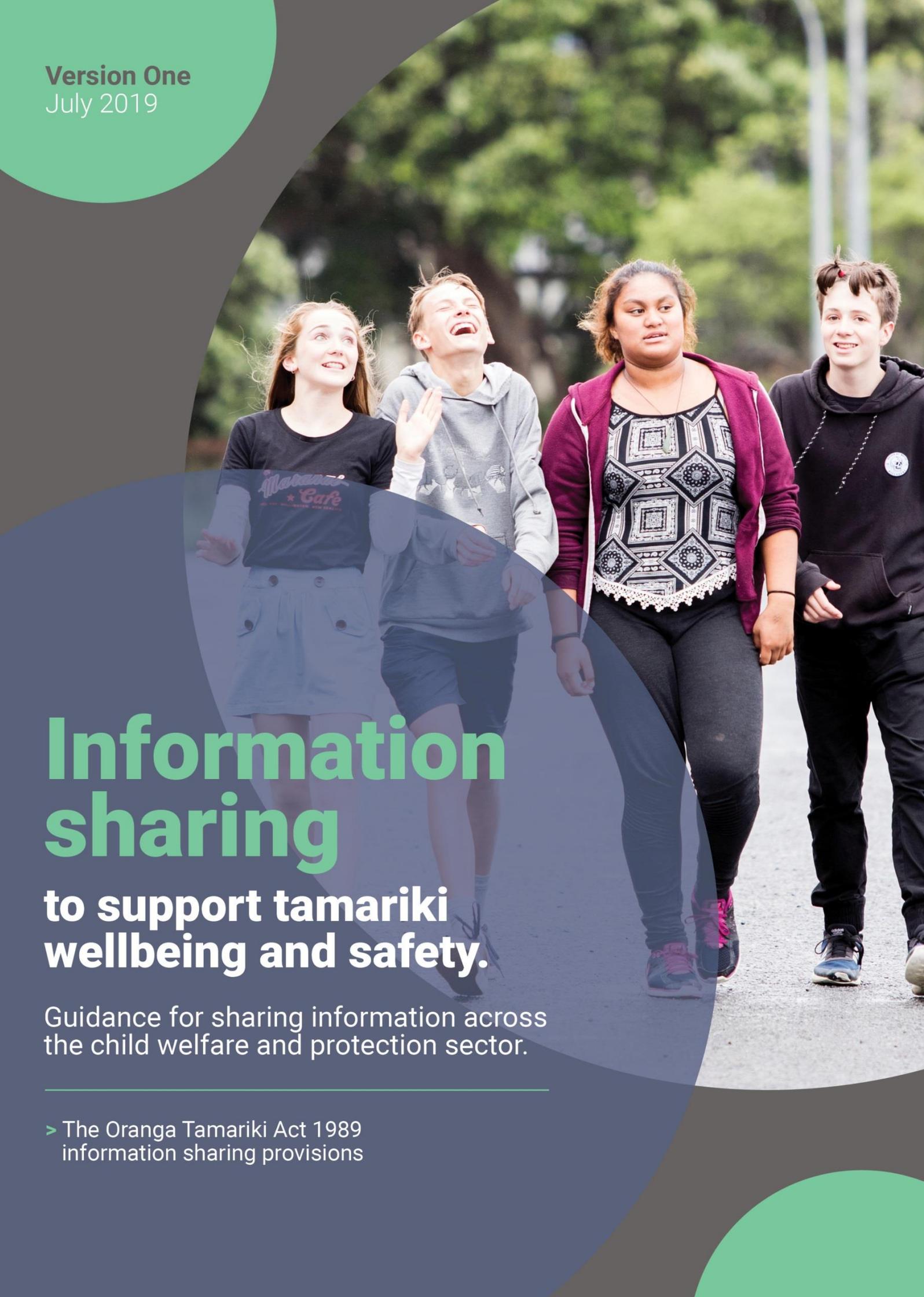


Version One
July 2019

A photograph of four young people walking outdoors on a paved path. From left to right: a young woman with long brown hair wearing a black t-shirt with 'Molokai Cafe' and a light blue skirt; a young man in a grey hoodie laughing with his head tilted back; a young woman with dark hair wearing a maroon hoodie over a patterned top and black leggings; and a young man in a black hoodie and black pants. The background shows green trees and a street lamp. The image is overlaid with a large, semi-transparent blue circle on the left side, which contains the text.

Information sharing

to support tamariki wellbeing and safety.

Guidance for sharing information across the child welfare and protection sector.

> The Oranga Tamariki Act 1989
information sharing provisions

MINISTER'S FOREWORD

Nā tōu rourou, nā taku rourou ka ora ai te iwi
With your food basket and my food basket the people will thrive

I am pleased to release this guidance on sharing information under the provisions in the Oranga Tamariki Act 1989 (The Oranga Tamariki Act).

By sharing information across the child welfare and protection sector we can act together to ensure the wellbeing and safety of tamariki, and provide whānau with the support they need to help their tamariki thrive.

The information sharing provisions in the Oranga Tamariki Act, which came into force on 1 July 2019, are all about supporting the proactive and early sharing of information by agencies and individuals in the sector. This applies equally to both government agencies such as Oranga Tamariki–Ministry for Children, the New Zealand Police, and other agencies that are often the first ones to know that whānau are dealing with issues that could affect the safety and wellbeing of tamariki.

The information sharing provisions are much broader than before. They needed to be, to provide a framework so people can feel confident to share information when they are concerned about the safety and wellbeing of tamariki. The provisions give people the clarity they need, by clearly setting out who can share information and for what purposes. The provisions give people protection from civil, criminal or disciplinary proceedings, as long as they are sharing information in good faith.

It is equally important to acknowledge the obligations we all have under the Treaty of Waitangi, including when sharing information. For Oranga Tamariki this means having a commitment to mana tamaiti, whakapapa and whanaungatanga.

