

Privacy and Confidentiality

Purpose

This procedure outlines the requirements for staff, board members, volunteers and stakeholders to be aware of their rights and their responsibilities in maintaining privacy and confidentiality in all aspects of their activities within Mount Gravatt Community Centre (MGCCI).

Relevant Legislation

- (Cth) Privacy Act 1988
- (Qld) Information Privacy Act 2009

This Procedure complies with the following Standards

- **Human Services Quality Standards:** Standard 1 Governance and Management; Indicator 1.7
- **Aged Care Quality Standards:** Standard 1 Consumer Dignity and Choice – 2c & 3f

Relevant Policy

- Quality Management
- Individual Services

Procedures

Definitions

For the purpose of this procedure, the term “**individual**” relates to **all** stakeholders including clients, contractors, employees, volunteers, Board members and any other individual who has a relationship with MGCCI.

“**Personal information**” is information or opinion, true or not, collected or known about any individual:

- that is not widely available or known in the public arena,
- where an individual is able to or may be identified by that information

This includes but is not limited to information about an individual’s:

- Financial situation
- Accommodation and contact details
- Lifestyle choices
- Employment status

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"Sensitive information" is personal information or an opinion about an individual, true or not, that involves specific sensitive matters about an individual which is not available or known to the public arena. This includes, but is not limited to information about an individual's:

- Racial or ethnic origin
- Political opinions, beliefs or membership of political associations
- Religious beliefs or affiliations
- Philosophical beliefs
- Membership of a professional or trade association or union
- Personal health matters including health status, genetic and biometric information
- Sexual orientation or practices
- Criminal history

"Sensitive organisational information" is information and/or knowledge about the organisation that is:

- Not widely available or known in the public arena
- Not required by law to be publicly accessible
- Information that has been deemed confidential by the organisation.

This includes, but is not limited to:

- Current or potential legal matters
- Information required by law to remain confidential
- Commercial or business techniques/strategies/ideas
- Information gathered as part of investigations/grievance process
- Intellectual Property

Confidentiality Agreements

All employees, volunteers and Board of Management members are required to enter into a Confidentiality Agreement on commencement with MGCCI.

- Staff and contractors shall complete the [**Confidentiality Agreement \(HUM FRM5\)**](#)
- Volunteers shall complete the [**Confidentiality Agreement \(HUM FRM6\)**](#)
- Board members shall complete the [**Confidentiality Agreement \(GOV FRM7\)**](#)

Training and support

Staff, volunteers and board members shall be trained on the **Privacy and Confidentiality Procedure** on commencement with the organisation and when there are significant updates or changes.

MGCCI shall reasonably inform all stakeholders as necessary of changes to relevant legislation, policy and procedure regarding their privacy and confidentiality.

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Private meetings and discussions

All staff and volunteers shall ensure privacy for clients/stakeholders when meeting or discussing matters of a personal or sensitive nature by using private meeting spaces/offices.

Consent

Personal and sensitive individual information should not be sought, held or shared by the organisation without the informed consent of the individual involved or the person or authority legally able to provide consent. Where possible and practical to do so, a copy of information collected is provided to the individual concerned.

Informed consent is obtained by open and transparent means with clear explanation. The individual is informed about what information is being collected, why it is needed and how it is used, stored and under what circumstances it can be released.

Consent shall be obtained in writing from the individual (or others legally able) on the forms appropriate to that service. Refer to [Permission to Share Client Data \(CC FRM2\)](#) for CHSP, and HAS programs. If consent is unable to be obtained in writing at the time by the organisation, MGCCI will provide written information to the individual in relation to the nature and context of consent in a reasonable timeframe (e.g. confirmation and scope of consent provided in an email to the individual).

This also applies to publishing photos on any form of social media. In this instance the [Photo Media Consent Form \(QM FRM14\)](#) shall be signed by the stakeholder prior to publication. If signed consent cannot be obtained (for example verbal consent is given over the phone) then a file note shall be made in the project or client records.

