuring that our primary consideration is the child's safety and wellbeing.

Tamariki and rangatahi we spoke to said:

- “Please explain to us why you’re sharing our personal information with others and listen to us when we tell you why we are worried about you doing that and what it could mean for us.”
- “I want to be in the loop.”
- “I want my entire situation to be considered, not just the snippet I have talked about.”
- “I’ve been in a place where they’ve shared something totally different to what I have told them, and it got me into trouble.”

Therefore, whenever sharing personal information, you should:

- keep the oranga of tamariki, rangatahi and whānau in mind
- only share the minimum information necessary to achieve your purpose
- wherever practicable and appropriate, consult with the people the information is about
- record the details of your consultation, if any, what we are sharing, with whom and why.

Our practice framework guides our practice

Our practice framework helps us understand our obligations in relation to the careful management of personal information and how the protection of privacy is a fundamental right for the children, families and individuals we work with.



Ngākau whakairo

All tamariki/mokopuna, rangatahi and whānau have the right to be cared for and nurtured through mana tamaiti, whakapapa and whanaungatanga, and this is fundamental to working effectively and relationally with whānau and families in ways that heal, restore and uplift mana.

We have a clear obligation to collect and share information for the purposes of assessing and ensuring the safety and wellbeing of children. While children are often able to understand why adults need to share their personal information, under the right circumstances, to keep them safe, *they also have an inherent right to privacy, which requires protecting that same information from inappropriate or unwarranted*

disclosure that could cause them harm. This inherent right to privacy also applies to the adults we work with, while acknowledging that on occasion sharing their personal information (including at times without their consent) may be necessary to ensure a child's safety. We have professional, organisational and legal obligations to balance and uphold these rights within the context of our work.

Professional obligations

As registered professionals, we have clearly articulated obligations in our professional codes of conduct.

Principle 7 of the [Code of Conduct | Social Workers Registration Board](#) reminds us to 'respect the client's privacy and confidentiality', while standard 9 of their Core Competence Standards outlines the expectation of upholding the right to privacy and confidentiality of personal information. The Aotearoa New Zealand Association of Social Workers Manaakitanga principle highlights the importance of respecting a person's right to confidentiality of information shared in a professional context, maintaining accurate records and sharing these with persons with whom we work.

The registration board state that those we work with "*have an expectation that such information will only be disclosed in certain circumstances. Sharing information within the social work or interdisciplinary teams is, at times, essential for best client management or where a child's or other people's safety is at risk.*"

Organisational obligations

Our practice standard Keeping Accurate Records is central to considerations about the careful management of people's private information. Through this standard, we are reminded that we are accountable through our record keeping, in particular how we record information about key decisions in the lives of tamariki and their whānau, and ensuring that information is recorded accurately. We are reminded that the best interests of each tamaiti should inform how records are kept and made. We must also ensure we are working within all organisational policies and requirements including the Privacy Policy and Guidelines and the Sharing Information Policy.

Legislative obligations

As public servants, we all must work within the legislative framework provided by the Privacy Act, which includes 13 [Information Privacy Principles](#) (IPPs). These IPPs provide guidance on appropriate collection, use and handling of personal information, including some permissive grounds for sharing personal information under the right circumstances. In sum, the IPPs require us to:

- only collect personal information when it is for a legitimate business purpose
- collect only the minimum personal information needed to support that purpose
- collect personal information in a manner that is fair and transparent, taking particular care when collecting information from children and young people

- use or share that information only for the original purpose, a directly related purpose, or where an exception applies (for example, to prevent a serious health or safety threat)
- ensure that information is accurate before we use or share it
- make sure it is available to the people it is about and that they can correct it if needed
- store that information securely and keep it only as long as it is needed.

The Oranga Tamariki Act also provides an explicit and permissive basis to share information, specifically when that sharing is with other child protection and welfare agencies to support the welfare and best interests of children and young people. However, even when sharing information under the Oranga Tamariki Act, we must still comply with some sections of the Privacy Act – for example, by ensuring that the information is accurate before we share it.¹



Whai mātauranga

All tamariki/mokopuna, rangatahi and whānau have the right to have their experiences and aspirations of oranga understood and we must intentionally seek out the knowledge that helps us do so.

Practising safely in how we manage personal information requires us to understand and be confident across all the legislation we work within, including being clear of the legal basis under which we are sharing information.

