

Information Sharing: Policy and Procedure Guidelines

Children and Young People Act 2008
Chapter 25

*OFFICE FOR CHILDREN, YOUTH AND
FAMILY SUPPORT*

*DEPARTMENT OF DISABILITY, HOUSING AND
COMMUNITY SERVICES*

December 2008

This Policy and Procedure applies to all program areas of the Office for Children, Youth and Family Support. Each Directorate or Business Unit within OCYFS is responsible for ensuring staff receive training on the requirements of this OCYFS Policy and Procedure.

TABLE OF CONTENTS

1. INFORMATION SHARING POLICY

1.1	Policy Scope	Page 4
1.2	Principles of Information Sharing.....	Page 4
1.2.1	Best Interests	Page 4
1.2.2	Participation by Child or Young Person	Page 4
1.2.3	Consent	Page 4
1.3.	Purpose of Information Sharing	Page 4
1.4	Categories of Information Shared	Page 5
1.4.1	Unprotected information	Page 5
1.4.2	Protected Information	Page 5
1.4.2.1	Safety and wellbeing information	Page 5
1.4.2.2	Sensitive information	Page 5
1.5	Delegations - Persons Authorised to Share Information	Page 5
1.6	Mechanisms for Sharing Information	Page 6
1.6.1	Interstate child protection agencies	Page 6
1.6.2	Information sharing entities	Page 6
1.6.3	Territory entities	Page 6
1.6.4	Declared Care Teams	Page 6
1.7	Record Keeping Regarding Sharing Information	Page 6
1.8	Limitations on Sharing Information	Page 7

2. PROCEDURES

2.1	General	Page 7
2.2	Information Holders	Page 7
2.3	Using Information	Page 8
2.4	Information Sharing within OCYFS	Page 8
2.5	Information Sharing with External Entities	Page 9
2.5.1	Non-information Sharing Entities	Page 9
2.5.2	Information Sharing Entities	Page 9
2.5.3	Declared Care Teams	
2.5.3.1	General	Page 11

2.5.3.2	Declaring a Care Team	Page 11
2.5.3.3	Care Team Information Sharing	Page 12
	Care Team Check List	Page 13
2.6	Providing Information to a Court or Investigative Entity	Page 13
	2.6.1 Court	Page 14
	2.6.2 Investigative Entity	Page 14
2.7	Review	Page 14

3. ATTACHMENTS

1	Glossary	Page 15
2	Key Points - Information Sharing	Page 17
3	Information Holders Fact Sheet	Page 18
4	Information Sharing Entity Fact Sheet	Page 19
5	Declared Care Team Fact Sheet	Page 20
6	Records - Care Team (OCYFS)	Page 21
7	Care Team Record Keeping for Members - Fact Sheet	Page 22
8	Consent to Obtain or Share Information	Page 23
9	Section 862 form – Request for information from an Information Sharing Entity	Page 24
10	Care Team Declaration form	Page 25
11	Case Conferences (OCYFS)	Page 26
12	Request for information from an Information Sharing Entity (OCYFS)	Page 27
13	Privacy Principles	Page 28
14	National Privacy Principles (NPP's) Summary	Page 31
15	Other Legislation	Page 32

1. INFORMATION SHARING POLICY

1.1 Policy Scope

This policy provides clarification about why, when and how to share information legally, professionally and appropriately when obtained while performing a function under the *Children and Young People Act 2008 (the Act)*. Other legislation is also relevant to information sharing and further details are at Attachment 15. Other legislation affecting information sharing includes:

Health Records (Privacy and Access) Act 1997

Freedom of Information Act 1989

Privacy Act 1988 (Commonwealth)

Territory Records Act 2002

Public Sector Management Act 1994

Human Rights Act 2004

Crimes (Sentencing) Act 2005

Crimes (Sentence Administration) Act 2005

Criminal Code 2002

This document supports OCYFS staff when performing a function under the *Act*. It is essential that you become familiar with the provisions of the *Children and Young People Act 2008* as well as with this policy. This document is supported by attachments and is to be used in conjunction with these attachments. Up to date copies of all ACT legislation are available at www.legislation.act.gov.au

1.2 PRINCIPLES OF INFORMATION SHARING

1.2.1 BEST INTERESTS

The paramount, guiding principle of every decision made and action taken under the *Act* is to promote the best interests of children and young people. Maintaining a focus on this principle in all your decision-making will enable you to make quality decisions about information sharing and other aspects of your work. The information secrecy and sharing provisions of the *Act* are intended to facilitate information sharing and ensure that information is shared appropriately.

1.2.2 PARTICIPATION OF CHILD OR YOUNG PERSON

Consideration of the views and wishes of children and young people in matters which affect them is one of the main objects of the *Act*. Decisions about information sharing should be discussed in an age appropriate way with young people and children, if they are judged to be able to understand.

1.2.3 CONSENT

The gathering and sharing of information is best undertaken within an environment where the individuals involved provide informed consent to the sharing of their personal information or that of their child, if their child is judged unable to make an informed decision. Other than what the *Act* identifies as 'sensitive information', providing and sharing of information by consent removes the need for other legislative processes to be invoked.

1.3 PURPOSE OF INFORMATION SHARING

Appropriate information sharing is necessary to:

- Protect and promote the health, safety and wellbeing of children and young people;
- Develop interventions based on a holistic assessment of the child or young person's history, current circumstances and level of risk;
- Facilitate early interventions for child or young person to prevent or reduce the likelihood of increased statutory intervention; and
- Facilitate regular inter-agency dialogue, to foster cooperation and coordination to protect, promote and support the best interests of the individual child or young person.

1.4 CATEGORIES OF SHARED INFORMATION

The types of information that may be shared fall into two broad categories – unprotected information and protected information. Within the category of protected information, there are two sub-categories - 'safety and well-being information' and 'sensitive information'.

1.4.1 UNPROTECTED INFORMATION

Unprotected information is information about a person that you obtain for a reason that is not related to your function as an OCYFS staff member. This could include information that is generally known to the public. Most of the information you obtain about a person will be given to you because of your work as an OCYFS staff member. An example of unprotected information would be a person's views/information on a matter following a television newscast on that matter involving that person.

1.4.2 PROTECTED INFORMATION

Protected information is information about a person that you receive because you are exercising a function as an OCYFS staff member under the *Act*. Because you exercise a function under the *Act* you are an *information holder*. Each person that you provide protected information to becomes an *information holder*. Almost all of the information you receive about a person will be protected information. Protected information has two sub-categories; safety and well being information and sensitive information.

1.4.2.1 SAFETY AND WELLBEING INFORMATION

Safety and wellbeing information is information relevant to the health, safety or wellbeing of a child or young person. Safety and wellbeing information might be about another person, for example a parent of a child or young person. Such information would be categorised as safety and wellbeing information if it is relevant to the health, safety of wellbeing of the child or young person. Safety and wellbeing information is always protected information. Examples of safety and wellbeing information include a parents drug use history, the criminal history of a person caring for a child or the child's educational testing results.

1.4.2.2 SENSITIVE INFORMATION

Sensitive information is pre-natal report, care and protection report and appraisal information, interstate care and protection information, family group conference information and contravention report information. Sensitive information includes anything that would allow the information in a care and protection report etc to be worked out. For example, if the report is from a school, any information that identifies it came from a person in a school setting - use of words such as 'at recess' or 'on an excursion'.

1.5 DELEGATIONS - PERSONS AUTHORISED TO SHARE INFORMATION

Staff who request, share or provide information to others under the sharing information provisions of the *Act* must have the appropriate delegations. Delegations provide the staff member with the authority to undertake actions on behalf of the Chief Executive. The current delegations are available on the OCYFS Web Portal and from your supervisor. Delegations may change and it is important you regularly confirm your position has the necessary delegations.

1.6 MECHANISMS FOR SHARING INFORMATION

The *Act* provides authority to give information to and obtain information from a person or entity through a range of powers when it is in the best interests of a child or young person to do so.

1.6.1 INTERSTATE CHILD PROTECTION AGENCIES

Delegated OCYFS staff are authorised to share information with interstate agencies with similar functions if it is necessary for that agency to have the information to fulfill their legal functions under an interstate law. For example, sharing information with NSW Youth Justice when considering an interstate transfer or when requesting an interstate government agency undertake a family assessment.

