

SHARING INFORMATION IN RELATION TO CHILD SAFETY AND WELLBEING – NORTHERN TERRITORY



In this tool, you will find:

- » An overview of information about your obligations under the Information Sharing Framework
- » Answers to common questions
- » Links to additional resources

Related tools:

- » Child Protection Obligations – NT

BACKGROUND AND CONTEXT

This document provides information for CaFIS providers in the Northern Territory about their obligations as an Authorised Information Sharer under the *Care and Protection of Children Act (2007)*.

It is the responsibility of each Authorised Information Sharer to satisfy themselves that they are authorised under the Act and that anyone requesting information is also an Authorised Information Sharer before sharing information.

This guidance provides an overview of information sharing obligations under the Act, and organisations may have their own policies and procedures in place. It is expected that CaFIS organisations will ensure employees are aware of their obligations under the Act.

KEY GUIDANCE

Sharing Information about Child Safety and Wellbeing

Sharing information about children or families can be a normal part of work, for example, when requesting a referral for services with the family's consent. It can also be a legal requirement to share information about a child or family, such as the requirement to report your belief that a child is being harmed or provide information in response to a court subpoena. Part 5.1A of the *Care and Protection of Children Act (2007)* sets

out an Information Sharing Framework for child safety and wellbeing.

Who can share information under the Information Sharing Framework?

Under the Information Sharing Framework, an Authorised Information Sharer (AIS) can share information with another AIS within the Northern Territory.

As a CaFIS provider you are an AIS under the Act.

Others authorised to share information in relation to child safety and wellbeing include:

- » Carers operating under the *Care and Protection of Children Act*
- » Police officers
- » School principals
- » Registered or authorised teachers
- » A provider of registered child care services
- » Individuals in charge of non-government organisations (NGOs) who provide a service in connection with children
- » Individuals employed by the above organisations to provide a service or perform a function for or in connection with children
- » Case managers working with children in the youth justice system
- » Doctors, nurses, psychologists, and other health professionals registered under the *Health Practitioner Regulation National Law* to practise a health profession (other than students)
- » Persons in charge of public or private hospitals
- » Public servants, including CEOs of government agencies, who are acting under a law of the Northern Territory in relation to children
- » Lawyers.

What information MUST be shared under the Information Sharing Framework?

If you receive a valid request from an AIS, you must share information you reasonably believe would assist the requestor's task or function relating to safety or wellbeing of a child, unless there are grounds for refusing the request. More information on grounds for refusal are set out below.

A valid request is a request from an AIS that relates to the safety or wellbeing of a child or children. The request must say which child or children the request relates to and specify the information which is requested.

What information CAN be shared under the Information Sharing Framework?

Any information relevant to child safety or wellbeing can be shared.

Examples of information that may be provided include services or supports provided in the past, information about the child's relationships, or a parent's mental health or history of domestic violence.

The Information Sharing Guidelines provide detailed guidance and many examples of information that can be shared. A link to these Guidelines is provided below.

What information CAN'T be shared under the Information Sharing Framework?

If the person requesting information is not an AIS you do not have authority to share information with them under the Information Sharing Framework.

Similarly, if the information requested is not relevant to a child safety or wellbeing task being undertaken by the requestor, or if the request is not in relation to a specified child or children, you can't share information under the Information Sharing Framework.

Can I refuse to share information under the Information Sharing Framework?

If the request is valid, you must share information unless you have grounds for refusal. Grounds for refusal are listed in the Act, and are summarised below:

If you reasonably believe that sharing information might:

- » Endanger a person's life or physical safety
- » Prejudice the investigation of a crime or other illegal activity
- » Prejudice a Coronial inquest or inquiry
- » Prejudice court or tribunal proceedings
- » Breach legal professional privilege or client legal privilege
- » Enable the identification of a confidential source related to the enforcement or administration of a law

- » Prejudice the effectiveness of a method or procedure for detecting, preventing or investigating criminal or illegal activity.

If you refuse all or part of a valid information request, you must provide a response in writing setting out any or all reasons for the refusal.

