PRIVACY & CONFIDENTIALITY POLICY

The right to confidentiality and privacy of the child and the family is outlined in Early Childhood Code of Ethics and National Education and Care Regulations. The right to privacy of all children, their families, and educators and staff of the service will be upheld and respected, whilst ensuring that all children have access to high quality early years care and education.

NATIONAL QUALITY STANDARD (NQS)

QUALITY AREA 7: GOVERNANCE AND LEADERSHIP		
7.1	Governance	Governance supports the operation of a quality service
7.1.1	Service philosophy and purposes	A statement of philosophy guides all aspects of the service's operations.
7.1.2	Management Systems	Systems are in place to manage risk and enable the effective management and operation of a quality service.
7.1.3	Roles and Responsibilities	Roles and responsibilities are clearly defined and understood and support effective decision-making and operation of the service.
7.2	Leadership	Effective leadership builds and promotes a positive organisational culture and professional learning community.

EDUCATION AND CARE SERVICES NATIONAL REGULATIONS	
168	Education and care services must have policies and procedures
181	Confidentiality of records kept by approved provider
181-184	Confidentiality and storage of records

PURPOSE

To ensure that the confidentiality of information and files relating to the children, families, staff, and visitors using the service is upheld at all times. We aim to protect the privacy and confidentiality by ensuring continuous review and improvement on our current systems, storage, and methods of disposal of records, ensuring that all records and information about individual children, families, educators, and management are held in a secure place and are only retrieved by or released to people who have a legal right to access this information.

SCOPE

This policy applies to children, families, staff, management, and visitors of the service.

IMPLEMENTATION

Early Childhood Services are required to comply with Australian privacy law which includes the *Privacy Act 1988* (the Act) which was amended in February 2017, with changes taking effect on February 22, 2018.

The new law introduces a Notifiable Data Breaches (NDB) scheme that requires Early Childhood Services, Family Day Care Services, and Out of School Hours Care Services to provide notice to the Office of the Australian Information Commissioner (formerly known as the Privacy Commissioner) and affected individuals of any data breaches that are "likely" to result in "serious harm."

Businesses that suspect an eligible data breach may have occurred, must 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 $1.8 million for organisations.
In order to comply, services are required to follow the Australian Privacy Principles (APPs), which are contained in Schedule 1 of the *Privacy Act 1988* (Privacy Act).

In particular, the principles cover how personal information can be used and disclosed (including overseas), keeping personal information secure, and the open and transparent management of personal information.

The principles cover:

- The open and transparent management of personal information, including having a privacy policy
- An individual having the option of transacting anonymously or using a pseudonym where practicable
- The collection of solicited personal information and receipt of unsolicited personal information including giving notice about collection
- How personal information can be used and disclosed (including overseas)
- Maintaining the quality of personal information
- Keeping personal information secure
- Right for individuals to access and correct their personal information

The APPs place more stringent obligations on APP entities when they handle 'sensitive information'.

Sensitive information is a type of personal information and includes information about an individual's:

- Health (including predictive genetic information)
- Racial or ethnic origin
- Political opinions
- Membership of a political association, professional or trade association or trade union
- Religious beliefs or affiliations
- Philosophical beliefs
- Sexual orientation or practices
- Criminal record
- Biometric information that is to be used for certain purposes
- Biometric templates.

Australian Privacy Principles (APPs)

APP 1 – Open and transparent management of personal information
Ensures that APP entities manage personal information in an open and transparent way. This includes having a clearly expressed and up to date APP privacy policy.

APP 2 – Anonymity and Pseudonymity
Requires APP entities to give individuals the option of not identifying themselves, or of using a pseudonym. Limited exceptions apply.

APP 3 – Collection of solicited personal information
Outlines when an APP entity can collect personal information that is solicited. It applies higher standards to the collection of 'sensitive' information.

APP 4 – Dealing with unsolicited personal information
Outlines how APP entities must deal with unsolicited personal information.

APP 5 – Notification of the collection of personal information
Outlines when and in what circumstances an APP entity that collects personal information must notify an individual of certain matters.

APP 6 – Use or disclosure of personal information
Outlines the circumstances in which an APP entity may use or disclose personal information that it holds.

APP 7 – Direct marketing
An organisation may only use or disclose personal information for direct marketing purposes if certain conditions are met.

APP 8 – Cross-order disclosure of personal information
Outlines the steps an APP entity must take to protect personal information before it is disclosed overseas.

APP 9 – Adoption, use or disclosure of government related identifiers

Outlines the limited circumstances when an organisation may adopt a government related identifier of an individual as its own identifier, or use or disclose a government related identifier of an individual.

APP 10 – Quality of personal information

An APP entity must take reasonable steps to ensure the personal information it collects is accurate, up to date and complete. An entity must also take reasonable steps to ensure the personal information it uses or discloses is accurate, up to date, complete and relevant, having regard to the purpose of the use or disclosure.

APP 11 – Security of personal information

An APP entity must take reasonable steps to protect personal information it holds from misuse, interference and loss, and from unauthorised access, modification or disclosure. An entity has obligations to destroy or de-identify personal information in certain circumstances.

APP 12 – Access to personal information

Outlines an APP entity's obligations when an individual, requests to be given access to personal information held about them by the entity. This includes a requirement to provide access unless a specific exception applies.