1.6.2 INFORMATION SHARING ENTITIES

The *Act* defines a list of individuals and agencies as *'information sharing entities'* (s859). This includes parents or persons with parental authority for a child or young person, out of home carers, a Minister, an ACT education provider, a police officer or others. Delegated staff may share safety and wellbeing information with an *'information sharing entity'*. The *'information sharing entity'* may also provide information to OCYFS staff, whether or not a request for information has been made. Formal requests for information made to an *information sharing entity* by OCYFS must be complied with, promptly, and in an emergency, within 24 hours. Information sharing entities include Territory entities.

1.6.3 TERRITORY ENTITIES

Territory entities (s25 – Police, Public Advocate, Child at Risk Health Unit etc) may be asked to provide assistance to staff (including information) relevant to the physical or emotional wellbeing of a child or young person. Territory entities include other public employees (excluding a judge or magistrate), Police and a Territory authority (excluding the Human Rights Commission). Territory entities are information sharing entities.

1.6.4 DECLARED CARE TEAMS

A declared Care Team will facilitate information sharing between individuals and entities responsible for delivering or coordinating a service to a child, young person or a member of their family. A declared Care Team may include people who are not information sharing entities. Details about how Care Teams are declared and operate are at 2.5.3 in this document.

1.7. RECORD KEEPING REGARDING SHARING INFORMATION

All OCYFS staff must maintain accurate and up to date records of information sharing, whether this involves providing and/or obtaining information. When agencies external to OCYFS are contracted to perform functions on behalf of OCYFS, they are also required to maintain records on behalf of OCYFS of this information. These records are Territory records. This requirement will be included in future contracts (e.g. out-of-home care agencies). These records are to be returned to OCYFS once a child or young person has left the agencies care.

Other entities that share information with OCYFS must be advised by staff that they should maintain up to date and accurate records regarding the information shared.

1.8. LIMITATIONS ON SHARING INFORMATION

Information sharing is supported by the *Act* when it is in the best interests of the child or young person to do so. The most important limitation on the sharing of information is the requirement to protect the identity of an individual who has made a child concern report, a child protection report, a pre-natal report (either under the *Act* or the equivalent interstate legislation) or a contravention report. This information is not to be disclosed to anyone (other than within OCYFS) except when ordered by a Court.

In certain circumstances, it is an offence for an information holder to record or divulge protected information. Information holders may be prosecuted and criminal sanctions may apply. (ss846-849).

2. PROCEDURES

2.1 GENERAL

In making a decision about whether information may be shared with a person, staff must consider:

- why it is in the best interests of a child or young person to share the information;
- the type of information being shared: *protected, safety and wellbeing* or *sensitive* and whether you have the delegation to share the information;
- whether the person receiving the information is an *information sharing entity* or part of a *declared Care Team*, and if not, for what purpose and with what authority are you sharing the information; and
- how the information shared will be used.

Information sharing occurs between staff, with other agencies, with children and young people and with their families. Information is shared through formal and informal processes. Information sharing methods are dependant on the information collected. A record of the information collected, the authority and purpose of its collection, must be made on the child or young person's file.

2.2 INFORMATION HOLDERS

OCYFS staff exercising a function under the *Act* are '*information holders*'. When an OCYFS staff member provides information to another person or entity, that person becomes an *information holder*. Information holders have a legal responsibility to protect the information they have received about children and young people under the *Act*. This responsibility extends to people who have had a past involvement with a child or young person under the *Act* or prior legislations.

It is important that when an OCYFS staff member shares information with someone, that person is aware of their status as an information holder and their responsibilities. Information holders should be advised of their responsibilities and referred to the Information Holder Fact Sheet (Attachment 3.3) and the Information Sharing Entity Fact Sheet (Attachment 3.4) which are available on the DHCS web site at www.dhcs.act.gov.au/ocyfs/legislation. A record must be made that this has occurred.

Program areas of OCYFS may be required to share information with other program areas of the Department. When sharing information within DHCS the same processes apply except with regards to Consumer Advocacy and Quality Service (CAQS), a section within the Department with investigative functions undertaken on behalf of the Chief Executive. When requested by CAQS, all documents

relevant to the request are provided via your Executive (e.g Director or Senior Manager). CAQS will comply with the information sharing secrecy provisions of the *Act*.

2.3 USING INFORMATION

Information obtained under the *Act* is to be used for a function under the *Act*. When using information in this way, ensure it is always in the best interests of the particular child or young person.

The *Privacy Act 1988* (Cwth) requires staff to inform people who provide information about the purpose for which information is collected and how it may be used. This requirement will be met by OCYFS through privacy statements on documents, referral to relevant information on the departmental web site, verbal information provided by staff and privacy declarations on forms.

Information Sharing Responsibilities

- 1) Inform the person of the authority you have to collect the information – the *Act*.
- 2) Inform the person that the information provided will be recorded – e.g. on an electronic file.
- 3) Inform the person that the information will be secured - e.g. in a confidential file.
- 4) Inform the person the information may be used for the purpose of safety and well being of a child or young person.
- 5) Document that you have completed the steps outlined above.

Eg: “ Progress note Nov 1st 2008 9:10 am
Spoke to Mr XX seeking information regarding (child). I advised the information is sought under the authority of the *Act*. Advised this is protected information under the *Act* and may be shared with others involved in the care of (child). Mr XX indicated he had no problems with the sharing of information as required.

Or

“Informed Mr XX of the authority, purpose, security and use of information sought”.

Or

Attach the following to the document/file note created and tick the relevant boxes -

- Informed the person of the authority I have to collect the information.
- Informed the person that the information provided will be recorded.
- Informed the person that the information will be secured.
- Informed the person the information may be used for the purpose of safety and well being of a child or young person.

2.4 INFORMATION SHARING WITHIN OCYFS

When an OCYFS staff member has identified a child, young person or family as a current client, it is generally in the best interests of the client for the staff member to know the history, current involvement and information held by other program areas. Past information may be accessed through a request for file records (Records Management Unit). If a child, young person or family are known to a program area, information sharing between OCYFS program areas may occur when it is in the best interests of the child or young person concerned. Requests are made through supervisors.

Additional information assists in appropriate assessment, informed decision making and case management. OCYFS staff must ensure compliance with the requirements for sharing ‘sensitive’ and ‘protected’ information under the *Act*. If unclear, discuss with your supervisor or manager.

Initial inquiries to ascertain if there exists relevant information in another program area of OCYFS may be made by checking data systems or with the Team Leader of another program area. Information on

data systems **must only** be accessed in accordance with the requirements of your work, in compliance with the *Act*, the *Public Sector Management Act 1994* and this policy and procedure.

A staff member working with a child, young person or family should discuss the need to share information with others with the child, young person or parent/other and seek their consent and cooperation with this process and explain their powers under the *Act*. Generally speaking, staff should seek the consent of the young person (12 years or older). If a judgement is formed that a child (under 12 years) understands what they are consenting to and the implications of the decision, consent should be sought from the child.

Staff, in compliance with the *Act*, should provide children and young people with age-appropriate information and assistance that will enable them to participate in decision making about matters affecting their care and wellbeing. Clear records must be kept of these processes. Where possible, consent should be in written form. Where consent is verbal, a clear record should be made at the time, noting that consent was obtained.

All OCYFS staff members who share information about children, young people and families during the course of their work are required to complete an annual "Information Sharing - Acceptable Use" form to indicate understanding of their information sharing responsibilities.

2.5 INFORMATION SHARING WITH EXTERNAL ENTITIES

Formal requests for information with entities external to the Department or the declared Care Team who are information sharing entities should be requested using the section 862 Information Request for Information Sharing Entities form and signed by the relevant delegate of the Chief Executive. A copy of this form must be placed on each child or young persons file. The form is at Attachment 9.

2.5.1 INFORMATION SHARING WITH NON-INFORMATION SHARING ENTITIES

Protected information about a person (excluding sensitive information) can be provided to someone who is not an information sharing entity (eg. private counsellor, extended family member) if it is divulged with that person's consent. It is preferable that consent be obtained in writing. Where consent is verbal, a clear record should be made at the time, noting that consent was obtained. The information provided should also be clearly recorded.

