



# BOURKE AND DISTRICT CHILDREN'S SERVICES

## QUALITY AREA 7: GOVERNANCE AND LEADERSHIP

### POLICY NAME: 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 has an ethical and legal responsibility to protect the privacy and confidentiality of children, individuals and families as outlined in Early Childhood Code of Ethics, Education and Care Services National Regulations and the Privacy Act 1988. 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. All staff members will maintain confidentiality of personal and sensitive information to foster positive trusting relationships with families.

#### BACKGROUND

Under the Education and Care Services National Regulations, the Approved Provider must ensure that policies and procedures are in place in relation to privacy and confidentiality. Under National Law, Section 263, Early Childhood Services are required to comply with Australian privacy law which includes the Privacy Act 1988 aimed at protecting the privacy of individuals. Schedule 1 of the Privacy Act (1988) includes 13 Australian Privacy Principles (APPs) which all services are required to apply. The APPs set out the standards, rights and legal obligations in relation to collecting, handling, holding and accessing personal information. 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.

#### OVERALL STRATEGIES / HOW WILL IT BE DONE?

We aim to protect the privacy and confidentiality of all information and records about individual children, families, educators, staff and management. We will ensure that all records and information are held in a secure place and are only retrieved by or released to people who have a legal right to access this information. Our service takes data integrity very seriously, we strive to assure all records and data is protected from unauthorised access and that it is available to authorised persons when needed.

All personal and sensitive information is to be considered confidential, regardless of the form or medium in which it is recorded or stored. Confidential Information excludes, or as the case requires, ceases to include information which is, or becomes:

- Available in the public domain.
- Required to be disclosed by law.

#### PERSONAL AND SENSITIVE INFORMATION

- Personal information includes a broad range of information, or an opinion, that could identify an individual.
- Sensitive information is personal information that includes information or an opinion about a range of personal information that has a higher level of privacy protection than other personal information.
- Personal information will be collected and held securely and confidentially about staff members, families and their children, to assist our service provide quality education and care to children whilst promoting and maintaining a child safe environment for all stakeholders.
- Prior to any personal information being collected, a privacy disclaimer statement will be provided, stating:
  - Why the information is being collected.
  - How the information will be used.
  - Your right to access and alter any information provided.

#### METHOD OF COLLECTION

- Information is generally collected using standard forms at the time of enrolment or employment.
- Additional information may be provided to the Service through email, surveys, telephone calls or other written communication.
- Information may be collected online through the use of software such as CCS software or program software.

#### HOW WE PROTECT PERSONAL AND SENSITIVE INFORMATION

- All personal and sensitive information is stored on computers which are password protected.
- Each staff member will be provided with unique usernames and passwords to access computers and the various software programs that are used.
- Staff members will be advised not to share their usernames and password with any other staff member
- Access to personal and sensitive information is restricted to key personal only.
- Security software is installed on all computers and updated automatically when required.
- Data is regularly backed up on external drive and/or through a cloud storage solution.



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- Any physical personal or sensitive information (paper files) are securely stored in locked filing cabinets/cupboards.
- Any notifiable breach to data is reported.
- All staff are aware of the importance of confidentiality and maintaining the privacy and security of all information.

#### ACCESS TO PERSONAL AND SENSITIVE INFORMATION

- Information kept in a child's online file will not be divulged or communicated through direct or indirect means to another person other than:
  - The extent necessary for the education and care or medical treatment of the child to whom the information relates.
  - A parent of the child to whom the information relates, except in the case of information kept in a staff record.
  - The Regulatory Authority or an authorised officer.
  - As expressly authorised, permitted or required to be given by or under any Act or Law.
  - With the written consent of the person who provided the information.
- Individuals will be allowed access to their personal or sensitive information as requested.
- Information may be denied under the following conditions:
  - Access to information could compromise the privacy of another individual
  - The request for information is frivolous or vexatious.
  - 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.

