



GUIDE

INFORMATION SHARING

Information sharing guide



YCAP

Youth crime action plan
2013–2023



**THIS GUIDE IS FOR
groups that
are developing
and implementing
youth crime action plans
for their local community
AND**

**agencies wanting to
share information
to better manage a
young person's case.**

It will help you understand what you should do if you want to share personal information about specific young offenders with other groups and organisations that help young people and children.

This guide is part of the 'YCAP toolkit', a collection of how-to guides and resources to help government agencies and communities work well together.

Why we share information

Kahikatea trees thrive in groups and are rarely seen growing by themselves: their shallow root base means the strength of the individual tree depends on the strength of the collective.

Sharing information about at-risk children and young people enables us to harness our collective strength, make better decisions and make a real difference to young people's lives.

We need to work together and share information so that:

- community action plans have a bigger impact on youth crime
- people and organisations can help young offenders who have multiple, complex issues
- at a local level, agencies can coordinate how they deal with young offenders in their area.

Using this guide

At the heart of this guide is a simple 5-step checklist you can use to help you make decisions about sharing personal information. Detailed information is provided along with each question in the checklist. It will help you:

- understand when you can share personal information
- recognise what you need to do to comply with the Privacy Act 1993 and other legislation, and to make sure you share information safely and appropriately
- know where to get more information and advice.

3 key points

PROCEED WITH CAUTION

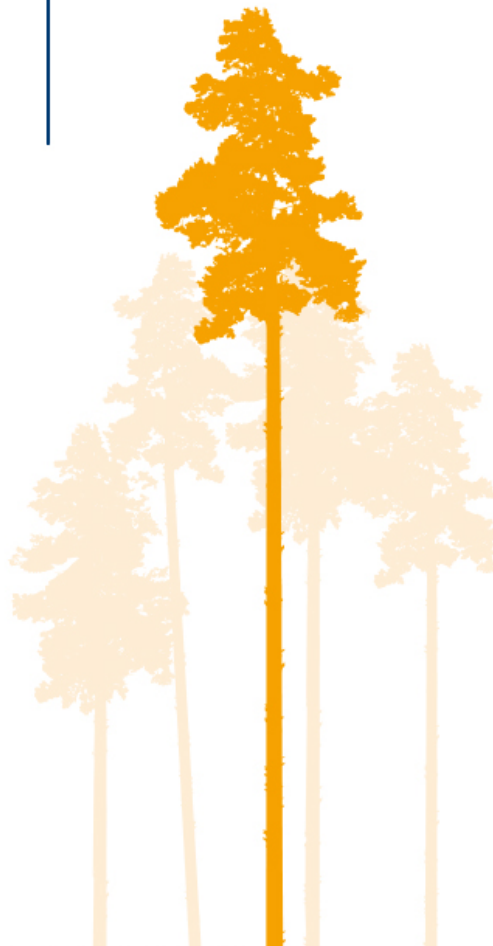
When we make decisions about sharing information, we need to make sure we protect people's privacy. Use your judgement. Think about what information you want to share, who you want to share it with and why you want to share it.

REMEMBER – SAFETY TRUMPS PRIVACY

You can share personal information without needing to get that person's permission if there is a serious threat to public safety or a person's life, health or safety. If there is a serious threat, go straight to question 4 to check whether you should share.

DOUBLE CHECK

It's always a good idea to double check your decision with a supervisor or manager. They will also be able to provide advice if you are unsure about whether it is appropriate to share information.



Information sharing checklist

There are five questions. Start at question 1.

If you answer 'yes', you can share the information.

If you share the information, don't share more than you need to. *Double check your decision with your supervisor or manager.*

If you answer 'no', move on to the next question.

If you answer 'no' to all five questions, you should not share the information.

1

Can we keep the information anonymous?

yes

You can share the information

no

Go to question 2

When you're developing your community action plan, you will need to research and share information about local crime problems.

