

**Proposed Practice Guideline Change**  
**Confidentiality and Disclosure of Information Guidelines**  
**May 2, 2022**

**Change Description**

This proposed change to the **Confidentiality and Disclosure of Information Guidelines** will clarify when the use of section 96 is necessary and direct workers to seek consent first and tell the person when their information has been accessed and how it will be used, wherever safely possible. Section 96 of the *Child, Family and Community Service Act* (CFCSA) allows ministry and Indigenous Child and Family Service Agency workers to request information about individuals.

**Proposed Change**

CURRENT WORDING	PROPOSED NEW WORDING
<p><b>Proposed insertion begins page 5</b></p> <p>...Section 96 (1) of the CFCSA entitles a director to any information that is in the custody or control of a public body and is necessary to enable the director to exercise their powers or perform their duties or functions under the Act. The director – not the public body – decides what information is necessary.</p> <div data-bbox="115 1094 753 1157" style="border: 1px solid black; padding: 5px; margin-top: 20px;"> <p><b>This proposed new wording will be inserted here</b></p> </div>	<p>...Section 96 (1) of the CFCSA entitles a director to any information that is in the custody or control of a public body and is necessary to enable the director to exercise their powers or perform their duties or functions under the Act. The director – not the public body – decides what information is necessary. To avoid duplication of information previously requested, include the date range in the s. 96 request for information from public bodies.</p> <p>A section 96 request for information can be considered, on a case-by-case basis, in many circumstances including, but not limited to the following:</p> <ul style="list-style-type: none"> <li>• The director has requested and has been unable to secure the consent of the individual whom the information is about or the consent of the person with legal care of a child whom the information is about, to release the information to the director; and</li> <li>• The director believes, on reasonable and probable grounds, that the information, document or record is necessary in order to provide services or take action under the Act. Typically, this would be required when working under Part 3, 4 or 8. Examples of Part 3,4 or 8 provisions where the director might need to use s. 96 include, but are not limited to, the following:             <ul style="list-style-type: none"> <li>○ assessing/investigating whether a child needs protection;</li> <li>○ carrying out guardianship responsibilities;</li> <li>○ gathering evidence for child protection hearings under the CFCSA;</li> </ul> </li> </ul>

- s. 98 restraining orders to protect a caregiver or sexually exploited child;
- s. 28 protective intervention orders to protect a child when contact with an individual may cause the child to be in need of protection.

Whenever possible, before considering use of section 96 (1) to access information, seek the consent of the individual whom the information is about or the consent of the person with legal care of a child whom the information is about, to obtain information. Use the Consent to Collect Information form to document their consent and upload the form as an attachment in ICM. If it's not possible to get an individual's signed consent immediately, document their verbal consent given in person, by phone, or by virtual technology, and follow up as soon as possible by having them sign the Consent to Collect Information Form. Once the information has been requested and obtained, inform the person about the collection of information and how it will be or has been used, including, but not limited to:

- Assessing a child's safety and need for protection;
- Ensuring a child's or other's safety and well-being.

If the information is necessary and the individual does not give consent or when the individual cannot be located to provide consent, the use of s. 96 to access their information from a public body is permissible under the CFCSA. Document the attempts to contact the individual and engage with them to seek their consent.

Do not, however, seek, a parent's, guardian's or other individual's consent to collect their information or inform them how their information will be used under the following circumstances:

- If doing so would, in the opinion of the director, cause physical or emotional harm to any person or endanger the child's safety; or
- If a criminal investigation into the matter is underway or contemplated; or
- On a case-by-case basis with the approval of a supervisor.

Section 96 (2) requires the public body concerned to disclose the requested information to the director.

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## CONTACT US

Written submissions will be accepted until **June 6, 2022**. Send your submission or request more information:

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