#### DISCLOSING PERSONAL AND SENSITIVE INFORMATION

Our Service will only disclose personal or sensitive information to:

- A third-party provider with parent permission (for example CCS software provider).
- Child Protection Agency- Office of the Children's Guardian and Regulatory Authority as per our Child Protection and Child Safe Environment policy.
- Authorised officers (for example public health officer).
- The regulatory authority or an authorised officer.
- As expressly authorised, permitted or required to be given by or required to be given by or under any Act or Law.
- With the written consent of the person who provided the information.

#### NOTIFIABLE DATA BREACHES

The Notifiable Data Breaches (NDB) scheme 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 breach of an Australian Privacy Principle is viewed as an 'interference with the privacy of an individual' and can lead to regulatory action and penalties.

#### COMPLAINTS AND GRIEVANCES

If a parent, employee or volunteer has a complaint or concern about our service, or they believe there has been a data breach of the Australian Privacy Principles, they are requested to contact the Approved Provider so reasonable steps to investigate the complaint can be made and a response provided as per our Complaints Handling Policy.

If there are further concerns about how the matter has been handled, please contact the Office of Australian Information Commissioner on 1300 363 992 or: [https://forms.business.gov.au/smartforms/landing.htm?formCode=APC\\_PC](https://forms.business.gov.au/smartforms/landing.htm?formCode=APC_PC)

#### ROLES AND RESPONSIBILITIES

##### THE APPROVED PROVIDER AND NOMINATED SUPERVISOR WILL:

- Ensure there are policies and procedures in place for dealing privacy and confidentiality and take reasonable steps to ensure those policies and procedures are followed.
- Ensure that obligations under the Education and Care Services National Law and National Regulations are met.
- Ensure all staff (including casual staff) receive information and induction training to fulfil their roles effectively, including being made aware of the Privacy and Confidentiality Policy, their responsibilities in implementing it, and any changes that are made over time.
- Ensure students, visitors and volunteers have knowledge of and adhere to this policy



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- Ensure the service acts in accordance with the requirements of the Australian Privacy Principles and Privacy Act 1988.
- Ensure all relevant staff understand the requirements under Australia's privacy law and Notifiable Data Breaches (NDB) scheme.
- Maintain currency with the Australian Privacy Principles.
- Ensure personal information is protected in accordance with obligations under the Privacy Act 1988 and Privacy Amendments (Enhancing Privacy Protection) Act 2012.
- Ensure any personal information collected remains up-to-date.
- Ensure all records and documents are maintained and stored in accordance with Education and Care Service National Regulations
- Ensure information provided is only used for the purpose it was collected for.
- Ensure the appropriate and permitted use of images of children, including obtaining written consent from parents/guardians 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 information given to staff will be treated with respect and in a professional and confidential manner.
- 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 the service by the family will be treated as confidential unless told otherwise.
- Ensure information regarding the health and wellbeing of a child or staff member is not shared with others unless consent has been provided, in writing, or provided the disclosure is required or authorised by law under relevant state/territory legislation.
- Deal with privacy complaints promptly and in a consistent manner as per the Complaints Handling Policy.
- Following a breach of data, conduct a review to ensure the service meets lawful obligations, identifies areas for improvement and to detect potential areas of breach in privacy law.

#### ALL STAFF WILL:

- Treat private and confidential information with respect in a professional manner and will refrain from directly or indirectly disclosing to a third party confidential information except in the proper course of carrying out their duties.
- Not make use of any confidential information except in the proper performance of their duties
- Ensure that information shared with the service 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.
- Ensure documented information and photographs of children are kept secure but may be accessed at any time by the child's parent/guardian.
- Ensure families only have access to the files and records of their own children.
- Not discuss individual children with families, other than the family of that child.
- Not share information about the education and care service, management information, other educators or children and families, without written permission or legislative authority (for example, if a child is at risk).
- Assist the Nominated Supervisor to ensure that all children's personal information is kept up to date.
- Notify the Approved Provider or Nominated Supervisor immediately if aware of a potential or actual breach of this policy or any unauthorised disclosure of confidential information.
- Immediately take all steps reasonably required to prevent or stop the potential or actual breach of this policy or any unauthorised disclosure of confidential information.
- Comply with any direction issued by BDCS and provide any assistance reasonably requested from time to time regarding enforcement of this policy or any unauthorised disclosure of confidential information.
- Establish and maintain effective security measures to safeguard confidential information from disclosure, access or use not authorised by BDCS.
- Cease using the confidential information obtained from BDCS either upon termination of employment or at any time requested by BDCS. At this point staff will:
- Return all confidential information in their possession or control to BDCS.



