

Information Sharing

for providers of family and disability support

Organisations and some individuals who collect personal information about clients are subject to restrictions on the use of that information by State or Commonwealth privacy regimes.

The *Children, Young Persons and Their Families Act 1997* (the CYPTF Act) contains provisions that allow information to be shared about clients between organisations working in collaboration with Gateway Services and Child Protection Services; even where privacy legislation might otherwise prevent it.

The Personal Information Protection Act 2004 (Tasmania)

If your organisation has an agreement with the Tasmanian Government for the provision of health, welfare, education, child care or residential services wholly or partly for children, then it is a personal information custodian for the purposes of the *Personal Information Protection Act 2004* (the PIP Act).

Section 17 of the PIP Act requires a personal information custodian to comply with the *Personal Information Privacy Principles*, set out in [Schedule 1 of the PIP Act](#).

To comply with the PIP Act, you should:

- Make sure that you have read and understood the *Personal Information Privacy Principles*.
- Explain to clients at the outset, openly and honestly, that information will only be collected as is necessary to assist in providing services to them.
- Before, during or as soon as practicable after the collection of personal information, provide clients with a copy of your organisation's PIP Statement to explain how the client's personal information may be used and stored (see the attached Sample PIP Statement).
- Clients need to know that in order to access the full range of services provided through Gateway Services and the organisations working with them, their personal information will need to be shared with other service providers. The consent of clients should be sought. ***If the client expresses a wish for their information not to be shared, they may not be able to receive the full range of services available.***
- Obtain consent from the client for the use of their information. Consent can be provided by the client signing a formal consent form (see attached sample Consent Form) or by verbally agreeing to continue seeking services. If consent is provided verbally, it is good practice to make a note in the file that this conversation has taken place and that consent was provided.
- Consider whose consent should be sought. Many young people have the capacity to understand and make their own decisions.

The *Privacy Act 1988* (Commonwealth)

Other individuals or organisations may be required to comply with the *Commonwealth Privacy Act 1988* in relation to collection, storage and sharing of personal information. Section 14 of the *Privacy Act* sets out the *National Privacy Principles* that relate to information sharing.

Both the *Personal Information Protection Principles* (from the Tasmanian legislation) and the *National Privacy Principles* (from the Commonwealth legislation) allow information to be shared in certain circumstances. Importantly, information may be shared:

- when there is consent of the person to whom the information relates, or
- there is impending danger (*National Privacy Principles Principle 11* and *Personal Information Protection Principles clause 2(1)(d)*), or
- disclosure is required or authorised by law (*National Privacy Principles Principle 10* and *Personal Information Protection Principles clause 2(1)(f)*). This would include an authority or requirement to share information under the CYPTF Act.

What does the CYPTF Act require?

Keeping children safe and well is everyone's business. Protecting the welfare and safety of Tasmania's children should be paramount when working with families in need of support.

Under the CYPTF Act, every adult who knows, or believes or suspects on reasonable grounds, that a child is suffering, has suffered or is likely to suffer abuse or neglect has a responsibility to take steps to prevent the occurrence or further occurrence of the abuse or neglect. One way that an adult can discharge this responsibility is to report their knowledge, belief or suspicion to Child Protection Services or a Gateway Service.

Prescribed persons (who are often called 'mandatory reporters') have a special duty to inform the Child Protection Services or a Gateway Service if they believe, suspect or know that a child has been or is being abused or neglected. Mandatory reporters may face penalties if they fail to inform Child Protection Services or a Gateway Service of their knowledge, belief or suspicions. The focus of Disability, Child, Youth and Family Services is on working together to ensure protection of children, not highlighting the fact that penalties exist under the CYPTF Act.

Professionals who work with children and families are generally considered to be mandatory reporters under the CYPTF Act (see separate fact sheet on Mandatory Reporters).

In circumstances where there are *concerns about the safety, welfare or wellbeing of a child*, information can be shared with Child Protection Services through either a Gateway Service or Child Protection Intake and individuals do not need to be informed that their information has been shared in this way.

Staff working within Gateways, Integrated Family Support Services or any other organisations involved in the delivery of services to children and their families are able to share the information they have received from any of their clients with Child Protection if there are concerns regarding the safety and well-being of a child.

In addition, staff may be asked by Child Protection workers to provide information about their clients if those clients are significant in the life of a child or children known to Child Protection. If Child Protection makes such a request, any information held must be provided. The information can be provided verbally, although if there is a request for a written report, the information must be provided in writing.

When to share information?

