



COVERSHEET

Minister	Hon Tracey Martin	Portfolio	Children
Name of package	Public Release of Cabinet Paper: Amendments to the information sharing provisions in the Children, Young Persons, and their Families (Oranga Tamariki) Legislation Act 2017	Date of issue	28 August 2019

List of documents that have been proactively released		
Date	Title	Author
18 March 2019	Amendments to the information sharing provisions in the Children, Young Persons, and their Families (Oranga Tamariki) Legislation Act 2017	Office of the Minister for Children
13 March 2019	SWC-19-MIN-0017 – Cabinet Social Wellbeing Committee Minute	SWC Committee Secretary

Information withheld	
<p>Some parts of this information release would not be appropriate to release and, if requested, would be withheld under the Official Information Act 1982 (the Act). Where this is the case, the relevant sections of the Act that would apply have been identified. Where information has been withheld, no public interest in making the information available has been identified that would outweigh the reasons for withholding it.</p>	
Section of the Act	Reason for withholding
Section 9(2)(f)(iv)	Maintain constitutional conventions for the time being which protect the confidentiality of advice tendered by Ministers of the Crown and officials.

Chair
Cabinet Social Wellbeing Committee

AMENDMENTS TO THE INFORMATION SHARING PROVISIONS IN THE CHILDREN, YOUNG PERSONS, AND THEIR FAMILIES (ORANGA TAMARIKI) LEGISLATION ACT 2017

Proposal

1. This paper seeks agreement to amend some of the information sharing provisions in the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Act 2017 (the Act). The proposed amendments are needed to ensure the improvements in information sharing envisaged when the provisions were first enacted are achieved.

Executive summary

2. On 30 March 2016, Cabinet agreed to amend and replace the information sharing provisions in s66 of the then Children, Young Persons, and Their Families Act 1989 (now the Oranga Tamariki Act 1989) with new and extended provisions. These changes were to address issues which had led to a lack of consistent and proactive information sharing across the child welfare and protection sector (the sector).
3. The Group One and Group Two information sharing provisions aim to support child-centred information sharing practices across the sector.

3.1 The Group One provisions:

- authorise Oranga Tamariki–Ministry for Children (Oranga Tamariki) and the New Zealand Police (the Police) to require information from a wider range of agencies and individuals, and for them to disclose information to others
- set out a process for child welfare and protection agencies and independent persons to voluntarily share information with each other for specified purposes
- require child welfare and protection agencies to notify the public of their use of combined datasets of information by publishing information on the internet (referred to as the dataset provision).

3.2 The Group Two provisions:

- enable authorised child welfare and protection agencies and independent persons to make requests for information to other authorised child welfare and protection agencies and independent persons

- remove uncertainty, and any consequential liabilities, facing professionals over the information they can exchange through an extension of the immunity for good faith disclosure
 - set out the consultation process that child welfare and protection agencies and people need to take when information is requested or disclosed under the information sharing provisions.
4. The information sharing provisions have been enacted, but will not come into force until 1 July 2019.

Further work now suggests some aspects of the information sharing provisions are not fit for purpose

5. Stakeholder engagement undertaken since the provisions were agreed suggests further changes are needed to ensure the information sharing provisions are fit for purpose, achieve the intended objectives, and do not place an unnecessary administrative burden on the sector without leading to improved information sharing practices.
6. The information sharing provisions as they stand could result in information not being shared, overshared, or shared inappropriately for purposes outside of the Oranga Tamariki Act 1989.
7. To address these risks I propose that the Group Two provisions **are not operationalised on 1 July 2019**. These are the provisions which authorise named child welfare and protection agencies and independent persons to request information from other authorised agencies and independent persons, and for such requests to be complied with. The Group Two provisions are not operative until the Minister for Children (the Minister) issues a Code for information sharing that authorises agencies and individuals to exercise powers under the provisions.
8. I propose that the Group Two provisions remain in the Oranga Tamariki Act 1989, to be reviewed by 1 July 2021 and brought into operation **if needed** to achieve the required behavioural change around information sharing practices. This means a Code of Practice (the Code) (required in the Act) will only need to be introduced if a subsequent decision is made to proceed with the Group Two provisions.
9. The policy intent of the dataset provision in the Act (s66D) relating to child welfare and protection agencies' use of combined datasets can now be achieved without including such onerous regulatory requirements as those set out in the Act. I propose, therefore, that the dataset provision be repealed.
10. It is important that children and young people are consulted when information about them is being requested or disclosed, and that is why s66K of the Act was included in the new information sharing framework (the framework). A minor technical amendment is required to s66K so that it applies to the Group One provisions. This is included in the Oranga Tamariki Legislation Bill which is intended to be passed by 1 July 2019.