I know that interpreting legal jargon and terminology isn't always easy. When officials from Oranga Tamariki went out and talked to people working in the sector, they heard a clear and easy to follow document was needed to provide practical help for people to be able to apply the provisions in their work. I believe this guidance does that.

I would like to thank the many agencies and individuals from across the child welfare and protection sector that gave up their time to attend hui across the country to help develop the guidance. I would also like to thank all those who provided feedback on earlier drafts of the guidance. I would especially like to acknowledge the tamariki that told us their views on what people should think about when sharing information about them. These have been woven throughout the guidance.

I am sure you will find this guidance helpful in your work with tamariki and whānau.

Ngā manaakitanga



Hon Tracey Martin
Minister for Children

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DEFINITION OF TERMS USED IN THIS GUIDANCE

Child welfare and protection agencies	<p>The group of organisations, and therefore their employees, or volunteers covered by the information sharing provisions including:</p> <ul style="list-style-type: none"> - Any social, family and community service that provides services under section 396 of the Oranga Tamariki Act - 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 and schools and early childhood services - Ministry of Health and District Health Boards, and health providers (e.g. Well Child Tamariki) - Ministry of Justice and Department of Corrections - Ministry of Social Development - Oranga Tamariki – Ministry for Children - New Zealand Police. <p>See page 8 and Appendix One for more information.</p>
Sharing in good faith	<p>This means following the requirements of the provisions and making best efforts to share the right kind of information, with the right people, in the right way for the purposes of the provisions.</p>
Independent person	<p>Professionals or people covered by the information sharing provisions including:</p> <ul style="list-style-type: none"> - A practitioner under the Health Practitioners Competence Assurance Act 2003 who provides health or disability support services. - A Children’s Worker (under section 23(1) of the Children’s Act 2014). - 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. <p>See page 8 and Appendix One for more comprehensive definitions.</p>
Information sharing provisions	<p>The sections of the Oranga Tamariki Act 1989 related to information sharing (sections 65A to 66Q). This guidance focuses on the provisions in sections 65A – 66C, 66K and 66Q - generally called “the provisions” in this guidance. Further information about section 66D will be provided in due course.</p>
Professional	<p><i>Anyone</i> who is covered by the provisions.</p>
Professional judgement	<p>The opinion, advice or decision of anyone using the provisions based on training, expertise and experience about what information to share, with whom and why, grounded on evidence about the situation for tamariki.</p>
Serious harm of tamariki	<p>Includes abuse, ill-treatment, neglect or deprivation which can be physical, emotional or sexual which are described in section 14AA(1)(a)(b) and (2) of the Oranga Tamariki Act. See page 10 for more information.</p>
Tamariki	<p>Children and young people aged under 18 years of age.</p>
Wellbeing	<p>There is no single legal definition of tamariki wellbeing. But the concept covers things that affect the welfare of tamariki, matter to them or help them to thrive, feel supported, safe, loved, and to have a positive sense of belonging and of who they are. See page 10 for more information.</p>

THE KEY THINGS TO KNOW

Here's a summary of the key things to know about using the information sharing provisions in the Oranga Tamariki Act. This guidance is for those who work with tamariki in social, health, or education areas, or in community and recreation type roles and who are covered by the provisions (there is more information on page 8 and Appendix One about who they are).

1. You can continue to make a report of concern to Police or Oranga Tamariki if you are worried that tamariki could be, or are being, harmed, ill-treated, abused, neglected or deprived in any way or have concerns about their wellbeing - the information sharing provisions don't change that.
2. The provisions support sharing information between professionals other than Oranga Tamariki and Police.
3. You can decide to do three key things if you think it's in the best interests of tamariki:
 - proactively and voluntarily share information with professionals who are most able to help tamariki and whānau
 - ask other professionals, as well as Oranga Tamariki and Police, to share information with you
 - decide if you will share information when asked under a section 66C request from other professionals (but **you must** respond if Oranga Tamariki or Police require information under section 66).
4. You must:
 - only share information for the reasons and purposes set out in the provisions
 - only share information relevant to the wellbeing or safety of tamariki
 - talk with tamariki about sharing their information under section 66C unless it's not appropriate or possible to do so
 - follow the Privacy Act 1993 requirements for handling personal information (like keeping information secure).
5. You should:
 - keep good records when you have requested and provided information
 - agree a timeframe for responding to a request to share information
 - get support to make decisions in difficult situations, or if you are unsure how these provisions apply.
6. You are generally protected from any kind of civil, criminal or disciplinary action if you share information in good faith.
7. You can expect Oranga Tamariki and Police to consider any request you make for information carefully and to keep in contact with you about it.

GOOD INFORMATION SHARING SUPPORTS TAMARIKI WELLBEING AND SAFETY

Information is always a real person's story, life and experience. It should be respected and cared for in the same way we respect and care for people themselves.

To support tamariki and whānau those who work with them need to understand them and their situations. Tamariki and whānau are the most important people to get this understanding from, though other professionals or agencies can have useful knowledge to share.

A major part of these information sharing provisions (section 66C of the Oranga Tamariki Act) is about proactively and voluntarily sharing information related to **the wellbeing or safety of tamariki** between professionals and agencies (see page 13 for more about what the information can be about). This sharing doesn't need to include Oranga Tamariki or Police. There are many situations when other services can provide the kind of parenting support and advice, advocacy, mentoring, counselling, additional resources or practical help tamariki and their whānau need to improve wellbeing.¹

The best interests, wellbeing and safety of tamariki are always the first and most important thing to consider.

The changes have been introduced to support agencies and professionals in providing help and assistance to tamariki and whānau as early as possible (section 4 of the Oranga Tamariki Act). Good information sharing is not new, and lots of professionals and agencies do it well and work openly with whānau and tamariki.

