

Reprint
as at 1 July 2019



Privacy (Information Sharing Agreement for Improving Public Services for At-risk Children) Order 2015

(LI 2015/162)

Order name: amended, on 21 December 2018, by section 10(2) of the Children's Amendment Act 2018 (2018 No 58).

Jerry Mateparae, Governor-General

Order in Council

At Wellington this 29th day of June 2015

Present:

His Excellency the Governor-General in Council

Pursuant to sections 96J to 96L of the Privacy Act 1993, His Excellency the Governor-General, acting on the advice and with the consent of the Executive Council and on the recommendation of the Minister for Social Development made in accordance with section 96N of that Act, makes the following order.

Contents

| | Page |
|---|------|
| 1 Title | 2 |
| 2 Commencement | 2 |
| 3 Interpretation | 2 |
| 4 Information sharing agreement approved | 4 |
| 5 Parties to agreement and designation of lead agency | 5 |

Note

Changes authorised by subpart 2 of Part 2 of the Legislation Act 2012 have been made in this official reprint.
Note 4 at the end of this reprint provides a list of the amendments incorporated.

This order is administered by the Ministry of Social Development.

| | | |
|----|--|-----------|
| 6 | Purposes for which information may be shared | 5 |
| | <i>Nature of modifications</i> | |
| 7 | Modification of information privacy principle 2 (source of personal information) and Health Information Privacy Code rule 2 (source of health information) | 5 |
| 8 | Modification of information privacy principle 10 (limits on use of personal information) and Health Information Privacy Code rule 10 (limits on use of health information) | 6 |
| 9 | Modification of information privacy principle 11 (limits on disclosure of personal information) and Health Information Privacy Code rule 11 (limits on disclosure of health information) | 6 |
| | <i>Public service</i> | |
| 10 | Public service that agreement is intended to facilitate | 6 |
| | <i>Description of personal information shared under agreement</i> | |
| 11 | Personal information that may be shared under agreement | 6 |
| | <i>How personal information shared under agreement may be used</i> | |
| 12 | How parties may use personal information | 7 |
| | <i>Adverse actions</i> | |
| 13 | Adverse actions | 8 |
| 14 | Procedure before adverse action taken | 8 |
| | <i>Miscellaneous</i> | |
| 15 | How to access agreement | 9 |
| 16 | Schedule 2A of Privacy Act 1993 amended | 9 |
| | Schedule | 10 |
| | Amendment to Schedule 2A of Privacy Act 1993 | |

Order

1 Title

This order is the Privacy (Information Sharing Agreement for Improving Public Services for At-risk Children) Order 2015.

Clause 1: amended, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

2 Commencement

This order comes into force on 3 August 2015.

3 Interpretation

- (1) In this order, unless the context otherwise requires,—

Act means the Privacy Act 1993

agency has the same meaning as in section 2(1) of the Act

agreement means the information sharing agreement approved under clause 4

at-risk children means children who are at significant risk of harm to their well-being, now and into the future, as a consequence of either or both of the following:

- (a) the environment in which they are being raised:
- (b) their own complex needs

child has the same meaning as in section 5(1) of the Children's Act 2014

Children's Action Plan Directorate means the part of the Ministry of Social Development formed for the purpose of assisting the National Children's Director to implement the Government's Children's Action Plan

environment includes an environment in which a child's basic emotional, physical, social, developmental, or cultural needs are not met at the child's home or in the community

family has the same meaning as family group in section 2(1) of the Oranga Tamariki Act 1989

family violence has the same meaning as in section 9 of the Family Violence Act 2018

Health Information Privacy Code means the Health Information Privacy Code 1994 issued by the Privacy Commissioner under section 46 of the Act

health practitioner has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

Hub means the part of the Ministry of Social Development that is the central point of contact for receiving and assessing information about concerns relating to at-risk children

improving the well-being of at-risk children means promoting the best interests of at-risk children (having regard to the whole of their lives), including (without limitation) taking measures aimed at—

- (a) protecting them from abuse and neglect:
- (b) improving their physical and mental health and their cultural and emotional well-being:
- (c) improving their education and training and their participation in recreation and cultural activities:
- (d) strengthening their connection to their families, whānau, hapū, and iwi, or other culturally recognised family group:
- (e) increasing their participation in decision making about them, and their contribution to, and participation in, society:

- (f) improving their social and economic well-being (for example, by reducing, or mitigating the impacts of, poverty).

information privacy principle means an information privacy principle in section 6 of the Act

lead agency means the party specified in clause 5(2)

National Children’s Director means the person holding that position in the lead agency

party means a party to the agreement under clause 5(1)

personal information has the same meaning as in section 2(1) of the Act.