Protected information, including some sensitive information, may be given to others, with or without the consent of the person to whom the information relates, if it is in the best interests of a child or young person to do so. Information that cannot be shared is information that identifies a reporter or would allow the identity of a reporter to be worked out.

Requests for information from a non information sharing entity (e.g. family member, private counsellor etc) do not compel the person to provide information. A record (file note) should be made of the request and the response provided.

2.5.2 INFORMATION SHARING WITH INFORMATION SHARING ENTITIES

Providing information to information sharing entities external to the Department should occur through a formal process. All written requests for information, including emails, are to receive a written response including references to the Information Holder Fact Sheet (Attachment 3) and the Information Sharing Entities Fact Sheet (Attachment 4). Requests for information from interstate counterparts are responded to by the Integrated Court Services Unit (CPS) or senior delegated officers of the relevant program areas.

Where a request for information from an information sharing entity outside of OCYFS is made verbally, and it is in the child or young person's best interests to immediately provide the information, this should occur and must be clearly documented (e.g. CHYPS/YJIS/paper file). The person should also be referred to the Information Holder Fact Sheet and the Information Sharing Entities Fact Sheet on the departmental web site to become aware of their responsibilities. A record of these actions must be made and placed on the child or young person's file.

Sharing Information when requested by Information Sharing Entities not in a Care Team

- 1) Ascertain the status of the person requesting the information – a Care Team member, an Information Sharing Entity or a Non Information Sharing entity.
- 2) If the person is an information sharing entity and it is in the best interests of the child or young person to provide the information, the person should be informed of the authority under which the information is provided and referred to their obligations as an information holder before providing the information.
- 3) A record must be made and placed on the child's file of the authority under which the information was provided and the information given.

2.5.3 INFORMATION SHARING - DECLARED CARE TEAMS

2.5.3.1 General –Care Teams

A Care Team facilitates information sharing among individuals and entities working for the child or young person or the family and does not dispense with case conference processes which should in most instances involve the child or young person, parent/s and/or carer/s.

A person or entity may be a member of a Care Team if the Chief Executive or delegate is satisfied that the person or entity is responsible for coordinating or delivering a service or care to the child or young person (or an adult for youth justice matters) or a member of the child or young person's family under the *Act* or for a criminal proceeding under another Territory law (including proceedings and young offenders subject to good behaviour orders under the *Crimes (Sentence Administration) Act 2005*).

A Care Team is declared for an individual child or young person. A Care Team may be declared in many situations including:

- Emergency situations – up to 2 weekday working days - to facilitate information sharing among involved professionals/people;
- Single event situations – where for a single event, declaring a Care Team would facilitate information sharing;
- Ongoing situations – where there is an ongoing need for people working for a child or young person to work together and share information.

For example, a Care Team may be declared by CPS/YJ when there exists an identified group of people working with a young person to provide ongoing care, support and compliance with a Court order, when dealing with an emergency action situation with police, health and other agencies, or when planning or undertaking an initial assessment of a child concern report or when admitting a young person to a youth justice centre.

The authorised delegate making a declaration of a Care Team should have regard to when it is appropriate to declare a Care Team. Where possible, the staff member (proposed Care Team Coordinator) seeking a declaration of a Care Team should discuss the proposal with nominated Care Team members.

Children, young people and parents should be advised that there is a declared Care Team concerning a child or young person that shares information about their safety and well being. Any views expressed by a child, young person or adult should be considered in line with the principles of the *Act*. The

exceptions to this requirement are when it is not considered in the child or young persons best interests or the person is an adult (youth justice). A clear record of the best interests reasons for the decision should be made.

2.5.3.2 Declaring a Care Team

A Care Team may only be declared by Care and Protection Services (CPS) and Youth Justice (YJ) staff with delegated authority (s863). Care and Protection Services Team Leaders or above have the authority to declare a Care Team. Youth Justice (including Bimberi/Quamby and Community Youth Justice) Assistant Managers/Program and Services Manager or above have the authority to declare a Care Team. When a decision is made by Care and Protection Services or Youth Justice that a Care Team is to be declared, the worker must consult and seek the approval of their delegated supervisor. Approval may be granted verbally and later confirmed in writing. The worker becomes the Care Team Coordinator.

Members of a declared Care Team have a recent/current/future role with the child or young person and this may change over time. Membership should be reviewed regularly. Examples of Care Team members include involved family members, foster carers, health professionals, community agency staff, private counsellors and out of home care agency representatives. The membership of the Care Team is determined by the needs of the child or young person and the persons able to assist.

There must only be one Care Team for a child or young person at a given time. In the event of there inadvertently being two Care Teams for a young person (emergency situations), the Team Leader/Assistant Manager/ Program and Service Manager must promptly discuss and decide which Care Team will continue. Care Team Coordinators will advise Care Team members of the decision made as soon as practicable.

The proposed Care Team Coordinator wishing to declare a Care Team should check if there is a current declared Care Team. Youth Justice staff should contact staff directly or the Centralised Intake Service who will advise who is involved. Care and Protection Services staff should contact the Quamby/Bimberi Control Room or the Community Youth Justice area on 62070755. If either Youth Justice or Care and Protection Services have a current declared Care Team, the other program area should join the existing Care Team.

Clarification regarding management responsibilities for the Care Team are addressed between the relevant Operations Managers/Senior Managers. As a general rule, coordination responsibilities rest with the area that declared the Care Team, unless they are no longer involved.

Emergency and Single Event Care Teams

In an emergency, a proposed Care Team Coordinator may consider that a Care Team should be declared. Examples include declaring a Care Team at a hospital with individuals working with the child to facilitate information sharing among professionals or when a Court instructs a program area to address the immediate accommodation/health/financial/care needs of a young person. Consultation with your supervisor should occur. Verbal authority is sufficient in these circumstances. The Care Team Coordinator and the authorising delegate must keep appropriate records on the child or young persons file. Records must include the reason for the emergency, the members of the Care Team and their agency, the provision of information regarding Care Team member responsibilities and the information exchanged by the recorder.

The Care Team Coordinator must provide verbal information to Care Team members about other members of the Care Team and their information sharing responsibilities and refer them to the web site address at www.dhcs.act.gov.au/ocyfs/legislation for additional information. If possible, Care Team coordinators should provide Care Team members with a copy of the Care Team Pamphlet.

If the Care Team continues beyond a period of 2 weekday working days, the Care Team Declaration Form must be completed and the processes outlined in this Guideline followed. A check regarding current declared Care Teams for the child or young person must be made at that time. Care Team Declaration Forms are located on CHYPS, YJIS and the OCYFS web portal.

Ongoing Care Teams

When a Care Team is declared, members are provided by the Care Team Coordinator with information about the Care Team membership and if possible, a copy of the initial Care Team Declaration Form (Attachment 10). Changes to the membership of the declared Care Team are added, dated and signed by the authorised delegate on the original Care Team Declaration Form. A Care Team Coordinator may include new members on the form with the verbal authority of their authorising delegate. This must be later confirmed in writing on the Declaration Form by the authorised delegate. If the Care Team Coordinator changes during the course of a Care Team, this should be recorded on the Declaration Form. The Care Team Coordinator shall verbally/in writing (e.g. email) advise Care Team members of changes to the membership of the Care Team and may provide an updated Declaration Form to members as appropriate.

Members of declared Care Team may not be available to provide information or attend meetings at all times. The Declaration Form provides for a representative of the Care Team member (if an entity) to attend or provide or share information in their place. It is the responsibility of the initial Care Team member (of the entity) to inform their representative of the Care Team responsibilities and relevant information concerning the child or young person.

Confidential details (including contact details) of Care Team members are not included in the Declaration Form. Carers should be referenced by their out of home care agency or relevant OCYFS program area. A copy of the Care Team Declaration Form must be placed on the child or young person's file held by the Care Team Coordinator.

A person may cease to be a member of a Care Team by personal request or by a decision made by the Care Team Coordinator (approved by the authorised delegate). The Care Team Coordinator is to advise members of the Care Team of membership changes.

A Care Team automatically ceases its functions when CPS/YJ involvement with the child or young person has been finalised or if the authorised delegate decides a declared Care Team is no longer appropriate and/or necessary. This is recorded on the Care Team Declaration Form. The Care Team Coordinator is responsible for advising all current Care Team members of this action by email and a record of this action made on the child or young person's file (progress note).

