Confidentiality and Privacy

Rationale and Policy Considerations:

The education and care service understands the importance of developing practices that respect privacy and confidentiality so that families will trust the service and openly exchange information with educators/staff, which may be important to the care of a child. Legislation requires that families provide personal information to the service so that appropriate care can be taken of their children. Authorised educators/staff at the service will use this information and may discuss a child’s personal details with another child care professional in order to fulfil their responsibilities towards the child. It is important therefore to ensure that educators/staff are fully aware of their responsibilities for maintaining strict confidentiality under the Privacy Act (1988), and also that families are informed of their rights in regard to access to their own personal information, and how the service will ensure the information is protected from unauthorised access. Families need to be informed about which people have authorised access to their child’s personal information.

Philosophy

Documented approach to access and participation; approach to encouraging secure respectful and reciprocal relationships; approach to professionalism, confidentiality and ethical conduct.

Legislation and Government Requirements

Laws relating to protection of privacy and confidentiality; duty of confidentiality arising from contract with parent; to whom and when information must be disclosed;
Privacy Act 1988 (Cth.);
Education and Care Services National Law Act 2010(Vic) (or corresponding legislation);
Education and Care Services National Regulations

Children's needs

Confidentiality re health, learning, behaviour and other sensitive issues.

Families’ needs

Security that private information given to the service re income levels, family arrangements etc. are kept confidential. Ability to speak to educators re: confidential matters that impact on their child’s care. Access to their own personal records.

Educator/Staff needs

Personal records, details, appraisals are treated as confidential clear guidelines re what they should/shouldn’t disclose about children and families and how families may access their own personal records; freedom to raise personal issues that impact on workplace.

Management needs

To make decisions about confidential issues; to obtain relevant and current personal details from clients.
National Quality Framework

Education and Care Services National Law Act 2010(Vic) – 3(3)(a); 172; 175; 197; 200; 206; 215 - 216; 263 - 265

Education and Care Services National Regulations:168 (2)(l); 181 - 184; Part 6.2, Division 1 – 195 - 203

National Quality Standard for Early Childhood Education and Care and School Age Care (Oct 2011) – Element 7.3.1

Early Years Learning Framework for Australia

Framework for School Age Care in Australia

Policy Statement

The education and care service protects the privacy, dignity and confidentiality of individuals by ensuring that all records and information about individual children, families, educators/staff and management is treated with discretion and kept in a secure place and only accessed by or disclosed to authorised people who need the information to fulfil their responsibilities at the service or have a legal right to know.

Strategies for Policy Implementation

Information about families

- 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.
- Collection of personal information will be lawful, fair, reasonable and unobtrusive.
- Every enrolling family who provides personal information will be advised in the form of a Privacy Statement of: the name and contact details of the 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.
- Families will be notified of the time for which particular records are required to be retained under the Education and Care Services National Regulations.
- 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.
- The service will take steps to ensure the personal information collected, used or disclosed, is accurate, complete and up to date. Families 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. (Refer to service procedure for updating information.)
- Personal information will be kept in a secure and confidential way, and destroyed by shredding or incineration, when no longer needed. (Refer to service procedure for safe storage and disposal of personal information.)
- 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.
- Individuals wishing to access their personal information must make written application to the approved provider/nominated supervisor/coordinator, who will arrange an appropriate time for this to occur. The approved provider/nominated supervisor/coordinator 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/coordinator's knowledge. (Refer to service procedure for access to personal information.)
The approved provider/nominated supervisor/coordinate will 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, they may appeal in writing to the Privacy Commissioner within the Office of the Australian Information Commission (www.oaic.gov.au), check the site for current contact details. (Refer to service procedure for dealing with complaints.)

Visual images of enrolled children will not be taken, recorded, removed from the service, or used for any purpose without the written consent of the parent/guardian, except where visual images are used within the service for monitoring of an enrolled child, or visual images are taken by an authorised officer acting in the course of his/her duties, in which case only the parent/guardian and authorised staff will have access to the images. To protect children’s privacy visual images of children will not be transmitted on the internet or by email at any time. Parental/guardian consent will be given or denied on the child’s enrolment form.

Confidential conversations that educators have with family members, or the approved provider/nominated supervisor/coordinate has with educators/staff members will be conducted in a quiet area away from other children, family members and staff. Such conversations are to be minuted and stored in a confidential folder.

Employee/educator and service management issues

- Personnel forms and employee information will be stored securely.
- 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/staff members will only be accessed by the approved provider/nominated supervisor/coordinate and individual staff member concerned.
- Every employee/educator and the approved provider/nominated supervisor/coordinate 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 fulfil 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/educator and the approved provider/nominated supervisor/coordinate is required to sign a Confidentiality Statement.
- No member of staff/educator may give information or evidence on matters relating to children and/or their families, either directly or indirectly, 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/coordinate, when this is reasonably needed for the proper operation of the service and the wellbeing of users and educators/staff.
- Educators/staff are aware of the need for sensitivity and confidentiality in handling information regarding child protection issues.
- Reports, notes and observations about children must be accurate and free from biased comments and negative labelling of children.
- Staff 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 service.
Confidential information about staff members will only be accessed by the nominated supervisor, coordinator, other staff member that requires access in order to fulfil their role e.g. administration assistant, staff liaison officer (community managed services) and individual staff member concerned. Some information pertaining to individual circumstances may be disclosed to the approved provider/management committee in certain instances.

Students/people on work experience/volunteers will not make staff/children or families at the service, an object for discussion outside of the service (e.g. 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 service upon receiving written approval from the service to use and/or divulge such information, and will never use or divulge the names of persons.

In FDC settings, educators will ensure their family members that are present at the education and care premises, will adhere to the services Confidentiality and Privacy Policy, and will not have access to children’s and family’s records.

All matters discussed at committee meetings will be treated as confidential.

Social media

It is not permitted to use photos of children, or any other information that may identify children or families on social media sites such as Facebook, unless families have provided specific permission for this to occur. This policy strategy applies to educators, other staff, management committees, students, people on work experience, volunteers or any other person that may have access to children at the service.

Employees/educators or management committee members are not permitted to discuss the service or its staff on social media sites. Failure to adhere to this policy would be seen as unprofessional behaviour and would be subject to the relevant grievance procedure process.

The service will include information about social media policy in the family orientation package, educator/staff/student/volunteer/management committee orientation procedures, and will include regular reminders about the policy in service newsletters. In addition to this all persons listed above will be required to sign a Confidentiality Statement, which includes a statement about the use of photos and information on social media sites.

Procedures

Services may find the following list of example procedures, useful tools in the implementation of this policy. List your services precise steps for achieving each action. Ask yourself when, how, where and who is responsible for what actions.

- Confidentiality Statement
- Educator/staff Code of Ethics
- Grievance procedures
- Orientation checklists
- Privacy Act Checklist
- Privacy Statement
- Procedure for updating personal information
- Procedure for access to personal information
- Procedure for safe storage and disposal of personal information
- Procedure for dealing with privacy complaints
Links to other policies

The following policies may be linked to this policy:

- Educator, Staff and Volunteer Orientation
- Educator, Staff Grievances and Disputes
- Enrolment and Orientation
- Establishing a Protective Environment
- FDC Educators Monitoring Support and Supervision
- FDC Educators Recruitment and Orientation
- Grievances and Complaints Management
- Management and Governance
- Partnerships and Communication with Families
- Payment of Fees
- Records Management
- Recruitment of Educators, Staff and Volunteers

Further sources


POLICY CREATED DATE:

POLICY REVIEW DATE: