

# The Kinder Garden



## Confidentiality of Records Policy

### Aim

This policy is to address the issues of privacy and confidentiality of children, Educators, other staff, volunteer workers, agents, contractors and parents/guardians of children in care. It aims to protect the privacy and confidentiality by ensuring that all records and information about individual children, families, educators, other staff, agents, contractors and management are kept in a secure place and are only accessed by or disclosed to those people who **need** the information to fulfill their responsibilities at the education and care service or **have a legal right to know**.

### Legislative Requirements

Education and Care Services National Law Act 2010  
Education and Care Services National Regulations 2011

National Quality Standards 2011

NSW Department of Education

Laws relating to protection of privacy and confidentiality; duty of confidentiality arising from a contract with parent; to whom and when information must be disclosed;

Child Care Service Handbook 2013-2014

Privacy Act 1988 (Cth.);

Workplace Relations Act 1996 (Cth.).

### Who is affected by this policy?

Children  
Parents  
Educators  
Staff  
Students  
Volunteers  
Management

### Implementation

Personal information will only be collected in so far as it relates to the service's activities and functions, and in line with relevant legislation. **(National Privacy Principle 1.1 - Privacy Act 1998.)**

Collection of personal information will be lawful, fair, reasonable and unobtrusive. **(National Privacy Principle 1.2 - Privacy Act 1998.)**

Individuals who provide personal information will be advised of the name and contact details of the education and care service, the fact that they are able to gain access to their information; why the information is collected; the organisations to which the information may be disclosed; any law that requires the particular information to be collected; and the main consequences for not providing the required information. **(National Privacy Principle 1.3 – Privacy Act 1998).**

The use or disclosure of personal information will only be for its original collected purpose, unless the individual consents, or unless it is needed to prevent a health threat, or is required or authorised under law. **(National Privacy Principle 2.1 – Privacy Act 1998).**

The education and care service will take steps to ensure the personal information collected, used or disclosed, is accurate, complete and up to date. Parents will be required to update their enrolment details annually, or whenever they experience a change in circumstances. Computer records will be updated as soon as new information is provided. **(National Privacy Principle 3 – Privacy Act 1998).**

Personal information will be kept in a secure and confidential way, and destroyed by shredding or incineration, when no longer needed. **(National Privacy Principle 4 – Privacy Act 1998).**

Individuals will be provided with access to their personal information and may request that their information be up-dated or changed where it is not current or correct. **(National Privacy Principle 6 – Privacy Act 1998).**

Individuals wishing to access their personal information must make written application to the Approved Provider/Nominated Supervisor, who will arrange an appropriate time for this to occur. The Approved Provider/Nominated Supervisor will protect the security of the information by checking the identity of the applicant, and ensuring someone is with them while they access the information to ensure the information is not changed or removed without the Approved Provider/Nominated Supervisor's knowledge.

The Approved Provider/Nominated Supervisor will deal with privacy complaints promptly and in a consistent manner, following the education and care service's Grievance Procedures. Where the aggrieved person is dissatisfied after going through the grievance process, they may appeal in writing to "The Director of Complaints, Office of the Federal Privacy Commission, GPO Box 5218, Sydney NSW 2001, phone the Commissioner's Hotline on 1300 363 992 or email enquiries@oaic.gov.au. (Privacy Act 1998). www.privacy.gov.au

Every Employee and the Operator is provided with clear written guidelines detailing:

- what information is to be kept confidential and why.
- what confidential information they may have access to in order to fulfill their responsibilities and how this information may be accessed.
- who has a legal right to know what information.
- where and how the confidential information should be stored.

Every Employee and the Operator is required to sign a Confidentiality Statement.

Every enrolling parent/guardian is provided with clear information about:

- what personal information is kept and why.
- any legal authority to collect personal information.
- third parties to whom the service discloses such information as a usual practice.

Confidential conversations that educators and other staff have with parents, or the Approved Provider/Nominated Supervisor has with educators and other staff, will be conducted in a quiet area away from other children, parents and staff. Such conversations are to be written up, and stored in a confidential folder.

Personnel forms and employee information will be stored securely. **(Workplace Relations Act 1996).**

Applicants, students or volunteers will be informed that their personal information is being kept, for what reason, for how long, and how it will be destroyed at the end of the time period.

Applicants will be asked for their consent before their references are checked. Unsuccessful applicants will be advised of when and how their personal information will be destroyed.

Information about Educators and other Staff members will only be accessed by the Approved Provider/Nominated Supervisor, and individual staff member concerned. **(Workplace Relations Act 1996.)**

All matters discussed at staff/committee meetings will be treated as confidential. **(Privacy Act 1998.)**

No member of staff may give information or evidence on matters relating to children and/or their families to anyone other than the responsible parent/guardian, unless prior written approval by the responsible parent/guardian is obtained. Exceptions may apply regarding information about children when subpoenaed to appear before a court of law. Notwithstanding these requirements, confidential information may be exchanged in the normal course of work with other staff members at the Service and may be given to the Approved Provider/ Nominated Supervisor, when this is reasonably needed for the proper operation of the Service and the wellbeing of users and staff. **Education and Care Services National Regulations 2011, Children Division 2; and Privacy Act 1988).**

Reports, notes and observations about children must be accurate and free from biased comments and negative labeling of children.

Educators and other Staff members will protect the privacy and confidentiality of other Staff members by not relating personal information about another staff member to anyone either within or outside the Education and Care Service.

Students/people on work experience/volunteers will not make staff/children or families at the Education and Care Service, an object for discussion outside of the Education and Care Service (eg. college, school, home etc.), nor will they at any time use family names in recorded or tutorial information.

Students/people on work experience/volunteers will only use information gained from the education and care service upon receiving written approval from the education and care service/parent/guardian to use and/or divulge such information, and will never use or divulge the names of persons.

The Approved Provider, staff, agents and contractors of the education and care service will abide by this confidentiality policy and follow the above procedures at all times.

**The Approved Provider/Nominated Supervisor will ensure that this policy is maintained and implemented at all times.**

## Sources

**Education and Care Services National Law Act 2010**  
**Education and Care Services National Regulations 2011**

Guide to National Quality Standards 2011  
Child Care Service Handbook 2010-2011  
Australian Children's Education & Care Quality Authority  
NSW Department of Education & Communities  
Privacy Act 1998 [www.privacy.gov.au](http://www.privacy.gov.au) Retrieved: 29<sup>th</sup> August 2016  
Fair Work online [www.fairwork.gov.au](http://www.fairwork.gov.au) Retrieved: 29<sup>th</sup> August 2016  
Privacy and Personal information Protection Act 1998  
Workplace Relations Act 1996

## Review

The policy will be reviewed annually. Review will be conducted by management, employees, parents and any interested parties.

**Reviewed:** August 2016

**Date for next review:** August 2017