



Confidentiality Policy and Guidelines

Policy

- 1.1 All persons involved in CCC Children's Services have the right to confidentiality being maintained. This policy ensures that information given to CCC Children's Services staff is only used for the purposes of provision of the service, and is not accessible to any unauthorised persons.
- 1.2 CCC will ensure compliance with privacy legislation.
- 1.3 This policy applies to the Approved Provider, Nominated Supervisor, Early Childhood Educators, staff and parents/guardians who wish to enrol or have already enrolled at CCC.
- 1.4 In order to assess whether the values and purposes of this policy have been achieved, we will:
 - a) Welcome feedback from everyone affected by this policy regarding its effectiveness
 - b) Monitor the implementations, compliance, complaints and incidents in relation to this policy
 - c) Keep the policy up to date with current legislation, research, policy and best practice
 - d) Revise the policy and procedures as part of the service's policy review cycle, or as required, and
 - e) Notify parents/guardians at least 14 days before making any changes to this policy or its procedures.

Procedure

- 2.1 Any records containing personal information of parents, staff and children of the service must be filed and kept in a secure location in accordance with Regulations 181 and 183 of the Education and Care Services National Regulations 2011. This includes:
 - a) Enrolment forms
 - b) Letters to staff or parents of children - incoming and outgoing mail.
 - c) Staff diaries
 - d) Children's developmental records
 - e) incident/injury forms
- 2.2 CCC will comply with the requirements of the Privacy Principles as outlined in the Health Records Act 2001, the Information Privacy Act 2000 and, where applicable, the Privacy Act 1988 (Cth) and the Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth), by developing, reviewing and implementing processes and practices that identify:
 - a) what information CCC collects about individuals, and the source of the information
 - b) why and how CCC collects, uses and discloses the information
 - c) who will have access to the information
 - d) risks in relation to the collection, storage, use, disclosure or disposal of and access to personal and health information collected by the service.

- 2.3 Records, documentation and information will be maintained and stored in accordance with the Privacy and Data Protection Act 2014 and CCC Information Privacy Policy. It is a condition of employment that staff maintain confidentiality in relation to children in care and their families and any breach of confidentiality may result in disciplinary action. When the Children's Service is unattended, all files relating to children in care and their families are filed in a room with a locked door.
- 2.4 Computer records will be updated as soon as new information is provided.
- 2.5 Visual images of enrolled children will only be used to accompany observations used on our 'Playground' program to help in the planning of our activities and to send to families to give them a snapshot of their child's day and development. If we wish to use a child's image for any other use we will seek the family's permission. This can include the Centre's Facebook page and catalogues or any other situations that will be fully explained to the family before proceeding.
- 2.6 No information is to be given to any outside Agencies or Government Departments unless access to this information is required under Regulation 181 - Confidentiality of records kept by approved provider (Education and Care Services National Regulations 2011). Where a request for information is made, the childcare coordinator and/or staff is to be consulted about the appropriateness of the request.

Confidentiality Guidelines

- 3.1 A range of sensitive and private matters are discussed within Children's Services. The following guidelines will assist in maintaining confidentiality regarding both families accessing the Children's Service, and staff.
- 3.2 All records containing personal information about children, families and staff are kept in secure storage.
- 3.3 The confidentiality of all records relating to children should be ensured through safe storage and restricted access.
- 3.4 To ensure staff privacy, private contact numbers will not be provided to parents.
- 3.5 Consultation/information sharing with other services requires the consent of the client except as legally required.
- 3.6 Only necessary information on families should be discussed with other individuals, agencies or government departments, and only under the following circumstances:
 - a) If a subpoena (summons) is received directing staff or service to give evidence or produce records
 - b) If a police officer or other authorised officer has a search warrant
 - c) As expressly authorised, permitted or required to be given by or under any Act or law, or to the Regulatory Authority or an authorised officer
 - d) To reduce risk to a child in a medical emergency, or
 - e) By written authorisation of the parent or staff.
- 3.7 Staff should ensure parents/guardians know why the information is being collected and how it will be managed.
- 3.8 Educators are to ensure the appropriate use of images of children, including being aware of cultural sensitivities and the need for some images to be treated with special care.
- 3.9 Educators will obtain informed and voluntary consent of the parents/guardians of children who will be photographed or videoed.

- 3.10 Educators will be sensitive and respectful to parents/guardians who do not want their child to be photographed or videoed, and will implement appropriate procedures if parents/guardians request that their child's image is not to be taken, published or recorded, or when a child requests that their photo not be taken.
- 3.11 CCC asks that parents/guardians be sensitive and respectful of the privacy of other children and families in photographs/videos when using and disposing of these photographs/videos.

