

This guidance is to help you as a Child Welfare & Protection Agency (CWPA) or Independent Person make a decision about responding to a request for information under section 66C of the Oranga Tamariki Act 1989. Refer to pages 2 & 3 for more information.

**If you have worked through this guidance and are unsure whether you should share the information, talk to your manager, or email [information.sharing@education.govt.nz](mailto:information.sharing@education.govt.nz) for advice.**

**Remember:** If you are concerned a tamaiti (child) might be harmed, ill-treated, abused, neglected or deprived in any way you can call Oranga Tamariki on 0508 326 459 or the Police (if the risk of harm is immediate) to make a Report of Concern ([section 15 Oranga Tamariki Act](#)).

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### Is the request from a CWPA or an Independent Person, and have they provided you with the necessary information?

**REQUEST FORMAT:** The request (whether in writing or made verbally) should clearly state what Act and provision the request is being made under (e.g. section 66C Oranga Tamariki Act), the information they require, the purpose of the request, and why the requestor considers the information is relevant to one or more of the purposes listed in section 66C (which concern the wellbeing or safety of the tamaiti). You need these details to decide whether to provide the information. If any details are missing contact the requestor to discuss.

**NOTE:** See page 3 for CWPA and Independent Person definitions.

**REMEMBER:** If the request is made under [section 66](#) of the Oranga Tamariki Act you **must** provide the information requested.



You can't share information under Section 66C but check if you can use another Act e.g. Privacy Act, Family Violence Act.

You should let the requestor know your decision not to share.

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### Will sharing the information help the requestor achieve one of the purposes of section 66C?

The purposes of section 66C are to:

- » prevent or reduce the risk of harm, ill-treatment, abuse, neglect or deprivation
- » make or contribute to an assessment of risks or needs of tamariki
- » make, contribute or monitor any Oranga Tamariki support plan
- » prepare, implement or review any Oranga Tamariki prevention plan or strategy
- » arrange, provide or review services facilitated by Oranga Tamariki for tamariki and their whānau
- » carry out any function in relation to a Family Group Conference, for tamariki in care or anything else related to care and protection.



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### Is the information requested relevant to the safety or wellbeing of a tamaiti?

Determining what is relevant is a judgement call based on the circumstances. Relevant information includes information about: the tamaiti; a family member; any person in a domestic relationship with the tamaiti; or any person who is likely to reside with the tamaiti. See page 2 for more information.

If you are unsure of the purpose or relevancy of the information, you should contact the requestor to clarify the request or relevancy of the information.



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### Is the information to be shared accurate and up-to-date?

It is very important that the information is accurate and up to date. If you are unsure about the accuracy of the information, you must take steps to verify its accuracy and that the information is up to date. If you are unsure whether out of date information may still be relevant you should contact the requestor to discuss this further.



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### Have you informed the tamaiti (or their representative) that you may be sharing information about them?

If the information to be shared is about a tamaiti, you are required to inform the tamaiti or their representative, unless there are special circumstances. You are also required to provide them with assistance to understand:

- » the nature of the information to be shared, and
- » the consequences of the decision to share.

You do not need the consent of the tamaiti, but you are required to take into account their views or their representative's views before deciding to share the information. For details of special circumstances, see page 3.

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### Respond to the requestor.

If you decide to share information your response to the requestor should include:

- » the purpose of the Act you are providing the information under
- » why you consider the information being provided to be relevant to the wellbeing and safety of the tamaiti
- » whether you have informed the tamaiti that you are sharing their information
- » that the accuracy of the information being shared has been considered

**If you decide not to share the information you should advise the requestor of your reasons.**

There may be some information that is not appropriate to share at this time even if you are able to share the information under section 66C– refer to pages 2 and 3 for more information

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### Record your decision.

Record your decision and save a copy of all correspondence related to the request, and the decision to share, or not share, information in an appropriate secure system.

This guidance is about voluntary sharing of information about a tamaiti (child) where you have concerns about the safety or wellbeing of the tamaiti. The sharing provisions of the Oranga Tamariki Act do not replace or override your obligations under the Education Act, your Child Protection Policy, or the sharing of information about tamariki (children) on a Learning Support Register.