¹ You can find a directory of many social and health services across New Zealand that can assist tamariki and whānau at <https://www.familyservices.govt.nz/directory/>

HOW ARE THE INFORMATION SHARING PROVISIONS DIFFERENT FROM BEFORE?

There are some key differences between what the Oranga Tamariki Act provided for before the provisions came into force and what is provided for now.

Before 1 July 2019	After 1 July 2019
Professionals (other than Oranga Tamariki or Police) share information with each other about the wellbeing or safety of tamariki provided this is compliant with the Privacy Act.	Professionals (other than Oranga Tamariki or Police) who are concerned about the wellbeing or safety of tamariki can share information with each other if they follow the requirements of the provisions in the Oranga Tamariki Act and the principles of the Privacy Act.
Protection for sharing information as part of a report of ill-treatment or neglect to Oranga Tamariki or Police.	Protection for sharing information in good faith under the provisions.
Oranga Tamariki or Police can ask for information from government agencies and statutory bodies for investigations and care and protection proceedings.	Oranga Tamariki or Police can ask for information from any person or agency (as defined in the Privacy Act) for investigations into child abuse and care and protection proceedings, and to determine if tamariki are in need of assistance including in terms of their wellbeing.
Oranga Tamariki or Police can share information with others provided it is compliant with the Privacy Act.	Oranga Tamariki or Police can share information with other professionals and agencies covered by the provisions for the purposes of the provisions.
	Anyone sharing under section 66C must consult with tamariki about sharing their information and take their views into account unless it is not safe or appropriate to.

Another difference following the changes on 1 July 2019 is the introduction of section 66D which is about the use and public notification of datasets related to tamariki. This provision is not specifically about the ability of a professional to share information to support specific tamariki or whānau they are working with. Further information about this provision will be provided later in 2019.

THIS GUIDANCE IS FOR YOU IF YOU WORK WITH TAMARIKI AND THEIR WHĀNAU

The provisions apply to a range of people

A range of people are covered by these information sharing provisions. This includes people who work in central government agencies, local government services, and organisations outside government. The provisions apply to universal prevention services, early intervention and support services and to more intensive interventions and statutory care or protection situations.

The information sharing provisions don't change anything about making a report of concern.

Anyone who is worried tamariki might be harmed, ill-treated, abused, neglected or deprived in any way can call Police (111) or Oranga Tamariki (0508 326 459).

There are two new terms used for the kinds of organisations, or people who are covered by the provisions; "child welfare and protection agencies" and "independent persons". This guidance calls them "professionals" or "you" to make it easier to understand.

There is a short list of examples of the kinds of services these professionals work for below.

Examples of the kinds of government and non-government services covered by the information sharing provisions:

- **Education sector** (schools and early childhood services, boards of trustees, playgroups)
- **Health sector and medical services** (DHBs, health practitioners, Well Child providers, disability support services)
- **Social services, family support services, youth services** (youth mentoring, parenting programmes)
- **Iwi social services and Māori social service organisations**
- **Cultural social services**
- **Recreational services** (services funded by local government e.g. out of school care, learn-to-swim programmes, sports centres)
- **Housing services** (those working for community housing providers)
- **Many government agencies** (like Oranga Tamariki, Police, Ministry of Education, Department of Corrections)

See the Definition of Terms section and Appendix One for more detail.

THIS GUIDANCE HELPS YOU USE THE PROVISIONS IN YOUR EVERYDAY WORK

This guidance helps if you're worried about tamariki and think sharing information will help them or their whānau. It's important to be familiar with it so you know if the provisions apply, and how to use them. The guidance can be used:

- as a prompt when thinking about asking for information, or working out if you should provide information you've been asked for;
- as a reference tool in supervision, case consults or multi-agency meetings where information relating to tamariki is being discussed;
- to inform an organisation's training or policies for information sharing.

Professional judgement matters

Your professional judgement really matters. Situations for tamariki and their whānau are all different, and the agencies and organisations that are available to help varies. Deciding to share information or not, what should be shared, with whom and why will differ as well. There is no set formula to follow.

Professionals don't always have the same ideas about information sharing because of their different functions, roles, skills and purposes. That's why it's important to use this guidance, consider the context of the situation, talk with each other, get advice, use your organisation's policies and, where it is appropriate and possible, talk with tamariki and whānau when you're making decisions about sharing.

Your agency or profession may have its own codes of practice, policies or requirements around information sharing. It's really important to think about both the legal abilities you have to share under the Act as well as any obligations you have under professional codes. In most cases these will match up or you may be able to take steps to comply with your professional duties and still share information.

Police and Oranga Tamariki are child welfare and protection agencies

Police and Oranga Tamariki are child welfare and protection agencies and so can share and request information in the same way any other child welfare and protection agency can (using section 66C).

Police and Oranga Tamariki also have the ability to require information that may relate to the safety or wellbeing of a child or young person from a wide range of people and organisations under section 66. This is for the purposes of deciding if a child or young person is in need of care or protection or required to support proceedings brought under the Oranga Tamariki Act.

Information they get this way can't be used to investigate an offence (crime). Police might officially collect the same or similar information under different laws to investigate a crime, including any offences committed by tamariki or against tamariki (e.g. the Crimes Act 1961). Nothing about the provisions changes the way Police investigates crimes.

THE DIFFERENCE BETWEEN WELLBEING AND SAFETY

A major part of the provisions in section 66C are to encourage the sharing of information between professionals to support tamariki *wellbeing* and assist their whānau as early as possible. This is broader than sharing information only about safety concerns with Oranga Tamariki or Police (when tamariki might need care or protection because of possible harm).

One way to think about safety is as a *part* of wellbeing, not a separate thing. If there is a safety issue then tamariki wellbeing will be affected. But not all wellbeing issues are safety issues.