Information collection

MGCCI will only collect information in a fair way that is legally and legitimately necessary for the service to effectively perform its functions by open transparent and accountable means. Although MGCCI is committed to the collection of information directly from the person involved, MGCCI may also collect information from others such as a person's legal authority, where consent is provided, or where there are other legal or reporting requirements in place.

MGCCI will inform the individual about the organisation's **Privacy and Confidentiality Procedure** at the time of information collection. This includes:

- Why the information is collected
- What the information is used for
- How personal information is protected and stored and how it can be accessed
- Ensure this **Privacy and Confidentiality Procedure** is available in an appropriate format to enable access to anyone who requests it
- Collect information directly from the person involved unless unreasonable or impracticable to do so

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- Where possible and practical, provide a copy of information collected
- Notify people about the collection of personal information when it has been obtained from other agencies or persons other than the individual themselves where possible and practical to do so

Unnecessary and Unsolicited Information

MGCCI recognises that any personal information obtained by the organisation which has not been directly solicited should not be kept by the organisation or distributed in any way.

MGCCI will:

- Assess personal information obtained to determine whether the information has been obtained through fair and legitimate means and relevant to the effective functioning of the organisation.
- Destroy or de-identify personal information that is deemed unnecessary to the effective function of the organisation or which has been obtained through unsolicited or illegitimate means.

Disclosure of Information

MGCCI will only use and disclose information to authorised parties for the primary purpose for which the information was collected.

MGCCI will:

- Reasonably ensure Board Members, employees and volunteers are able to access, disclose and use information pertinent only to their role
- Reasonably ensure Board Members, employees and volunteers may disclose information to authorised parties in line with the primary intention of information collection or where such disclosure could be reasonably foreseen by the person
- Ensure consent is obtained for any other form of disclosure, including disclosure to family members
- Inform individuals of any legitimate disclosure requirements such as to government bodies
- Take reasonable steps to de-identify information on disclosure where appropriate to do so

Exceptions to this include where the organisation reasonably believes the information pertains to:

- Illegal activity
- An individual's or the public's health and safety may be reasonably deemed to be at risk
- The organisation is lawfully required to release the information
- It could be seen to be negligent of the organisation to not disclose the information to relevant parties

Consent from the Chief Executive Officer and/or their delegate must be received in order to release information and the organisation is required to clearly document the situation and the decision made.

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Cross Border Disclosure

MGCCI will only transfer information and records to another agency on request/consent of the individual or where it is legally required to do so. The transfer of information must clearly be in the best interests of the person and that the receiving body has privacy and confidentiality measures equivalent to the **Australian Privacy Principles** in place.

MGCCI will:

- Ensure all requests for transference of information are legitimate and in writing
- Ensure requests are made by the person directly or their legal authority

Exceptions to this include:

- Where MGCCI is legally required to provide information (International, federal or state law, court/tribunal order)

Direct Marketing

MGCCI commits to ensuring information obtained by the organisation is not used for direct marketing purposes without strict guidelines and controls. Sensitive information may not be used for direct marketing purposes without the expressed informed consent of the individual involved.

MGCCI will:

- Provide information to individuals about how their information may be used for direct marketing purposes, seek specific consent for this purpose, and provide a simple and accessible means for people to opt out of direct marketing processes at any time.
- Ensure sensitive information is not used for direct marketing purposes unless specific informed written consent is obtained. Only specific information that has been consented to be released shall be disclosed.

Integrity of Personal Information

MGCCI will take reasonable steps to ensure that the personal and sensitive information it collects, uses, or discloses, in both electronic and paper form, is as up-to-date, relevant, and accurate as possible.

MGCCI has systems and processes in place:

- To update information as needed.
- To reasonably ensure information is not modified by any unauthorised party.
- To annually review the accuracy, completeness and relevancy of information held.

Right to access and amend information

MGCCI believes that the information held by the organisation about a person belongs to the person concerned. MGCCI recognises individuals have the right to access their information and ensure it is accurate, relevant and up to date.

