**Privacy and Confidentiality Policy**

Privacy is acknowledged as a fundamental human right. 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, National Education and Care Regulations and the Privacy Act 1988 (Cth). 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.

**National Quality Standard (NQS)**

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| 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 defines, 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**

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| Children (Education and Care Services) National Law NSW | |
| 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 |

RELATED POLICIES

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| --- | --- |
| Enrolment Policy  Family Communication Policy  Grievance Policy  Governance Policy  Management Committee Policy  Orientation of New Families Policy | Parental Interaction and Involvement Policy  Payment of Fees Policy  Photograph Policy  Record Keeping and Retention Policy  Writing Reviewing and Maintaining Policies |

**PURPOSE**

To preserve private and confidential files of the children, families, staff and visitors using the Service. We aim to protect the privacy and confidentiality by ensuring continuous improvement on our current systems use, storage and disposal of records, ensuring that all records and information about individual children, families, educators and management are preserved in a secure place and are only retrieved by or released to people who need the information to fulfil their responsibilities at the service or have a legal obligation to distinguish.

**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 the changes due to take effect on February 22nd 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 with the Privacy Act, 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 including having a privacy policy.

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 changes
* Make sure all relevant staff understand the requirements under Australia's privacy law
* Keep up to date with the Australian Privacy Principles (this may include delegating a staff member to oversee all privacy-related activities to ensure compliance).
* Ensure personal information in 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 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’s Grievance Procedures. Where the aggrieved person is dissatisfied after going through the grievance process
* 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 manner
* Children and staff files are stored in a locked and secure cabinet
* Ensure Information relating to staff employment will remain confidential to the people directly involved with making personnel decisions.
* Information shared with us by the family will be treated as confidential unless told otherwise.

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
* Information given to Educators will be treated with respect and in a 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 allergies
* 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.
* 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 recording information and photographs of children are kept secure and may be requires 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.
* 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

Australian Privacy Principles- Personal Information

Waratah All Year Care is committed to protecting personal information in accordance with our obligations under the *Privacy Act 1988* and *Privacy Amendments (Enhancing Privacy Protection) Act 2012.*

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.

Source: OAIC-Australian Privacy Laws, Privacy Act 1988

Personal information will be collected and held securely and confidentially about you and your child to assist our Service provide quality education and care to your child whilst promoting and maintaining a child safe environment for all stakeholders.

Personal information our Service may request regarding enrolled children:

* Child’s name
* Gender
* Date of birth
* Birth Certificate
* Religion
* Language spoken at home
* Emergency contact details and persons authorised to collect individual children
* Children’s health requirements
* Immunisation records- (Immunisation History Statement)
* Developmental records and summaries
* External agency information
* Custodial arrangements or parenting orders
* Incident reports
* Medication reports
* Child Care Subsidy information
* Medical records
* Permission forms – including permission to take and publish photographs, video, work samples
* Doctor’s contact information
* Centrelink Customer Reference number (CRN)
* Dietary requirements

Personal information our Service may request regarding parents and caregivers

* Parent/s full name
* Address
* Phone number (mobile & work)
* Email address
* Bank account or credit card detail for payments
* Centrelink Customer Reference number (CRN)
* Custody arrangements or parental agreement

Personal information our Service may request regarding staff and volunteers

* Personal details
* Tax information
* Banking details
* Working contract
* Emergency contact details
* Medical details
* Immunisation details
* Working With Children Check verification
* Educational Qualifications
* Medical history
* Resume
* Superannuation details
* Child Protection qualifications
* First Aid, Asthma and Anaphylaxis certificates
* Professional Development certificates

Method of Collection

Information is generally collected using standard forms at the time of enrolment.

Additional information may be provided to the Service through email, surveys, telephone calls or other written communication.

How we protect your personal information

To protect your personal and sensitive information, we maintain physical, technical and administrative safeguards.

All hard copies of information are stored in children’s individual files in a locked cupboard.

All computers used to store personal information are password protected.

Access to personal and sensitive information is restricted to key personal only.

Security software is installed on all computers

Data is regularly backed up on external drive and/or through a cloud storage solution

Any notifiable breach to data is reported

All staff are aware of the importance of confidentiality and maintaining the privacy and security of your information.

Access to personal and sensitive information

Personal and sensitive information about you and your child will be stored securely at all times. The Approved Provider will ensure that information kept in a child’s record is not 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.

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 Policies*
* as part of the purchase of our business asset with parental permission

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.

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>

For any other general concerns, please contact the Approved Provider directly on:

0414 535 685

**Source**

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| 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. (2014)  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).  Guide to the National Quality Standard. ~~(2017).~~ (2020)  *Privacy Act 1988.*  Revised National Quality Standard. (2018).  UN General Assembly (1989) United Nations Convention of the Rights of a child |

**Review**

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| --- | --- | --- |
| Policy Reviewed | Modifications | Next Review Date |
| December 2018 | New policy created for new service | December 2019 |
| December 2019 | * major re-write and update of the policy that includes information from the Office of the Australian Information Commissioner and Australian Privacy Principles * Rearranged some content * Sources updated and checked for currency | December 2020 |
| January 2021 | * major re-write and update of the policy that includes information from the Office of the Australian Information Commissioner and Australian Privacy Principles * Rearranged some content and added Appendix * Related policies added * Sources updated and checked for currency | January 2022 |