Oranga Tamariki Act	Explicitly permits the sharing of information with other child welfare and protection agencies or independent persons for specific purposes, including to prevent or reduce risk of harm, undertake assessment and planning in relation to safety and wellbeing or to coordinate services.
Family Violence Act	Explicitly permits the sharing of information to keep victims and their family safe, and to prevent future family violence. We must consider sharing information if we believe the information will help protect victims from family violence, make or contribute to a family violence risk or needs assessment, or make or contribute to making or carrying out a decision to plan related to family violence.
Care of Children Act	This legislation provides for the Family Court to seek information from Oranga Tamariki in certain circumstances, such as for the provision of section 132 reports.

¹ Section 66Q of the Oranga Tamariki Act states that staff must comply with the Privacy Act when using the information sharing provisions of section 66C of the Oranga Tamariki Act.

Privacy Act	The Privacy Act permits the sharing of personal information in a variety of circumstances, including to prevent a serious threat to the safety of any person, to avoid prejudice to the maintenance of the law, or when the sharing is one of the purposes for why the information was collected.
Adoptions Act and Adult Adoption Information Act	Sharing information in the context of adoptions matters is a highly specialised area and advice must always be sought from an Adoptions practitioner and our Legal Team before considering sharing any information.

The Practice Centre provides further information on how we can share information in a way that is consistent with these professional, legal and organisational obligations: [Sharing information | Practice Centre | Oranga Tamariki](#)



Whai oranga

All tamariki/mokopuna, rangatahi and whānau have the right to consistent quality practice that is oranga focused, supported by the mana-enhancing paradigm for practice and applied through practice models.

Inclusive, relational and restorative ways of working will enable us to, where practicable and appropriate, involve tamariki, rangatahi and whānau directly in decision-making about what information we gather about them, how it is used and how we care for it. However, in some circumstances, we may have to share or disclose personal information without the agreement of the individual in order to meet our obligations to ensure child safety.

The identity, whakapapa and culture of the tamariki, rangatahi or whānau we are working with will also be relevant to how we share information and uphold privacy, particularly when working with Māori, Pacific, migrant, rainbow and takatāpui and whaikaha or disabled children, families and communities. Refer to Te Toka Tumoana and Va'aifetū and seek appropriate cultural or specialist advice.



Whai pūkenga

All tamariki/mokopuna, rangatahi and whānau are entitled to intentional and skilful practice.

We must record personal information in a manner that is accurate and factual. We show respect and uphold the mana of those we work with when we use language, phrases and descriptions that are respectful, inclusive and relational. We should accurately record decisions we make about information we request or share, the reason for sharing, whether or not this has been done with the knowledge and agreement of the individuals involved, and any views they expressed in relation to this.

If we come across recorded information that we are unsure of, we must engage with others to confirm the information, ensuring it is accurate, up-to-date, complete and not misleading.



Whai ākona

All tamariki/mokopuna, rangatahi and whānau deserve the very best of us, in our practice relationship with them.

We must be constantly mindful of privacy obligations and responsibilities and ensure we have robust practices in place. A strong 'privacy culture' protects children and families and keeps us safe. At a simple level, this can include:

- ensuring that your desk, office area, vehicle, community home, and residence are kept free of unsecured personal information regarding tamariki, rangatahi or their whānau, and taking action when you see something wrong
- not posting photos or other information regarding tamariki and rangatahi we are working with on social media, or in public or communal spaces
- ensuring you save client photo or other information to CYRAS in the correct record
- using initials rather than names when recording consults on whiteboards
- only accessing client records (particularly CYRAS records) when you have a legitimate work-related purpose
- before sending anything, taking care to double check that the email addresses or postal address is accurate and up to date, and that the attached or enclosed documents are correct
- checking documents such as family court conferencing and court records to ensure you are not disclosing inappropriate personal information (such as confidential addresses) to another party.

The importance of retaining information

The long-term secure storage of personal information is essential. We must make every effort not to lose, damage or destroy case records. The Royal Commission of Inquiry into Abuse in Care found several examples where care organisations could not locate historical records. For tamariki and rangatahi who have been in care or custody, our records may help them understand important parts of their life journey. For some adults who were previously children in care, our records may be the only information they have about parts of their childhood.

Identifying and acting on privacy breaches

Privacy breaches come in many forms but often involve the mistaken release of an individual's name, address or other personal information, inappropriate access to or use of personal information, or incorrect disposal of personal information that puts it at risk of discovery. The Ministry has an obligation to notify the Office of the Privacy Commissioner and affected parties whenever there is a privacy breach that has caused, or is likely to cause, serious harm. In addition to providing guidance on how to reduce the risk of harm from any privacy breach, the Privacy Team is also responsible for determining if a privacy breach meets the threshold for notification to the Office of the Privacy Commissioner, and for making any necessary notification.

If you think a privacy breach may have occurred, or you come across a privacy issue that you are not sure about, consult your supervisor, practice leader, legal advisor or our Privacy Team.

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