2.5.3.3 Care Team – Information Sharing

Members of the Care Team may receive different levels of information from OCYFS. Members of the Care Team may share '*safety and well being information*' (s867) among themselves and keep the Care Team Coordinator abreast of relevant information. This will enable informed decisions to be made by the Care Team Coordinator.

Care Team members are '*information holders*' and must be advised by the Care Team Coordinator of their information sharing responsibilities and the continuation of these responsibilities after their membership of the Care Team ends. The Care Team Coordinator is to provide members with a copy of the Care Team Pamphlet (where practicable) and refer members to www.dhcs.act.gov.au/ocyfs/legislation for additional information.

Safety and wellbeing information shared among Care Team members is protected (and may be sensitive) information. Members of the Care Team are required to record information shared as a member of the Care Team and must ensure the records identify this information as protected information under the *Act*.

The Chief Executive may issue instructions (s23) on the management and administration of a Care Team. Care Teams will be advised when such directions are issued.

Case Conferences

Care Team members may also attend case conferences convened by OCYFS or other agencies. Care Team members need to exercise caution and consider the information (protected and sensitive) they may provide to persons outside the Care Team, such as a case conference.

Care Team check list - Care Team Coordinators

Emergency (up to 2 weekday working days) and Single Event Care Teams	Ongoing Care Teams
<input type="checkbox"/> Check if threshold for Care Team is met	<input type="checkbox"/> Check if threshold for Care Team is met
<input type="checkbox"/> Check (if possible) if there is a current Care Team - phone call	<input type="checkbox"/> Check if there is a current Care Team - email
<input type="checkbox"/> Seek verbal approval from authorised delegate	<input type="checkbox"/> Seek in principle agreement to declaring a Care Team by authorised delegate
<input type="checkbox"/> Advise Care Team members of other members	<input type="checkbox"/> Identify and consult with potential members of a Care Team
<input type="checkbox"/> Care Team members provided Care Team Pamphlet, advised of their information sharing responsibilities and/or referred to web site for more information	<input type="checkbox"/> Prepare and obtain a signed Declaration Form by an authorised delegate
<input type="checkbox"/> Record actions taken and information provided	<input type="checkbox"/> Scan or place copy of Declaration Form on CHYPS/YJIS
<input type="checkbox"/> Review if Care Team required is to continue beyond 2 working days. If so, follow procedures for Ongoing Care Teams.	<input type="checkbox"/> Advise Care Team members of other members, their information sharing responsibilities, provide (where possible) a copy of the Care Team Pamphlet and refer to web site for more information.
<input type="checkbox"/> If Care Team does not continue, request authorised delegate to record a revocation in the progress notes	<input type="checkbox"/> Record information shared/provided
<input type="checkbox"/> Advise Care Team members of revocation	<input type="checkbox"/> Regularly review if Care Team membership and need is appropriate
	<input type="checkbox"/> When considering revocation, discuss with authorised delegate and Care Team members
	<input type="checkbox"/> Obtain written revocation on Declaration Form from relevant authorised delegate
	<input type="checkbox"/> Advise current Care Team members of revocation

Record Keeping Requirements

- 1) A copy of the Care Team Declaration Form must be kept on a child or young person’s record.
- 2) The Care Team Coordinator is to advise and if possible provide each member with a copy of the Care Team Declaration Form (except for Care Teams declared for periods less than 48 hours).
- 3) The Care Team Coordinator advises members of changes to its membership and makes a file record of this action.

4) Care Team members record keeping must ensure that the recorded information is clearly identified as protected information under the *Act*.

2.6 PROVIDING INFORMATION TO A COURT OR INVESTIGATIVE ENTITY

An information holder must give protected information to a Court or an investigative entity if permitted and required for the *Children and Young People Act 2008* or another Territory law.

The definition of a 'Court' includes any Court in Australia.

An *investigative entity* is an authority or person with power to require the production of or access to documents or the answering of questions. For example, the Public Advocate, the ACT Ombudsman and the Human Rights Commission.

If unclear about what information may be provided, consult the Integrated Court Unit.

2.6.1 COURT

Affidavits in support of an application to the Court may include protected information, informing the Court of evidence concerning a child or young person's circumstances. There may be obligations under another law of the Territory to release protected information, e.g the *Evidence Act 1995 (Cth)* and the *Ombudsman Act 1989*.

On some occasions it may be necessary to provide sensitive information to a Court. This may include information other than the name of the reporter or information that may disclose the identity of the reporter. Only the Court may order the provision of this information. If uncertain, consult the Integrated Court Unit. In making such an order, the Court must hear the views of the information holder in relation to disclosure of this sensitive information, must consider the desirability of protecting the identity of a reporter and must ensure that the sensitive information is provided appropriately.

The restriction of sensitive information is given a high importance due to the nature of the information being protected. The system of voluntary and mandatory reporting is built on reporter and report confidentiality. The consent of the reporter does not override the obligation **not** to disclose this information.

2.6.2 INVESTIGATIVE ENTITY

Staff are required to provide the Public Advocate with a range of information under the *Act*. Other investigative entities may also require the provision of information. This includes the Chief Police Officer, the Human Rights Commission, the Public Advocate and the Ombudsman. Information that identifies a reporter or would allow a reporter's identity to be worked out should not be provided to an investigative entity.

The Public Advocate may request both protected and sensitive information from the Chief Executive, relevant to the physical or emotional welfare of a child or young person. Requests by the Public Advocate should be provided in writing to the Director/Senior Manager of the program area. The Director/Senior Manager is the person authorising and providing a written response. Responses must be provided promptly. Direct requests for information to other staff by the Public Advocate should be directed to the Director/Senior Manager. In case of an emergency, the Public Advocate may request information directly from the Executive.

2.7 Review

This document will be subject to regular review to ensure it reflects appropriate policies and practices that promote the best interests of children and young people and comply with legislative provisions.

GLOSSARY

Term	Definition	Details - Examples
Protected Information section 844	<p>Information about a person gathered by or disclosed to an information holder for a purpose under <i>Children and Young People Act 2008</i>.</p> <p>Protected information includes 'sensitive' information.</p> <p>Delegates of the Chief Executive may provide protected information to other persons.</p>	<p>Information gathered:</p> <ul style="list-style-type: none"> • at intake; • during assessment; • for a child concern or child protection report; • at induction to Bimberi Youth Justice Centre; • during foster care/kinship care assessment; • during the preparation of a pre-sentence report; • at case conferences and other case meetings; • for a health or other report; • for the preparation of an Annual Review Report; • regarding an incident at a child care centre; • personal information provided as part of a child care application for a license; • during implementation of an Indigenous cultural plan or a care plan; • information provided during the course of employment of children inquiries and applications; • in the course of day-to-day case management - contact with children, young people, families and agency representatives.
Sensitive information section 845	<p>Information contained in a child protection report, appraisal or notification made under a previous Act or Ordinance.</p> <p>Delegates of the Chief Executive may provide limited sensitive information in certain circumstances.</p> <p>Note: the name of the reporter and information that identifies the reporter must not be shared unless Court ordered.</p>	<p>Sensitive information is:</p> <ul style="list-style-type: none"> • care and protection report information (s845(2)); • care and protection appraisal information (s845(2)); • interstate care and protection information (s845(2)); • family group conference information (s845(2)); • contravention report information (s845(2)); • information prescribed by regulation (s845(2)); • prenatal report information (s365); and • information that was sensitive information immediately before the commencement of the <i>Children and Young People Act 2008</i> (s940(1)).
Safety and well being information section 858	<p>Information that is relevant to the health, safety or wellbeing of a child or young person. Safety and wellbeing information is protected information and may include sensitive information.</p> <p>Safety and wellbeing information may include information about the child or young person and information about any person relevant to the health, safety or wellbeing of a child or young person.</p>	<ul style="list-style-type: none"> • information about the mental health of a parent of a child or young person that is relevant to the child or young persons care and protection; • information needed to assess whether a child or young person is at risk of abuse or neglect; • information needed to assess whether a child or young person is in need of care and protection; • information needed to implement a care and protection order or youth justice order; • information needed to respond to a serious risk of harm to a child or young person; • information about the health of the child or young person; • information about the educational needs of the child or young person; • information about the immunisation history of the child or young person; • information about the social, emotional and cognitive development of a child or young person; and • information concerning Aboriginal and Torres Strait Islander, cultural, ethnic or religious needs of a child, young person, family and/or community.
Information Sharing Entity	<p>All information sharing entities are information holders.</p>	<ul style="list-style-type: none"> • a parent of the child or young person; • someone else who has parental responsibility for a child or young person - (ss 15-21);

