

Child Protection - Information Sharing

Source of Obligation

The School can share information relating to the safety, welfare or wellbeing of children and young persons (Information) with:

- other entities who are “prescribed bodies” under Chapter 16A of the Children and Young Persons (Care and Protection) Act 1998 (NSW) (Care and Protection Act)
- the Department of Family and Community Services (FACS) under section 248 of the Care and Protection Act.

Chapter 16A prioritises the provision of Information to ensure the protection and wellbeing of children over the protection of an individual’s privacy and confidentiality. The operation of Chapter 16A allows a broad array of information to be shared, including information about the support or educational needs of students or information about the risk of sexual abuse posed by teachers and other staff.

The School may share Information under Chapter 16A without the consent of the child, young person or their family. However it is our policy, at enrolment, to inform parents/carers that information about children and young people 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
- 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.

Provision 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.

Provision of Information Upon Request

A prescribed body may request another prescribed body to provide it with any Information held by the other body.

Under section 245D(3), if the School receives a request from a prescribed body to provide it with Information, the School is required to 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. 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 **How to Request Information Under the Children and Young Persons (Care and Protection) Act**.

Exceptions to sharing Information exist under 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

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:
 - if **sufficient information** has not been given the Principal may decline the request
 - if **sufficient information** has been given the Principal will make an assessment to:
 - 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 School refuses to provide Information in response to a request made under section 245D, it must provide the requesting prescribed body with reasons in writing for refusing the request.

How to Request Information Under the Children and Young Persons (Care and Protection) Act

If the School wishes to request Information from a prescribed body under section 245D, it 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. The School should then follow up in writing by providing 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 (eg for the last six months, three years) and the type of information sought
- a **realistic time frame** for the prescribed entity 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).

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 well-being 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.

Sharing Information with the Department of Family and Community Services (FACS)

Under section 248 of the Care and Protection Act, the Secretary of FACS may furnish the School with Information and/or direct the School to furnish it with Information. If requested to provide FACS with Information, the School must "comply promptly" with the requirements of the direction. The protection from liability provisions apply to the furnishing of Information to FACS under section 248.

Information Sharing and the Reportable Conduct Scheme

The information sharing provisions in Chapter 16A complement the operation of the reportable conduct scheme established under the Ombudsman Act 1974 (NSW). Refer to our **Reportable Conduct of Staff, Volunteers and Others** policy for information about the disclosure of information by the Ombudsman and the School under the reportable conduct scheme.

Implementation

This policy is implemented by the Principal 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, Pacific Brook Christian School may take disciplinary action, including in the case of serious breaches, summary dismissal.