

## **Policy on Children's Confidentiality Rights – Discovery Family Therapy**

### **1. Purpose**

At Discovery Family Therapy Practice, we are committed to upholding the confidentiality and privacy rights of all clients, particularly children and young people. This policy outlines our approach to managing confidentiality in accordance with professional ethical standards, legal requirements, and principles such as Gillick Competence. It also defines the role and boundaries of parental support sessions.

### **2. Scope**

This policy applies to all clients under the age of 18, their legal guardians, and counsellors engaging in therapeutic practices at our service.

### **3. Policy Statement**

We adhere to the ethical guidelines of the Psychotherapy and Counselling Federation of Australia (PACFA) and the Australian Counselling Association (ACA), ensuring the privacy of children is balanced with the obligation to safeguard their well-being.

### **4. Confidentiality Standards**

Maintaining confidentiality is a core value of ethical and effective therapy. Our practices are informed by the following professional guidelines:

#### **1. PACFA Code of Ethics**

Confidentiality is essential for building trust. Practitioners must protect clients' privacy, uphold confidentiality under privacy laws, and ensure disclosures occur only with consent, during significant risk scenarios, or as mandated by law.

#### **2. ACA Code of Ethics**

Confidentiality underpins safe counselling relationships, with exceptions permitted to prevent serious harm to clients or others, in alignment with ethical and legal requirements.

## **5. Children's Confidentiality Rights**

Children are entitled to a secure, confidential therapeutic space to foster openness and trust. Counsellors at Discovery Family Therapy Practice respect these rights and operate under the ethical frameworks of PACFA and ACA. Disclosure of confidential information only occurs with consent or when legally required, safeguarding the child's best interests above all.

## **6.0 Legal Obligations in Western Australia**

Discovery Family Therapy Practice operates in accordance with relevant legal and regulatory frameworks in Western Australia.

These laws support the safeguarding of children and young people while also recognising their rights to privacy and confidentiality.

### **6.1 Children and Community Services Act 2004 (WA)**

Under the *Children and Community Services Act 2004 (WA)*, mandatory reporting obligations apply specifically to child sexual abuse and only to practitioners who are designated mandatory reporters under the legislation. Not all counsellors are mandatory reporters under this Act.

Where required by law, counsellors who are mandatory reporters must report reasonable beliefs of child sexual abuse. In addition, all counsellors have an ethical and professional duty of care to take appropriate action when there are serious concerns about a child's safety or wellbeing. This may include situations involving physical abuse, neglect, family violence, or risk of self-harm, and may involve disclosure of relevant information to appropriate authorities where necessary to prevent significant harm.

The Act also supports the protection of children's privacy, while permitting necessary and proportionate disclosures to safeguard their safety and welfare.

### **6.2 Health Practitioner Regulation National Law (WA) Act 2010**

Where applicable to practitioners registered under the Health Practitioner Regulation National Law (WA) Act 2010, confidentiality must be maintained unless disclosure is required by law or is necessary to prevent a serious and imminent risk to the health or safety of the client or others.

Practitioners are required to act within their professional and ethical obligations, including the secure handling, storage, and management of client information, in accordance with applicable legislation and professional standards.

### **6.3 Privacy Act 1988 (Cth) and Australian Privacy Principles**

Discovery Family Therapy Practice complies with the *Privacy Act 1988 (Cth)* and the Australian Privacy Principles (APPs) in the collection, use, storage, and disclosure of personal and sensitive information.

This includes the secure management of client records, appropriate access to information, and lawful handling of requests for information from parents, guardians, or third parties. Where a child is assessed as Gillick Competent, their right to privacy and control over their personal information is respected in accordance with privacy legislation and professional ethical standards, subject to legal and safety obligations.

### **7. Gillick Competence**

At Discovery Family Therapy Practice, we apply the principle of Gillick Competence to assess whether a child under the age of 18 has the ability to make independent decisions about their counselling. This principle, established in the landmark case *Gillick v West Norfolk and Wisbech Area Health Authority* (1986), recognises the evolving capacity of children to understand and consent to their own medical or therapeutic treatment.

A child is considered competent if they can demonstrate:

- Sufficient maturity to make decisions independently of undue influence.
- An adequate understanding of the nature, purpose, potential risks and implications of counselling.
- Decision-specific understanding that reflects the complexity of the matter being considered.

