

Fact Sheet for Health and Education Staff: Exchanging information and working together to keep young people safe and well

This fact sheet outlines key principles as to how Health and Education staff can work together to keep young people safe and well.

1. Working with young people, their families, carers and communities

Staff working within Health and Education are accountable for matters related to child protection, privacy and confidentiality as determined by a range of employment obligations, professional standards and legislation. The standards and obligations are contained within codes of conduct and ethical standards, legislation specific to privacy and confidentiality and child protection, and Agency policies and procedures.

It is best practice when routinely working with young people in assessment and care planning, to seek a comprehensive understanding of the young person and their care needs by seeking information from a range of significant parties and other service providers.

In this context it is best practice to discuss the limits of confidentiality with the young person. This should include when and what kind of information could be shared with different parties, recognising that these parties may change over time. Parties may routinely include their parents, carers, school and other agencies involved with the young person. This discussion should be documented in the 'care plan' for health workers and the 'education plan' for school staff.

Best practice is to gain consent wherever possible to share information. The type of information to be shared should be a collaborative decision with the young person and their family/carers.

Only relevant information is exchanged and this is on a 'need to know' basis. Information should be

disclosed only to the appropriate person at the school, hospital or health service; you do not have to provide the 'whole file'.

The current Child Protection Legislation in NSW allows for exchange of information to promote the safety, welfare or wellbeing of a young person without their consent. In fact, Chapter 16A takes precedence over the protection of confidentiality or an individual's privacy because the safety, welfare and wellbeing of children and young people are considered paramount.

The sections below outline the current Child Protection Legislation and provide guidance as to when and how information can be exchanged under Chapter 16A.

2. Child Protection Legislation

The **Children and Young Persons (Care and Protection) Act 1998** (the Act) establishes the legal framework for child wellbeing, child protection and out- of-home care services in NSW. The overriding principle of the Act is that the safety, welfare and wellbeing of children or young people is paramount (section 9).

The consequences for children and young people when agencies fail to work together can be very serious.

The Act recognises that all agencies that have responsibilities relating to the safety, welfare or well- being of children and young persons should be able to provide and receive information that promotes the safety, welfare or well-being of children or young persons, (section 245A).

- **Chapter 16A** of the Act enables exchange of information between agencies that have responsibilities relating to the safety, welfare or well-being of children or young people including the Department of Education and NSW Health (health services and hospitals). For other organisations covered by the Act, see **Section 248 (6)**.

- **Chapter 16A** allows for information to be shared with or without consent (See Section 6. What about privacy?).

3. When can information be exchanged under Chapter 16A?

Information relating to the safety, welfare or wellbeing of a child or young person may be provided upon request or it can be proactively shared between agencies if it will assist to:

- make a decision, assessment or plan (e.g. care plan or planning for a student's learning and support; and/or
- provide any service; and/or
- manage a risk to a child or young person that might arise in either agency's capacity as a service provider.

Requests for exchange of information need to be clear about the purpose, and how they will assist in supporting the young person and their family.

The circumstances under which a request for sharing of information may be declined are stipulated in the Act, and include if the organisation believes the sharing of information would prejudice a criminal investigation, endanger a person's life, or is not in the public interest.

Should it be considered that in the event that one of these criteria apply to a specific request:

- **In Health**, the matter should be escalated through local clinical governance processes for a final decision and communication of the decision with the agency that has made the request.
- **In Education**, the matter should be escalated through the relevant reporting line (for example a Principal should consult with the Director PSNSW before declining a request), and advice sought from the Department's Child Wellbeing Unit.

4. What kind of information can I exchange?

The information exchanged is on a 'need to know' basis. Disclose the relevant information to the appropriate person at the school, hospital or health service; you do not have to provide the 'whole file'.

Education

A school could provide a health service/hospital with information about: attendance; a student's learning difficulties or disabilities; incidents involving the student (such as bullying); concerns about the student's wellbeing or behaviour (such as self-harm); or concerns about the student's parents/carers (such as concerns about the family's current capacity to provide care and support to the young person).

A school could also provide relevant information about the family's living arrangements or other agencies that are known to be working with the student.

NSW Health (health services and hospitals)

A Health service/hospital could provide a school with any information that will assist the young person to remain safe and well while at school. This may include information about the young person's current mental state that could impact on their behavior and school functioning (e.g. mood, cognitive functioning), psychosocial stressors (e.g. family or relationship stressors), and current risks (e.g. suicidal ideation and self-harm behaviours).