11. If approved by Cabinet, [REDACTED]

9(2)(f)(iv)

[REDACTED] I will ensure any Cabinet decisions are well communicated to the sector so they are aware of the intention to amend the provisions after they come into force on 1 July 2019.

Background

The Expert Panel recommended improvements to information sharing practices

12. In its December 2015 Final Report (the Report), the Expert Panel noted a lack of cross-agency data and information sharing was contributing to poor outcomes for children.¹ The Report found that:

- many professionals and agencies were defaulting to not sharing information to manage their organisational and professional risk, often to the detriment of children and young people
- many professionals were unclear about what information they were allowed to share, with whom, and in what circumstances
- the (then) legislation focused on the one-way flow of information to Child, Youth and Family (now Oranga Tamariki), with little two-way flow of information across the sector.

13. In response to the Expert Panel's recommendations, Cabinet agreed to amend the information sharing provisions set out in s66 of the Oranga Tamariki Act 1989 [CAB-16-MIN-0494 refers].² The purpose of the information sharing provisions is to:

- set a clear expectation that any individual who discharges functions associated with the objectives of the Oranga Tamariki Act 1989 should share, or have access to, personal information about a child or young person to the extent necessary to promote their safety and wellbeing³
- improve information sharing within the sector for the purposes set out in the Oranga Tamariki Act 1989. This includes promoting the wellbeing of children, young people, their families, whānau, hapū, iwi and family groups as well as supporting and protecting children and young persons to prevent them suffering harm, abuse, or neglect (set out in s4 of the Oranga Tamariki Act 1989)

¹ The Modernising Child, Youth and Family Panel (2016) 'Expert Panel Final Report: Investing in New Zealand's Children and their Families' Ministry of Social Development, Wellington.

² The Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill was introduced in the House of Representatives on 8 December 2016 and granted Royal assent on 13 July 2017.

³ The information sharing provisions under the Act apply to a broad range of people working with children and young people including:

- Oranga Tamariki, New Zealand Police, the Ministries of Social Development, Education, Health and Justice, the Department of Corrections, the Accident Compensation Corporation, the Housing New Zealand Corporation, registered Community Housing Providers, District Health Boards, school boards, licensed early childhood education services, and any agency providing a regulated service as defined in Schedule 1 of the Vulnerable Children Act 2014
- Independent persons are defined as any practitioner registered under the Health Practitioners Competence Assurance Act 2003 who provides health and disability support services, and a children's worker (as defined under s23 of the Children's Act 2014).

- remove the uncertainty, and any consequential liabilities, facing professionals over the information they can exchange through an extension of the immunity for good faith disclosure already provided under the Oranga Tamariki Act 1989.

14. The information sharing provisions can be described in two parts:

14.2 The Group One provisions (ss66 to 66D and 66K):

- extend and clarify existing Oranga Tamariki and Police powers to request information from any person or agency
- enable a range of individuals and agencies in the sector to share information voluntarily relating to a child or young person, or any class of children or young people (including information contained in a dataset) for specific purposes
- sets out the process to be used by individuals and agencies in the sector for consulting with children and young people when sharing information related to them
- sets out the requirements on agencies to publically notify their use of information in combined datasets.