Legislation and regulations

- 4.1 Relevant legislation and standards include but are not limited to:
- *Associations Incorporation Reform Act 2012 (Vic)*
 - *Education and Care Services National Law Act 2010*
 - *Education and Care Services National Regulations 2011: Regulations 181, 183*
 - *Freedom of Information Act 1982 (Vic)*
 - *Health Records Act 2001 (Vic)*
 - *Privacy and Data Protection Act 2014 (formally known as Information Privacy Act 2000 (Vic)*
 - *National Quality Standard, Quality Area 7: Leadership and Service Management*
 - Standard 7.3: Administrative systems enable the effective management of a quality service
 - *Privacy Act 1988 (Cth)*
 - *Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth)*
 - *Privacy Regulations 2013 (Cth)*
 - *Public Records Act 1973 (Vic)*
- 4.2 The most current amendments to listed legislation can be found at:
- Victorian Legislation – Victorian Law Today: <http://www.legislation.vic.gov.au/>
 - Commonwealth Legislation - Federal Register of Legislation: <https://www.legislation.gov.au>
- 4.3 Early childhood services are obligated by law, service agreements and licensing requirements to comply with the privacy and health records legislation when collecting personal and health information about individuals.
- 4.4 The Health Records Act 2001 (Part 1, 7.1) and the Information Privacy Act 2000 (Part 1, 6.1) include a clause that overrides the requirements of these Acts if they conflict with other Acts or Regulations already in place. For example, if there is a requirement under the Education and Care Services National Law Act 2010 or the Education and Care Services National Regulations 2011 that is inconsistent with the requirements of the privacy legislation, services are required to abide by the Education and Care Services National Law Act 2010 and the Education and Care Services National Regulations 2011.

Definitions

- 5.1 **Freedom of Information Act 1982:** Legislation regarding access and correction of information requests.
- 5.2 **Health information:** Any information or an opinion about the physical, mental or psychological health or ability (at any time) of an individual.
- 5.3 **Health Records Act 2001:** State legislation that regulates the management and privacy of health information handled by public and private sector bodies in Victoria.
- 5.4 **Personal information:** Recorded information (including images) or opinion, whether true or not, about a living individual whose identity can reasonably be ascertained.
- 5.5 **Privacy Act 1988:** Commonwealth legislation that operates alongside state or territory Acts and makes provision for the collection, holding, use, correction, disclosure or transfer of personal information. The Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Cth) introduced from 12 March 2014 has made extensive amendments to the Privacy Act 1988. Organisations with a turnover of \$3 million per annum or more must comply with these regulations.
- 5.6 **Privacy and Data Protection Act 2014:** The Privacy and Data Protection Act 2014 (PDPA) replaced the Information Privacy Act 2000 and the Commissioner for Law Enforcement Security Act 2005. This Act merged the functions of the Privacy Commissioner and the Commissioner for Law Enforcement Data Security into a single Privacy and Data Protection Commissioner. The PDPA retained the 10 Information Privacy Principles (IPPs) from the previous Victorian Privacy legislation. The PDPA applies to public sector organisations and to contracted service providers (including community service organisations providing out-of-home care in Victoria).
- 5.7 **Privacy breach:** An act or practice that interferes with the privacy of an individual by being contrary to, or inconsistent with, one or more of the Information Privacy Principles or the new Australian Privacy Principles or any relevant code of practice.
- 5.8 **Public Records Act 1973 (Vic):** Legislation regarding the management of public sector documents.
- 5.9 **Sensitive information:** Information or an opinion about an individual's racial or ethnic origin, political opinions, membership of a political party, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preference or practices, or criminal record. This is also considered to be personal information.

Sources and related policies

6.1 Sources:

Australian Privacy Principles - <https://www.oaic.gov.au/privacy/australian-privacy-principles/>

CCC Information Privacy Policy

CCC Information Privacy Procedure

Education and Care Services National Regulations (2011)

Office of the Health Services Commissioner: www.health.vic.gov.au/hsc/

Privacy Regulatory Action Policy - <https://www.oaic.gov.au/about-us/our-regulatory-approach/privacy-regulatory-action-policy/>

Read the Australian Privacy Principles - <https://www.oaic.gov.au/privacy/australian-privacy-principles/read-the-australian-privacy-principles/>

The Privacy Act - <https://www.oaic.gov.au/privacy/the-privacy-act/>

6.2 Services policies:

- Conditions of admission and enrolment procedure
- Fees
- Interactions with children
- Behaviour guidance
- Dropping and picking up of children
- Illness or injury
- Parent complaint procedure
- Childcare code of conduct
- Dealing with medical conditions
- Child safe environment
- Anaphylaxis
- Acceptance and refusal of authorisations
- Excursions and outings
- Orientation
- Conditions of enrolment fees and deposits

Revision History

Date	Revision	Revised by
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05/11/2020	Updated	Leanne Lee-Ack
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