Do I need the child or family's consent to share information?

You are not legally required to get consent from the child or family before sharing information under the Information Sharing Framework. However, it is good practice to seek consent wherever possible, and when doing so will not have a negative impact on the child's safety or wellbeing or compromise an investigation in relation to the child.

Children should be given opportunities to have a say in matters that affect them, which includes giving consent to share their information. You will need to consider whether a child is developmentally capable of providing consent. This means that they are able to understand their choices and the implications of those choices.

This is a decision that will need careful consideration. The age at which children and young people reach a level of cognitive and emotional maturity to enable them to provide informed consent does vary. As a general guide only, many children will have this capability by the age of 12.

Another consideration is, just because a child or young person has the cognitive and emotional maturity to provide informed consent, doesn't mean they are comfortable to do so.

Consider involving parents and family when seeking consent to share information unless it would not be appropriate to do so. Parents and family are the primary supports for children and they will also have a role in providing consent on behalf of younger children.

Consent can be given verbally or in writing. If given verbally, you should document the details of the consent as part of your case documentation.

It may not always be appropriate or practicable to seek consent before sharing information, for example, you may believe to do so would jeopardise someone's safety, or the request may be urgent.

How are requests to share information made?

A request for information can be made verbally or in writing, and responses to the request can also be made verbally or in writing. Written exchanges are encouraged. Any refusal to provide information must be made in writing outlining your reasons.

Regardless of whether it is made verbally or in writing, the request should:

- » identify the subject of the information and, if it is not the child or children to whom it relates, identify the subject's relationship to the child or children.
- » explain how it relates to the safety or wellbeing of the child or children
- » explain how the information will assist the requesting AIS to make a decision, assessment or plan or to initiate or conduct an investigation, or to provide any service or perform a function in relation to the child or children
- » indicate the time period for which the information is sought (eg for the last six months) and the type of information sought.

In addition to the above, the requestor should advise whether consent has been obtained from the child or family, and whether they have been told that information is being requested (and if not, if there are any reasons for this).

The requestor should provide a time frame to provide the information. This should be a realistic timeframe, noting that sometimes matters are urgent or may have a timeframe imposed by court.

If the request is made verbally, you should document the exchange as soon as possible (noting details of the requestor, the information requested, the information shared and any request that has been refused including reasons).

Information shared is confidential, and it is an offence to use or disclose the information for an unrelated purpose, unless otherwise permitted by law.

APPLICATION TO CaFIS PROVIDERS

Key questions and answers

Do I need to get consent to share information under the Information Sharing Framework?

You are not legally required to get consent from the child or family before sharing information under the Information Sharing Framework. However, it is good practice to seek consent wherever possible, and when doing so will not have a negative impact on the child's safety or wellbeing or compromise an investigation in relation to the child.

What if a child is too young to give their consent to share information?

If it is your assessment that a child or young person is not able to give consent, you could consider discussing the request with the child's parents or family (if appropriate) who may provide consent on the child's behalf or share the information without consent in accordance with the information sharing framework.

What if I seek consent from a child or parent and consent is refused?

While it is good practice to seek consent, it is not required in order to share information for the purpose of helping ensure a child's safety and wellbeing.

Respecting the wishes of a child or family is important, however if you receive a valid request from an AIS under the Information Sharing Framework you have a legal obligation to share information, even if you have sought consent and it has not been provided.

Can I get in trouble for sharing information?

As an AIS who is acting in good faith when providing any information under Part 5.1A you are not liable to any civil or criminal action nor are you in breach of any professional ethics or code for giving the information.

Disclaimer

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Do note this guidance is accurate at the time of publishing however, it is up to the service providers to remain up to date with changes in legislation.

Where to go for more information on this topic

Information Sharing Guidelines

https://nt.gov.au/__data/assets/pdf_file/0004/949774/information-sharing-guidelines.pdf

The Northern Territory Care and Protection of Children Act (2007)

<https://legislation.nt.gov.au/Legislation/CARE-AND-PROTECTION-OF-CHILDREN-ACT-2007>