(2) *[Revoked]*

(3) Any term that is used but not defined in this order has the same meaning as in Part 9A of the Act.

Clause 3(1) **at-risk children**: inserted, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Clause 3(1) **child**: amended, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Clause 3(1) **domestic violence**: revoked, on 1 July 2019, by section 259(2) of the Family Violence Act 2018 (2018 No 46).

Clause 3(1) **family**: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Clause 3(1) **family violence**: inserted, on 1 July 2019, by section 259(2) of the Family Violence Act 2018 (2018 No 46).

Clause 3(1) **Hub**: amended, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Clause 3(1) **improving the well-being of at-risk children**: inserted, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Clause 3(1) **improving the well-being of vulnerable children**: revoked, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Clause 3(2): revoked, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

4 Information sharing agreement approved

- (1) The information sharing agreement described in subclause (2) is approved.
- (2) The agreement is the Information Sharing Agreement for Improving Public Services for Vulnerable Children made on 25 June 2015.
- (2A) However, after the commencement of the Children’s Amendment Act 2018,—
- (a) the agreement is to be called the Information Sharing Agreement for Improving Public Services for At-risk Children made on 25 June 2015; and
- (b) every reference in the agreement to vulnerable children is to be read as a reference to at-risk children (as defined in clause 3(1)); and

- (c) every reference in any document to the agreement, or to vulnerable children in or in connection with the agreement, must, unless the context otherwise requires, be read as required by this subclause.
- (3) The agreement comes into force on the day this order comes into force.
Clause 4(2A): inserted, on 21 December 2018, by section 10(2) of the Children's Amendment Act 2018 (2018 No 58).

5 Parties to agreement and designation of lead agency

- (1) The parties to the agreement are—
 - (a) the Ministry of Education; and
 - (b) the Ministry of Health; and
 - (c) the Ministry of Justice; and
 - (d) the Ministry of Social Development; and
 - (e) the New Zealand Police; and
 - (f) the Children's Action Plan Directorate.
- (2) The lead agency is the Ministry of Social Development.

6 Purposes for which information may be shared

The agreement authorises the sharing of personal information for 1 or more of the following purposes:

- (a) identifying at-risk children and their families;
- (b) conducting an initial assessment of the likely needs of at-risk children and their families;
- (c) determining appropriate referrals to address those needs;
- (d) monitoring outcomes for at-risk children and their families, including sharing information for the purpose of the professional supervision of service providers.

Clause 6(a): amended, on 21 December 2018, by section 10(2) of the Children's Amendment Act 2018 (2018 No 58).

Clause 6(b): amended, on 21 December 2018, by section 10(2) of the Children's Amendment Act 2018 (2018 No 58).

Clause 6(d): amended, on 21 December 2018, by section 10(2) of the Children's Amendment Act 2018 (2018 No 58).

Nature of modifications

7 Modification of information privacy principle 2 (source of personal information) and Health Information Privacy Code rule 2 (source of health information)

- (1) Information privacy principle 2 and Health Information Privacy Principle Code rule 2 are modified in accordance with subclause (2).

- (2) It is not a breach of information privacy principle 2 or Health Information Privacy Code rule 2 if a party shares personal information in accordance with the agreement for 1 or more of the purposes in clause 6.

8 Modification of information privacy principle 10 (limits on use of personal information) and Health Information Privacy Code rule 10 (limits on use of health information)

- (1) Information privacy principle 10 and Health Information Privacy Principle Code rule 10 are modified in accordance with subclause (2).
- (2) It is not a breach of information privacy principle 10 or Health Information Privacy Code rule 10 if a party shares personal information in accordance with the agreement with another part of the agency for 1 or more of the purposes in clause 6.

