

Lady Gowrie Community Kindergartens

PRIVACY & CONFIDENTIALITY POLICY

CONSIDERATIONS:

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| NATIONAL QUALITY STANDARDS | QA 2, 4.2, QA 7 |
| NATIONAL LAW ACT & NATIONAL REGULATIONS | Law: 273 Regulations: 168, 181 |
| OTHER | Australian Privacy Act 1988 Information Privacy Act 2009 Health Records Act 2001 |

POLICY STATEMENT:

To protect the privacy and confidentiality of individuals by ensuring that personal and or sensitive information collected about individual children, families, staff and management in relation to the operation of the Service, are kept in a secure place and are only accessed by, or disclosed to, those people who need the information to fulfill their responsibilities at the Service or have a legal right to know.

That all Staff and Executive Committee Members as Approved Provider and Employer are aware of and implement their responsibilities in relation to privacy and act in a professional and ethical way at all times in relation to the privacy and confidentiality of personal and or sensitive information.

RELEVANT FORMS/MATERIAL:

- The Kindergarten Parent Handbook
- Queensland Kindergarten Funding Scheme Funding Requirements
- Service Agreement with Central Governing Body
- Lady Gowrie Community Kindergarten Enrolment Form
- Rules/Constitution of the Kindergarten
- Early Childhood Australia Code of Ethics
- Lady Gowrie Community Kindergartens Grievance for Families Policy
- Lady Gowrie Community Kindergartens Incident, Injury, Trauma, Illness Record
- Lady Gowrie Community Kindergartens Medication Permission Form
- Consent Form for digital documentation system if not included in Enrolment Form.
- Transition Statement Consent Form
- Authorisation to Discuss Individual Child with Another Professional Form
- Notifiable Data Breach Form (completed online www.oaic.gov.au)

SOURCES:

- Commonwealth Privacy Act 1988, *Privacy Amendment (Private Sector)* Act 2000.
- Privacy and Personal Information Protection Act 1998
- Health Records Act 2001
- Information Privacy Act 2009
- Australian Government Office of the Australian Information Commissioner
www.oaic.gov.au
- Early Childhood Australia (2016) Code of Ethics.
- United Nations Convention on the Rights of the Child (1991)
- ACECQA (2018) Guide to the National Quality Framework.
- Education and Care Services National Law Act.
- Education and Care Services National Regulations.

REVIEWED: June 2019

Date to be Reviewed: December 2020

BACKGROUND INFORMATION

WHAT YOU SHOULD KNOW

The Privacy Act's definition of personal information is:

*"... information or an opinion about an identified individual, or an individual who is reasonably identifiable:
(a) whether the information or opinion is true or not; and
(b) whether the information or opinion is recorded in a material form or not."*

Your name and address are the most obvious examples of personal information.

What is confidentiality?

Confidentiality is a concept that is related to, but different from, privacy.

Confidential information is information of a confidential nature that is provided in circumstances giving rise to an obligation of confidence.

Often, people in the public sector are bound by duties of confidence, whether through relationships, through legislation or under a contract.

Confidentiality is about controlling the disclosure of information, and often deals with a broader range of information than just personal information.

Privacy and confidentiality

While **confidentiality** can arise out of a relationship, **privacy** relates to the right of an individual to have their personal details protected, to be left alone and/or to be left anonymous.

If you receive information of a confidential nature in circumstances giving rise to an obligation of **confidence**, you may owe an obligation of confidence to the provider of that information.

Privacy, is the right of the subject of the information, no matter who provided or who received the information.

Privacy is a basic human right set out in the *Universal Declaration of Human Rights*. It applies only to individual human beings, not to governments or corporations. In early childhood settings, privacy protection applies to staff, families and children.

