

Policies and Procedures Privacy Statement



We believe that due respect for individual privacy not only protects an important personal right but is a powerful tool in the creation of healthy relationships with the people with whom we deal.

INTRODUCTION

KU Children's Services (KU) understands that privacy is an important issue for individuals.

KU is a non-profit and, in part, government funded, corporation committed to the provision of a wide range of quality early childhood services. To do this effectively we need, by law, to collect a great deal of personal information about children and their families, guardians and others. Much of this information will be "sensitive information". This is defined in the Privacy Act to be information concerning an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of professional or trade associations, membership of a trade union, sexual preferences or practices or "health information". We sometimes need to disclose this information to do our job. Sometimes this will be because the law requires such disclosure and sometimes it will be because the welfare of the child demands it.

KU is regulated by legislation and government imposed rules of practice, much of which has a bearing on what personal information we collect and what we do with it. Wherever possible, however, we will seek to protect privacy within the parameters of those laws and requirements.

This policy statement outlines the policy of KU on the privacy of personal information and our compliance with the **National Privacy Principles ("NPPs")** contained in the **Privacy Act**. Because of the vast diversity of services we offer and the range of circumstances which may arise, it is neither possible or sensible for us to prescriptively map out our exact responses to privacy issues. Much will depend on the precise circumstances which exist and the nature of the information concerned. Accordingly this policy statement is at best an outline of our approach.

Also, we aim to get better at privacy matters. This policy may change over time as experience with the new NPPs grows and as we refine our procedures. Please give us feedback and we will review this statement from time to time.

THE NEW LAWS

New privacy laws commenced with application to KU on 21 December 2001. We do not re-state the provisions of the *Privacy Act* or the NPPs in this policy. Material to assist you can be viewed on-line at www.privacy.gov.au, or by contacting the Office of the Privacy Commissioner on phone 1300 363 992, by mail at *GPO Box 5218, Sydney NSW 1042* or by email to privacy@privacy.gov.au.

ACCOUNTABILITY

It is the responsibility of all KU staff and contractors to comply with privacy laws and this policy.

A copy of this policy will be made available to staff and periodic training in privacy compliance will occur.

KU will, wherever commercially and legally possible and appropriate, require contractors to be contractually bound to comply with this policy. Contractors who display a willingness to do so and a culture of respect for privacy and compliance with privacy laws will be preferred.

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KU will regard non-compliance with this policy most seriously. Violation of this policy by staff will lead to disciplinary procedures being imposed, up to and including the possibility of dismissal.

Staff of KU must report breaches of this policy to the Privacy Officer where they become aware of them.

Breach of this policy will include the following:

- ▶ Non-compliance with the terms of this document and procedures implemented by the KU Privacy Officer
- ▶ Breach of the NPPs or the provisions of the Privacy Act
- ▶ Gaining or attempting to gain unauthorised access to personal information held by KU
- ▶ Unauthorised disclosure or use of personal information held by KU

CONSENT AND OUR APPROACH

In some cases the *Privacy Act* provides that KU may not collect or make certain use of personal information or disclose it without the consent of the individual. On the other hand, in other cases KU is in fact subject to other laws that *require* or *authorise* it to collect, use or disclose personal information.

We will not put undue pressure on an individual to give consent. We will endeavour to ensure that individuals can make an informed decision and that they are not under duress.

Legislation binding on KU provides that KU may not enrol a child without obtaining parental consent to certain things, such as seeking urgent medical attention. Where that requirement is present, we will inform parents of our statutory requirement and reasons for insisting on consent. Our enrolment forms and parent agreements set this out.

Young Children

We recognise that the young people entrusted to our care are "individuals" whose information is subject to the provision of the *Privacy Act*. However, in all but exceptional cases, it is our policy that the children in our care lack the maturity and understanding of privacy issues to act on their own in relation to such matters.

Where consent is required concerning privacy matters, it is our policy not to seek it from children of such young age. Instead we will, where consent is required, seek such consent from the parent or guardian on behalf of the child.

In other dealings with young children, we believe that the requirements of the *Privacy Act* can only be dealt with by communication with the parents or guardian of the child.

For example, where the *Privacy Act* requires that a notice be given to the individual on collection of personal information about that individual (see *NPP 1.3*), that notice will be given to the parents or guardians. Where access rights are available to the child (see *NPP 6*), access will be given on the request of the parents or guardians.

WHAT PERSONAL INFORMATION DO WE NORMALLY COLLECT?

Information About Children

To do its job, KU needs and is required to collect a substantial amount of information about the children in its care. Legislation such as the regulations made under the *Children (Care and Protection Act), 1988 (NSW)* requires

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a wide range of information to be recorded. Much of the information that we are required to record is in the category of "sensitive" information.