<p>section 859</p>	<p>People who are not information sharing entities include:</p> <ul style="list-style-type: none"> • Family members who do not have parental responsibility; • Private psychologists who are not part of health facility; (health facility is defined as a facility where health services are provided);or • Private tutors. 	<ul style="list-style-type: none"> • an out-of-home carer for a child or young person (ss 508-514); • a foster care service (s 515); • a Minister; • an ACT education provider (s 25 - includes government, non-government schools, training organisations and ACT universities); • a police officer or a member of a police service or force of a State; • a health facility; • any of the following entities that provides services to, or has contact with, the child or young person or his or her family: <ul style="list-style-type: none"> (i) an administrative unit; (ii) a community-based service; (iii) a territory authority (other than the legal aid commission); (iv) a territory instrumentality; (v) an entity established under a law of a State or the Commonwealth; (vi) the holder of a position established under a law of a State or the Commonwealth; (vii) a public employee (other than a judge or magistrate).
<p>Information Holder</p> <p>section 843</p>	<p>Persons who are or have been the Chief Executive or her delegates, Public Advocate, Official Visitors, an approved researcher, someone exercising a function under the Act (except a Judge or Magistrate) or persons engaged in the administration of the Act.</p> <p>Information holders may share information in accordance with the provisions of <i>the Act</i>.</p>	<p>Information holders include:</p> <ul style="list-style-type: none"> • people who possess information because they used to have statutory functions under the Act (ex staff); • people who possess information because they used to provide foster care, kinship care or were employed by an agency providing care to children and young people under the Act; • people who possess information because it is in a child or young person's best interests for them to have access to some protected information • foster carers with parental responsibility; • natural parents with parental responsibility; • all Office for Children, Youth and Family Support staff having information related to a function under the Act.
<p>Care Teams</p> <p>section 863</p>	<p>A Care Team must be declared by Youth Justice or Care and Protection Services. Other sections of OCYFS may become members of the Care Team.</p> <p>The Chief Executive or delegate may include a person or entity as a member only if satisfied the person or entity is responsible for coordinating or delivering a service or care to the child, young person or family.</p> <p>Safety and wellbeing information may be shared between Care Team members. Care Team members are information holders and are required to share information in compliance with the Act.</p>	<p>Care Team members may include:</p> <ul style="list-style-type: none"> • an out-of-home carer • an out of home care provider • a counsellor • a psychologist • a health professional • an education provider • a family support worker • a youth support worker • a therapeutic protection service • a member of the child or young person's treating team under the <i>Health Records (Privacy and Access) Act 1997</i> <p>This list is not exhaustive and in certain circumstances may include a parent, police officer etc.</p>
<p>Investigative Entity</p>	<p>An investigative entity means an entity with power to require the production of documents or the answering of questions.</p>	<p>The department has specific procedures for the provision and management of these requests. This includes the Chief Police Officer, the Human Rights Commission, the Public Advocate and the Ombudsman.</p>

KEY POINTS - INFORMATION SHARING

1. Information sharing is authorised by the *Children and Young People Act 2008* (the *Act*) when it is in the best interests of the child or young person and when performing a function under the *Act*. Information sharing is crucial to making informed decisions about interventions with a child, young person or their family.
2. Personal information, other than sensitive information, may be shared with the consent of the person whom the information is about. Such consent, where possible, should be obtained in writing or a record made of the consent provided.
3. Information obtained by services and individuals in the course of performing a function under the *Act* is **protected** information. Some information received is *protected and sensitive* information. As a general rule, you may share **protected information** when performing a function under the *Act* and when doing so is in the best interests of the child or young person.
4. Information that would identify a reporter or would allow the identity of a reporter of a child protection report to be worked out is sensitive information that is **not** to be shared unless ordered by the Court.
5. Information must be shared for a purpose under the *Act*.
6. People who exercise a function under the *Act* or who are provided with information by a person exercising a function under the *Act* become **information holders**. Information holders may share information when performing a function under the *Act* and when it is in the best interests of the child or young person. An information holder's status continues after they cease to perform the duties that led to them becoming an information holder.
7. Declared Care Teams members may share information between members to ensure informed decision making regarding actions for a child, young person or their family.
8. Records must be kept of information requested and shared.
9. If you are unclear about your information sharing responsibilities, consult your supervisor.
10. Refer to the detailed Information Sharing Policy and Procedures Guidelines for additional information.

INFORMATION HOLDERS – FACT SHEET

1. An *Information Holder* is a person who is (or has been in the past):
 - a. the Chief Executive;
 - b. the Public Advocate;
 - c. an Official Visitor;
 - d. another person who exercises a function under the *Act*; or
 - e. a person who has been given information by one of the people listed.
2. All OCYFS staff are Information Holders.
3. All information you receive as an Information Holder is *protected* information.
4. Some protected information you receive as an Information Holder will be *sensitive* information. Sensitive information is:
 - i. Care and protection report information;
 - ii. Care and protection appraisal information;
 - iii. Family group conference information;
 - iv. Interstate care and protection information;
 - v. Contravention report information;
 - vi. Pre-natal report information; and
 - vii. Information prescribed by regulation.

Sensitive information includes anything that would allow someone to work out the information in a. – f. above.
5. The *Act* allows the sharing of *protected* information when it is in the best interests of a child or young person to do so and when you are performing a function under the *Act*. For example protected information collected in preparing an annual review report or pre-sentence report.
6. You can share protected information if the person the information is about consents to you sharing their personal information, provided the information not *sensitive* information. The persons consent does **not** allow you to share sensitive information *unless* it is in the best interests of a child or young person to do so.
7. You must **not** share any sensitive information that identifies a person who made a child concern report, a care and protection report, a pre-natal report, provided interstate care and protection information, a contravention report or family group conference information. You must **not** share information that would allow the identity of the reporter to be worked out.
8. You can share protected information under another law in force in the Territory (including a Commonwealth law) if the information is not sensitive information.
9. Additional information is available at www.dhcs.act.gov.au/ocyfs/legislation
10. Penalties are set out in the *Act 2008* for inappropriate sharing of protected information (s846).

INFORMATION SHARING ENTITY – FACT SHEET

1. Information Sharing Entities in the *Act* (s859) include:
 - i. A parent of a child or young person;
 - ii. Someone else who has parental responsibility for the child or young person;
 - iii. An out of home carer for the child or young person;
 - iv. A foster care service;
 - v. A Minister;
 - vi. An ACT education provider (as defined at s25);
 - vii. A police officer or member of a police service of a State;
 - viii. A health facility;
 - ix. The following entities that provide services or have contact with the child or young person or family –
 1. an administrative unit;
 2. a community based service;
 3. a territory authority (other than the legal aid commission);
 4. a territory instrumentality;
 5. an entity established under a law of a State or Commonwealth;
 6. the holder of a position established under a law of a State or Commonwealth;
 7. a public employee.

2. The Chief Executive or delegate may share safety and well being information with an Information Sharing Entity. An Information Sharing Entity may ask for or give to the Chief Executive or delegate information relevant to the safety or wellbeing of a child or young person. (ss 860 and 861). When gathering information, advise people of the authority and refer them to relevant information at www.dhcs.act.gov.au/ocyfs/legislation

3. Information exchanged between the Chief Executive or delegate and an Information Sharing Entity is obtained as part of a cooperative and collegiate relationship between the people seeking to ensure informed responses are provided for children and young people under the *Act*.

4. The *Act* compels an Information Sharing Entity to provide information when requested by the Chief Executive or delegate. The *Act* does not compel the Chief Executive to provide information.

5. Information requests should be responded to promptly and, in identified emergencies, within 24 hours of a request having been made.