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| | <p>The Australian Privacy Principles outlined in The Privacy Act are:</p> <ul style="list-style-type: none"> • Principle 1 - Open and transparent management of personal information • Principle 2 - Anonymity and pseudonymity • Principle 3 - Collection of solicited personal information • Principle 4 - Dealing with unsolicited personal information • Principle 5 - Notification of the collection of personal information • Principle 6 - Use or disclosure of personal information • Principle 7 - Direct marketing • Principle 8 - Cross border disclosure of personal information • Principle 9 - Adoption, use or disclosure of government identifiers • Principle 10 - Quality of personal information • Principle 11 - Security of personal information • Principle 12 - Access to personal information, and • Principle 13 - Correction of personal information. |
| <p>WHAT YOU SHOULD KNOW</p> | <p>The Office of the Australian Information Commissioner (OAIC) is an independent statutory agency within the Attorney General's portfolio.</p> <p>The Kindergarten Service, Staff or Families can seek specific advice from the OAIC through calling 1300 363 992 or email enquiries@oaic.gov.au</p> |
| <p>PRIVACY GUIDELINES</p> | |
| <p>PRIVACY GUIDELINES</p> | <p>COLLECTION OF INFORMATION</p> <ul style="list-style-type: none"> • Personal information will only be collected and used specifically for the purpose of the Kindergarten's function. This information will be collected in a fair and unobtrusive way. • Persons providing the information will be given appropriate access to their information and be advised about the purpose for the collection of the information. • Collection of information is limited to the amount of information that is necessary for the activities of the Kindergarten and The Gowrie (QLD) in the role of the Kindergarten's Central Governing |

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| | <p>Body.</p> <ul style="list-style-type: none">• Information is generally collected only with consent of the individual. This is normally collected at time of enrolment with the Enrolment Form and through Family interviews. The primary purpose for collecting information is to enable the Kindergarten to provide children with an individual, developmentally appropriate program that is educational, engaging, nurturing and safe.• Information relative to the subsidies claimed under the Queensland Kindergarten Funding Scheme will be required to be supplied to the Kindergarten by families, and hence the Central Governing Body – The Gowrie (QLD) to ensure the compliance of these funding requirements. This may include, yet is not exclusive to Health Care Card information, Birth Certificates and Medical Information. <p>USE AND DISCLOSURE</p> <p>Personal Information</p> <p>Disclosure of information will only be for the purpose for which it is collected. This is with limited exceptions, and can only be used for a secondary purpose when it relates to the primary purpose of the collection of the information.</p> <p>Sensitive Information</p> <p>Will only be used when informed consent is obtained at the time the information was collected.</p> <p>Use of Information</p> <p>The Kindergarten will disclose personal and sensitive information to staff for the specific purpose of administration and education of the children within the program.</p> <p>The Kindergarten will obtain parent/guardian permission before disclosing a child's personal and sensitive information to a professional attending the program for the specific purpose of providing a service to a child. This includes early intervention teachers, speech therapists, occupational therapists, doctors and counsellors.</p> <p>Personal information collected about children is regularly disclosed to their own parents or guardians. On occasions personal information such as children's personal achievements, child portfolios and photos are displayed within the boundaries of the Kindergarten.</p> <p>In the role of Central Governing Body staff from The Gowrie (QLD) Inc. will view and discuss both documentation of the program and observations of the program with Kindergarten Teachers/ Educators and when applicable the committee of the Kindergarten. The Gowrie (QLD) Inc. staff undertake this role professionally and with confidentiality in meeting the responsibilities of a CGB in supporting Affiliated Services to provide an inclusive quality education program for all children under the guidance of QKFS.</p> <p>The Kindergarten will support the role of the committee and in</p> |
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situations regarding enrolments, inclusion and grievances personal information may be discussed at a committee level. The discussion of this information is undertaken in a respectful and professional manner at all times and is only undertaken in ensuring the compliance of the guidelines under QKFS and the health and wellbeing of all children, families and staff.

The Kindergarten from time to time may engage in fundraising activities. Information received from parents/guardians may be used for this purpose but will not be disclosed to a third party for their own marketing purposes without parental consent, or for any other reason than for the purpose for which it was collected.

The Kindergarten will include emergency contact details in a class list. Access to these is limited to the staff and boundaries within the Kindergarten Service.

Additional contacts such as doctors or emergency contacts will be informed by parents that their details are held by the Kindergarten **and** that they can access that information if they wish to do so.

DATA COLLECTION

The Kindergarten takes all reasonable precautions to ensure personal information that is collected, used and disclosed is accurate, complete and up-to-date. However, the accuracy of that information depends to a large extent on the information that is provided by the individuals.

Individuals will be required to advise the Kindergarten of any changes that may affect the initial information provided.

The Nominated Supervisor of the Kindergarten will ensure information is collected and maintained in accordance with the Education and Care Service National Law Act and Education and Care Services National Regulations and The Privacy Act.

The Kindergarten and The Gowrie QLD (Inc) undertake data collection and reporting to the Department of Education in accordance with the requirements of the QKFS Funding Scheme Funding Requirements. This at times may also be done directly via the funding body of The Department of Education, Queensland Government.

DATA SECURITY

The Kindergarten will protect personal information from misuse, loss, change, and unauthorised access/disclosure.