15.3 The Group Two provisions (ss66G to 66J):

- enable authorised child welfare and protection agencies and independent persons to make requests for information about children and young people, for specified purposes, to other authorised child welfare and protection agencies and independent persons
- do not apply until a Code, approved by the Minister, comes into force, because the Code authorises agencies and independent persons to exercise the powers in the Group Two provisions.

15. The requirement for a Code was to clarify how the Group Two provisions would apply in practice. This was in response to concerns about these provisions raised during the Select Committee process for the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill (the Bill). There is no date in the provisions when a Code must be issued by the Minister.

Concerns remain that the information sharing provisions are not fit for purpose

16. Taken together, the full suite of information sharing provisions in the Act represent a significant change. They were intended to clarify legislation and promote greater information sharing between agencies, but there is a risk they might create barriers, or work against establishing effective information flows at a local level.

17. Concerns were raised by submitters during the first reading of the Bill, including:
- the lack of consultation on the Bill, and in particular with Māori. The changes had wide reaching implications for the sector, and for families whose personal information could now be shared with a wider range of agencies and people
 - concern that the information sharing provisions would do more harm than good as it could lead to more information being inappropriately shared, and families not accessing the services and support they need because they are worried about how their information is being shared and used. This was a view shared by the Privacy Commissioner and echoed by a number of other submitters.⁴

Further work, including with stakeholders, since the legislation was enacted has identified issues that cannot be resolved by the information sharing provisions as they stand

18. My officials held discussions with the Office of the Children's Commissioner, the Office of the Privacy Commissioner, the Parliamentary Counsel Office and a number of government agencies on the information sharing provisions. They have also carried out some targeted engagement with those working in the sector to find out what type of guidance is needed for the sector.
19. This further work shows that the types of issues noted in the Expert Panel's report which are acting as barriers to effective information sharing, such as lack of trust between agencies, cannot be simply addressed through legislative change.

Other issues have been identified with the new dataset and the Group Two provisions

20. Bill submitters, including the Privacy Commissioner and the Human Rights Commissioner, raised concerns about the legitimacy of the dataset provision and the purposes of information matching on a wider scale.
21. Concerns that the dataset provision will place an unnecessary administrative burden on the agencies without achieving the public accountability envisaged include:
- monitoring use of combined datasets by agencies to allow for the level of public scrutiny required by the provisions would be difficult
 - enforcing compliance with the provisions without some form of surveillance of agencies' use of combined data would be challenging
 - surveillance would be resource-intensive, not practicable, and could well be in breach of an individual's privacy and human rights
 - gaining individuals' consent to the use of their data, if it is not used anonymously, would be problematic

⁴ Oranga Tamariki (19 April 2017) Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill: Departmental report for the Social Services Committee (p178).

- there is no capacity in the provisions to ensure combined datasets are:
 - accurate, complete, relevant and up-to-date before it is applied for the purposes set out in the Act; or
 - adequately weighs the privacy and rights aspects with the benefits of combining data.

22. Further work and engagement with the sector suggests that operationalising the Group Two provisions as well as the Group One provisions could potentially generate further confusion in the sector. Specific concerns about the Group Two provisions were:

- they are “complex and fragmented” and will be “harder to understand than the current legislative regime”⁵
- a range of organisations and individuals could access information, without specialist knowledge about how to work in child-centred ways⁶
- potential risks to children such as their privacy being unnecessarily breached, and parents or caregivers disengaging from essential services because of privacy concerns⁷
- they might prevent people seeking help on behalf of their whānau or others
- having to comply with a request for information would force agencies to breach client confidentiality
- how the shared information will be used and protected by agencies.

23. The requirement for a Code for information sharing to be published was included in the Act as a way to address some of these concerns. However, I consider that introducing a Code in itself is insufficient to address the issues.

