

QA7

PRIVACY AND CONFIDENTIALITY POLICY



NATIONAL QUALITY STANDARDS (NQS)

QUALITY AREA 7 GOVERNANCE and LEADERSHIP

7.1	Governance
7.1.1	Service philosophy and purposes
7.1.2	Management Systems
7.1.3	Roles and Responsibilities
7.2	Leadership

EDUCATION AND CARE SERVICES NATIONAL REGULATIONS

168	Education and care service must have policies and procedures.
170	Policies and procedures to be followed.
171	Policies and procedures to be kept available.
172	Notification of change to policies or procedures.

RELATED POLICIES AND RECORDS

Confidentiality Agreement Record

AIM OF POLICY

To ensure that the confidentiality of information and files relating to the Children, Families, Team Members and Visitors at our services is upheld at all times. We aim to protect the privacy and confidentiality of all information and records about individual Children, Families, Educators, and management by ensuring continuous review and improvement on our current systems, storage, and methods of disposal of records.

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.

Our services have 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). All Team Members will maintain confidentiality of personal and sensitive information to foster positive trusting relationships with Families.

SCOPE

This policy applies to Children, Families, Team Members, Management, and Visitors to our Story House services.

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IMPLEMENTATION

Under National Law, Section 263, Early Childhood services are required to comply with Australian privacy law which includes the *Privacy Act 1988* (the Act) 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. The Notifiable Data Breaches (NDB) scheme requires Early Childhood 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. *source: OAIC Australian Privacy Principles.*

THE AUSTRALIAN PRIVACY PRINCIPALS (APPS) OUTLINE:

- 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

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

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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 request 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.

Source: Australian Government Office of the Australian Information Commissioner (OAIC)

<https://www.oaic.gov.au/privacy/>

OUR APPROVED PROVIDER WILL ENSURE

Story House services act in accordance with the requirements of the Australian 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 access 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 collected by the service.
- Protection of personal information from unauthorised access.
- They provide Team Members with relevant information regarding changes to Australian privacy law and service policy.
- All relevant team Members understand the requirements under Australia's privacy law and Notifiable Data Breaches (NDB) scheme.
- They maintain currency with the Australian Privacy Principles.
- Personal information is protected in accordance with our obligations under the *Privacy Act 1988* and *Privacy Amendments (Enhancing Privacy Protection) Act 2012*.
- All records and documents are maintained and stored in accordance with Education and Care Service National Regulations.
- They have a system in place to regularly back-up personal and sensitive data from computers to protect personal information collected.
- All computers are password protected and install security software, antivirus protection
- Families are notified of the time particular records are required to be retained as per Education and Care Services National Regulations [regulation 183 (2)]
- The appropriate and permitted use of images of Children.
- All Team Members Students, Volunteers, and Families are made aware of this policy.
- They deal with privacy complaints promptly and in a consistent manner, following the *Dealing with Complaints Policy* and procedure.

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- 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 and confidential manner.
- Individual Child and Team Member files are stored in a locked and secure cabinet.
- Information relating to Team Member employment will remain confidential and available only to the people directly involved with making personnel decisions.
- Information shared with the service by the Family will be treated as confidential unless told otherwise.
- They complete a *Privacy Audit* every 12 months or following a breach of data to ensure the service meets lawful obligations, identifies areas for improvement and to detect potential areas of breach in privacy law
- That obligations under the Education and Care Services National Law and National Regulations are met.
- They take reasonable steps to ensure that the policy and procedures are current, reviewed regularly, and communicated to Educators, Team Members and stakeholders.
- They take reasonable steps to inform and support Educators and Team Members regarding their responsibilities in implementing the policy and procedures at all times.
- They take reasonable steps to ensure that Service Manager Educators, Team Members, and Volunteers follow the policy and procedures.
- Copies of the policy and procedures are readily accessible to Service Managers, Educators, Team Members volunteers and Stakeholders and are available for inspection.
- They notify families at least 14 days before changing the policy or procedures if the changes will:
 - Affect the fees charged or the way they are collected or
 - Significantly impact the service’s education and care of Children or
 - Significantly impact the Family’s ability to utilise the service

OUR SERVICE MANAGER WILL ENSURE

- They adhere to service’s policies and procedures at all times.
- Educators, Team Members Volunteers, and Families are aware of the *Privacy and Confidentiality Policy*
- The service obtains written consent from Parents and/or Guardians of Children who will be photographed or videoed by the service.
- 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 confidential and professional manner.
- 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.
- They do 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.

OUR EDUCATORS WILL ENSURE

- They read and adhere to the *Privacy and Confidentiality Policy* at all times.
- Documented information and photographs of Children are kept secure but may be accessed at any time by the Child’s Parents or Guardian.
- Families only have access to the files and records of their own Children.
- They treat private and confidential information with respect and in a professional manner.
- They do 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 the service by the Family will be treated as confidential unless told otherwise.
- They maintain individual and service information and store documentation according to this policy at all times.
- They do not share information about the individual or service, management information, or other Team Members as per legislative authority.

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SOURCE

- Australian Children’s Education & Care Quality Authority. ACEQCA
- Education and Care Services National Regulations.
- Guide to the Education and Care Services National Law and the Education and Care Services National Regulations.
- Guide to the National Quality Framework.
- Education and Care Services National Law Act 2010.
- National Quality Standard.
- Code of Ethics.
- United Convention on the Rights of the Child.
- 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 Government Office of the Australian Information Commission – Australian Privacy Principles: <https://www.oaic.gov.au/privacy-law/privacy-act/australian-privacy-principles>

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