The Nominated Supervisor of the Kindergarten will ensure personal information is stored in accordance with the Education and Care Services National Law Act and Education and Care Services National Regulations and The Privacy Act.

Where the Kindergarten Service uses a digital documentation program all aspects of the Privacy and Confidentiality Policy will be

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| | <p>implemented and the Service will advise families, if the data stored on this digital documentation system is owned by the Kindergarten or stored by an external provider in Australia or Overseas.</p> <p>OPENNESS, ACCESS AND CORRECTION Parents/guardians may seek access to the personal information collected about them and their child/ren by contacting the Kindergarten. Children may also seek access to personal information. However, there will be occasions when access is denied. Such occasions would include where access would have an unreasonable impact on the privacy of others, where access may result in a breach of the Kindergarten’s duty of care to the child or where children have provided information in confidence.</p> <p>IDENTIFIERS The Kindergarten recognises that Government identifiers such as Medicare number, Health Care Card, Birth Certificate Number or Veteran’s Affairs numbers will only be used for the purpose for which they were issued.</p> <p>ANONYMITY The Kindergarten will offer anonymous transactions within the service wherever possible.</p> <p>TRANSFER DATA FLOWS The Kindergarten or The Gowrie (QLD) Inc. does not transfer personal information outside of Australia.</p> <p>SENSITIVE INFORMATION The Kindergarten respects the rights of individuals with respect to personal and sensitive information. A higher level of privacy protection applies to sensitive information:</p> <ul style="list-style-type: none"> • Sensitive information relates to information about an individual’s religious beliefs, racial or ethnic origin, philosophical beliefs, political opinions, membership of a political persuasion, membership of a trade union, sexual preferences or practices, criminal records or health information. • Sensitive information can only be collected with an individual’s (or parent’s/guardian’s) consent to do so. • Sensitive information can only be used when informed consent is obtained at the same time the information was collected. |
| <p>CONFIDENTIALITY</p> | |
| <p>WHAT STAFF SHOULD KNOW</p> <p>YOUR RIGHTS</p> | <p>The Privacy Guidelines shared in this policy must be understood by each staff member. The Privacy Guidelines outline what information is to be kept confidential and why</p> <ul style="list-style-type: none"> • what confidential information you may have access to in |

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| | <p>order to fulfill your responsibilities and how this information may be accessed</p> <ul style="list-style-type: none"> • who has a legal right to know what information • where and how the confidential information should be stored. <p>Information about staff members will only be accessed by the Nominated Supervisor of the Kindergarten, Executive Committee of the Kindergarten and individual staff member concerned. In the instance where information about staff is requested by The Gowrie Qld (Inc) as the services Central Governing Body staff will be informed of the required information and the purpose of it being requested.</p> |
| <p>WHAT STAFF SHOULD DO</p> <p>CONFIDENTIALITY</p> | <p>Adopt the following principles for handling personal information based on the Privacy Act (1988):</p> <ul style="list-style-type: none"> • Collection of information will be lawful and fair • People will be told why information is collected • Personal information collected will be of good quality and not too intrusive • Personal information will be properly secured • People will know what personal information is collected and why • People will have access to their own records • Use of personal information will be limited and relevant • The disclosure of personal information outside the agency will not be allowed. <p>Provide every enrolling parent/guardian with clear information about:</p> <ul style="list-style-type: none"> • what personal information is kept, and why • the legal authority to collect personal information • information about any third parties to whom the Service discloses such information as a usual practice. <p>Conduct confidential conversations with parents, other staff members, the Nominated Supervisor, Executive Committee or The Gowrie Qld (Inc) staff in a quiet area away from other children, parents and staff. Such conversations are to be recorded through documented minutes and stored in a confidential folder.</p> <p>Store personal forms and information securely (i.e. locked filing cabinet in the Nominated Supervisor office/work space).</p> <p>Protect the privacy and confidentiality of other staff members by not relating personal information about another staff member to anyone either within or outside the Kindergarten.</p> |