There are new ways that information can be safely shared to improve outcomes for children and young people

24. Information sharing is now taking place in a different context. There is more emphasis and commitment to thinking about data from an ethical and human rights perspective, and supporting more openness and transparency in what we do with information.

25. Recent changes across government and in the sector have implications for information sharing practices in the sector. These include: the Child and Youth Wellbeing Strategy; the development of the new operating model for Oranga

⁵ Privacy Commissioner's submission to the Social Services Committee on the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill (paragraph 16).

⁶ Submission from the office of the Children's Commissioner on the Children, Young Persons, and Their Families (Oranga Tamariki) Legislation Bill.

⁷ Ibid.

Tamariki; changes to support and improve social work practice; and the appointment of the Government's Chief Data Steward.

Delivering a more effective information sharing framework

26. I believe issues with the information sharing provisions as outlined above create barriers to successful implementation. Any legislative changes need to be fit for purpose, and not create an unnecessary administrative burden without leading to the changes in information sharing practices we are seeking at the frontline. That is why I propose amending the information sharing provisions at this time.
27. These next three sections set out key changes to address issues, and allow for more effective information sharing. These changes include:
 - A. amending the Group One provisions by repealing the dataset provision
 - B. amending the Group Two provisions
 - C. amending the requirements for a Code.

A. Amending the Group One provisions

28. The Group One provisions will come into force on 1 July 2019. I consider the Group One provisions (with the exception of the dataset provisions) are fit for purpose, and allow for improvements in information sharing practices for the purposes set out in the Oranga Tamariki Act 1989.
29. The Group One provisions provide the most direct solution to the limitations of current legal settings around information sharing. They will address the pressing need for agencies and people working with children in need to more effectively share information in a timely and appropriate manner.
30. The purpose of, and principles for, information sharing are included in the Group One provisions. These provisions also provide Oranga Tamariki and the Police with additional powers to request information from a wider range of agencies and independent persons than allowed for under the existing provisions. These extensions and clarifications of existing powers in the Group One provisions are supported by the sector. They will directly address the concerns of professionals and frontline staff as to their ability and obligations to share information in regards to other legislation such as the Privacy Act 1993.
31. Wherever practicable and appropriate, children and young people should be consulted and their views taken into account when information relevant to them is being shared. Ensuring children and young people are consulted is an important part of taking a child-centric approach and respecting children's rights to participate in decisions affecting them.
32. Section 66K in the new provisions sets out the consultation process child welfare and protection agencies and people need to take when information is requested or proposed to be disclosed under the information sharing provisions. A technical amendment to s66K is being progressed through the Oranga Tamariki Legislation Bill so that it is clear that s66K applies to the Group One provisions, as was intended.

Information on best practice for consulting with children will also be included in guidance for the sector on the information sharing provisions.

33. The Group One provisions lay the foundations and support child-centred information sharing practices across the sector that will be consistent with the principles of the Oranga Tamariki Act 1989. This includes recognising the child's or young person's place within their family, whānau, hapū, iwi, and family group (s5(c)) and respecting and upholding children's rights under the United Nations Convention on the Rights of the Child. The provisions will:
- support a practice model where information is shared and used to better identify, assess and act to prevent harm by involving a wide range of agencies and independent persons including those working in the health, education, justice, housing and social services sectors
 - contribute to the on-going development of Oranga Tamariki and the sector's services and functions to protect and support children, with a focus on preventing abuse and promoting wellbeing.
34. The implementation of the Group One provisions will be supported by:
- comprehensive guidelines and a toolkit for the sector on application of the information sharing provisions developed with the sector (agencies and practitioners as well as, wherever possible, children and young people, and their families, whānau, hapū and iwi).
 - a helpline to answer any individual queries about the information sharing provisions, and what they mean in practice
 - targeted training aids and resources, and communications for Oranga Tamariki, the Police and the sector.