MGCCI will have systems in place to support people on reasonable request to:

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- Access the information held about them without cost to the individual
- Have a full explanation of the information held about them
- Have any decision to refuse or limit access to information provided to them in writing with explanation
- Have relevant alterations/amendments made if the information is inaccurate or out of date
- Attach changes/alterations to documents where there is disagreement between the individual and organisation about the accuracy of information held.

All requests for access to information are to be submitted in writing to the Chief Executive Officer. Refer to the [Client Request to Access Information Form \(CC FRM5\)](#) for clients wishing to access their information.

Access to information can be restricted or refused only in exceptional circumstances by the CEO or their delegate. This includes, but is not limited to:

- The request being evidenced to be frivolous or vexatious
- Access would prejudice negotiations or services delivered for or with the individual
- The privacy of others may be unreasonably impacted
- Access would pose a threat to the life or health of any individual
- The information relates to existing or anticipated legal proceedings
- Denying access is required or authorised by or under law

Storage and Security of Personal Information

MGCCI is committed to taking reasonable steps to ensure information held about an individual, in both paper and electronic form is stored securely. All reasonable steps are taken to ensure this information is protected from misuse, interference, loss, unauthorised access, modification or unauthorised disclosure.

MGCCI has systems in place to securely store paper records, including the use of locked cabinets. MGCCI uses electronic security and password protection systems to store data and protect information from unauthorised access.

For papers and electronic security of records refer to the [Records Management Procedure \(QM PRO3\)](#).

Company Information

Any sensitive organisational information held by employees, volunteers and Board members is returned to the organisation.

Confidentiality agreements are in place to reduce risks related to the disclosure of sensitive organisational information by employees, volunteers or Board members after leaving the organisation

Where possible and practical to do so sensitive organisational information is:

- Clearly identified as such by the organisation
- Stored and disposed of securely

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- Available only to those who are required to have access (related to their role and relationship with the organisation)

Archiving and Disposal of Records

MGCCI shall ensure the secure archiving and destruction of information, in both electronic and paper form, according to the organisation's **Records Management Procedure**.

MGCCI has systems in place to:

- Identify when records are required to be archived such as when an individual is no longer in active relationship with the organisation.
- Ensure archived records are stored securely and systematically with access requiring formal authorisation.
- Ensure electronic and paper records are destroyed and disposed of in a responsible manner when it is no longer relevant or when legal requirements are no longer in force.

Complaints

MGCCI treats all complaints about potential breaches of this procedure seriously and shall investigate all legitimate complaints. Complaints are treated confidentially in line with the organisation's [Complaints Procedure \(QM_PRO4\)](#). MGCCI prefers complaints to be made in writing to support effective management and resolution.

Breaches to Privacy and Confidentiality

Staff:

A proven breach of these procedures by an employee will result in disciplinary action. Depending on the seriousness of the breach, this may include an apology, counselling, formal warning, training, performance management, transfer, demotion, dismissal, legal action or other appropriate action as outlined in Human Resources Procedures.

Disciplinary action will also be undertaken:

- Should a supervisor or manager fail to take appropriate action under this procedure
- Where an employee victimises or retaliates against anyone involved in an allegation
- Where an employee has deliberately made a false allegation or undermined the investigation or resolution process.

Volunteers (including Board Members):

A proven breach of policy or procedures by a Board Member or volunteer will result in an appropriate and reasonable organisational response dependent on the seriousness of the breach.

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This may include:

- Further training and education
- Cessation of appointment
- Any other lawful action as outlined in the confidentiality agreement

Reporting requirements:

Programs contracted under state or federal governments shall be required to notify the department of breaches of privacy including those to the organisation and/or those to an individual. Refer to relevant Grant Agreements for both state and federally funded programs.

Anonymity

MCCI recognises the right of individuals to remain anonymous in their transactions with the organisation where it is practical and lawful to do so and where there is no legitimate need to identify the individual. Examples of practice include:

- the right to complete surveys anonymously
- the right to donate anonymously

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