Also, our licence agreement and the guidelines issued by the Department of Community Services require us to demonstrate that we collect and use personal information to enable us to provide a service that responsibly and sensitively deals with such things as:

- ▶ Developmental records of the child
- ▶ Health problems of the child and particulars of required treatments and medications
- ▶ Wider community health issues and especially the need to limit the spread of communicable diseases
- ▶ Emergency treatment for accidents and health episodes
- ▶ The ethnic and cultural identity of the child (in this context we will incidentally collect information about the child's family and responsible others - see below)
- ▶ The religious identity of the child and observance of religious practices (this will also require that we collect incidental information about the child's family and others - see below)
- ▶ Court orders affecting custody of the child

In some instances we will be obliged to collect and report to proper authorities information about the child and its family or others where we have grounds for suspecting that the child is at risk of harm.

Family Members and Responsible Others

KU will collect information about family members and others with an important connection or responsibility of care for the child ("responsible others") entrusted to it.

The same legislation and practice requirements that require us to collect information about health matters, ethnic identity and religious affiliation will by definition require us to collect information about family members and responsible others.

If a KU staff member has grounds for believing that the child is at risk of harm, it may be necessary for collection of information, including sensitive information, not only about the child, but about the family members or responsible others, even neighbours. These rules may also require us to disclose such information to third parties.

Further, KU will need information about any responsible others for dealing with emergencies and the task of conveying the child to or collecting the child from a child-care centre. We will also need to know the identity of the child's medical practitioner for similar reasons.

Unless otherwise required by law KU will comply with the requirements of the *Privacy Act* in relation to information collected from such responsible others. Where we collect the information from the parent or guardian and not directly from the responsible other, we will take reasonable steps to ensure that the responsible other is notified of our collection of the information in the terms required by NPP 1.3. Again, our enrolment documentation and procedures will largely take care of this requirement.

Other Business Contacts – Suppliers, etc

In the case of KU's business contacts and suppliers, we will not normally collect personal information other than an individual's name, job-title, address, phone numbers, facsimile numbers and email addresses - for the purpose of enabling KU to fulfil its obligations to those contacts and suppliers.

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THE PURPOSES OF COLLECTION

Children

Personal information we collect about children will be used for the purposes of providing the wide variety of child care services to the child and its family. Those broadly include pre-schools, long day care, out-of-school care and occasional care services.

If we wish to use information collected about children or families for the purposes of studying demographics or other social issues relevant to the provision of child care services generally, we will ensure that the information is de-identified in the study, ie there will be no way for a reader of the relevant study or report to determine the identity of the children whose information was used.

Normally we would get the consent of parents before disclosing sensitive personal information about the child to a third party. However, we may be required by law to disclose personal information of the child in a range of circumstances. For example, we may be required to disclose personal information of the child:

- ▶ To the guardian or other person responsible for the child
- ▶ To other family members or contacts in an emergency or where the child is ill or injured or is at risk of illness or injury
- ▶ To the child's medical practitioner
- ▶ To other health or medical practitioners where the child is sick or injured or at risk of illness or injury
- ▶ To authorised officers under the regulations made under the *Children (Care and Protection Act), 1988 (NSW)* and other legislation binding on KU

This is not an exhaustive list. There may be many other circumstances where KU will be required to disclose personal information held about the child to a person other than the parent or guardian.

Information on Display

Persons who enter KU child care centre premises (among them parents, responsible others, medical practitioners, government representatives, service providers and suppliers of goods) may be able to view information about the children in our care there.

For example, some personal information of the child and family members may be on display, such as photos, artwork and other materials that may divulge names, ages, developmental levels, addresses, ethnic and religious background or affiliation and health matters. In relation to the latter, in some cases it may be necessary to have on display health information so that we can have ready access to it for emergency purposes.

Such information on display may identify not just the relevant child but parents and responsible others.

Family Members and Responsible Others

Personal information collected about parents, guardians and responsible others will not be collected for its own sake but to assist KU in the provision of child care services to the child and its family.

We may use the information collected from parents and guardians to keep them informed of services that KU offers from time to time and sometimes to make contact to request assistance with fund-raising. In such cases we will always allow the individual to opt out of further receipt of such information.

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Suppliers and other Business Contacts

As noted above we will generally collect only contact information so that we can fulfil our commitments and contractual responsibilities to them and manage and monitor our dealings with them.

Wherever we use personal information for a purpose other than the primary purpose for which it was collected, we will only use or disclose the information if the primary and secondary purposes are related and the individual would have a reasonable expectation that we would use the information or disclose it for the secondary purpose or if we obtained the consent of the individual to do so.

Sale of Personal Information

We will only sell personal information to third parties with the consent of the individual or individuals concerned.

Use of External Contractors

Like many other organisations, KU from time to time uses the services of temporary staff. They are generally employees of a recruitment firm, not of KU. To that extent they are external contractors who may have access to the personal information we have collected. They will in each case be advised of our privacy policy and of the requirement that they comply with it.

ACCURACY OF YOUR PERSONAL INFORMATION

It is our policy to ensure that when personal information is collected from an individual it is accurately recorded. This is the responsibility of all staff involved in the collection and recording of such information.