You should provide information:

- When requested by a Child Protection worker, you must share any relevant information relating to:
 - a child who is being assessed for possible risk of harm or neglect, or
 - a guardian of that child, or another person with whom that child lives, or
 - any significant person in the life of that child.
- When requested by an information-sharing entity (as described in the CYPTF Act) such as a service provider or a Gateway Service, relevant information may be shared in order to ensure that the best interests of the child are met.

When not to share information?

- When there are no concerns regarding the safety or wellbeing of a child and the client has not consented to their information being shared.
- When the information requested is not relevant to the child or a significant person in the child's life.
- When the information is not relevant to the best interests, health, safety or well being of a child.
- If staff do not have the information being requested a response should be made to that effect. Do not provide speculative, inaccurate or incorrect information.
- When the request for information has come from someone who is not a representative of an information-sharing entity.

Scenario	Which Act?	How does this affect practice?
A request is made by Child Protection Services for information to be provided about a child, a parent or guardian or another significant person in the life of a child.	CYPTF Act (Tas)	Child Protection workers hold a delegation from the Secretary of the Department of Health and Human Services to require an information-sharing entity to provide relating to the safety, welfare or wellbeing of a child. When requested, information must be provided to Child Protection workers. Gateway Services and other information sharing entities can share information with another entity if that information relates to the safety, welfare or wellbeing of the child. They cannot require that any information be provided.
Staff providing services to clients do not believe that there is any risk of abuse, harm or neglect of a child or young person.	PIP Act (Tas) or Privacy Act (Cth)	Except in the case where Child Protection Services have asked for information, the client's consent is required for staff to share their personal information with any other services. The client should be provided with the organisation's Personal Information Protection Statement, which should be explained. Consent can be provided verbally or a consent form can be used.

<p>Staff providing services to clients have reason to believe or suspect that there is a risk of abuse, harm or neglect of a child or young person.</p>	<p>PIP Act (Tas) or Privacy Act (Cth) AND CYPTF Act</p>	<p>Gateway Services use a Common Assessment Tool to assess clients' needs. Under the CYPTF Act, the information which has given cause for concern can, and should, be shared with the community based child protection team leader located in the Gateway Services (or with Child Protection Services directly).</p> <p>If Child Protection Services become involved with a client, the Child Protection worker will explain to the client how their information may be used under the CYPTF Act.</p>
<p>Gateway staff are undertaking assessment of a client. They are not sure whether or not a risk to the child is present and need more information to make a decision.</p>	<p>CYPTF Act</p>	<p>Gateway staff cannot require an information sharing entity to share information. Employees of Gateway Services should report concerns to their community based Child Protection team leader. If the community based Child Protection team leader believes there may be a risk to the child, they can require information to be provided from the service provider.</p> <p>Under the CYPTF Act, during the course of working collaboratively, information can be shared between information sharing entities (such as Gateway and other service providers) if the information <i>relates to the safety, welfare or wellbeing of a child</i> (s.53B(3)(b)); or if the client has given their consent (where there is no risk to a child). However, only child protection workers can require an information sharing entity to share information.</p>
<p>A client comes to the Gateway in search of support and services, but they do not have any children.</p>	<p>PIP Act (Tas) or Privacy Act (Cth)</p>	<p>The client's consent will be required before any information can be shared with other service providers.</p> <p>Consent can be provided verbally or a consent form can be used.</p>
<p>Staff providing services to clients are asked by a Gateway Services worker to share personal information relating to a client.</p>	<p>PIP Act (Tas), Privacy Act (Cth) and CYPTF Act</p>	<p>Under the CYPTF Act information relating to the safety or wellbeing of a child can be shared between information sharing entities (such as between Gateway and other service providers) without consent being required - if the information sharing entity is satisfied that information in its possession <i>relates to the safety, welfare or wellbeing of a child</i>. (S53b.3(b) of the CYPTF Act). However, the Gateway cannot require an information sharing entity to share information.</p> <p>If the information is not related to the welfare of a child, the client's consent should be obtained before information sharing can occur.</p>

Further information

A comprehensive website covering the legislative amendments is available at:

<http://www.dhhs.tas.gov.au/dcyfs/legislation/cyptfa>

Other information sheets are also available on the site above and include:

- Overview of Legislative Amendments
- Responsibilities of Mandatory Reporters
- Notifications about unborn children

To arrange an information session or seek advice, please contact Policy and Programs, Disability, Child, Youth and Family Services on 6233 4895 or cpmanual@dhhs.tas.gov.au.

Important note: This information does not constitute legal advice. If more information is required, consult the relevant legislation or a legal adviser, as necessary.

Disclaimer: While reasonable efforts have been made to ensure that the contents of this document are correct, the Crown in Right of the State of Tasmania, its agencies and employees, do not accept responsibility for the accuracy or completeness of the contents, and is not liable to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the contents of this document.