Tamariki and whānau lives vary and can be complex. There are different combinations of resilience, strengths, supports, needs, and risks that need to be considered together when thinking about worries for tamariki wellbeing or safety. Concerns for their wellbeing or safety could be because of a one off event or because of a series of events over time.

The idea of wellbeing covers a broad group of things that come together in an holistic way. They are things that relate to the welfare of tamariki, help them to thrive, feel supported, safe, loved, and have a positive sense of who they are and where they belong. Exactly how wellbeing looks is different for each tamariki and whānau because in many ways it's a very personal thing. Wellbeing can include things like:



- strong positive whānau relationships
- spiritual and cultural connections
- having their developmental needs meet and supported – education, behaviour, life skills and self-care skills
- emotional resilience and support
- social and peer groups that are supportive, caring and positive
- physical and mental wellness
- security – being safe from harm, living in a safe community, having a warm dry home, having enough food.

Safety concerns (section 14AA of the Oranga Tamariki Act) are when:

- tamariki are being, or are likely to be:
 - physically, emotionally or sexually abused
 - deprived
 - ill-treated
 - neglected
- parents or caregivers aren't willing or able to care for tamariki
- the development of tamariki or their physical, mental or emotional wellbeing is likely to be impaired or neglected in a way that is avoidable
- tamariki see, hear, or live in a home with family violence.

YOU CAN DECIDE TO DO THREE KEY THINGS

The provisions make it clear you can choose to share and request information if you believe it's in the best interests of tamariki and will support their wellbeing or safety. If you choose to share or request information using the provisions you must follow the requirements of the provisions.

You **can do** these things if it is helpful and in the best interests of tamariki and whānau.

Remember these provisions only apply to sharing information *under the Oranga Tamariki Act*. You may be able to share information for other reasons, with other people, under other laws or guidelines (like the Family Violence Act).

1. Proactively and voluntarily share with the professionals who will be most able to help tamariki and whānau

As long as you follow the requirements of the provisions, you can proactively and voluntarily share information with another professional.

2. Ask for information to be shared with you

You can ask others to share relevant information with you as long as it's for the reasons and purposes of the provisions and the professional or agency is covered by the provisions.

3. Choose how to respond to an information request (unless it's a section 66 request from Oranga Tamariki or Police).

The information sharing provision section 66C means information *can* be shared between professionals, **not that it must be**. So it's up to you to decide whether to share information.

The exception is when Police or Oranga Tamariki make a specific request under section 66 (which is different from section 66C - the section which gives you information sharing abilities).

You must share information with Oranga Tamariki or Police if they request it under section 66, unless it is legally privileged.

Legal privilege means any communication between a professional legal adviser and their clients can't be disclosed without the permission of the client.

WHAT THE PROVISIONS SAY YOU MUST DO IF YOU'RE SHARING UNDER SECTION 66C

If you are thinking about sharing using section 66C of the Oranga Tamariki Act there are things you *must* do.

Share for the right reasons and purposes

Any request for information, or decision to share information using the provisions, must be done to support and protect tamariki and their wellbeing or assist whānau to help tamariki. Information sharing needs to be taken seriously because it can have significant consequences for tamariki and whānau. In addition think about how sharing fits with any code of practice or ethics that apply to you while keeping tamariki wellbeing and safety at centre of your decision making.

Remember the provisions support sharing as early as possible to prevent situations escalating and causing harm (section 4 of the Oranga Tamariki Act).

The Oranga Tamariki Act says you must make sure information is only shared to...

- Prevent or reduce the risk of harm, ill-treatment, abuse, neglect or deprivation for tamariki OR
- Make or contribute to an assessment of the risks or needs of tamariki OR
- Make, contribute to or monitor any support plan for tamariki that is managed by Oranga Tamariki OR
- Prepare, implement or review any prevention plan or strategy made by Oranga Tamariki OR
- Arrange, provide or review services facilitated by Oranga Tamariki for tamariki or their whānau OR
- Carry out any function in relation to a family group conference for tamariki in care or anything else related to the care or protection of tamariki.

This wording is taken from the Oranga Tamariki Act (section 66C).

One professional can 'on share' information they have received under section 66C to another professional. However this must be for the reasons or purposes covered by the provisions. If the information is about tamariki they should be talked to about any further sharing.

When working through your reasons or purposes for sharing, think about:

- What are the challenges facing tamariki and whānau and what are your concerns and worries for them? How might this be affecting or impacting tamariki?
- What are their needs, strengths, resources, and support systems?
- What are the goals, hopes and aspirations of tamariki and whānau?
- What kind of support and help do you, tamariki and the whānau think they need? Which professionals or agencies can provide this?

- What professionals or agencies might have information that helps you understand the tamariki better?
- How can you reduce the chance of negative consequences of sharing?
- How can you make sure those you are sharing information with have the right experience or skills to understand and use information in a safe way?
- Are you clear what the professional you share information with will do with it and how that will help tamariki?

It's important the professionals involved are clear between themselves who will be taking what steps as a result of information being shared and in what timeframe.

Only share information relevant to tamariki wellbeing or safety

Who can relevant information be about?

There are no limits in the provisions on **who** the information might be about. But most of the time information will be about:

- tamariki themselves – and you must talk with them about sharing this in most cases (see page 14)
- their parents or caregivers
- people in their wider whānau or that they live with
- people tamariki already have a relationship with.

What kind of information is relevant?

The Oranga Tamariki Act itself talks about making sure information is relevant to, or related to, the wellbeing or safety of tamariki.

There are some requirements of the Privacy Act about sharing information that also apply alongside the Oranga Tamariki Act.

You must make sure the information is...