6. Information Sharing Entities and the Chief Executive or delegates have obligations and responsibilities regarding the information exchanged or obtained. Details are provided in the Information Sharing Policy and Procedure Guidelines or at www.dhcs.act.gov.au/ocyfs/legislation

7. Accurate and contemporaneous records of information shared and requested concerning a child or young person must be kept by Information Sharing Entities.

DECLARED CARE TEAM – FACT SHEET

1. Declared Care Teams promote coordinated and planned services for children, young people and their families and facilitate the sharing of information among its members.
2. A Care Team must be declared for each individual child or young person.
3. The Chief Executive may consider a person or entity to be a member of a Care Team for a child or young person if satisfied that the person/entity is responsible for coordinating or delivering a service or care to the child or young person or their family members under this Act or for a criminal proceeding under another Territory law.
4. Providing care to a child or young person does not automatically make a person a member of the child or young person's declared Care Team. A person must be formally declared.
5. Care Teams may be declared by authorised delegates of the Chief Executive in Care and Protection Services or Youth Justice. There should only be one Care Team for a child or young person.
6. The Chief Executive or delegate is a member of every Care Team. The Care Team Coordinator is generally the worker from the relevant program area that declared the Care Team or as otherwise agreed between CPS and YJ.
7. Care Team members may share information with the Chief Executive and/or with each other when it is in the best interests of child or young person to do so. Information exchanged should promote the best interests of the child or young person and undertaken as part of a cooperative and collegiate process to inform decision making for the child or young person.
8. Information shared among Care Team members should be shared with the Care Team Coordinator to ensure informed decision making is achieved. It is not necessary to share information with all other Care Team members solely because you are a member of a Care Team.
9. Declared Care Team members are Information Holders under the *Act*. All information received as a member of a declared Care Team is protected information.
10. If, as a member of a Care Team, you are also an Information Sharing Entity (s859), you must comply with a request for information from the Chief Executive.
11. Care Team members must maintain accurate records of decisions to share information within a Care Team.
12. The Chief Executive may make instructions under the *Act* for Care Teams and members are required to comply with these instructions. This could include more specific information sharing processes.
13. Additional information is available at www.dhcs.act.gov.au/ocyfs/legislation or by contacting the Care Team Coordinator.

CARE TEAM - RECORD KEEPING FOR MEMBERS – FACT SHEET

If you are a member of a Care Team for a child or young person you should:-

1. Keep a copy of the Care Team Declaration Form (if provided) on the file you have relating to that child or young person.
2. Identify records of information provided and obtained within the Care Team and indicate on those records that they relate to the Care Team for that child or young person. Ensure that the records clearly identify that the information within the file is obtained under the *Children and Young People Act 2008* and the provision of information in the file must comply with the secrecy requirements of the *Children and Young People Act 2008*. Reference may be made to the information available at www.dhcs.act.gov.au/ocyfs/legislation
3. Ensure that access to the records is only provided to those with a need to know, particularly if they are your representative on the Care Team in your absence.
4. Ensure that accurate records are made at the time you provide or obtain information from Care Team members. Check your records to ensure that the other person is a continuing member of the Care Team.
5. Ensure all emails and documents provided as part of the Care Team form part of the record.
6. If there is a change to the membership of a Care Team you will be advised of this change by the Care Team coordinator.

CONSENT TO SHARE INFORMATION FORM

CONSENT TO OBTAIN/SHARE INFORMATION

(Pursuant to a function under the Children and Young People Act 2008)

I [name of person], I authorise a member of staff from the Office for Children, Youth and Family Support [identify the specific area - CPS/YJ/YOUTH/ATSISSD/C&FC] to request/share [delete if not required] information pertaining to their involvement with me/or my child/young person [delete if not required] with the following agencies/people:

.....
.....
.....
.....
.....
.....
.....

The request/sharing of information is for a function performed related to the Children and Young People Act 2008. The information shared/requested is subject to the secrecy provisions of the Children and Young People Act 2008. I understand that the information obtained may also need to be shared with others without my agreement if it is in the best interests and related to the safety and well being of[name of child/young person].

.....
Signature
/ /

.....
[Please print name]

I [name of staff member] have advised [name of person above] the reasons why the information is required, the ways the information may be used and the basis upon which the information may be shared with others under the Children and Young People Act 2008.

.....
Signature
/ /

.....
[Please print name]

A copy of this document should be provided to the person providing the consent.

SECTION 862 FORM

Request for Information from an Information Sharing Entity

Dear Madam/Sir

I am writing to request information pursuant to section 862 of the *Children and Young People Act 2008*. This information may assist the Chief Executive or delegate to discharge our statutory functions under this *Act*.

Section 862 of the *Act* authorises the Chief Executive of the Department of Disability, Housing and Community Services to request information concerning the safety and wellbeing of a child or young person from an information sharing entity. A copy of the relevant section of the Act is attached for your information.

The information I request relates to the following child/young person:

CHILD/YOUNG PERSON'S NAME:

DOB:

ADDRESS:

PARENT'S NAME:

DOB:

ADDRESS:

PARENT'S NAME:

DOB:

ADDRESS:

The information/documentation requested relates to:

- Example - *Criminal History and file records for a national search.*

This information will be used for the purpose of:

- [];
- []; and
- [].

Please fax information directly to (insert name), (title) (OCYFS program area), at fax number (insert number), or contact myself or the worker on (insert number) if you require further clarification or discussion regarding this request. It would be appreciated if the information were received as soon as possible.

Yours faithfully

Name of Worker:

Name of Authorised Delegate:

Signature

Date

Signature

Date

CARE TEAM DECLARATION FORM
Children and Young People Act 2008

Declaration

I, [name of authorised delegate], a delegate of the Chief Executive of the Department of Disability, Housing and Community Services, declare, in accordance with sub-section 863(1) of the *Children and Young People Act 2008*, that as of [date], a Care Team is formed concerning:

Name of child/young person/adult	Date of birth
---	----------------------

I declare the following people/entities to be members of the Care Team for [name of child/young person] in accordance with s863(2) of the *Children and Young People Act 2008*:

	Name of person	Entity/Role	Date		Authorised Delegate <small>sign and print name if not legible</small>
			Commence	Cease	
1 e.g.	Cathy Smith	Care Team Coordinator CPS	10/11/08	15/3/09	<i>John Jones</i> - CPS
2 e.g.	Mohammed Kushan	ACT Health - CAMHS	10/11/08		<i>John Jones</i>
3 e.g.	Foster Carer	Marymead Foster Program	10/11/08		<i>John Jones</i>
4 e.g.	Mary Li	Care Team Coordinator YJ	15/3/09		<i>Peter Johnson</i> - YJ
5 e.g.	John Williams	Aboriginal and Torres Strait Islander Services Unit	18/3/09		<i>Peter Johnson</i> YJ
6					
7					
8					
9					
10					
11					
12					
13					
14					

In the absence of the named person, a representative of the agency providing a service to the child or young person may act as a Care Team member. Care Team members have been advised of their information sharing responsibilities under the *Act* and that additional information is at www.dhcs.act.gov.au/ocyfs/legislation

Revocation

I, [name of authorised delegate], a delegate of the Chief Executive of the Department of Disability, Housing and Community Services, declare that the Care Team for [name of child/young person] declared on [date of initial declaration] is revoked.

.....
Name
Authorised Delegate
Program Area

Information in this document is subject to the information sharing and secrecy provisions of the *Children and Young People Act 2008*

CASE CONFERENCES (OCYFS)

I [name], from [program area], have convened this case conference to share information concerning [name of child/young person] to plan and determine actions to support [name] and [her/his] family. This is a function I perform under the *Children and Young People Act 2008*.

During the meeting we will share personal information about [name of child/young person] and [her/his] family. As this information is obtained for a function under the *Act* it is confidential and protected by the *Act*.

All of us present are required to comply with the information sharing provisions of the *Children and Young People Act 2008*.

The *Act* allows the sharing of **protected** information when it is in the best interests of a child or young person to do so and when performing a function under the *Act*.

Some information that is protected information is also sensitive information and there are only limited circumstances in which this information may be shared. This is particularly relevant regarding child protection reports and any information that could identify a reporter.

Generally we can share information with the consent of the child (if able to provide informed consent), young person or family. We should all try to work within this voluntary framework.

The Chief Executive or delegate also has authority to ask certain people for information and this information must be promptly provided.

