



FACT SHEET - New laws supporting information sharing - s.28B of the *Children and Community Services Act 2004*

Information sharing is an important strategy to strengthen coordinated planning and service delivery between agencies and to promote better outcomes for children,¹ adults and families. New laws came into effect on 1 January 2016 to support information sharing between relevant services in Western Australia.

Why should information be shared?

Keeping children and young people safe from abuse and neglect is a shared responsibility. The ability to share relevant information between agencies is an integral part of working with vulnerable children, adults and families to provide support and prevent harm.

Across government and the non-government sectors, information sharing is recognised as a critical factor in achieving collaborative service delivery and better outcomes for children, adults and families at risk. There have been numerous reviews into child protection systems and Coronial inquests across Australia that highlight poor outcomes for vulnerable children and families as a result of inadequate information sharing.

Sometimes it is not clear to a single agency or service what is really happening for a child or family. It is only when information is gathered from other agencies that the complete picture is built and a comprehensive assessment of the level of risk can be undertaken. Sharing information better informs decision making and enables professionals to provide appropriate support or intervention to keep a child or an adult safe.

What has changed with the new legislation?

Previously, under s.24A of the *Children and Community Services Act 2004* (the Act), the Chief Executive Officers (CEOs) of certain public authorities (**prescribed authorities**) were able to exchange information with one another if the information was, or was likely to be, relevant to the wellbeing of a child or a class or group of children.

Under the new laws, these powers have been broadened and transferred into s.28B of the Act. In addition to exchanging relevant information with one another, prescribed authorities are now able to exchange **relevant information** with certain **non-government providers** and schools in the non-government

sector, and the type of information that may be shared is broader.

Who are the 'prescribed authorities'?

The current prescribed authorities are:

- Department of Aboriginal Affairs
- Department of Corrective Services
- Department of Education
- Department of Education Services
- Department of Housing
- Department of Local Government and Communities
- Department of the Attorney General
- Disability Services Commission
- Family Court of Western Australia
- Mental Health Commission
- State Training Providers
- Teachers Registration Board of Western Australia
- Training Accreditation Council
- WA Health (Department of Health, Metropolitan Health Services, WA Country Health Service and Peel Health Service)
- Western Australia Police.

New public authorities may be prescribed from time to time. Check the Department's website for a current list: <http://www.dcp.wa.gov.au/Organisation/Pages/Amendments-to-the-Children-and-Community-Services-Act-2004.aspx>

Which non-government providers and non-government schools are included?

Services providing 'social services' under contract with a prescribed authority or the Department for Child Protection and Family Support² (**non-government providers**) can now exchange relevant information with prescribed authorities, excluding services provided under grants funding. 'Social services'³ are a broad range of services provided to assist children, other individuals, families and communities, including family and domestic violence services and support and counselling services.

The non-government schools which can exchange information with prescribed authorities under s.28B are Independent and Catholic schools registered under Part 4 of the *School Education Act 1999*.

¹ Child means a person who is under 18 years of age, and in the absence of positive evidence as to age, means a person who is apparently under 18 years of age.

² Through an agreement with the Children and Community Services Ministerial Body.

³ The term *social services* is defined in section 3 of the Act.

What is 'relevant information'?

Relevant information is information that is, or is likely to be, relevant, to:

- (a) the wellbeing of a child or class or group of children; or
- (b) the safety of a person who has been subjected to, or exposed to, one or more acts of family and domestic violence.⁴

Are there limitations on who can share?

Yes. Only certain persons within a prescribed authority, a non-government provider or a non-government school are authorised to exchange information under s.28B and receive the legal and professional protections that apply when relevant information is shared in good faith.

Prescribed authority - only the CEO or a person/ position delegated, in writing, with the CEO's information sharing powers⁵ is authorised to ask for relevant information from, or disclose it to, another prescribed authority, a non-government provider or a non-government school.

Non-government provider - only the CEO or principal officer (however described), or a person delegated in writing, has the authority to disclose relevant information to a prescribed authority or request it.

Non-government schools - the governing body which has the authority to exchange relevant information with a prescribed authority. The governing body may also delegate those powers in writing to principals or other officers.

If you work for a prescribed authority, non-government provider or non-government school and you wish to obtain or disclose relevant information using the laws in s.28B, you should find out who has the proper authority to do so.

Do I have to share if requested?

The legislation allows, but does not require, you to share relevant information. When deciding whether to share information under s.28B, it is important to remember that the best interests of the child must be your paramount consideration, and the safety of other individuals is of critical importance.

You may share relevant information under s.28B on your own initiative or in response to a request from an authorised person.

It is best practice to seek consent before sharing information about a person, where possible and where this does not place a child or another person at risk. However, s.28B enables information to be shared without consent.

What sort of information can I share?

When you share information under s.28B you may disclose any information you believe is relevant to the wellbeing of a child or the safety of a person who has been subjected to, or exposed to, one or more acts of family and domestic violence.

Types of information you may share include:

- any known history of the child suffering harm;
- any periods in which the child has been cared for by other people;
- any significant issues relating to the child's siblings;
- the child's physical health, including any treatment needs;
- any psychological and emotional difficulties the child may have;
- the child's education, including any special educational needs;
- any disabilities the child may have, including any care requirements;
- any known allergies and dietary requirements of the child;
- any significant health problems of the child's caregiver;
- whether a caregiver's mental illness, substance misuse, disability or history of family and domestic violence may be affecting his/her ability to care for their child;
- whether a caregiver is receiving treatment for any of the above issues and the outcomes of this treatment;
- information about a person in the household who may pose a risk to the child; or
- any information that is relevant to informing an assessment of risk posed to, or safety of, a person subjected or exposed to family and domestic violence, including information related to a perpetrator.

How am I protected when I exchange information under the s.28B new laws?

If you are authorised to disclose information under s.28B, and you do so in good faith, you are protected from civil and criminal liability and the disclosure cannot be considered unprofessional conduct or a breach of professional ethics. You therefore cannot be disciplined by your professional body and should not incur any formal negative consequences at your workplace in relation to the disclosure of the information.

Where can I find more information?

Further information on sharing information and the legislative changes can be found on the Department for Child Protection and Family Support website at www.childprotection.wa.gov.au.

⁴ As defined in section 6, *Restraining Orders Act 1997*

⁵ Delegated under section 28C of the Act