- **relevant to, or related to**, addressing or supporting the safety or wellbeing of tamariki (the information sharing provision requires this) AND
- **as accurate as you can make it and not misleading** (the Privacy Act requires this) so be clear what's fact, what's your professional view, what is someone else's point of view and what is a worry or concern that hasn't been confirmed yet AND
- **as complete as you can make it** (the Privacy Act requires this) for example including contextual information to help with understanding. However balance this with only sharing the minimum necessary to achieve the purpose of sharing AND
- **as up to date as you can make it** (the Privacy Act requires this) this can include historical or past information if it helps to understand the current concerns or worries.

The provisions don't list the kinds of information that can be shared because each situation is different. Also you shouldn't share everything you know by default – rather focus on what is relevant and required to achieve the purpose of sharing.

Tamariki said:

“My main concern is misunderstanding the story and getting it wrong. I could ask what they think the story is and what they heard”

Relevant information can be things like:

- details about who works with tamariki or whānau (like schools or doctors) and why
- details about the home environment
- descriptions about tamariki and whānau needs, aspirations, strengths, what's working well (physical or mental health, education, behaviour, and social connections)
- an outline of challenges whānau are facing (like financial pressure, housing difficulties, family violence concerns or alcohol and drug issues)
- information about who or what has helped tamariki or whānau in the past or what challenges and concerns there have been in the past for tamariki, or people around tamariki.

There may be restrictions on what can be shared. For example, for tamariki with a history of criminal offending information about the offending may be restricted (section 438 of the Oranga Tamariki Act).

Talk with tamariki about sharing their information, unless it's not appropriate or possible to

You must talk with (consult) tamariki about sharing their information (or talk with their representative, parent, guardian, or caregiver if they are very young, or unable to understand). The provisions require you to take their views into account, but don't require you to get their consent.

You don't need to talk with tamariki about sharing *other people's* information (like something about a family member's criminal history).

Tamariki 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."

The provisions don't require you to talk with whānau or others about sharing their information. However, it's good practice to get consent from tamariki, whānau or anyone else to do so. It respects their mana, supports open and transparent practice, helps collaboration and upholds people's self-determination. It builds trust and understanding.

You must talk with tamariki about sharing their information, if it is appropriate or possible to:

- They should understand, and have support to understand:
 - what will be shared and why
 - who it will be shared with
 - any possible decisions that might be made with the information or other outcomes and consequences of sharing.
- They can ask questions and get answers.
- They are free to tell you what they think and feel about sharing their information, including if they agree or not.
- Their views must be considered in any decisions around information sharing,
- If information is shared before you talk with tamariki (or their representative) they should be spoken to about it afterwards as soon as possible.

It might not be appropriate or possible to talk with tamariki (or someone else about sharing their information) if:

- they are not developmentally able to understand (remember even young children can understand sharing information if you talk to them in an age-appropriate way)
- it might put them or someone else at risk of harm
- it might distress or upset them, or have a negative impact on their wellbeing
- it could get in the way of a Police investigation or prosecution
- you need to share information quickly because tamariki might be harmed otherwise
- after making reasonable efforts you, or another professional, can't get in touch with them, and you still think sharing is important to protect tamariki from harm.

Generally speaking if you decide to request or share information you are responsible for making sure tamariki are spoken to about it.

Tamariki views on information sharing

Tamariki are clear you should involve them in decisions to share their information. They think you should do the following things:

- Recognise how important trust is and that sharing information can feel like a breach of that – one way to avoid that is to talk with them before sharing.
- Tell them exactly what you're worried about and why you want to share their information – be honest about the implications of sharing and what might happen next.
- Make the conversation comfortable for them – for example involve a professional they trust, invite a whānau member or friend to be with them, check if they would like to engage with someone of their own culture.
- Be respectful – connect with them, understand their situation, make sure they are in a good frame of mind to talk, show you care and aren't just there to do a job.
- Treat information sharing as the big deal it is – understand it can feel embarrassing or scary, they might be worried that someone else will be angry or upset at them.

Tamariki said:

"... if I tell someone something important it feels like they shouldn't tell someone else without asking. They should say 'is it alright if I tell someone?'"

"I would rather have someone from my family there, in case you get mixed up and go and say something else."

"If I was talking to someone from the same culture it would help because they understand me."

"I want to be in the loop"

"People might turn on you if they find out you have said something."

"I want my entire situation to be considered, not just the snippet I have talked about"

- Share their information in context, not just isolated parts.
- Limit the amount of people you share their information with – and let them know who those people are.
- Let them check the information to make sure it's accurate.
- Give them the chance to speak for themselves if they want it.

Tamariki said:

“You wanna know who has your information”

“I am the kind of person that feels really uncomfortable about people telling someone that I don't even know”

“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”

“You won't tell lies about me please”

“...sometimes you're having an emotional response ... and you can say things that you don't really mean...”

“Be part of the telling of the person ... so it is not miscommunicated ... or exaggerated”

Follow the requirements of the Privacy Act

Section 66Q of the Oranga Tamariki Act explains that many of the principles of the Privacy Act still apply when you're sharing information using the Oranga Tamariki provisions. Some have already been mentioned in this guidance – like making sure information is accurate, up to date and as complete as possible. Others (principles 1, 4 - 9, 12) include the requirements around:

- keeping information safe and secure and protecting it from misuse
- only collecting information for a lawful purpose
- providing people with the chance to access their information
- providing people with the chance to ask for their information to be corrected if they think it is wrong
- only keeping information for as long as required for the purpose it was collected.

For more detail take a look at the Privacy Principles summary:

<https://privacy.org.nz/news-and-publications/guidance-resources/information-privacy-principles/>

THINGS YOU SHOULD DO

There are some things that are not specifically required under the provisions but you should do them anyway to make using the provisions easier or more effective.

Keep good records

It's important to have records available for tamariki and whānau (or anyone else whose information is shared) to access so they can understand what has happened with their information. Records also provide a paper trail for you and your organisation if anyone wants to understand why you made the decision you did around sharing information (which is important if you are questioned about sharing or there is a complaint).

