

# PRIVACY AND CONFIDENTIALITY

## POLICY STATEMENT

Our service recognises and respects the importance of privacy and confidentiality as an individual right and a basis for building partnerships. Our service requires personal information from families to provide appropriate and responsive care. This policy has been developed to comply with the *Australian Privacy Principles (APPs) (2014)* and pursues the highest standard in the protection and preservation of privacy and confidentiality.

## GOALS

Our service will;

- 1) Maintain private and confidential files for educators and staff, children and their families, developing systems for the appropriate use, storage and disposal of records.
- 2) Ensure the information in these files is used only for the education and care of the child enrolled in the service, and only shared with relevant or authorised people as defined within authorisations of the Education and Care Services National Regulations.

## STRATEGIES

### COLLECTION OF INFORMATION

The Approved Provider will:

- 1) Ensure that each family, staff, volunteer and student is provided with a Privacy Collection Statement upon enrolment.
- 2) Ensure that each staff member, volunteer and student information is correct in personnel and other files. This includes information on qualifications, working with children checks, criminal history checks, staff entitlements, contact and emergency information, health and immunisation information and any relevant medical and legal information.
- 3) Ensure that information collected from families, educators and the community is maintained in a private and confidential manner at all times.
- 4) Ensure that such information is not divulged or communicated (directly or indirectly) to another person other than the ways outlined as appropriate in the Education and Care Services National Regulations R181, which states information can be communicated:
  - To the extent necessary for the education, care or medical treatment of the child;
  - To the parent / guardian of the child to whom the information relates (except for information in staff records);
  - To the regulatory authority or an authorised officer;
  - As authorised, permitted or required to be given by or under any act or law; and
  - With written consent of the person who provided the information.
- 5) Ensure families are informed upon enrolment how images / photographs of their children will be used on the internet and/or publications and gain written approval.
- 6) Provide families with information on the *Complaints Handling* policy if any privacy or confidentiality procedure has been breached.

- 7) Will ensure information provided by families and staff is only used for the purpose it was collected for.

### NOTIFIABLE DATA BREACHES (NDB)

The NDB scheme requires all businesses regulated by the Privacy Act (including education and care services) to provide notice to the Office of the Australia Information Commissioner and affected individuals of any data breaches that are 'likely' to result in 'serious harm';

Should there be an NDB at our service, the Approved Provider will undertake a reasonable and expeditious assessment to determine if the data breach is likely to result in serious harm to any individual affected.

A failure to notify, that is found to constitute a serious interference with privacy under the Privacy Act, may result in a fine of up to \$360,000 for individuals or \$1.8m for organisations.

The Office of the Australian Information Commissioner must also be notified as soon as practicable through a statement about the eligible data breach.

The Nominated Supervisor will:

- 1) Ensure each families' information is correct in enrolment records. This includes information on immunisation updates, income and financial details (credit card or bank information), contact details of family and emergency contact information, children's developmental records, Family Assistance information, and any medical or legal information, such as family court documentation, required by our service.

This would include any information required to be recorded under the Education and Care National Law Regulations, the Family Assistance Law, and other relevant information collected to support the enrolment of a child.

- 2) Provide families with details on the collection of personal information collected via the *Privacy Collection Policy*.
- 3) Ensure information provided by families and staff is only used for the purpose it was collected for.

### STORAGE INFORMATION

The Nominated Supervisor will ensure that all service records, personnel records, children's and families information is stored securely reducing the chance of unauthorised access, use or disclosure and remains private and confidential within the service at all times.

### ACCESS TO INFORMATION

The Nominated Supervisor will:

- 1) Ensure that information kept is not divulged or communicated, directly or indirectly, to anyone other than;
  - a. Medical and developmental information that is required to adequately provide education and care for the child;
  - b. The Department of Education, or an authorised officer; or



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- c. As permitted or required by any Act or Law.
- 2) Individuals are permitted access to their personal information as requested.
- 3) Authorised persons may request to view any information kept on their child.
- 4) Information may be denied under the following conditions;
- 5) Access to information could compromise the privacy of another individual;
- 6) The request for information is frivolous, vexatious; and
- 7) The information relates to legal issues, or there are legal reasons not to divulge the information such as in cases of custody and legal guardianship.

Educators will:

- 1) Maintain children's information and store documentation according to policy at all times.
- 2) Not share information about the service, management information, other educators or children and families, without written permission or legislative authority.
- 3) In keeping with the ECA Code of Ethics (2016), the Education and Care Services National Regulations and the Australia Privacy Principles, educators and staff employed by our education and care service bound to respect the privacy rights of children enrolled and their families, educators and staff and their families, and any other persons associated with the service. Educators will sign the Code of Conduct as it relates to privacy and confidentiality of information.

## RELATED GUIDELINES, STANDARDS, FRAMEWORKS, LEGISLATION

### National Quality Standards

Quality Area 7: Governance and Leadership

### Office of the Childrens Guardian: Child Safe Standards

Standard 1: Child safety is embedded in the organisational leadership, governance and culture.

Standard 3: Families and communities are informed and involved.

Standard 7: Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.

### Legislation

Education and Care Services National Law

Education and Care Services National Regulations: Regulations 168,(2)(l), 181, 182, 183.

Australian Privacy Principles.

Privacy Act 1988 (Privacy Act)

Australian Child Protection Legislation

## RESOURCES / USEFUL LINKS

Australian Privacy Principles – [www.oaic.gov.au](http://www.oaic.gov.au)

ACECQUA's Guide to NQF – [www.acecqa.gov.au/nqf/about/guide](http://www.acecqa.gov.au/nqf/about/guide)

Office of The Australian Information Commissioner

## MONITORING, EVALUATION AND REVIEW

This policy will be monitored to ensure compliance with legislative requirements and unless deemed necessary through the identification of practice gaps, the service will review this Policy every two years.

Families and staff are essential stakeholders in the policy review process and will be given opportunity and encouragement to be actively involved.

In accordance with R. 172 of the Education and Care Services National Regulations, the service will ensure that families of children enrolled at the service are notified at least 14 days before making any change to a policy or procedure that may have significant impact on the provision of education and care to any child enrolled at the service; a family's ability to utilise the service; the fees charged or the way in which fees are collected.