Additional information on the confidentiality requirements of the *Act* is available at www.dhcs.act.gov.au/ocyfs/legislation There are penalties in the *Act 2008* for inappropriate sharing of protected information (s846).

REQUEST FOR INFORMATION FROM AN INFORMATION SHARING ENTITY
--

I, [name of delegated OCYFS staff member], am [identify your function under the *Children and Young People Act 2008* – e.g. preparing a pre-sentence report on (name of child/young person)] and I am inquiring if you could assist me with information relevant to the safety and wellbeing of [name of child/young person].

[With consent] I have the written consent of [name of parent of child/young person or child or young person] for you to provide this information to me.

[Without consent] I am asking for this information as a delegate of the Chief Executive under the authority of the *Children and Young People Act 2008* (s862).

[Use if person is reluctant to provide information] This request is authorised under the *Children and Young People Act 2008* and the *Act* requires that you provide the information I have requested. You may wish to confirm this with your supervisors and get back to me as soon as possible.

[In emergencies] I am seeking information on an urgent basis as [indicate general reason for emergency] and ask that you provide me with the available information as soon as possible or no longer than within the next 24 hours.

[Summary] Information you may provide me will become 'protected information' under the *Children and Young People Act 2008* (s844). This means it can be shared in certain circumstances. Some information may not be shared as it is sensitive and I will advise you if this is the case with the information you provide. [advise if information constitutes care and protection report information or any of the other information detailed below].

The information you provide may be shared in accordance with the provisions of the *Children and Young People Act 2008* to promote the safety and well-being of [name of child or young person] and only when it is in [her or his] best interests to do so. The information is likely to be shared with [identify any persons or entities that you are aware may require information and/or general information about the likely situations where the information would be shared].

Sensitive information means any of the following:

- a. A care and protection report
- b. A care and protection appraisal
- c. Family group conference information
- d. Interstate care and protection information
- e. A contravention report
- f. A pre-natal report
- g. Information prescribed by regulation.

Sensitive information includes anything that would allow someone to work out the information in a. – f. above.

PRIVACY PRINCIPLES

Principle 1 - Manner and purpose of collection of personal information

1. Personal information shall not be collected by a collector for inclusion in a record or in a generally available publication unless:
 - (a) the information is collected for a purpose that is a lawful purpose directly related to a function or activity of the collector; and
 - (b) the collection of the information is necessary for or directly related to that purpose.
2. Personal information shall not be collected by a collector by unlawful or unfair means.

Principle 2 - Solicitation of personal information from individual concerned

Where:

- (a) a collector collects personal information for inclusion in a record or in a generally available publication; and
- (b) the information is solicited by the collector from the individual concerned; the collector shall take such steps (if any) as are, in the circumstances, reasonable to ensure that, before the information is collected or, if that is not practicable, as soon as practicable after the information is collected, the individual concerned is generally aware of:
 - (c) the purpose for which the information is being collected;
 - (d) if the collection of the information is authorised or required by or under law - the fact that the collection of the information is so authorised or required; and
- (e) any person to whom, or any body or agency to which, it is the collector's usual practice to disclose personal information of the kind so collected, and (if known by the collector) any person to whom, or any body or agency to which, it is the usual practice of that first mentioned person, body or agency to pass on that information.

Principle 3 - Solicitation of personal information generally

Where:

- (a) a collector collects personal information for inclusion in a record or in a generally available publication; and
- (b) the information is solicited by the collector; the collector shall take such steps (if any) as are, in the circumstances, reasonable to ensure that, having regard to the purpose for which the information is collected:
- (c) the information collected is relevant to that purpose and is up to date and complete; and
- (d) the collection of the information does not intrude to an unreasonable extent upon the personal affairs of the individual concerned.

Principle 4 - Storage and security of personal information

A record-keeper who has possession or control of a record that contains personal information shall ensure:

- (a) that the record is protected, by such security safeguards as it is reasonable in the circumstances to take, against loss, against unauthorised access, use, modification or disclosure, and against other misuse, and
- (b) that if it is necessary for the record to be given to a person in connection with the provision of a service to the record-keeper, everything reasonably within the power of the record-keeper is done to prevent unauthorised use or disclosure of information contained in the record

Principle 5 - Information relating to records kept by record-keeper

1. A record-keeper who has possession or control of records that contain personal information shall, subject to clause 2 of this Principle, take such steps as are, in the circumstances, reasonable to enable any person to ascertain:
 - (a) whether the record-keeper has possession or control of any records that contain personal information; and
 - (b) if the record-keeper has possession or control of a record that contains such information:

- (i) the nature of that information;
 - (ii) the main purposes for which that information is used; and
 - (iii) the steps that the person should take if the person wishes to obtain access to the record.
- 2. A record-keeper is not required under clause 1 of this Principle to give a person information if the record-keeper is required or authorised to refuse to give that information to the person under the applicable provisions of any law of the Commonwealth that provides for access by persons to documents.
- 3. A record-keeper shall maintain a record setting out:
 - (a) the nature of the records of personal information kept by or on behalf of the record-keeper;
 - (b) the purpose for which each type of record is kept;
 - (c) the classes of individuals about whom records are kept;
 - (d) the period for which each type of record is kept;
 - (e) the persons who are entitled to have access to personal information contained in the records and the conditions under which they are entitled to have that access; and
 - (f) the steps that should be taken by persons wishing to obtain access to that information.
- 4. A record-keeper shall:
 - (a) make the record maintained under clause 3 of this Principle available for inspection by members of the public; and
 - (b) give the Commissioner, in the month of June in each year, a copy of the record so maintained.

Principle 6 - Access to records containing personal information

Where a record-keeper has possession or control of a record that contains personal information, the individual concerned shall be entitled to have access to that record, except to the extent that the record-keeper is required or authorised to refuse to provide the individual with access to that record under the applicable provisions of any law of the Commonwealth that provides for access by persons to documents.

Principle 7 - Alteration of records containing personal information

- 1. A record-keeper who has possession or control of a record that contains personal information shall take such steps (if any), by way of making appropriate corrections, deletions and additions as are, in the circumstances, reasonable to ensure that the record:
 - (a) is accurate; and
 - (b) is having regard to the purpose for which the information was collected or is to be used and to any purpose that is directly related to that purpose, relevant, up to date, complete and not misleading.
- 2. The obligation imposed on a record-keeper by clause 1 is subject to any applicable limitation in a law of the Commonwealth that provides a right to require the correction or amendment of documents.
- 3. Where:
 - (a) the record-keeper of a record containing personal information is not willing to amend that record, by making a correction deletion or addition, in accordance with a request by the individual concerned; and
 - (b) no decision or recommendation to the effect that the record should be amended wholly or partly in accordance with that request has been made under the applicable provisions of a law of the Commonwealth;
 the record-keeper shall, if so requested by the individual concerned, take such steps (if any) as are reasonable in the circumstances to attach to the record any statement provided by that individual of the correction, deletion or addition sought.

Principle 8 - Record-keeper to check accuracy etc of personal information before use

A record-keeper who has possession or control of a record that contains personal information shall not use that information without taking such steps (if any) as are, in the circumstances, reasonable to

ensure that, having regard to the purpose for which the information is proposed to be used, the information is accurate, up to date and complete

Principle 9 - Personal information to be used only for relevant purposes

A record-keeper who has possession or control of a record that contains personal information shall not use the information except for a purpose for which the information is relevant.

Principle 10 - Limits on use of personal information

1. A record-keeper who has possession or control of a record that contains personal information that was obtained for a particular purpose shall not use the information for any other purpose unless:
 - (a) the individual concerned has consented to use of the information for that other purpose;
 - (b) the record-keeper believes on reasonable grounds that use of the information for that other purpose is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or another person;
 - (c) use of the information for that other purpose is required or authorised by or under law;
 - (d) use of the information for that other purpose is reasonably necessary for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue;
 - (e) the purpose for which the information is used is directly related to the purpose for which the information was obtained.

Where personal information is used for enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue, the record-keeper shall include in the record containing that information a note of that use.