Assessment of Gillick competence is decision-specific and subject to ongoing review, recognising that a child's capacity may change over time or vary depending on the nature of the decision being made.

Where a child is assessed as Gillick competent, they may consent to engage in counselling without the involvement or consent of a parent or guardian, and their consent will be afforded the same legal and ethical weight as that of an adult.

Notwithstanding a child's assessed Gillick competence, confidentiality may be limited or overridden where required by law or where there are serious concerns about the safety or welfare of the child or others. This includes circumstances involving significant risk of harm, mandatory reporting obligations, or valid legal orders.

Where a child is not assessed as Gillick competent, parental or guardian involvement is generally required, unless there are overriding safety concerns that make such involvement inappropriate or place the child at further risk.

## **8. Parental Support Sessions**

We recognise the vital role that parents play in supporting their child's emotional and mental well-being. To foster collaboration and provide essential guidance, we offer specialised parental support sessions. These sessions are designed to empower parents with the knowledge and strategies needed to nurture their child at home, while adhering to the fundamental principles of confidentiality that protect the child's therapeutic space.

Our parental support sessions are designed to:

- Equip parents with strategies to nurture their child's well-being at home.
- Assess progress in implementing these strategies.
- Provide tailored resources to address the child's needs.

Confidentiality is maintained during these sessions, focusing on empowering parents without disclosing the child's private therapeutic discussions.

## **9. Limitations to Confidentiality**

While the confidentiality of children and young people is a foundational principle of therapeutic care at Discovery Family Therapy, there are specific circumstances in which confidentiality may be limited or overridden in order to prioritise safety and comply with legal and ethical obligations.

These circumstances include:

### **Risk of Significant Harm**

Where there is a reasonable belief that a child or another person may be at risk of significant harm, including situations involving abuse, neglect, family violence, or risk of self-harm, disclosure of relevant information may be necessary to safeguard the child's welfare.

## **Legal Mandates**

Confidentiality may be limited where disclosure is required by law, including in response to a valid and enforceable court order or subpoena. Such disclosures are made in accordance with legal requirements while maintaining ethical practice.

## **Parental or Guardian Consent**

Information may be shared where clear and informed consent is provided by all legal guardians of the child, to support collaboration and shared understanding of the child's therapeutic needs.

In all circumstances where confidentiality is limited, disclosures are handled with care and are restricted to the minimum information necessary to meet legal, ethical, and safety obligations.

## **10. Court Orders and Subpoenas**

Where disclosure of information is required in response to a valid and enforceable court order or subpoena, Discovery Family Therapy Practice will take reasonable steps to verify the legal validity and scope of the order.

Where appropriate, the practice may seek legal advice prior to releasing any information. Any disclosure made will be limited to the minimum information necessary to comply with the legal requirement and will be guided by consideration of the best interests and welfare of the child.

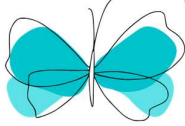
Where permitted by law, the child and/or their parent or guardian will be informed of the disclosure.

## **11. Roles and Responsibilities**

### **Therapists**

Therapists at Discovery Family Therapy Practice are responsible for:

- Upholding this policy and adhering to ethical and legal standards.
- Ensuring children and parents understand confidentiality rights, limitations, and processes.



- Conducting Gillick Competence assessments where applicable and making informed decisions.

## Parents and Guardians

Parents and guardians are encouraged to:

- Participate actively in parental support sessions, where relevant.
- Respect the confidentiality boundaries established between therapists and their children.

## 12. Further Information

Further information can be obtained at the below links:

- [PACFA Code of Ethics \(2017\)](#)
- [ACA Code of Ethics \(2019\)](#)
- [Children and Community Services Act 2004 \(WA\)](#)
- [Health Practitioner Regulation National Law \(WA\) Act 2010](#)

## 13. Closing Statement

This policy reflects Discovery Family Therapy's commitment to safeguarding the confidentiality, privacy, and safety of children and young people, while recognising the important role of parents and guardians in supporting their wellbeing. By balancing children's rights to confidentiality with legal, ethical, and safety obligations, we aim to provide a supportive and respectful therapeutic environment where trust can be established and maintained.

This policy is informed by current legislation, professional ethical standards, and best practice principles, and is reviewed regularly to ensure ongoing compliance with evolving legal requirements and professional expectations.