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| | <p>Inform students/people on work experience/volunteers that they must not make staff/children or families at the Kindergarten / Service an object for discussion outside of the Kindergarten / Service (eg. college, school, home etc.), nor will they at any time use family names in recorded or tutorial information.</p> |
| <p>NEVER</p> | <p>Give information or evidence on matters relating to children and/or their families to anyone other than the custodial parent/guardian, unless prior written approval by the custodial parent/guardian is obtained.</p> <p>All of these matters must firstly be referred to the Nominated Supervisor and member of the Executive Committee before comment is made or information is shared. Exceptions may apply regarding information about children when subpoenaed to appear before a court of law. Notwithstanding these requirements confidential information may be exchanged in the normal course of work with other staff members at the Kindergarten / Service and may be given to the Nominated Supervisor, Members of the Executive Committee of the Kindergarten or The Gowrie Qld (Inc) CGB Staff, when this is reasonably needed for the proper operation of the program and the wellbeing of users and staff.</p> |
| <p>NOTIFIABLE DATA BREACHES SCHEME</p> | |
| <p>WHAT YOU MUST KNOW AND DO</p> | <p>The Notifiable Data Breaches (NDB) Scheme applies to Education and Care Services and relates to the requirement of The Privacy Act, regarding steps to secure certain categories of personal information.</p> <p>An eligible data breach arises when the following three criteria are satisfied:</p> <ul style="list-style-type: none"> • There is unauthorised access to or unauthorised disclosure of personal information, or loss of personal information, that an entity holds, and • This is likely to result in serious harm to one or more individuals, and • The entity has not been able to prevent the likely risk of serious harm with remedial action. <p>An eligible data breach for an education and care service may include for example:</p> <ul style="list-style-type: none"> • The Service experiencing a break in and evidence to indicate where the children’s enrolment records are stored has been accessed. |

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| | <ul style="list-style-type: none"> • An email containing personal information being sent to a group listing accidentally instead of the anticipated recipient. • A Service device (phone / tablet / computer) being lost, stolen or accessed without permission, including being hacked. |
| <p>WHAT TO DO IF A BREACH OCCURS</p> | <p>INVESTIGATE</p> <ul style="list-style-type: none"> • Quickly gather relevant information about the suspected breach, including for example, what personal information is affected, who may have had access and the likely impacts. • Evaluate based on the information sourced if an eligible data breach has occurred or if remedial action undertaken has been able to prevent the likely risk of serious harm. <p>NOTIFICATION OF THE BREACH</p> <ul style="list-style-type: none"> • You must notify any individuals that are at likely risk of serious harm as a result of the data breach. There are three options for this notification: <ul style="list-style-type: none"> ○ Notify all individuals whose personal information is involved in the eligible data breach. ○ Notify only the individuals who are at likely risk of serious harm; or ○ Publish your notification, and publicise it with the aim of bringing it to the attention of all individuals at likely risk of serious harm. • You must notify the Australian Information Commissioner. This can be undertaken through submission of the online Notifiable Data Breach Form. <p>STATEMENT TO THE AUSTRALIAN INFORMATION COMMISSIONER SHOULD INCLUDE</p> <ul style="list-style-type: none"> • The identity and contact details of your Kindergarten. • A description of the eligible data breach. • The kind or kinds of information involved in the eligible data breach. • What steps the Kindergarten recommends that individuals take in response to the eligible data breach. |
| <h2>COMPLAINTS</h2> | |
| <p>WHAT YOU SHOULD DO</p> | <p>Where an individual has a complaint regarding a breach of this Privacy and Confidentiality Policy or any of the Australian Privacy Principles in relation to the Service, this should be raised with the Nominated Supervisor/s or Executive Committee Member in writing.</p> |

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| | <p>The Nominated Supervisor/s and Executive Committee will investigate the complaint in a timely manner.</p> <p>The Nominated Supervisor/s and Executive Committee may seek advice from the Office of the Australian Information Commissioner, The Gowrie (QLD) as the Central Governing Body for the Service or Community Management Solutions during this process.</p> <p>The Nominated Supervisor/s and Executive Committee will follow the process as per the Lady Gowrie Community Kindergartens Grievance for Families Policy. Where applicable the Service will advise the Regulatory Authority of the complaint in relation to the National Quality Framework.</p> |
| <p>STAFF / APPLICANTS / STUDENTS / VOLUNTEERS</p> | |
| <p>WHAT YOU SHOULD KNOW AND DO</p> | <p>The Privacy and Confidentiality Policy also applies to all personal and sensitive information held by the Kindergarten Service in relation to Staff, Applicants for Positions, Students and Volunteers including the Management Committee.</p> <p>This information which may include name, address, contact details, course being studied, qualifications, curriculum vitae or resume, employment history. This information will only be held in relation to the role or specific purpose of your engagement with the Kindergarten Service and be retained for the required periods, when applicable in relation to the Education and Care Services National Law Act or Education and Care Services National Regulations.</p> |