

## Child Protection - Information Sharing About Students' Safety and Wellbeing

### Source of Obligation

The School may, or in some cases must, share information relating to the safety, welfare or wellbeing of children and young persons (Information) with specific agencies or people.

Despite other laws prohibiting or restricting the disclosure of personal information, prescribed bodies (such as non-government schools), **must** share Information with certain other prescribed bodies:

- under Chapter 16A or section 248 of the Children and Young Persons (Care and Protection) Act 1998 (NSW) (Care and Protection Act); and/or
- to fulfil Reportable Conduct obligations and Mandatory Reporting to DCJ/Mandatory Reporting to Police obligations.

Chapter 16A also allows a broad array of information to be shared voluntarily between certain organisations, including information about the support or educational needs of students or information about the risk of sexual abuse posed by teachers and other staff.

Chapter 16A prioritises the sharing of Information, to ensure the protection and wellbeing of children and young people, over the protection of an individual's privacy and confidentiality.

### Kambala's Policy

It is the School's policy to comply with all Chapter 16A requests for Information by DCJ and other prescribed bodies whenever:

- The School has formed the required reasonable belief under the relevant section; and
- No exemption to the Information sharing exists.

It is the School's policy to voluntarily share Information with DCJ and other prescribed bodies under Chapter 16A whenever:

- The School has formed the required reasonable belief under the relevant section; and
- No exemption to the Information sharing exists

regardless of whether DCJ or the other prescribed body has requested the Information.

The School may share Information under Chapter 16A without the consent of the child, young person or their family. However, it is our policy that:

- wherever possible, informed consent to the Information sharing is sought from the child or young person and/or their parents/carers
- at enrolment, parents/carers are informed that Information about students may be, or is, provided to other organisations.

### Who is Authorised to Share Information?

At the School, the Principal is authorised to exchange Information on behalf of the School. Any request for Information received by a member of staff must be directed to the Principal for consideration. Information can be shared verbally or in writing.

## Who Are Prescribed Bodies?

The School is a 'prescribed body' and it can share Information with various other prescribed bodies including:

- NSW Police
- a Public Service agency or public authority
- a government or non-government school
- a TAFE establishment
- a public health organisation
- a private health facility
- the Family Court of Australia
- the Federal Circuit Court of Australia
- the Commonwealth Department of Human Services
- the Commonwealth Department of Immigration and Border Protection
- nurses
- medical practitioners
- midwives
- psychologists
- occupational therapists
- speech pathologists eligible for membership of Speech Pathology Australia
- community housing providers
- any organisation whose duties include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, children's services, residential services, or law enforcement, wholly or partly to children.

While DCJ is not specifically mentioned in the Care and Protection Act or the Children and Young Persons (Care and Protection) Regulation 2012 as a prescribed body, in 2010 DCJ trialed using Chapter 16A instead of section 248 to seek Information about children and young people, and as a result now primarily uses section 245C and 245D to provide Information to and request Information from prescribed bodies.

## Voluntary Sharing of Information by the School

Under section 245C, the School may provide Information to another prescribed body if it reasonably believes that the provision of the Information would assist the recipient of the Information to:

- make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or wellbeing of the child or young person, or class of children or young persons, or
- manage any risk to the child or young person (or class of children or young persons) that might arise in the recipient's capacity as an employer or designated agency.

The School may provide Information under section 245C regardless of whether the School has been requested to provide the Information.

## Mandatory Sharing of Information Upon Request

Under section 245D(3), a prescribed body may request another prescribed body to provide it with Information held



by the other body.

If the School receives a request from a prescribed body to provide it with Information, the School **must** comply with the request if it reasonably believes, after being provided with **sufficient information** by the requesting prescribed body to enable the School to form that belief, that the Information may assist the requesting prescribed body to:

- make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or wellbeing of the child or young person, or class of children or young persons, or
- manage any risk to the child or young person (or class of children or young persons) that might arise in the recipient's capacity as an employer or designated agency.

'Sufficient information' is not a defined term in Chapter 16A. For guidance as to what information would be regarded as sufficient for the purposes of responding to an information request received under section 245D, refer to [Information Exchange – Long fact sheet for human services workers](#).

The School **must** comply with a direction from the Department of Communities and Justice (DCJ) made under section 248 of the Care and Protection Act to furnish DCJ with information relating to the safety, welfare and wellbeing of a particular child or young person or a class of children or young people.

## Exemptions to Information Sharing

Exemptions to Chapter 16A's mandatory Information sharing provisions (but not to directions under section 248) are set out in section 245D(4). Under that section, the School **does not** have to provide any requested Information if it reasonably believes that to do so would:

- prejudice the investigation of a contravention (or possible contravention) of a law in any particular case, or
- prejudice any care proceedings, or
- contravene any legal professional or client legal privilege, or
- enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained, or
- endanger a person's life or physical safety, or
- prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention (or possible contravention) of a law, or
- not be in the public interest.