This information will probably include data such as:

- how many young people have been taken into police custody, the crimes and the outcomes
- local hotspots
- the number of young people referred to Child, Youth and Family.

If the data is anonymous you can share it.

However, remember that just removing names does not necessarily make the information anonymous. Information that contains a young person's age, location and criminal history might, when read together, be enough to identify that young person, especially if the information is shared with a person working in the youth justice sector.

You may want to share information to help manage a young person's case. Consider whether you can do this without sharing that young person's personal information – sometimes just saying 'I have information that suggests [action] is/isn't appropriate' can be helpful.

If you can't keep the information anonymous, you should work through the remaining questions in the checklist.

The remaining questions are most likely to be relevant when you are managing a specific young person's case, and you need to share personal information about them, their family members and other people in their lives. This information might cover the young person's:

- health, such as their history of mental illness
 - family situation, such as the young person having witnessed domestic violence
 - education, such as low achievement or truancy.
-

2

Do we already have permission to share?

yes

You can share the information

no


Go to question 3

As a general rule, you can use and share personal information if you are using it for the purpose the information was collected in the first place and the person understood this when they provided the information.

Even so, you might still want to tell the person that you are sharing it. That's because people's views and circumstances change. So regularly check in with the person to make sure they are still OK with you sharing their personal information and to let them know how you are sharing it. With children and young people in particular, their situation can be very fluid – checking in with the young person gives them an opportunity to update you on any relevant changes.

Also, being open about sharing the information might help build a relationship of trust with the young person that will help you in your work with them.

QUICK TIP If it feels like gossip it probably is.



3

Can we get their permission to share?

yes

You can share the information

no

Go to question 4

If you're using the information for a purpose that is different from the one it was collected for, you need to ask for permission from both the young person and any other affected people (although there are exceptions to this rule – see questions 4 and 5).

To give consent for you to use and share their personal information, the person must fully understand:

- the risks involved and what will probably happen if they give permission
- who you want to share the information with and why
- what may happen if they don't give permission – for example, you may not be able to provide certain services.

You should always keep a record of the fact that a person has given their permission. You can get them to sign a consent form or you can make a file note if they give their approval verbally.

Your agency or organisation will probably have its own policy about how to get consent for sharing personal information. It may also have consent forms to use. If so, you should follow that policy. Some relevant policies are included in the 'Useful links' section at the end of this document.

GETTING CONSENT FROM CHILDREN AND YOUNG PEOPLE

You will need to make a judgement call about whether or not a specific child or young person understands what it means to give consent. If the child or young person is not mature enough to give consent, you will need to get their parent or guardian to approve that information being collected and shared. However, remember that:

- children under 16 are entitled to ask that health information is not given to their parents
- parents can ask for information about their children if the child is either too young to make their own decisions or the child has said the parent can make decisions for them.

INFORMATION ABOUT OTHER PEOPLE

Remember – information that a young person gives you about their family or peers is personal information about those people. You should:

- make sure the information is collected and used in line with the privacy principles in the Privacy Act
- think about whether you can be sure the information is accurate.

You should not share this information without permission from the person the information relates to unless you answer 'yes' to questions 4 or 5.

If you decide to share the information, make sure you tell the person you share the information with how you received it and whether you know if it is accurate.

QUICK TIP

If you later decide you want to share information with another organisation or person, you need to ask the young person for their consent again.



4

Is there a serious threat?

yes

You can share the information

no

Go to question 5

You can share a person's personal information without their permission if there is a serious threat to public safety or to a person's life, health or safety.

Think about how soon the threatened event might happen, how likely it is to happen and how bad the results would be.

Use your professional judgement and remember the 3 key points:

- **proceed with caution**
- **safety trumps privacy** – if you can do something to remove the serious threat, you should do it
- **double check** – with your supervisor or manager.

If you decide to share, keep a record of what information you have shared and the reasons why.

You can find sample scenarios on sharing information (including examples of serious threat) in the Privacy Commissioner's guide on *Sharing personal information of families and vulnerable children* ([privacy.org.nz/how-to-comply/sharing-information-about-vulnerable-children/](https://www.privacy.org.nz/how-to-comply/sharing-information-about-vulnerable-children/)).