Repealing the dataset provision

35. The dataset provision is intended to regulate agencies' use of linked datasets of identifiable personal information sourced from multiple agencies and analysed for specified purposes. Agencies are expected to be more transparent about the linked information they have used, the purposes for which it was used, and the privacy safeguards relating to the use of combined datasets they had in place.
36. The dataset provision was included in the Group One provisions because at the time the framework was proposed, it was perceived that datasets were not linked across agencies to detect patterns of neglect and abuse early enough.
37. Given the concerns raised about the operation and monitoring of the dataset provision, and whether it will achieve the level of public scrutiny envisaged, I propose that the dataset provision be repealed. The policy intent of the dataset provision can now be achieved without needing to include such onerous regulatory requirements.
38. A number of cross-government initiatives have been planned and introduced since 2016. These will improve the way cross-agency data is shared and used to measure

wellbeing and improve policy and practice (see Appendix One for details on the Government's policies and processes to use combined information).

39. I will direct officials to include a section in the information sharing guidance on the use of combined datasets that will point readers to the relevant agencies' websites for guidance.

The information sharing provisions in the Family Violence Act 2018 also come into force on 1 July 2019

40. The Family Violence Act 2018 includes new rules for specific government and non-government agencies and social services practitioners in the family violence sector around sharing personal information.
41. Many agencies and practitioners working in the family violence sector also work in the child welfare and protection sector. Having two sets of legislative requirements to take into account when making decisions about whether to share information is likely to add to the confusion.
42. My officials have been working closely with the Ministry of Justice to ensure that each agency's information sharing guidelines are aligned so everyone is clear about what information can be shared, with whom and for what purposes under the legislation.

B. Amending the Group Two provisions

43. The Group Two provisions are intended to authorise specified child welfare and protection agencies and independent persons to request information about children and young people for specified purposes from other authorised child welfare and protection agencies or authorised independent persons. Such requests are to be complied with unless there is a good reason to decline such a request. The grounds for declining a request are also specified.
44. The Group Two provisions are intended to address the issue of professionals defaulting to not sharing information. They also aim to encourage and facilitate the proactive two-way sharing of information across the sector. The Group One provisions will also help to achieve these outcomes and, if implemented effectively, it is unclear to what extent the Group Two provisions will be necessary.
45. I propose a staged approach to implementing the information sharing provisions. Given the concerns noted earlier, operationalising the Group Two provisions at the same time as the Group One provisions could add to the confusion in the sector. It could also work against creating the channels and strengthened relationships built on trust and respect needed to generate more effective information sharing. I propose that the Group Two provisions be amended to allow for a staged approach.
46. The production of a Code for information sharing was included in the new framework as a way to address some of the concerns about the complexity of the Group Two provisions, and uncertainty about how they would work in practice. However, from work to date it is not clear that introducing a Code is sufficient to address the issues.

Options to amend the Group Two provisions

47. Given the challenges in bringing such significant and far reaching information sharing provisions into operation at the same time, we need to look to make changes to the existing provisions so they do not create a barrier to effective implementation.
48. Postponing the implementation of the Group Two provisions enables the Group One provisions to be embedded to ensure they are well understood, and to build a platform to ensure they are consistently practiced. If the Group One provisions are found to be insufficient in achieving the level of behavioural change needed to support information sharing, the mandatory Group Two provisions can then be brought into operation. I propose reviewing the need for the Group Two provisions by 1 July 2021, after the effectiveness of the Group One provisions has been assessed.
49. There are two options for postponing the Group Two provisions:
 - a) repeal the provisions, and reintroduce them at a later date should this be necessary; or
 - b) retain the provisions in legislation with a two-year period during which they must be reviewed, and a decision made about whether they should be operationalised.
50. While option a) is likely to be more easily communicated and understood by the sector, reintroducing the Group Two provisions would require further legislative changes, and another public consultation process.
51. I recommend option b) as it is more effective and efficient in the long term. It preserves discretion to bring these Group Two provisions into operation, without having to reintroduce new legislation. This means it can be done quickly, once a decision is made about whether the Group Two provisions are needed.
52. Retaining the Group Two provisions in the Act may lead to some confusion. This risk can be mitigated by including the date by which they will be reviewed in the Oranga Tamariki Act 1989 and through effective communication with the sector.