9 Modification of information privacy principle 11 (limits on disclosure of personal information) and Health Information Privacy Code rule 11 (limits on disclosure of health information)

- (1) Information privacy principle 11 and Health Information Privacy Code rule 11 are modified in accordance with subclause (2).
- (2) It is not a breach of information privacy principle 11 or Health Information Privacy Code rule 11 if a party shares personal information for 1 or more of the purposes in clause 6.

Public service

10 Public service that agreement is intended to facilitate

The public service that the agreement is intended to facilitate is improving the well-being of at-risk children—

- (a) through co-ordinated and collaborative action across agencies to better identify, support, and protect at-risk children; and
- (b) by increasing the effectiveness of services for at-risk children.

Clause 10: amended, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Clause 10(a): amended, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Clause 10(b): amended, on 21 December 2018, by section 10(2) of the Children’s Amendment Act 2018 (2018 No 58).

Description of personal information shared under agreement

11 Personal information that may be shared under agreement

- (1) The following types of personal information may be shared under the agreement:

- (a) the name and address of a child, and the names and address or addresses of the child's parents and caregivers:
 - (b) a child's date of birth:
 - (c) a notification or an alert from a health practitioner that a child or the child's family is at risk:
 - (d) any history of harm to a child or history of harm to a child in the child's family:
 - (e) information about a child's physical or mental health, which may indicate that the child has been abused or neglected or is at risk of abuse or neglect:
 - (f) information about a child's current and previous well-being, including financial circumstances, or issues of concern about the child's well-being, including financial circumstances:
 - (g) information about a child's psychological or emotional difficulties:
 - (h) information about the capacities and strengths of a child and the child's family:
 - (i) issues of concern that have been raised with respect to a child's education, including any special education needs:
 - (j) information that indicates that a child has a record of a substance abuse problem or a history of violence:
 - (k) information about whether a parent or caregiver of a child has a mental illness:
 - (l) information about whether a parent or caregiver of a child has a substance abuse problem or a history of family violence:
 - (m) information about a person who may pose a risk to a child and information about that risk:
 - (n) an assessment of a child for the purposes of the Oranga Tamariki Act 1989.
- (2) A party to the agreement may share personal information with the Hub for 1 or more of the purposes in clause 6.
 - (3) The Hub may share personal information with a party to the agreement for 1 or more of the purposes in clause 6.

Clause 11(1)(l): amended, on 1 July 2019, by section 259(2) of the Family Violence Act 2018 (2018 No 46).

Clause 11(1)(n): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

How personal information shared under agreement may be used

12 How parties may use personal information

- (1) This clause applies to the use of personal information described in clause 11(1).

- (2) A party may use personal information for 1 or more of the purposes in clause 6.

Adverse actions

13 Adverse actions

- (1) This clause states the adverse actions that the parties can reasonably be expected to take as a result of the sharing of personal information under the agreement.
- (2) A party to the agreement can reasonably be expected to report under section 15 of the Oranga Tamariki Act 1989 if the party believes that a child has been, or is likely to be, harmed (whether physically, emotionally, or sexually), ill-treated, abused, neglected, or deprived.
- (3) The Ministry of Social Development can reasonably be expected to undertake either or both of the following:
- (a) action under the Oranga Tamariki Act 1989:
 - (b) law enforcement action in relation to the commission or suspected commission of an offence.
- (4) The New Zealand Police can reasonably be expected to undertake law enforcement action in relation to the commission or suspected commission of an offence.

Clause 13(2): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Clause 13(3)(a): amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

14 Procedure before adverse action taken

- (1) Before a party takes adverse action as a result of the sharing of personal information under the agreement, the party must take reasonable steps to confirm the accuracy of the information.
- (2) The agreement provides that a party will (in accordance with section 96R(a)(ii) of the Act) not provide notice of adverse action under section 96Q of the Act in the following circumstances:
- (a) if the personal information shared relates to a situation where a party has reasonable grounds to suspect that urgent intervention is required to ensure the safety of the child from existing or potential serious harm:
 - (b) if the personal information is shared with the New Zealand Police and there are reasonable grounds to suspect that a serious crime has been committed or will be committed and the personal information is relevant to the prevention, detection, investigation, or prosecution of a serious crime.