Keep good records in line with your organisation's normal record keeping processes and policies.

Keep records about what you have requested and from whom as well as what you have been requested to share.

Agree a timeframe for sharing and what actions should be taken

The provisions allow flexibility around timeframes for information sharing between professionals and don't set any specific requirements.

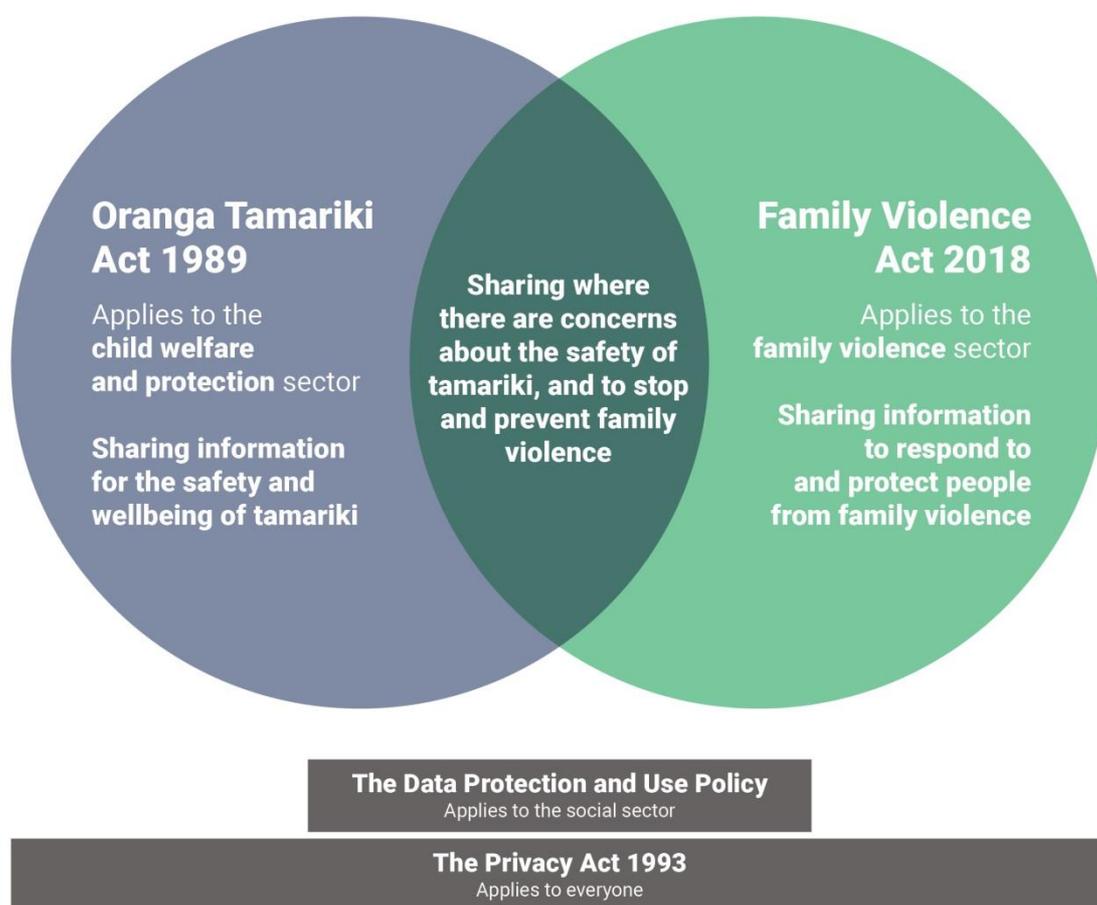
So if you are requesting information, be clear about when you need it by. This will generally be related to the purpose you are requesting it for. If someone has requested information from you and you can't make the timeframe – talk with them to arrange a timeframe that works for both of you.

Get support to make decisions in difficult situations

It can be difficult to decide if sharing information is the best thing to do to help tamariki or whānau. So it's important to get advice and support to make this decision if you need to. Many organisations have their own processes and policies for who is responsible for sharing information, or who can help make these decisions. In general the kinds of people who can give advice are:

- Supervisor or Manager
- Experienced colleagues
- The person responsible for child protection in your organisation
- A Privacy Officer
- A Lawyer
- Other professionals who can share under the provisions
- The information sharing helpline (0508 463 674) or infosharinghelpline@ot.govt.nz run by Oranga Tamariki for anyone in the sector who has questions about these provisions
- The Oranga Tamariki website that has additional information about information sharing <https://www.orangatamariki.govt.nz/working-with-children/information-sharing>
- Oranga Tamariki or Police if you are worried about harm to tamariki.

LAWS AND GUIDES WORK TOGETHER TO SUPPORT GOOD INFORMATION SHARING



The Oranga Tamariki Act and the Family Violence Act 2018 work together to regulate how people's personal information can be shared in certain situations (they both took effect from 1 July 2019). The legislative requirements are similar, but there are some key differences including who the requirements apply to, and the purposes that information can be shared for.

The four most important things to know about how the Acts work are:

1. **Safety comes first** – personal information should be shared with the right professionals or agencies if there are concerns about someone's safety or if they or others are at risk of harm. The Oranga Tamariki Act, Family Violence Act and the Privacy Act all allow you to share information in more situations to keep people, including tamariki, safe.
2. **Professionals can proactively share information, but in most cases it's not compulsory** – professionals and agencies should feel confident and empowered to proactively share information when it fits with the purposes of either Act. However, it's important to remember there are no mandatory or compulsory information sharing requirements across the social sector (except when Oranga Tamariki or Police make a request under section 66 of the Oranga Tamariki Act, unless it's legally privileged).

