

Information sharing

Consultation and consent under the Oranga Tamariki Act 1989

The wellbeing and best interests of tamariki and rangatahi take precedence over a duty of confidentiality when sharing information under the Oranga Tamariki Act provisions (Section 66-66Q).

Section 66C of the Oranga Tamariki Act **requires you to consult** with tamariki, rangatahi, or their representative, where appropriate and practicable.

When sharing information under these provisions, **you do not need to obtain a person's consent** to share their information. However, you should check your organisation's policies.

Use this guide to help you understand the difference between consultation and consent.

Consultation

Consultation is a meaningful discussion between people, before making a decision.

When you consult with someone, you have a genuine and open discussion. You need to listen to the person's views, and properly consider how their concerns can be addressed.

The consultation process should help tamariki, rangatahi or the people representing them to understand:

- What information will be shared and why
- Who it will be shared with and who else will see it
- Possible outcomes, consequences or decisions that will be made with the information
- Your decision about whether or not to share information

It should also provide them with opportunities to:

- Ask questions and have them answered
- Tell you what they think and feel about sharing the information

Consent

Consent to sharing information is when someone agrees to, or gives you permission to, share their information.

When someone gives their consent, it means they agree to an action based on their knowledge of what that action involves and its likely consequences. To give consent, the person must have the option of saying no.

If you are seeking consent, it needs to be genuine and informed.

Tamariki and rangatahi need to know exactly what they are agreeing to. This includes:

- What information will be shared and why
- Who it will be shared with and who else will see it
- Possible outcomes, consequences or decisions that will be made with the information

Documenting your process

After the consultation process, you should inform the person what information about them you have decided to share. For your own records you should document:

- what information will be disclosed and who it will be disclosed to
- steps you have taken to address any concerns the person had about disclosing their information
- if the information is being disclosed against the person's wishes, and rationale for doing so

For more guidance, case studies and resources, visit the Oranga Tamariki website and search for "information sharing."