C. Amending the requirements for a Code

Providing comprehensive guidance to the sector on the new provisions

53. Further work and stakeholder engagement found that good information sharing requires the building of relationships, trust, and openness between agencies. It was also agreed that legislation, or a top-down legislative instrument like a Code, will not necessarily create this.
54. If the Group Two provisions are not implemented on 1 July 2019, there is little benefit in issuing a Code. I considered:
 - a) issuing a Code to only support the Group One provisions
 - b) issuing a Code and comprehensive guidance to support the Group One provisions

c) issuing comprehensive guidance only.

55. With any option, effective and clear guidance will need to be provided to the sector. The benefit of issuing a Code is that, as a legislative instrument, it has a greater status than guidance and is enforceable. However, a Code by itself is not likely to provide the type of guidance the sector needs. Similarly, producing two separate documents that provide advice and guidance on the legislative provisions would likely be confusing for the sector.
56. I recommend option c) because I agree with the view from the sector that providing comprehensive guidance rather than issuing a Code would best support the implementation of the Group One provisions. The sector has indicated that the best way to support practice changes under the information sharing provisions is to provide agencies and professionals with comprehensive guidance developed in collaboration with them. Under option c):
- the technical requirement to develop a Code will not be exercised at the same time the other provisions come into force on 1 July 2019
 - comprehensive guidance, developed jointly with the sector and for the sector, will be issued by 1 July 2019, instead of a Code
 - the ability for the Minister to issue a Code at a later stage will be retained in the Act, should a decision be made to implement the Group Two provisions.

Establishing a helpline to assist with interpretation of the information sharing provisions

57. One of the purposes of a Code was to specify how disputes, mainly about the interpretation and application of the Group Two provisions, would be resolved. I consider it is important to provide real time assistance for the sector on the application of the provisions in addition to comprehensive guidance by setting up a helpline. The benefits of a helpline include providing:
- a mechanism for one-on-one advice about situations where people are unclear, particularly about whether or not to request or provide information under the information sharing provisions
 - a means to collect information to assess how well the information sharing provisions are being understood and are working in practice.
58. Oranga Tamariki has invited the Children's Commissioner, the Privacy Commissioner, and the Police to provide advice on the setting up a helpline for child welfare and protection agencies and others who want clarification on the information provisions by 1 July 2019.

Establishing a consultation process for developing the information sharing guidance

59. The Act set out the consultation process to be used by the Minister for developing a Code. I will direct Oranga Tamariki to use a similar agency-led consultation process with the sector for developing guidance instead so the sector can have input in the

form of the guidance to ensure it will be meaningful and accessible for them. The information sharing guidance will be publically available by 1 July 2019.

Risks with the proposed amendments, and how they will be mitigated

60. There are some risks with the dataset provision coming into force on 1 July 2019, [REDACTED] 9(2)(f)(iv).
61. The Group Two provisions will also come into force in the Oranga Tamariki Act 1989 on 1 July 2019. However, a child welfare and protection agency or independent person needs to be authorised before they can exercise their powers to request information under these provisions. The purpose of a Code was to set out which agencies or people were so authorised, and there is no date in the Act by which the Minister must issue a Code. With the Group Two provisions being included in the Oranga Tamariki Act 1989 on 1 July 2019, but not in operation because a Code had not been issued, there is an argument that the Government is not giving effect to Parliament's intent.
62. I consider that this risk can be mitigated through clear communications and stakeholder engagement with the sector. Information about the proposed repeal of the dataset provision and the intention to review the need for the Group Two provisions will also be available through the helpline.

Next steps

63. If Cabinet agrees to the repeal of the dataset provision, [REDACTED] 9(2)(f)(iv).
64. I will ensure the sector are aware of any decisions made by Cabinet about the information sharing provisions.