APP 13 – Correction of personal information

Outlines an APP entity's obligations in relation to correcting the personal information it holds about individuals.

Management will:

- Provide staff and educators with relevant information regarding changes to law and service policy.
- Ensure all relevant staff understand the requirements under Australia's privacy law.
- Maintain currency with the Australian Privacy Principles (this may include delegating a staff member to oversee all privacy-related activities to ensure compliance).
- Ensure personal information is protected in accordance with our obligations under the *Privacy Act 1988* and *Privacy Amendments (Enhancing Privacy Protection) Act 2012.*
- Ensure all records and documents are maintained and stored in accordance with Education and Care Service National Regulations.
- Ensure the service acts in accordance with the requirements of the Privacy Principles and *Privacy Act 1988* by developing, reviewing, and implementing procedures and practices that identify:
    - the name and contact details of the service;
    - what information the service collects and the source of information;
    - why the information is collected;
    - who will have access to the information;
    - collection, storage, use, disclosure, and disposal of personal information collected by the service;

  - any law that requires the particular information to be collected;
  - adequate and appropriate storage for personal information collect by the service;
  - protection of personal information from unauthorised access.
- Ensure the appropriate and permitted use of images of children.
- Ensure all employees, students, volunteers, and families are provided with a copy of this policy.
- Deal with privacy complaints promptly and in a consistent manner, following the service grievance procedures.
- Ensure families only have access to the files and records of their own children.
- Ensure information given to educators will be treated with respect and in a professional and confidential manner.
- Ensure child and staff files are stored in a locked and secure cabinet.
- Ensure Information relating to staff employment will remain confidential and available only to the people directly involved with making personnel decisions.
- Ensure that information shared with us by the family will be treated as confidential unless told otherwise.

A Nominated Supervisor will:

- Adhere to centre policies and procedures, supporting management.
- Ensure educators, staff, volunteers, and families are aware of the privacy and confidentiality policy.
- Ensure the service obtains consent from parents and/or guardian of children who will be photographed or videoed by the service.
- Ensure families only have access to the files and records of their own children.
- Ensure that information given to Educators will be treated with respect and in a confidential and professional manner.
- Ensure only necessary information regarding the children's day-to-day health and wellbeing is given to non-primary contact educators; for example, food allergy information.
- Not discuss individual children with people other than the family of that child, except for the purposes of curriculum planning or group management. Communication in other settings must be approved by the family beforehand.
- Ensure that information shared with us by the family will be treated as confidential unless told otherwise.

Responsible Persons and Staff will:

- Read and adhere to the privacy and confidentiality policy at all times.

- Ensure documented information and photographs of children are kept secure but may be accessed at any time by the child's parents or guardian.
- Ensure families only have access to the files and records of their own children.
- Treat private and confidential information with respect in a professional manner.
- Will not discuss individual children with people other than the family of that child, except for the purposes of curriculum planning or group management. Communication in other settings must be approved by the family beforehand.
- Ensure that information shared with us by the family will be treated as confidential unless told otherwise.
- Maintain individual and service information and store documentation according to this policy at all times.
- Not to share information about the individual or service, management information, or other staff as per legislative authority.

Personal information our service may request in regards to children:

- ☐ Parent contact details
- ☐ Emergency contact details and persons authorised to collect individual children
- ☐ Children's health requirements
- ☐ Immunisation records
- ☐ Developmental records and summaries
- ☐ External agency information
- ☐ Custodial arrangements
- ☐ Incident reports
- ☐ Medication reports
- ☐ Child care benefit and child care rebate information
- ☐ Medical records
- ☐ Permission forms

Personal information our service may request in regards to staff:

- ☐ Personal details
- ☐ Tax information
- ☐ Working contract
- ☐ Emergency contact details
- ☐ Medical details
- ☐ Immunisation details
- ☐ Working with children check
- ☐ Qualifications
- ☐ Medical history
- ☐ Resume
- ☐ Superannuation details

- ☐ Child Protection qualifications
- ☐ First Aid, Asthma and Anaphylaxis certificates

Sources

Australian Childcare Alliance. Changes to Australia's privacy law: What ECEC services need to know: https://childcarealliance.org.au/blog/115-changes-to-australia-s-privacy-law-what-ecec-services-need-to-know 2019

Australian Children's Education & Care Quality Authority

Early Childhood Australia Code of Ethics 2016

Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2017

Guide to the National Quality Standard. Office of the Australian Information Commission – Australian Privacy Principles: https://www.oaic.gov.au/privacy-law/privacy-act/australian-privacy-principles 2017

Privacy Act 1988.

Revised National Quality Standard 2018

United Nations Convention of the Rights of a child

REVIEW

POLICY REVIEWED	March 2019	NEXT REVIEW DATE	March 2020
MODIFICATIONS	• Grammar and punctuation edited • Additional information added to points • Sources checked for currency • Sources/references corrected, updated, and alphabetised • Minor formatting (line spacing & paragraph spacing) for consistency throughout policy		
POLICY REVIEWED	PREVIOUS MODIFICATIONS		NEXT REVIEW DATE
January 2018	• Changes made to comply with changes to the Australian Privacy Act 1988, including the replacement of the National Privacy principles with the Australian Privacy Principles		March 2019
October 2017	• Updated references to comply with the revised National Quality Standard		March 2018
March 2017	• Minor changes made to ensure compliance with regulations		March 2018