Principle 11 - Limits on disclosure of personal information

1. A record-keeper who has possession or control of a record that contains personal information shall not disclose the information to a person, body or agency (other than the individual concerned) unless:
 - (a) the individual concerned is reasonably likely to have been aware, or made aware under Principle 2, that information of that kind is usually passed to that person, body or agency;
 - (b) the individual concerned has consented to the disclosure;
 - (c) the record-keeper believes on reasonable grounds that the disclosure is necessary to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or of another person;
 - (d) the disclosure is required or authorised by or under law; or
 - (e) the disclosure is reasonably necessary for the enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the protection of the public revenue.
2. Where personal information is disclosed for the purposes of enforcement of the criminal law or of a law imposing a pecuniary penalty, or for the purpose of the protection of the public revenue, the record-keeper shall include in the record containing that information a note of the disclosure.
3. A person, body or agency to whom personal information is disclosed under clause 1 of this Principle shall not use or disclose the information for a purpose other than the purpose for which the information was given to the person, body or agency.

NATIONAL PRIVACY PRINCIPLES (NPP) SUMMARY**NPP 1 — Collection**

Collection of personal information must be fair, lawful and not intrusive. A person must be told the organisation's name, the purpose of collection, that the person can get access to their personal information and what happens if the person does not give the information.

NPP 2 — Use and Disclosure

An organisation should only use or disclose information for the purpose it was collected unless the person has consented, or the secondary purpose is related to the primary purpose and a person would reasonably expect such use or disclosure, or the use is for direct marketing in specified circumstances, or in circumstances related to public interest such as law enforcement and public or individual health and safety.

NPP 3 — Data Quality

An organisation must take reasonable steps to make sure that the personal information it collects, uses or discloses is accurate, complete and up to date.

NPP 4 — Data Security

An organisation must take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure.

NPP 5 — Openness

An organisation must have a policy document outlining its information handling practices and make this available to anyone who asks.

NPP 6 — Access and Correction

Generally speaking, an organisation must give an individual access to personal information it holds about the individual on request.

NPP 7 — Identifiers

Generally speaking, an organisation must not adopt, use or disclose, an identifier that has been assigned by a Commonwealth Government agency.

NPP 8 — Anonymity

Organisations must give people the option to interact anonymously whenever it is lawful and practicable to do so.

NPP 9 — Transborder Data Flows

An organisation can only transfer personal information to a recipient in a foreign country in circumstances where the information will have appropriate protection.

NPP 10 — Sensitive information

An organisation must not collect sensitive information unless the individual has consented, it is required by law or in other special specified circumstances, for example, relating to health services provision and individual or public health safety.

This summary is based on information obtained from the Office of the Federal Privacy Commissioner's website at www.privacy.gov.au

OTHER LEGISLATION

There are several legislations, in addition to the *Children and Young People Act 2008* that affect the provision and sharing of information. These are outlined below. Up to date copies of ACT legislation are available at www.legislation.act.gov.au

Children and Young People Act 2008

The *Children and Young People Act 2008* is the primary authority governing the sharing of information about the safety and wellbeing of children and young people.

- Chapter 25 of the *Children and Young People Act 2008* is the primary information sharing chapter.
- Chapter 11 section 362 provides guidelines for sharing prenatal information;
- Chapter 15 section 529 outlines the legislative obligations of care entities to provide information to children and young people on the request of the Chief Executive;
- Chapter 6 section 186 provide the Chief Executive or delegate to seek health information for a young person known to youth detention.

When requesting, receiving, sharing or recording protected and sensitive information obtained under the *Children and Young People Act 2008*, the interaction with other relevant legislation must be considered. These include:

Privacy Act 1988 (Cth)

The Information Privacy Principles of the *Privacy Act 1988* refer specifically to the appropriate manner and purpose of collection, storage and disclosure of information. All government agencies must take steps to inform individuals why they are collecting personal information, the authority they have to collect it and who it may be disclosed to. Information must be stored securely and only disclosed for health or safety reasons or as required or authorised by law. The provisions of the *Children and Young People Act 2008* enable the lawful sharing of personal information, which is not contrary to the legal requirements of the *Privacy Act 1988*. The *Children and Young People Act 2008* provides that information may be shared when in the best interests of the child or young person.

The private sector provisions of the *Privacy Act 1998* apply to organisations (including not for profits) with an annual turnover of more than \$3 million that are contracted to the Commonwealth or are private health providers (regardless of size). There are 10 National Privacy Principles (NPPs) which require organisations to take reasonable steps to advise individuals that they are collecting personal information about them; the purpose for which information is being collected and who it may be disclosed to. The NPPs also impose restrictions on how personal information can be used, when it can be disclosed or transferred overseas. The *Privacy Act 1988* is focussed on disclosure, at the time information is collected, about how the information will be used, stored and disclosed.

Human Rights Act 2004

Section 12(a) of the *Human Rights Act 2004* provides that everyone has the right not to have his or her privacy, family, home or correspondence interfered with unlawfully or arbitrarily. The information sharing provisions in the *Children and Young People Act 2008* allow for limited and necessary infringement of this right to privacy. This allowance only exists when the sharing of information is authorised under the *Children and Young People Act 2008* – that is when sharing information is in the best interests of a child or young person.

Health Records (Privacy and Access) Act 1997

The *Health Records (Privacy and Access) Act 1997* ensures the integrity, safe keeping and appropriate use of personal health information. The *Health Records (Privacy and Access) Act 1997* provides a consumer (the person to whom a health record relates) the right to access their record. When access is

provided under the *Health Records (Privacy and Access) Act 1997*, only the consumer (which may include the parent of a child or young person) may exercise the right of access to the information. Access to information under the *Health Records (Privacy and Access) Act 1997* must also comply with the information sharing provisions of the *Children and Young People Act 2008*. The sharing of personal health information, as with any personal information, must only occur when the consumer has consented or the sharing of information is authorised under the *Children and Young People Act 2008*.

Freedom of Information Act 1989

The *Freedom of Information Act 1989* provides all members of the community with a right to access Government records. The *Freedom of Information Act 1989* facilitates the provision of personal information by a government agency to individuals including children, young people, parents, extended family or carers. Persons need not make an application for information under the *Freedom of Information Act 1989* if the *Children and Young People Act 2008* enables them to obtain information directly from a delegated staff member.

Territory Records Act 2002

The *Territory Records Act 2002* requires true, accurate, and contemporaneous records are kept of events involving ACT government agencies by both the agencies themselves and those contracted to provide services to those agencies. Electronic and paper records must be up to date and reflect an objective account of what has happened in the provision of services to children, young people and families.

Public Sector Management Act 1994

Section 9(m) of the *Public Sector Management Act 1994* imposes an obligation on all public employees not to disclose either written or verbal information acquired as a consequence of their employment without lawful authority to do so nor to seek or take improper advantage of any information acquired as a consequence of this employment.

Crimes (Sentencing) Act 2005

As of 27 February 2009, the *Crimes (Sentencing) Act 2005* will allow for information to be shared between delegates of the Chief Executive and criminal justice agencies including the Magistrates Court, the Supreme Court, the Chief Executive of the Department of Justice and Community Safety, the Sentence Administration Board, the Director of Public Prosecutions, the Chief Police Officer and the Victims of Crime Coordinator. Information may be shared in relation to offences or alleged offences including information about a person charged with an offence, victims of an offence and a person convicted or found guilty of the offence.

Crimes (Sentence Administration) Act 2005

As of 27 February 2009, sections 215A and 216A of the *Crimes (Sentence Administration) Act 2005* will allow the Chief Executive (and delegates) to release non-identifying information about a sentenced young offender to a registered victim of the young offender's offence/s.

Criminal Code 2002

The *Criminal Code 2002* provides for an offence if a person publishes information that identifies a child or young person who is or was the subject of children's proceedings, information that identifies a family member of the child or young person or information that would allow the identity of such a child or young person to be worked out. This includes any proceedings under the *Children and Young People Act 2008* (for example, care and protection proceedings) or criminal proceedings and applies to any Court determining the proceeding. The term 'children's (sic) proceeding' is not limited to Court proceedings. It includes situations where the Chief Executive has, or has had parental responsibility for a child or young person (including pursuant to a voluntary care agreement) and when a child or young person has been the subject of a child concern report and no further Court proceedings were commenced. The term

'publish' is defined as communicating or disseminating information in a way that makes it available to or likely to make it available to anyone else not entitled to the information.