Consultation

65. This paper was prepared by Oranga Tamariki. The following agencies were consulted: the Ministries of Health, Education, Justice, Social Development, and Youth Development; the Ministry of Business, Innovation and Employment; the Ministry of Housing and Urban Development; the Ministry for Pacific Peoples; the Ministry for Women; Te Puni Kōkiri; the Department of Corrections; the Department of Internal Affairs; the New Zealand Police; the Office for Disability Issues; the Accident Compensation Corporation; the State Services Commission; the Treasury; the Policy Advisory Group, Child Wellbeing Unit and the Child Poverty Unit at the Department of the Prime Minister and Cabinet; the Offices of the Children's Commissioner and Privacy Commissioner, and the Social Investment Agency.
66. The Privacy Commissioner has been involved in the development and implementation of the new information sharing provisions since 2016 and supports the changes recommended in this Cabinet paper.

Financial implications

67. On 3 December 2018, Cabinet agreed to set aside funding against the Budget 2019 operating allowance for the cost necessary to support the preparatory changes to introduce the information sharing provisions [SWC-18-MIN-017 refers].
68. This funding will be used to prepare information sharing guidelines and communication material, provide targeted training aids and resources (including a helpline) for frontline Oranga Tamariki staff and agencies and practitioners working in the sector.

Human rights implications

69. The proposals in the Cabinet paper are consistent with the Human Rights Act 1993 and the New Zealand Bill of Rights Act 1990.

Legislative implications

70. The proposals in the Cabinet paper require changes to the Act. [REDACTED] 9(2)(f)(iv)

Regulatory impact analysis

71. These decisions are exempt from the Regulatory Impact Analysis requirements. The repeal of the provision concerning the use of linked datasets is exempt on the basis that the proposal repeals or removes redundant legislative provisions. The proposal to not operationalise the Group Two provisions (ss66G to 66J) are exempt on the basis that they have no or only minor impacts on businesses, individuals or not-for-profit entities. The substantive issues have also been addressed in the 2016 Regulatory Impact Assessment published on the Treasury website.⁸

Gender implications

72. There are no gender implications for the proposed amendments to the information sharing provisions in the Act.

Disability perspective

73. There are no direct implications for children and young people with disabilities with the proposed amendments to the information sharing provisions in the Act.

Publicity

74. Good communications with the sector around changes to the information sharing provisions is important. I will publicise these changes to ensure the sector is aware of the implications, and can start planning for them as soon as possible. Oranga Tamariki will continue to work with other government agencies and through stakeholder engagement to ensure there is consistent messaging about the reasons for changes in the information sharing provisions across the sector.

⁸ Ministry of Justice (7 September 2016) Regulatory Impact Statement – Investing in Children: Information Sharing.

Proactive Release

75. This paper will be proactively released following agreement from Cabinet. This will be subject to redactions as appropriate under the Official Information Act 1982.

Recommendations

76. The Minister for Children recommends that the Committee:
- 1 **note** that on 30 March 2016, Cabinet agreed to amend and replace the current information sharing provisions in s66 of the Oranga Tamariki Act 1989 with new and extended provisions to support child-centred information sharing practices across the sector
 - 2 **note** that information sharing provisions in the Act are scheduled to come into force as ss65A to 66Q in the Oranga Tamariki Act 1989 on 1 July 2019
 - 3 **note** that there are two parts to the information sharing provisions – the Group One provisions and the Group Two provisions
 - 4 **note** that further work with stakeholders since the legislation was enacted shows that the current configuration of the information sharing provisions are not fit for purpose and will not achieve the intended outcomes
 - 5 **note** that amendments to the information sharing provisions are required to address these issues, and deliver a more effective information sharing framework
 - 6 **agree** to amend the information sharing provisions so that:
 - 6.1 the Group One dataset provision (relating to child welfare and protection agencies' public notification of their use of combined datasets) is repealed
 - 6.2 the Group Two provisions are not operationalised on 1 July 2019, but will remain in the Act to be reviewed by 1 July 2021 and implemented if required to achieve the level of information sharing necessary to meet the objectives set out in the Oranga Tamariki Act 1989
 - 7 **agree** to the following changes relating to the requirement for a Code in the Act:
 - 7.1 the technical requirement for the Minister to issue a Code to authorise agencies and people to exercise powers under the Group Two provisions will not be exercised by 1 July 2019
 - 7.2 comprehensive guidance for the sector will be issued instead of a Code
 - 7.3 the ability for the Minister to issue a Code at a later stage be retained in the Oranga Tamariki Act 1989, should the Group Two provisions be implemented at a later date