**If you have worked through this guidance and are unsure whether you should share the information, talk to your manager, or email [information.sharing@education.govt.nz](mailto:information.sharing@education.govt.nz) for advice.**

**Remember:** If you are concerned that a tamaiti might be harmed, ill-treated, abused, neglected or deprived in any way you should call Oranga Tamariki on 0508 326 459 or the Police to make a Report of Concern ([section 15 Oranga Tamariki Act](#)).

### You can voluntarily share information with another Child Welfare and Protection Agency or Independent Person

Being a Child Welfare and Protection Agency (CWPA) or an Independent Person means you can voluntarily share information relevant to the safety and wellbeing of tamariki with another CWPA or an Independent Person, so long as you meet the requirements of the Oranga Tamariki Act (section 66C).

Sharing information with others in the tamariki safety and wellbeing sector means you and others can quickly assess the needs of the tamaiti and identify the most appropriate support for them and their whānau.

Generally any agency or person working with, or providing services to tamariki will be a CWPA or an Independent Person. A summary list of CWPA's and Independent Person's is on page 3.

The request should clearly state what Act and provision the request is being made under (e.g. section 66C Oranga Tamariki Act), the purpose of the Act the request is being made under, and why the requestor considers the information is relevant to one or more of the purposes in Section 66C (the wellbeing or safety of the tamaiti). You need this information to decide whether to share information. If any information is missing, or you are unsure about the request, contact the requestor to discuss further.

The request for information must be about a specific tamaiti. Section 66C does not allow for sharing of information about a group of tamariki. If the request relates to a number of tamariki, please contact the requestor and ask them to provide separate requests for each tamaiti.

**EXCEPTION:** If the request is made under [section 66](#) of the Oranga Tamariki Act (rather than section 66C) you **must** provide the information requested (unless the information is legally privileged). You do not need to consider the steps under this guidance, or the Privacy Act.

### PURPOSE: You must reasonably believe that sharing information could help the requestor achieve one of the purposes of the Act

To share under section 66C of the Oranga Tamariki Act you must reasonably believe that sharing the information will help the other CWPA or Independent Person achieve one of the following purposes:

- » prevent or reduce the risk of harm, ill-treatment, abuse, neglect or deprivation
- » make or contribute to an assessment of risks or needs of tamariki
- » make, contribute to or monitor any Oranga Tamariki support plan
- » prepare, implement or review any Oranga Tamariki prevention plan or strategy
- » arrange, provide or review services facilitated by Oranga Tamariki for tamariki and their whānau
- » carry out any function in relation to a Family Group Conference, for tamariki in care or anything else related to care and protection.

If you do not reasonably believe that sharing the information requested will achieve one of the purposes, then you cannot share the information under the Oranga Tamariki Act. You should check whether you may be able to share the information under another Act e.g. Family Violence Act, Privacy Act.

### RELEVANCY: You must only share information that is relevant to the safety or wellbeing of the tamaiti

When you are sharing information with another CWPA or Independent Person, you should only share information that is relevant to the safety or wellbeing of the tamaiti.

What information is relevant will depend on the circumstances, including the role of the requestor and what they want to use the information for. Relevant information may include information about: the tamaiti; a family member; any person in a domestic relationship with the tamaiti; or any person who is likely to reside with the tamaiti. If you are unsure whether the information is relevant talk to your manager.

You will need to make a judgement call on whether the information requested is relevant to the person who has requested it. For example, information about a tamaiti being suspended from school may not be relevant to a GP, and information about their learning support needs may not be relevant to particular government agencies.

### You should only share relevant information that is accurate and up-to-date

Under the Privacy Act, you must take all reasonable steps to ensure that the information is accurate and up-to-date. This requirement continues to apply to all information under section 66C of the Oranga Tamariki Act.

If you are unsure about the accuracy of the information you should take steps to verify its accuracy prior to sharing it. If you consider the information to be out-of-date, contact the requestor to determine whether the information is still relevant to the wellbeing of the tamaiti and the assessment being completed by the requestor.

## 5 You are required to inform the tamaiti or their representative that you may be sharing information about them

When you are sharing information about a tamaiti you are required to inform them that you are, or are thinking about, sharing that information (where the information requested is about another person, you do not need to inform that tamaiti or their representative).

You are required to **inform** (have a discussion with) them or their representative about the information you are intending to share and provide them with assistance to:

- » understand the nature of the information to be shared
- » understand the consequences of the decision to share.

You are also required to take into account their views before deciding to share the information.