A Health service/hospital could also advise a school of triggers to distress and current school-based stressors such as bullying, relationship difficulties, or issues managing academic demands. In collaborative care planning the Health service/hospital could also provide advice or recommendations to assist the school in helping the young person manage their distress.

A Health service/hospital could also provide information about the outcome of relevant assessments, mental health support plans, and engagement with other services. Other relevant information could include concerns about the student's parents/carers (such as concerns about the family's current capacity to provide care and support to the young person).

5. How is information exchanged and kept secure?

Before exchanging information under Chapter 16A

Consider:

- if appropriate, and risk is not imminent, can you obtain consent first?
- what information is useful and relevant to exchange?
- is there an established pathway for exchange?
- who in the school or Health service is the best person to be able to act on the information? (e.g. information about bullying may be referred to the Principal to decide who is best placed to deal with the alleged behaviour, whereas imminent risk of significant harm may need to be communicated with the school counsellor, or in their absence the school Principal)
- **In Health**, consultation with peers, service manager, and clinical supervisor
- **In Education**, consultation with the line supervisor or seeking expert advice (e.g. from Legal Services)
- contacting your local Child Wellbeing Unit as an additional resource for advice.

In addition to completing or complying with a request under Chapter 16A, document in the clinical file (**for Health**) or the relevant student file (**for Education**) the reason for your decision with relevant detail indicating that you have considered the above issues.

Exchanging information under Chapter 16A

Written exchange is preferred and standard forms, letters, e-mails and other forms of electronic communication can be used. Links to standard letters can be found in the [Interagency Guidelines](#).

In addition to completion of the formal request, explain and document any advice to the other agency about sensitivities in the information and how these might be managed. Any actions agreed by both agencies should also be noted in the young person's file.

Where the use of Chapter 16A facilitates collaborative care planning by verbal means, for example, at multi-agency case conferences, then the information exchanged under Chapter 16A should still be documented.

Storage

Agencies sharing personal information are still

expected to protect the confidentiality of the information, for example, by storing it securely.

6. What about privacy?

It is good practice to seek consent to exchange information when possible, but not always necessary. Chapter 16A overrides the protection of confidentiality or of an individual's privacy because the safety, welfare and wellbeing of children and young people is considered paramount.

Chapter 16A allows information to be exchanged despite other laws that prohibit or restrict the disclosure of personal information, such as the *Privacy and Personal Information Protection Act 1998*, the *Health Records and Information Privacy Act 2002* and the *Commonwealth Privacy Act 1988*.

Some circumstances in which you would **not** seek consent include but are not restricted to:

- where you believe it is likely to further jeopardise a child or young person's safety, welfare or wellbeing;
- where you believe it would place you or another person at risk of harm; or
- where you are unable to contact a parent/carer and the matter is urgent.

Where you intend to share information in relation to parents or family circumstances, carefully consider the type of information that it is relevant and necessary to share. For example, it may not be necessary nor relevant to share the parent's psychiatric diagnosis without their consent, however it may be necessary and relevant to share concerns in relation to the impact of the parent's illness on their capacity to provide care for their child.

7. Can I be prosecuted or disciplined for disclosing information?

The Act stated that, if a person acts in good faith when providing any information in accordance with Chapter 16A, he or she:

- is not liable to any civil or criminal action, or any disciplinary action, for providing the information; and
- cannot be held to have breached any code of professional etiquette or ethics or departed from any accepted standards of professional conduct.

8. Where can I find further Information?

Generally:

- **Exchanging information under 16A**
- **Providing and requesting information under 16A**
- **Responding to requests under 16A**
- **Keep Them Safe: A shared approach to child wellbeing' fact sheets**
- **Mandatory Reporter Guide**
- **Ethical guidelines for working with young people** (Australian Psychological Society. Note member access required).
- **Psychologists in NSW Schools Client Information Sharing (Relating to the NSW Keep Them Safe Legislation)** (Australian Psychological Society).

Health

- **Child Wellbeing and Child Protection Policies and Procedures for NSW Health**
- NSW Health Child Wellbeing Unit – Phone 1300 480 420 (Mon-Fri: 8.30am to 5.00pm)
- **Privacy Manual for Health Information**
- **Working with child clients** (Australian Association of Social Workers)
- **NSW Child and Adolescent Mental Health Services (CAMHS) Competency Framework**

Education

- **Protecting and Supporting Children and Young People Policy**
- **Legal Issues Bulletin 51 – School Counsellors, Confidentiality and the Law**
- *NSW Education Child Wellbeing Unit* Phone 9269 9400 (Mon-Fri: 8.30am to 5.00pm)