- 8 **agree** that guidance be:
- 8.1 developed using a consultation process similar to that set out in the Act for developing a Code
 - 8.2 aligned to the information sharing guidance being produced by the Ministry of Justice for information sharing under the Family Violence Act 2018
- 9 **agree** to set up a helpline to assist the sector with the interpretation and application of the information sharing provisions by 1 July 2019
- 10 **note** that the repeal of the dataset provision will be [REDACTED] [REDACTED] 9(2)(f)(iv)
- 11 **note** that a minor technical amendment to s66K of the Act (consultation with children and young people when information is shared) so that it clearly applies to information sharing under the Group One provisions will be made through the Oranga Tamariki Legislation Bill which is intended to be passed by 1 July 2019
- 12 **invite** the Minister for Children to issue drafting instructions for the repeal of the dataset provision to the Parliamentary Counsel Office
- 13 **note** that the proposed repeal of the dataset provision and the review of the Group Two provisions will be managed through clear communication and stakeholder engagement with the sector, and information and advice about the amendments will also be available through the helpline.

Authorised for lodgement by:

Hon Tracey Martin
Minister for Children

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PROACTIVELY RELEASED

Appendix One: Assessing wellbeing and policies, processes, and procedures for using combined information

1) Assessing wellbeing for strategic policy and operational purposes

Work underway across Government that enables child welfare and protection agencies to assess wellbeing for strategic policy and operational purposes includes:

- *the Social Investment Agency's purpose and approach*. Uses a wide range of existing data and evidence, to evaluate what interventions work and the best ways to support people.
- *the Treasury's Living Standards Dashboard*. Supports the application of its Living Standards Framework to policy issues
- *The Lifetime Wellbeing Model for all New Zealand Children (Oranga Tamariki)*. The purpose is to understand the drivers of vulnerability
- *the Government's Child Wellbeing Strategy*. Will take an evidence-based approach to identify what will make the greatest difference in children's lives – now and in the future

2) Policies, processes, and procedures which allow agencies to safely share and use combined information for operational purposes

As well as legislation (the Privacy Act 1993 and the Family Violence Act 2018) there are already a number of processes, policies and procedures in place (or being developed) that support the safe use of combined information for operational purposes. These include:

- *the Social Investment Agency's Data Protection and Use Policy*. This will enable everyone to easily understand what is appropriate, and how to safely work with personal and aggregate information.
- *the Social Investment Agency's Data Exchange*. This enables system-wide, multi-way transfer of data between social sector organisations through a cloud-based platform which is safe and secure, without in itself storing the data.
- *the Privacy, Human Rights and Ethics (PHRaE) Framework*. Being developed by the Ministry of Social Development, and can easily be adapted for the assessment of combined data
- *Principles for the Safe and Effective use of Data and Analytics*. Published by Statistics NZ and the Privacy Commissioner
- *the Integrated Data Infrastructure (the IDI)*. This is a large research database containing microdata about people and households.

3) Government Chief Data Steward – functional leader for data across Government

The Government Chief Data Steward is expected to provide a strategy and plans for developing data analytics as well as coming up with guidance, support, and tools for collecting, storing, sharing, and using data.