

## Quality Area 7: Governance and leadership

### Privacy and Confidentiality



#### Introduction

Kootingal & District Preschool 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 – To achieve our goals

Kootingal & District Preschool aims to meet these goals through the adoption of this specific policy and our Privacy Collection statement which will guide our practices in this area.

#### Roles and Responsibilities

Role	Authority/Responsibility For
Approved Provider	<u>Collection of Information</u> <ul style="list-style-type: none"><li>➤ Ensure that each family, staff, volunteer/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.</li><li>➤ Ensure each staff member, committee member, volunteer/student's information are correct in personnel and other files. This includes information on qualifications, WWCC, 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.</li><li>➤ Ensure that information collected from families, educators, committee members and the community is maintained in a private and confidential manner at all times.</li><li>➤ Ensure that such information is not divulged or communicated (directly or indirectly) to another person other than the ways outlined as appropriate in the <i>Education and Care Services National Regulations</i>, 181, which says information can be communicated:<ul style="list-style-type: none"><li>- To the extent necessary for the education, care, or medical treatment of the child</li><li>- To the parent of the child to whom the information relates (except for information in staff records)</li></ul></li></ul>

	<ul style="list-style-type: none"> <li>- To the Regulatory Authority or an authorised officer</li> <li>- As authorised, permitted, or required to be given by or under any act or law</li> <li>- With written consent of the person who provided the information.</li> </ul> <ul style="list-style-type: none"> <li>➤ 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.</li> <li>➤ Provide families with information on the <i>Complaints and Feedback</i> procedure 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 privacy principles. The breach will be assessed by the Approved Provider within 14 days.</li> <li>➤ Will ensure information provided by families, staff and committee members is only used for the purpose it was collected for.</li> </ul> <p><u>Notifiable Data breaches (NDB)</u></p> <p>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 and affected individuals of any data breaches (ie. data leaks) that are “likely” to result in “serious harm.”</p> <ul style="list-style-type: none"> <li>➤ An eligible data breach arises when the following three criteria are satisfied: <ul style="list-style-type: none"> <li>- There is unauthorised access to or unauthorised disclosure of personal information, or loss of personal information, that an entity holds</li> <li>- This is likely to result in serious harm to one or more individuals, and</li> <li>- The entity has not been able to prevent the likely risk of serious harm with remedial action.</li> </ul> </li> <li>➤ 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.</li> <li>➤ 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.</li> <li>➤ Individuals at likely risk of serious harm will be notified promptly.</li> </ul>
Nominated Supervisor	<ul style="list-style-type: none"> <li>➤ 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 National Law and Regulations, the Family Assistance Law other relevant information collected to support the enrolment of a child.</li> <li>➤ Provide families with details on the collection of personal information collected. This information will include: <ul style="list-style-type: none"> <li>- The types of information collected by our education and care service</li> <li>- The purpose of collecting information</li> <li>- What types of information will be disclosed to the public or other agencies; and when and why disclosure may occur</li> <li>- How information is stored at the service</li> <li>- Approaches used to keep information secure</li> <li>- Who has access to the information</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- The right of the individual to view their personal information</li> <li>- The length of time information needs to be archived</li> <li>- How information is disposed.</li> </ul> <ul style="list-style-type: none"> <li>➤ Will ensure information provided by families and staff is only used for the purpose it was collected for.</li> <li>➤ Ensure that Education and Care service records, personnel records, and children's and family's information is stored securely reducing the chance of unauthorised access, use or disclosure and always remains private and confidential within the education and care environment at all times.</li> <li>➤ Will ensure that information kept is not divulged or communicated, directly or indirectly, to anyone other than: <ul style="list-style-type: none"> <li>- Medical and developmental information that is required to adequately provide education and care for the child</li> <li>- The Department of Education, or an authorised officer</li> <li>- As permitted or required by any Act or Law.</li> </ul> </li> <li>➤ 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.</li> <li>➤ Notify families upon enrolment of the management system (EnrolNow) and online sign in/out (SISO).</li> <li>➤ Information may be denied under the following conditions: <ul style="list-style-type: none"> <li>- Access to information could compromise the privacy of another individual</li> <li>- The request for information is frivolous or vexatious</li> <li>- 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.</li> </ul> </li> </ul>
Early Childhood Educators	<ul style="list-style-type: none"> <li>➤ Maintain children's information and store documentation according to policy at all times.</li> <li>➤ Not share information about the education and care service, management information, other educators or children and families, without written permission or legislative authority.</li> <li>➤ In keeping with the Early Childhood Australia (ECA) <i>Code of Ethics</i> (2008), the <i>Education and Care Services National Regulations</i> and the Privacy Legislation, 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.</li> </ul>

## Monitoring, Evaluation and Review

Management and staff will monitor and review the effectiveness of the Privacy and Confidentiality Policy regularly. Updated information will be incorporated as needed.

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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 12 months.

Families and staff are essential stakeholders in the policy review process and will be given opportunity and encouragement to be actively involved.

In accordance with Regulation 172 of the Education and Care Services National Regulations, the service will ensure that families of children enrolled at the service are notified at least 14 days before making any change to a policy or procedure that may have significant impact on the provision of education and care to any child enrolled at the service; a family's ability to utilise the service; the fees charged or the way in which fees are collected.

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

### Links to other policies:

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Enrolment and Orientation

Privacy Collection

### Complies with:

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## NQS

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## National Regulations

Reg	158	Children's attendance record to be kept by approved provider
Reg	181	Confidentiality of records kept by approved provider

### Links to:

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- Children (Education and Care Services National Law Application) Act 2010
- Education and Care Services National Regulations
- Children and Young Persons (Care and Protection) Act 1998
- 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)
- Australian child Protection Legislation

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