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- Destroy and certify in writing to BDCS (or permit BDCS to witness) the destruction of all confidential information in their possession or control. This includes all copies summaries, notes or reproductions of all confidential information in their possession or control.

#### CONTINUOUS IMPROVEMENT/REFLECTION

Our Privacy and Confidentiality Policy will be reviewed on an annual basis in consultation with children, families, staff, educators, and management.

#### CHILD SAFE STANDARDS

Standard 1	Child safety is embedded in organisational leadership, governance and culture.
Standard 5	People working with children are suitable and supported.
Standard 6	Processes to respond to child abuse are child focussed.
Standard 7	Staff are equipped with the knowledge, skills and awareness to keep children safe through continual education and training.
Standard 10	Policies and procedures document how the organisation is child safe.

#### NATIONAL QUALITY STANDARD (NQS)

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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 services 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 AND NATIONAL LAW

168	Education and care services must have policies and procedures
170	Policies and procedures to be followed
171	Policies and procedures to be kept available
181	Confidentiality of records kept by Approved Provider
183	Storage of records and other documents
184	Storage of records after service approval transferred

#### STATUTORY LEGISLATION & CONSIDERATIONS

- [A New Tax System \(Family Assistance\) Act 1999](#)
- [Child Care Subsidy Secretary's Rules 2017](#)
- [Education and Care Services National Law Act 2010 \(Amended 2023\)](#)
- [Education and Care Services National Regulations \(Amended 2023\)](#)
- [Family Assistance Law 2018](#)
- [Family Law Act 1975](#)
- [Privacy Act 1988](#)

#### SOURCES

- Acknowledgement to Community Early Learning Australia and Childcare Centre Desktop.
- Australian Childcare Alliance. (2019). 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>
- Australian Children's Education & Care Quality Authority (ACECQA). (2014).
- Australian Children's Education & Care Quality Authority (ACECQA). (2023). [Guide to the National Quality Framework](#).
- Australian Government Department of Education. (2022). [Belonging, Being and Becoming: The Early Years Learning Framework for Australia](#). V2.0, 2022.
- Australian Government Department of Education. (2022). Child Care Provider Handbook. <https://www.education.gov.au/early-childhood/resources/child-care-provider-handbook>



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Australian Government Office of the Australian Information Commission – Australian Privacy Principles:

<https://www.oaic.gov.au/privacy-law/privacy-act/australian-privacy-principles>

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).

Revised National Quality Standard. (Amended 2023).

UN General Assembly (1989) United Nations Convention of the Rights of a child.

#### RELATED POLICIES

- Complaints Handling Policy
- Enrolment and Orientation Policy
- Family Participation and Communication Policy
- Fees Policy
- Governance and Leadership Policy
- Interactions with Children Policy

#### RELATED DOCUMENTS

Privacy and Confidentiality Policy – Employee Acknowledgement Form

POLICY REVIEWED	NEXT REVIEW DATE	POLICY AUTHORISED BY
NOVEMBER 2024	NOVEMBER 2025	Prue Ritchie
MODIFICATIONS	<ul style="list-style-type: none"> <li>• Definition of what is considered confidential has been added</li> <li>• Additional information added in Roles and Responsibilities of all staff section</li> </ul>	
POLICY REVIEWED	PREVIOUS MODIFICATIONS	POLICY AUTHORISED BY
June 2024	<ul style="list-style-type: none"> <li>• New policy format</li> <li>• Update of related legislation (if applicable)</li> <li>• Child Safe Standards added and updated with links</li> <li>• Separated into own policy as was previously "Privacy, Confidentiality and Children's Records" (Record Keeping and Retention is a separate policy).</li> </ul>	Prue Ritchie
JANUARY 2021		Prue Ritchie