



# PRIVACY AND CONFIDENTIALITY POLICY

Quality Area 7: Governance and Leadership

## POLICY STATEMENT

Orchard Early Learning Centre 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

Our education and care 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/WHAT ARE WE GOING TO DO?

We will:

- maintain private and confidential files for educators and staff, children and their families. We will develop systems for the appropriate use, storage and disposal of records.
- 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 AND PRACTICES

Our education and care service aims to meet these goals through the adoption of this specific Privacy and Confidentiality policy and our Privacy Collection statement which will guide our practices in this area.

The Approved Provider will:

### Collection of Information

- Ensure that each family, staff, volunteers and student and committee member is provided with a Privacy Collection Statement upon enrolment, that includes details about how they can access their personal information, have this corrected as needed, make a complaint about a breach of privacy, if one occurs.
- Ensure each staff member, committee members, volunteers and student information is correct in personnel and other files. This includes information on qualifications, working with children checks or equivalent, criminal history checks, staff entitlements, contact and emergency information, health and immunisation information, and any relevant medical and legal information. This would include any other relevant information collected by the service.





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- Ensure that information collected from families, educators, committee members and the community is maintained in a private and confidential manner at all times.
- 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 says information can be communicated:
  - To the extent necessary for the education, care or medical treatment of the child;
  - To the parent 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.
- 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.
- Provide families with information on the Complaints Handling policy if any privacy or confidentiality procedure has been breached. Individuals can make a complaint to the Approved Provider if they believe there has been a breach of their privacy in relation to the Australian Privacy Principles. The breach will be assessed by the Approved Provider within 14 days. Where the information collected is incorrect, the information will be corrected. Where a serious breach of privacy is found, appropriate actions will be negotiated between the Approved Provider and the individual to resolve the situation, in line with the Complaints Handling policy.
- Will ensure information provided by families, staff and committee members is only used for the purpose it was collected for.

### Notifiable Data Breaches (NDB)

The Notifiable Data Breaches (NDB) scheme requires all businesses regulated by the Privacy Act (including education and 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 (ie. data leaks) that are “likely” to result in “serious harm.”

Should there be a 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 \$1.8 million for organisations.

Individuals at likely risk of serious harm will be notified promptly.

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

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.





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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





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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.

### **The Nominated Supervisor will:**

- 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 education and care service. This would include any information required to be recorded under the Education and Care National Law and Regulations, the Family Assistance Law other relevant information collected to support the enrolment of a child.
- Ensure that information given to Educators will be treated with respect and in a confidential and professional manner.





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- 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.
- Ensure information provided by families and staff is only used of the purpose it was collected for
- Provide families with details on the collection of personal information collected via the Privacy Collection Statement. This information will include:
  - The types of information collected by our education and care service;
  - The purpose of collecting information;
  - What types of information will be disclosed to the public or other agencies; and when and why disclosure may occur;
  - How information is stored at the service;
  - Approaches used to keep information secure;
  - Who has access to the information;
  - The right of the individual to view their personal information;
  - The length of time information needs to be archived; and
  - How information is disposed.

### Storage of Information

- Ensure that education and care service records, personnel records, CCS information and children's and families information is stored securely reducing the chance of unauthorised access, use or disclosure and remains private and confidential within the education and care environment at all times.

### Access to Information

- Will ensure that information kept is not divulged or communicated, directly or indirectly, to anyone other than:
  - Medical and developmental information that is required to adequately provide education and care for the child;
  - The Department of Education, or an authorised officer; or
  - As permitted or required by any Act or Law.
- Individuals will be allowed access to their personal information as requested. Individuals must request this information in writing from the Nominated Supervisor. Authorised persons may request to view any information kept on their child.
- 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; and
  - 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:

- Maintain children's information and store documentation according to policy at all times.
- Not share information about the education and care service, management information,





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other educators or children and families, without written permission or legislative authority.

- In keeping with the Early Childhood Australia (ECA) Code of Ethics (2016), the Education and Care Services National Regulations and the Australian 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 a Confidentiality Statement as it relates to privacy and confidentiality of information.
- 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.
- Not to share information about the individual or service, management information, or other staff as per legislative authority.

## EVALUATION

All information pertaining to the education and care service, educators and families is maintained in a private and confidential manner in accordance with the Privacy Act 1988 and the Education and Care Services National Regulations.

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 the opportunity and encouragement to be actively involved.

This policy links to the Governance and Management policy.

## LINKS TO EDUCATION AND CARE SERVICES NATIONAL REGULATIONS, NATIONAL QUALITY STANDARD

- Education and Care Services National Law
- Education and Care Services National Regulations: 168(2)(l), 181, 182, 183
- Australian Privacy Principles
- Privacy Act 1988 (Privacy Act)
- Australian Child Protection Legislation <https://aifs.gov.au/cfca/publications/australian-childprotectionlegislation>
- National Quality Standard, Quality Area 7: Governance and Leadership - Standard 7.1 Element 7.1.2

## LINKS TO OTHER POLICIES

- Staff code of conduct policy
- Student volunteers and visitors policy
- Infectious diseases policy
- Medical conditions policy
- Child safe environment policy





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- Arrival departure policy
- Acceptance and refusal policy
- Enrolment policy
- Working directly with children policy
- Child collection policy
- Child protection policy
- Immunisation policy
- Incident illness policy
- Ethical conduct for families policy
- Interactions with children families and staff policy
- Governance and management policy
- Responsible person policy
- Complaints policy
- Record keeping Retention

## SOURCES/RESOURCES / USEFUL LINKS

- ACECQA's Guide to the National Quality Framework - [www.acecqa.gov.au/nqf/about/guide](http://www.acecqa.gov.au/nqf/about/guide)
- Australian Privacy Principles – [www.oaic.gov.au](http://www.oaic.gov.au)
- Office of the Australian Information Commissioner – [www.oaic.gov.au](http://www.oaic.gov.au)
- Privacy Act 1988 (Privacy Act) – [www.oaic.gov.au/privacy-law/privacy-act](http://www.oaic.gov.au/privacy-law/privacy-act)
- Early Childhood Australia – [www.earlychildhoodaustralia.org.au](http://www.earlychildhoodaustralia.org.au)

## POLICY REVIEW

The Service encourages staff and parents to be actively involved in the annual review of each of its policies and procedures. In addition, the Service will accommodate any new legislative changes as they occur and any issues identified as part the Service's commitment to quality improvement. The Service consults with relevant recognised authorities as part of the annual review to ensure the policy contents are consistent with current research and contemporary views on best practice.

Date(s) reviewed: April 2019 / April 2020 / January 2021 / February 2022.