Personal Information Protection Statement

Information Collected

The Department of Health and Human Services (DHHS) delivers integrated services and coordinated care to achieve the best health and wellbeing outcomes for its clients.

Under the *Personal Information Protection Act 2004* the DHHS is the custodian of personal information and the collection, use and disclosure of that information is governed by the Act.

The type of personal information we collect includes names, addresses and telephone numbers, together with any specific information about a person that may be required to enable us to provide the service. We take reasonable steps to ensure that the personal information we hold is accurate, complete and up to date. Where practicable, we will check on the accuracy of your personal information before we use it.

Sensitive Information

Sensitive Information includes things like health information, criminal record, racial origin and sexual preferences. Generally we will only collect sensitive information with your consent. However, in some circumstances the collection of sensitive information may be required or permitted under a law which does not require your consent.

Anonymity

If you are making a general enquiry, it may not be necessary to identify yourself. However, if you want to obtain a service, identification may be necessary.

Unique Identifiers

We do not assign unique identifiers to people unless it is necessary for us to carry out our functions efficiently or is required by law. We do not adopt as our unique identifiers the unique identifiers from another organisation. However, we may collect the unique identifiers assigned to you by another organisation, but we will not disclose these without lawful authority.

Use and Disclosure of Personal Information

Our staff are only provided with or have access to the information that is necessary for them to carry out their functions within the DHHS. All staff are bound by confidentiality agreements.

Personal information will be used only for the purposes described in the Information Collected section above. Your personal information will only be disclosed to organisations or individuals operating outside the Department's integrated services with your consent, or if it is required by or authorised by law.

There may be a need or requirement to disclose some or all information we collect to contractors and agents of the DHHS, non-government organisations, law enforcement agencies, courts or other public sector bodies.

The *Personal Information Protection Act* permits the disclosure of "basic personal information" (that is, name, address, date of birth and gender) that is collected in conjunction with the provision of a service to other public sector bodies for data quality purposes. Some de-identified personal information we have collected may be used in research, statistical analysis, state or national reporting, awareness programs, public statements or training, but not in a way to compromise the protection of personal information.

Personal information in written submissions on policy matters or matters of public consultation may be disclosed in reports that are made public, unless the submission was submitted and/or accepted on a confidential basis.

Security of Personal Information

We use a number of procedural, physical, and technical safeguards, including access controls, secure methods of communication and back-up and recovery systems to protect information from misuse and loss, unauthorised access, modification and disclosure.

Generally, there is an intention that information is destroyed or permanently de-identified when it is no longer required, but this can only be done in accordance with processes approved by the State Archivist under the *Archives Act 1983*.

Access to and Correction of Information Collected

The *Personal Information Protection Act* provides that you can access your personal information that is held by the DHHS. If you consider the personal information to be incorrect, incomplete, out of date or misleading, you can request that the information be corrected. Requests to access or correct your personal information held by the DHHS will be processed under the provisions of the *Freedom of Information Act 1991*.

For further information see www.dhhs.tas.gov.au, or contact the Department's Freedom of Information Coordinator on (03) 6233 8354 or fax (03) 6233 4021 or email ots.document@dhhs.tas.gov.au.

Consent to share information form

The attached Personal Information Protection Statement provides information for you about the information we collect and the reasons why this is necessary.

Open and honest communication with you, your family and other services, who have been or may be involved in working with your child and family, is critical to ensure children are safe and secure. We may need to share some of the information we have on our files with other service representatives and we require your written consent to do so.

CLIENT DETAILS

Name:

Address:

1. Personal information will be collected from you and from other sources for the purpose of providing you with appropriate services.
2. Information may also be disclosed to a third party engaged to provide support strategies.
3. This information may be used by Disability, Child, Youth and Family Services and other related services such as Gateway Services to determine appropriate strategies for addressing any risk and safety issues that are identified.
4. Information may also be shared with other professionals helping with risk assessments.
5. Other parties authorised by the law, such as a state government agency, including Education, may also receive relevant information if they share a duty of care for the child or young person.
6. The personal information custodian for your personal information will be the Department of Health and Human Services and you may contact the custodian through your primary worker in Disability, Child, Youth and Family Services or the person working with you in the Gateway Services.
7. The information received from you will not be made public and will only be used for the purposes for which it was collected.

I, acknowledge that this has been explained to me and consent to the use of my information for the purposes outlined above.

Signed..... Dated:

If you do not provide consent for the sharing of your information in the manner as outlined above, we will be unlikely to be able to provide you with a full range of services to meet your needs.

Your consent is not required for the sharing of information in certain circumstances provided for by the *Personal Information Protection Act 2004*.