## Responding to an Information Request from a Prescribed Body

When an Information sharing request is received, the following steps must be followed:

- if the request is received by a person other than the Principal, the request must be forwarded to the Principal
- the Principal must determine if **sufficient information** has been given by the prescribed body to determine whether he or she reasonably believes that the Information would assist the recipient of the information to:
  - make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or wellbeing of the child or young person, or class of children or young persons; and/or
  - manage any risk to the child or young person (or class of children or young persons):



- if **sufficient information** has not been given the Principal may decline the request
- if **sufficient information** has been given the Principal must:
  - comply with the request and provide the Information to the prescribed body in accordance with section 245D(3), or
  - decline to comply with the request to provide the Information to the prescribed body if grounds for an exemption under section 245D(4) apply.

If the Principal declines to provide Information in response to a request made under section 245D, he or she must provide the requesting prescribed body with reasons in writing for refusing the request.

### **Making a Request for Information to a Prescribed Body**

If a School staff member wishes to request Information from a prescribed body under section 245D, the request must be made to the Principal, who will consider whether or not to make the request for information to the prescribed body.

The Principal should first try to contact the prescribed body by phone before making the request to discuss the School's Information needs and ensure the request is well targeted. Then a request that the Information be provided must be made in writing, containing the following information:

- the **identity** of the person who is the subject of the Information request and, if it is not a child or young person, identify the subject's relationship to the child or young person and provide any particular identifying information so that the prescribed bodies can be sure that they are talking about the same person
- an **explanation of how** the request for Information relates to the safety, welfare or wellbeing of the child or young person (or class of children or young people)
- an **explanation of how** the information will assist the School to make a decision, assessment or plan, or to initiate or conduct an investigation, or to provide any service, or to manage any risk to the child or young person
- a sufficient level of **detail** to assist the other prescribed body to understand the purpose of the request and to locate the relevant information in an efficient manner
- the **background** to the request, including whether or not the School has informed a child, young person or parent that the information has been sought and, if not, why not (e.g. where there are safety concerns)
- an indication of the **time period** for which the information is sought (e.g. for the last six months, three years) and the type of information sought
- a **realistic time frame** for the prescribed body to provide the information, noting that communicating/negotiating a due date is best practice as it promotes collaboration and can ensure urgent matters are prioritised (unless the information is for court proceedings where a more limited time frame may be required).

### **Sharing Information with a Prescribed Body without a Request**

If a staff member proposes that Information should be shared with a prescribed body without a request having been made, this request must be made to the Principal for their consideration and action.

The Principal must determine whether he or she reasonably believes that the provision of the Information would assist the proposed recipient of the Information to:

- make any decision, assessment or plan or to initiate or conduct any investigation, or to provide any service, relating to the safety, welfare or wellbeing of the child or young person, or class of children or young persons; and/or
- manage any risk to the child or young person (or class of children or young persons) that might arise in the recipient's capacity as an employer or designated agency.

If so, the Principal will share the information unless an exemption under section 245D(4) applies.

Information can be shared verbally or in writing.

### **Restriction on Use of Information**

If any Information is provided to the School under Chapter 16A, the School must not, except as otherwise required or permitted by any law, use or disclose the Information for any purpose that is not associated with the safety, welfare or wellbeing of the child or young person (or class of children or young persons) to whom the information relates.

### **Protection from Liability**

If any person, acting in good faith, provides Information in accordance with Chapter 16A, that person is not liable to any civil or criminal action, or any disciplinary action, for providing such Information. The person cannot be held to have breached any code of professional etiquette or ethics or to have departed from any accepted standards of professional conduct.

### **Record Keeping**

Records must be kept of all requests for Information received by and Information provided to the School, which Information must be documented and stored securely, separate from the student's records.

When a request has been received, the School should record the:

- name of the entity/individual making the request
- Information that was requested
- date on which the request was made.

When sharing Information voluntarily or in response to a request, the School should record:

- the name of the entity/individual who received the Information
- if the request was made by a prescribed body, whether sufficient information has been given and whether the requisite reasonable belief was formed
- the date on which the Information was shared
- a description of the Information that was shared
- whether the views of the child or young person and/or their relevant family members were sought and consent obtained.

When making a request, the School should record the:

- date of the request
- name of the entity/individual that the request was made to



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- information that was sought
- the reason why the Information was sought.

The records relating to Information sharing under this policy are maintained by the Principal's Office.

## **Implementation**

This policy is implemented through a combination of:

- staff training
- effective communication and incident notification procedures
- effective record keeping procedures
- initiation of corrective actions where necessary.

## **Discipline for Breach of Policy**

Where a staff member breaches this policy, Kambala may take disciplinary action, including in the case of serious breaches, summary dismissal.

## **Version details**

Version 2. Approved by Executive on 18 May 2020

Owner: Risk and Compliance Officer