3. **You are protected when you share in good faith** – if you share information in good faith, and comply with the information sharing provisions in either of the two Acts, you are generally protected from civil, criminal or disciplinary proceedings.
4. **The Oranga Tamariki Act and the Family Violence Act go beyond the Privacy Act in some circumstances, but other parts of the Privacy Act still apply** – the Privacy Act has twelve principles agencies must follow when collecting, storing, using or disclosing personal information. While any sharing of information under the Oranga Tamariki Act or Family Violence Act is not restricted by the limits on disclosure of personal information in the Privacy Act, the other requirements in the Privacy Act (such as storage) still apply.

The Privacy Act controls what and how agencies collect, use, disclose, store, and give access to information that identifies an individual. You can find out more about the Privacy Act on the Privacy Commissioner's website: <https://www.privacy.org.nz/the-privacy-act-and-codes/the-privacy-act/>

The Data Protection and Use Policy (DPUP) sets out expectations of the values and behaviours that promote the safe, transparent and ethical collection, use, and sharing of identifiable, aggregate and de-identified data and information across the social sector. While DPUP is not legislated, following DPUP is a great way to build New Zealanders' trust in how their data and information is being used, and ensure transparency. You can find out more about DPUP on the Social Investment Agency's website: <https://sia.govt.nz/investing-for-social-wellbeing/data-protection-and-use/>

There are other pieces of legislation that may require you to share information or allow you to, for example section 22C of the Health Act 1956.

YOU ARE PROTECTED IF YOU SHARE IN GOOD FAITH

If you share information in good faith and in line with the provisions, you are generally protected from any kind of criminal, civil or disciplinary action (section 16 of the Oranga Tamariki Act). You won't break the law and if a complaint is made against you the provisions provide a protection for sharing. If you work for an organisation, rather than for yourself, the organisation has a responsibility to make sure you have what you need to be able to share in good faith. Keeping good records about information sharing is important to help demonstrate you shared in good faith.

Good faith is about making your best efforts to do the right thing in the right way, for the right reasons.

Good faith means making your best efforts to do the right thing. In terms of information sharing it means following the requirements of the provisions – doing all the musts. Not acting in good faith would include sharing information for a malicious motive, to deceive, or in such a careless way that no attempt was made to comply with legal obligations. It could, depending on the situation, involve:

- sharing information for reasons other than those in the provisions
- sharing information you know is false or misleading
- not keeping information secure (like leaving client information in a public space, or talking about a client in a public space)
- not checking who you are sharing with and their role
- sharing information with someone who is not covered by the provisions without the consent of the person the information is about (unless there is another legal provision for sharing) or sharing with someone who has no valid or reasonable role in assisting tamariki or whānau.

WHAT YOU CAN EXPECT FROM ORANGA TAMARIKI AND POLICE

If you ask Oranga Tamariki or Police to share information with you, you can expect they will:

- carefully consider your request for information
- focus on proactively sharing in the best interests of tamariki
- get back to you in the timeframe you have asked for, or contact you to discuss a timeframe they can meet
- let you know why they will not share the information if that is their decision (including if they don't believe it meets the purposes and reasons for information sharing under the provisions).

If Oranga Tamariki or Police ask you for information you can expect they will:

- explain under what part of the Oranga Tamariki Act they are asking for it (it could be under section 66 or section 66C)
- be clear about exactly what information they are requesting and how asking for it meets the purposes of the provisions
- tell you, if they can, how that information is going to be used
- be clear when they need the information by and how they would like to receive it
- if they can, let you know what has happened as a result of sharing the information
- if sharing under section 66C tell you if they have spoken to tamariki about sharing their information if it was safe and appropriate to and what tamariki views were.

STEPS TO FOLLOW WHEN THINKING ABOUT SHARING INFORMATION UNDER SECTION 66C

Do you want to ask for or provide information using section 66C for any of the following:

- Prevent or reduce the risk of harm, ill-treatment, abuse, neglect or deprivation for tamariki OR
- Make or contribute to an assessment of the risks or needs of tamariki OR
- Make, contribute to or monitor any support plan for tamariki that is managed by Oranga Tamariki OR
- Prepare, implement or review any prevention plan or strategy made by Oranga Tamariki OR
- Arrange, provide or review services facilitated by Oranga Tamariki for tamariki or their whānau OR
- Carry out any function in relation to a family group conference for tamariki in care or anything else related to the care or protection of tamariki.

If a child is at risk of being seriously harmed (physically, emotionally or sexually) or neglected, call Oranga Tamariki or Police immediately.

No

You can't share under the Oranga Tamariki Act 1989.

Seek support or advice from your agency.

Yes

Is the information you are planning to share relevant to the wellbeing or safety of the child (even if it isn't about them)?

No

Think about who is the best fit for the purpose of sharing information.

Who may hold the information you require or provide the required service?

Yes

Is the independent person or agency you want to share with covered under the Oranga Tamariki Act 1989?

No

Yes

You can share information under the Oranga Tamariki Act 1989

Think about how providing the information fits with any code of practice or ethics that apply whilst keeping the child's wellbeing and safety at the centre of your decision making.

Ask for

Provide

Complete request.

- Record should include:
- What is required
 - Why it is required
 - What it will be used for
 - Information about any relevant timeframes
 - Any contact details for the person the information is about

Is the information you are providing as accurate, complete and up-to-date as possible and will it help the agency fulfil purpose specified in s66C?

No

Agencies may have forms, templates or processes for requesting information.

A call or face to face contact may identify the best way to make a request.

Yes

Where appropriate or practicable talk with tamariki or their representative about providing their information AND consider their views.

Yes

Record details of any request and any information received as a result of the request.

Do I believe that providing the information is in the best interests of tamariki?

No

Yes

Provide information and record details.

