

**The effect on midwives of the changes to the information sharing legislation.**

Changes to information sharing legislation come into effect on 1st July 2019 and aim to support agencies working with whanau/families and Tamariki to share information so that the woman and baby can be supported to be safe from harm. There are two Acts involved that apply to midwives as health professionals working with families.

The Family Violence Act 2018 supports the sharing of information with other agencies with the aim to:

* Help protect a victim from family violence
* Make or contribute to a family violence risk or need assessment
* Make decisions or carry out plans related to responding to family violence.

The Oranga Tamariki Act 1989 supports the sharing of information with other agencies with the aim to:

* Prevent or reduce the risk of harm, ill-treatment, abuse, or neglect for Tamariki
* Make or contribute to an assessment of the risks or needs of Tamariki
* Make, contribute to, or monitor any support plan for Tamariki that is managed by Oranga Tamariki.

Midwives will be protected from civil, criminal or disciplinary proceedings as long as information is shared in good faith and they comply with the relevant information sharing provisions. Codes of Practice will be issued under each Act soon after 1 July 2019 and must be observed by each Midwife. Pending issuance of the Codes, The College offers the following key points:

# Family Violence Act 2018

* You may, but are not required by law to provide information under this Act.
* You must ensure the request is to/from one of the following:

A Social Services practitioner which means an individual who is providing education, health or other social services as all or any of the following:

1. A holder of a teacher’s practising certificate, or a limited authority to teach, under the Education Act 1989:
2. A person who is, or is deemed to be, registered with an authority as a practitioner of a particular health profession under the Health Practitioners Competence Assurance Act 2003:
3. A registered social worker (as defined in section 4 of the Social Workers Registration Act 2003); or

A specified government agency which means any of the following:

1. Accident Compensation Corporation
2. Department of Corrections
3. Ministry of Education
4. Ministry of Health
5. Any DHB (that is, an organisation established as a district health board by or under section 19 of the New Zealand Public Health and Disability Act 2000)
6. Housing New Zealand Corporation
7. Every registered community housing provider (as defined in section 2(1) of the Housing Restructuring and Tenancy Matters Act 1992)
8. The part of the Ministry of Business, Innovation and Employment referred to as Immigration New Zealand
9. Ministry of Justice
10. New Zealand Police
11. Oranga Tamariki \_ Ministry for Children
12. Ministry of Social Development
13. Any government agency established in substitution for, or set up to take over any relevant function of the departments and agencies listed in paragraphs (1) to (l).

* The Code of Practice may address the form in which requests are made. In the meantime, if you do not know the requestor personally; ask them to verify their identity and position in writing.
* You should try to obtain a person’s consent before sharing their information unless it is unsafe or impractical to do so. You should explain to the person what information you want to share, who you want to share it with and why. There may be some cases where you will be required to make a judgment call on whether you should share information without someone’s consent – for example, if you are concerned for someone’s immediate safety. If you are not able to get someone’s consent before you share their information, you should take steps to let them know you shared their information afterward, if it is safe to do so (e.g. you are not putting yourself or others at risk).
* You must only share information that is relevant. Relevance will depend on the circumstances, including the role of the other person and what purpose they want to use it for. Think about who is making the request, why they are making the request, and what kind of information they are requesting. You must make a judgment call on whether the information you hold is relevant to the person you want to share it with. If you share information that is irrelevant, you may be acting in bad faith and may not be able to rely on the legal protection under the Family Violence Act.
* You must check that the information you are sharing is accurate. Under the Privacy Act 1993, you must take reasonable steps to ensure information is accurate, up-to-date, relevant and not misleading. You’re allowed to share your suspicions, so long as you let the other person know it is merely a suspicion and not a fact.
* You should record your decision to share the information. Keeping records of requests for information, including details of the request, your response to the request, and whether or not you obtained consent to share, is good practice. You should also make sure you record situations where you decided not to share. If you are asked questions about the situation in the future, good record-keeping will mean you can provide evidence in support of your decision. It also means you will have the information you provided ready if you receive another request for the same information.

# Oranga Tamariki Act 1989

* Unless the information is protected by legal professional privilege; i.e. discussion between you and your lawyer; you are required to provide information if a request is made by:

1. The Chief Executive of Oranga Tamariki (or their delegate under authority);
2. A care and protection co-ordinator
3. A constable.

* You can continue to make a report of concern to Police or Oranga Tamariki if you are worried that Tamariki could be, or are being, harmed, ill-treated, abused, neglected or deprived in any way or have concerns about their wellbeing – the information sharing provisions don’t change that.
* The provisions support sharing information between professionals other than Oranga Tamariki and Police. You can decide to do three key things if you think it is in the best interests of Tamariki:

1. Proactively and voluntarily share information with professionals who are most able to help Tamariki and whanau
2. Ask other professionals, as well as Oranga Tamariki and Police, to share information with you
3. Decide if you will share information when asked under a section 66C request from other professionals (but you must respond if Oranga Tamariki or Police require information under section 66).

* You must:

1. Only share information for the reasons and purposes set out in the provisions
2. Only share information relevant to the wellbeing or safety of Tamariki

* Verification of identity should be obtained as outlined above, as well as documentation
* You may also request certain information from the chief executive, an authorised child welfare and protection agency, or a constable; however, you are not automatically entitled to the information.

We recommend that you contact the Legal Section or a Midwifery Advisor if you require any advice on a specific case.