QUICK TIP

When you are collecting information, it's important to tell the young person how their information will be treated.

Explain that while information is generally confidential, you can sometimes share it without their permission, such as if there is a serious threat to public safety or someone's life, health or safety.

5

Do other laws let us share the information?

yes

You can share the information

no

Don't share

The Privacy Act 1993 is the main law dealing with personal information. Exceptions to the Act's principles, and a number of laws that override the Act, mean that you can sometimes use a person's personal information without getting their permission. The circumstances are very specific. For example:

- information can be given to the Police to prevent or investigate a particular criminal act
- information about the health or safety of a child or young person can be shared with a police officer or social worker in certain circumstances
- health information can be asked for by someone who needs to provide health services.

If you do share information, remember to record what you have shared and the reasons why.

EXAMPLES OF LAWS THAT OVERRIDE THE PRIVACY ACT

Children, Young Persons, and Their Families Act 1989

- Section 6 – Welfare and interests of child or young person paramount
- Section 15 – Reporting of ill-treatment or neglect of child or young person
- Section 16 – Protection of person reporting ill-treatment or neglect of child or young person
- Section 59 – Application for production of documents relevant to investigation of whether child or young person in need of care or protection
- Section 66 – Government Departments may be required to supply information

Health Act 1956

- Section 22C – Disclosure of health information
- Section 22F – Communication of information for diagnostic and other purposes

Health Information Privacy Code 1994

Accident Compensation Act 2001

- Section 283 – Disclosure of information by Corporation for injury prevention purposes

QUICK TIP

Ask your manager or your agency's legal team about whether a particular law overrides the Privacy Act.

Finally

Only share information if it will be shared & stored safely

Once you are sure it is OK to share a person's information, you should only share it with people or agencies that need to know.

Think carefully, and work through this checklist before sharing personal information in meetings attended by a wide range of agencies and organisations (such as Youth Offending Teams or action planning meetings) – not all these people will need to know the information.

You also need to think about how the information is stored and how you will make sure it is shared safely. Your agency will probably have its own policy about this. At the very least, you need to make sure that:

- papers containing personal information are not left where other people can see them
- when they are not being used, papers containing personal information are locked in a drawer, briefcase or similar place
- electronic files containing personal information can only be accessed by passwords
- electronic personal information is transferred securely (for example, using a USB storage device with encryption and a password).

The agency receiving information must also ensure they use and store it properly:

- make sure information is only used for the reason it was provided
- when using the information at a later date, check with the agency that supplied the information to ensure it is still current and appropriate to use
- make sure other people in the agency who don't need the information don't have access to it.

Useful links

Privacy Act 1993
legislation.govt.nz

Information privacy principles and other information-sharing guidance
privacy.org.nz

Escalation ladder and guide on sharing personal information of families and vulnerable children
privacy.org.nz/how-to-comply/sharing-information-about-vulnerable-children/

Practice briefing: Protecting clients' personal information
my.lawsociety.org.nz

Privacy-related case notes and court decisions
privacy.org.nz/news-and-publications/case-notes-and-court-decisions/

Health Information Privacy Fact Sheet 4: Dealing with requests for health information
privacy.org.nz/news-and-publications/guidance-notes/health-information-privacy-fact-sheet-4-dealing-with-requests-for-health-information/

Ministry of Education's Informed Consent Guidelines
minedu.govt.nz

Health Information Privacy Fact Sheet 3: Disclosure of health information – the basics
privacy.org.nz/news-and-publications/guidance-resources/health-information-privacy-fact-sheet-3-disclosure-of-health-information-the-basics/

Interagency information-sharing guidelines for organisations involved in the care and protection of children
cyf.govt.nz/documents/working-with-others/swis/swis-useful-link-and-tools/reference-resources/interagency-information-sharingguidelines.pdf

For more
information, go to
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