We will adopt suitable protocols and such technology as may be available from time to time (within our financial means) to prevent unauthorised access to and tampering with or alteration of the personal information we hold.

We will encourage our contacts to let us know if they become aware of inaccuracies in the information we retain. We may also conduct sample checks from time to time.

We will respond promptly to any request for correction of data and will act quickly to correct data that is discovered to be inaccurate.

SECURITY OF YOUR PERSONAL INFORMATION

It is not appropriate in this policy to provide specific details of security measures adopted by KU to protect information held by it. To do so could compromise those security measures.

KU will use an appropriate combination of:

- ▶ Physical measures including physical barriers
- ▶ Alarm systems
- ▶ And access technology
- ▶ Administrative protocols

to exclude unauthorised persons or intruders from gaining access to information.

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To maintain the integrity of information, KU has acquired and will continue to acquire (within its means) up-to-date computer virus prevention technology and makes use of other appropriate technology, such as password security protocols and "fire-walls" to exclude unauthorised access or hacking into its computer system.

YOUR ACCESS AND CORRECTION RIGHTS

The *Privacy Act* requires KU to provide individuals access to the personal information which KU holds about them - unless KU is entitled under the *Privacy Act* or other legislation to deny access or provide an explanation for a decision instead. This qualified right of access will be advised when personal information is collected.

In the case of personal information held about children, KU will provide access on the request of the parent or guardian.

Parents and other persons responsible for a child (as well as various other categories of authorised persons) have a right of access to records kept about the child under regulations made under the *Children (Care and Protection Act), 1988 (NSW)*.

When requesting access to personal information, KU requires use of a written request form (*OS3 – Request to Access Personal Information*), which can be obtained by contacting our Privacy Officer (see below) or through centres.

KU will respond to requests for access as soon as possible and will acknowledge the request within 14 days and deal with it within 30 days or earlier. Though we may ask, we will not require an explanation of why as a pre-requisite to giving access. We will not charge a fee for access but we may seek recovery of any actual costs to us of providing access.

Some circumstances where it may be appropriate and lawful for KU to deny access are where:

- ▶ Providing access would unreasonably be to the detriment of the privacy of another individual
- ▶ The request is frivolous or vexatious
- ▶ The information relates to existing or anticipated legal proceedings between KU and the individual, and the information would not be available by the legal discovery processes
- ▶ Giving access would reveal KU's intentions in relation to negotiations with the individual and prejudice those negotiations for KU
- ▶ Providing access would be unlawful or if denying access is required or authorised under law

This is not an exhaustive list of circumstances where we may be entitled or even required to deny access.

USE OF GOVERNMENT IDENTIFIERS

KU may collect them but we will not use government identifiers such as tax file numbers or Medicare numbers as a means of identifying a person from whom the identifier has been collected.

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ANONYMITY

Wherever appropriate we will give individuals the option of remaining anonymous when communicating with KU. This will be most relevant to the collection of information via the KU website (as to which, please see the privacy statement on its home page) and via survey. In those cases if information is collected that identifies the individual, we will de-identify it before storing or using it.

CONTACTING KU AND COMPLAINTS

If an individual:

- ▶ Has an enquiry about our information management or privacy procedures
- ▶ Wishes to request access to personal information
- ▶ Wishes to see a copy of this policy
- ▶ Wishes to make a complaint about our handling of personal information

that person can contact our Privacy Officer by the following means:

Phone: 02 9264 8366

Fax: 02 9267 6653

Email: Childrensservices@ku.com.au (Attention: Privacy Officer)

Postal Address: KU Children's Services

Box Q132, QVB Post Office, NSW 1230

- ▶ Complaints will be dealt with in the first instance by the Privacy Officer or in her/his absence, by a person nominated by her/him
- ▶ Complaints must be made by using the form we prescribe from time to time. This will allow us to deal with complaints in a professional, sensitive and consistent manner in compliance with the Privacy Act. A copy of the form can be obtained from the Privacy Officer on request or from a centre director
- ▶ We will acknowledge receipt of a request within 14 days of receiving it and we will respond within 30 days of receipt, assuming that we are able to investigate the necessary facts in that time. We will let you know if it is likely to take much longer
- ▶ Complainants will be given an opportunity to put their complaint in writing, to suggest a remedy for the complaint and, if necessary, to discuss the matter with the KU Privacy Officer
- ▶ If the complainant is not satisfied that the Privacy Officer has dealt properly and reasonably with the complaint, the complainant may request that the Privacy Officer bring the matter to the attention of the Chief Executive Officer, who may deal with the matter herself/himself or refer it to the KU Board of Directors for a determination
- ▶ The Privacy Officer will keep a register of complaints and their outcomes. This will not be made publicly available since that may breach the privacy of the individuals named

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- ▶ The Privacy Officer will determine in the case of each complaint (if any) whether the complaint demonstrates a systemic or chronic compliance problem and will make recommendations to the management of KU as to how to address/rectify such issues if they are identified