Miscellaneous

15 How to access agreement

- (1) A copy of the agreement is available online at <http://www.msd.govt.nz> and <http://childrensactionplan.govt.nz>
- (2) A copy of the agreement is also available at the Ministry of Social Development, Bowen State Building, Bowen Street, Wellington 6011.

16 Schedule 2A of Privacy Act 1993 amended

In Schedule 2A of the Privacy Act 1993, after the item relating to the Information Sharing Agreement Between Inland Revenue and New Zealand Police relating to disclosure of personal information to New Zealand Police for the purpose of prevention, detection, investigation or providing evidence of serious crime pursuant to Part 9A of the Privacy Act 1993 and section 81A of the Tax Administration Act 1994, July 2014, as amended 16 March 2015, insert the item set out in the Schedule of this order.

Schedule Amendment to Schedule 2A of Privacy Act 1993

cl 16

| Name of agreement | Public service(s) to be facilitated by agreement | Internet address where copy of agreement can be accessed | Lead agency for agreement | Description of personal information or type of personal information to be shared under agreement |
|---|---|---|----------------------------------|--|
| Approved Information Sharing Agreement for Improving Public Services for Vulnerable Children dated 25 June 2015 | Improving the well-being of vulnerable children | http://www.msd.govt.nz/childrensactionplan/vt.nz | Ministry of Social Development | <p>(a) the name and address of a child, and the names, and address or addresses, of the child's parents and caregivers;</p> <p>(b) a child's date of birth;</p> <p>(c) a notification or an alert from a health practitioner that a child or the child's family is at risk;</p> <p>(d) any history of harm to a child or history of harm to a child in the child's family;</p> <p>(e) information about a child's physical or mental health that may indicate that the child has been abused or neglected or is at risk of abuse or neglect;</p> <p>(f) information about a child's current and previous well-being, including financial circumstances, and issues of concern about the child's well-being, including financial circumstances;</p> <p>(g) information about a child's psychological or emotional difficulties;</p> |

| Name of agreement | Public service(s) to be facilitated by agreement | Internet address where copy of agreement can be accessed | Lead agency for agreement | Description of personal information or type of personal information to be shared under agreement |
|-------------------|--|--|---------------------------|---|
| (h) | | | | information about the capacities and strengths of a child and the child's family: |
| (i) | | | | issues of concern that have been raised with respect to a child's education, including any special education needs: |
| (j) | | | | information that indicates that a child has a record of a substance abuse problem or a history of violence: |
| (k) | | | | information about whether a parent or caregiver of a child has a mental illness: |
| (l) | | | | information about whether a parent or caregiver of a child has a substance abuse problem or a history of domestic violence: |
| (m) | | | | information about a person who may pose a risk to a child and information about that risk: |
| (n) | | | | any assessments of a child for the purposes of the Oranga Tamariki Act 1989. |

Schedule: amended, on 14 July 2017, by section 149 of the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31).

Michael Webster,
Clerk of the Executive Council.

Issued under the authority of the Legislation Act 2012.
Date of notification in *Gazette*: 2 July 2015.

Reprints notes

1 *General*

This is a reprint of the Privacy (Information Sharing Agreement for Improving Public Services for At-risk Children) Order 2015 that incorporates all the amendments to that order as at the date of the last amendment to it.

2 *Legal status*

Reprints are presumed to correctly state, as at the date of the reprint, the law enacted by the principal enactment and by any amendments to that enactment. Section 18 of the Legislation Act 2012 provides that this reprint, published in electronic form, has the status of an official version under section 17 of that Act. A printed version of the reprint produced directly from this official electronic version also has official status.

3 *Editorial and format changes*

Editorial and format changes to reprints are made using the powers under sections 24 to 26 of the Legislation Act 2012. See also <http://www.pco.parliament.govt.nz/editorial-conventions/>.

4 *Amendments incorporated in this reprint*

Children's Amendment Act 2018 (2018 No 58): section 10(2)

Family Violence Act 2018 (2018 No 46): section 259(2)

Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (2017 No 31): section 149