APPENDIX ONE: LIST OF WHO THE INFORMATION SHARING PROVISIONS APPLY TO

The information sharing provisions apply to a large group of government agencies, non-government organisations, health and education services. Below is a detailed list of all of these. Anyone who is covered by this list can request information from anyone else on the list under section 66C.

“Regulated services” listed in Schedule 1 of the [Children’s Act 2014](#) that are:

Welfare, support, and justice services

- services provided (including the performance or exercise of functions and powers) under the Oranga Tamariki Act 1989 by the department responsible for the administration of that Act, or by any care and protection co-ordinator or youth justice co-ordinator
- services provided at, or in relation to the operation of, any residence within the meaning of section 2(1) or 364 of the Oranga Tamariki Act 1989 (excluding, for the avoidance of doubt, services provided by an individual with whom a child is placed under section 362 of that Act)
- services provided by any person, organisation, or body approved under section 396 or 403 of the Oranga Tamariki Act 1989
- services provided (including the performance or exercise of functions and powers) under any order, direction, or recommendation of a court made under the Oranga Tamariki Act 1989, the Care of Children Act 2004, or the Adoption Act 1955 by –
 - the department responsible for the administration of the Oranga Tamariki Act 1989; or
 - any other person, organisation, or body:
- services provided by any person, body, or organisation pursuant to any decision, recommendation, or plan made by a family group conference under the Oranga Tamariki Act 1989
- services provided at prisons, secured facilities, and children’s health camps
- services provided as part of a condition of bail made under the Bail Act 2000
- services and facilities of the kind referred to in sections 4(1)(a) and 7(2)(b)(i) of the Oranga Tamariki Act 1989
- social or support services, including (but not limited to) victim support services, drug and alcohol rehabilitation services, and childcare services
- mentoring and counselling service
- youth services and youth work
- participating in a telephone communication service that is likely to be used wholly or mainly by children
- moderating an electronic interactive communication service that is likely to be used wholly or mainly by children (but a person does not moderate a public electronic interactive communication service unless he or she has access to the content of the matter or contact with users of the service)
- services provided to escort, track, or transport children for the purposes of the Oranga Tamariki Act 1989
- out-of-school care and recreational services

Health services

- services provided at a public hospital
- services provided at a publicly funded medical practice or facility, including blood and cancer centres, treatment centres, outreach clinics, and mental health services
- services provided through medical practices belonging to primary health organisations (PHOs)
- services provided by health practitioners
- Well Child Tamariki Ora (WCTO) services (e.g. Plunket)
- home-based disability support services

- residential disability support services
- ambulance services
- maternity services, including lead maternity carers and midwives

Education services

- services provided at a registered school (as defined in section 2(1) of the Education Act 1989)
- services provided at an early childhood service (as defined in section 309 of the Education Act 1989)
- services provided by a trades academy, a service academy, or an alternative education provider for or on behalf of a school
- services provided at any off-site location for or on behalf of a registered school or early childhood service, including teen parent units, school camps, and learning centres
- services provided to ensure enrolment and attendance at school in accordance with sections 20 and 25 of the Education Act 1989
- services provided at a playgroup (as defined in section 309 of the Education Act 1989)
- services provided at any location on behalf of a limited child care centre (as defined in section 2(1) of the Health and Safety in Employment Act 1992)
- services provided at a hostel (as defined in section 2(1) of the Education Act 1989)

Transport services

- work driving a vehicle that is being used only for the purpose of conveying children and any persons supervising or caring for the children (for instance, school bus services)

Policing services

- specialist child and family policing services provided by Police employees (as defined in section 4 of the Policing Act 2008)

Local authority services

- social and support services, including (but not limited to) mentoring and counselling services and community outreach, advocacy, and engagement services
- education services, including (but not limited to) learn-to-swim programmes and digital literacy programme
- services provided at community facilities, including (but not limited to) sports and recreation centres, libraries, swimming pools, galleries, and community centre
- services provided in public environments, including (but not limited to) surf and beach patrols, skate park guardians, and road safety co-ordinators

“Regulated services” listed in section 2 of the Oranga Tamariki Act 1989 set out below:

Child welfare and protection agencies:

- The Department of Corrections
- The Ministry of Health
- The Ministry of Social Development
- The Ministry of Education
- The Ministry of Justice
- The New Zealand Police
- Housing New Zealand Corporation
- Oranga Tamariki – Ministry for Children

- Every registered community housing provider (as defined in section 2(1) of the [Housing Restructuring and Tenancy Matters Act 1992](#))
- Every DHB
- Every school board (as defined in section 15(1) of the [Children's Act 2014](#))
- Every early childhood service (as defined in section 309 of the [Education Act 1989](#))
- Any person, body, or organisation that provides regulated services (as specified in Schedule 1 of the Children Act 2014)
- Any organisation or class of organisation designated as a child welfare and protection agency by regulations made under section 447(1)(ga)(i) of the Oranga Tamariki Act.

Any "Independent person" listed in section 2 of the Oranga Tamariki Act 1989:

- A practitioner registered under the Health Practitioners Competence Assurance Act 2003 who provides health or disability support services
- A Children's worker (as defined in section 23(1) of the Children's Act 2014)
- 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.

Acknowledgement

Oranga Tamariki would like to thank everyone who provided valuable input to develop this guidance. From March to May 2019, workshops were held in Christchurch, Wellington, Auckland and Te Tai Tokerau with over 300 people from the child welfare and protection sector.

Participants at these workshops included representatives from local iwi and Māori social services, Pacific NGOs, midwives, paediatricians, people working in adult mental health services, disability groups, early childhood services, primary and secondary schools and social services.

The logo for the New Zealand Government, featuring two overlapping circles. The left circle is a light green color, and the right circle is a dark green color. The text "New Zealand Government" is centered in the overlapping area in a white, sans-serif font. The word "New Zealand" is underlined.

New Zealand Government

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