Under the Act, there are no set rules on how to inform a tamaiti that you are sharing information about them. You will need to use your professional judgement on what is appropriate for them and their whānau under the circumstances. Things you should consider are:

- » the age, and cognitive ability of the tamaiti – it would not be appropriate to have a conversation with a tamaiti who is too young, or has learning needs that means they will not be able to understand what you are saying
- » the needs and dynamics of the whānau – while a tamaiti may be of an appropriate age, or cognitive ability to have a conversation with, the dynamics of the whānau may mean that it is more appropriate to have the conversation with the whānau.

**SPECIAL CIRCUMSTANCES** - There may be some circumstances where you are not able to inform the tamaiti or their representative, or it is not appropriate to do so. Such as when it could:

- » potentially harm the tamaiti or have a negative impact on their wellbeing
- » put a Police investigation or prosecution at risk
- » delay sharing which could put the tamaiti at risk of harm
- » you have made all reasonable efforts to contact the tamaiti or their representative but have been unsuccessful.

You can share the information without informing the tamaiti or their representative if you consider the sharing of the information to be in the best interest of the tamaiti.

Where you have not been able to contact a tamaiti or their representative prior to sharing the information, you should inform the tamaiti that you have shared their information as soon as it is practicable to do so.

**You should always record your reasons for not informing the tamaiti or their representative, and advise the requestor that you have not informed the tamaiti prior to sharing the information.**

**NOTE:** Under the Act you do *not* need to obtain the consent of the tamaiti or their representative before sharing information about them. However, it is good practice to do so.

## 6 Responding to the requestor

**DECISION TO SHARE** - If you have decided to share the information your response to the requestor should include:

- » the purpose of the Act you are providing the information under
- » why you consider the information being provided to be relevant to the wellbeing and safety of the tamaiti
- » whether you have informed the tamaiti that you are sharing their information
- » that the accuracy of the information being shared has been considered.

**DECISION NOT TO SHARE** – if you have decided it is not appropriate to share the information requested, your response to the requestor should include your reasons for not sharing the information.

**NOTE:** In some cases other legislation may restrict the sharing of information even if you are able to share the information under section 66C. This may include a court order prohibiting the release of the information, information that is legally privileged, or information protected by a professional body's Code of Ethics. If you are unsure please check with your manager.

## 7 Record your decision to share the information and save a copy of all related correspondence

You should save a copy of all correspondence related to the request, and the decision to share information in an appropriate secure system. If a complaint is made, or a question is asked about the decision to share, it is important to have a record of your decision, and the information that was shared.

### Child Welfare and Protection Agencies

**The group of organisations, including employees and volunteers, who are able to share information about the wellbeing of tamariki under the Oranga Tamariki Act 1989**

**CWPA** include:

- » any social, family or community service that provides services under section 396 of the Oranga Tamariki Act 1989
- » any person, body or organisation that provides regulated services under schedule 1 of the Children's Act 2014
- » Housing New Zealand Corporation
- » Ministry of Education, schools, early childhood services
- » Ministry of Health, District Health Boards and health service providers
- » Ministry of Justice and Ministry of Corrections
- » Ministry of Social Development
- » New Zealand Police
- » Oranga Tamariki.

### Independent Persons

**Professionals, or individual persons, who are able to share information about the wellbeing of tamariki under the Oranga Tamariki Act 1989**

**Independent Persons** include:

- » a children's worker (under section 23(1) of the Children's Act 2014)
- » a practitioner under the Health Practitioners Competence Assurance Act 2003 who provides health or disability support services
- » a person or class of persons designated as an Independent Person by regulations made under section 447(1)(ga)(ii) of the Oranga Tamariki Act 1989.

**Children's Worker** means a person who works in, or provides, a regulated service, and the person's work—

- (a) may or does involve regular or overnight contact with a child or children (other than with children who are co-workers)
- (b) takes place without a parent or guardian of the child, or of each child, being present.

**Regulated education services** include:

- » Services provided at a registered school, including Board of Trustees
- » Services provided at an early childhood service
- » Services provided by a trades academy, service academy or an alternative education provider
- » Services provided at any off-site location for a registered school or early learning service including teen parent units, school camps, and learning centres
- » Services provided to ensure enrolment and attendance at school (e.g. attendance services)
- » Services provided at a playgroup
- » Services provided at any location on behalf of an early childhood service
- » Work that is driving a vehicle that is only used for transporting children and people supervising children (e.g. school bus services).