

## POLICY AIM

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To ensure that the confidentiality of information and files relating to the children, families, staff, and visitors using the Service is upheld at all times. We aim to protect the privacy and confidentiality of all information and records about individual children, families, educators, staff 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 services take 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.

This policy can be read in conjunction with our *CCS Governance and Management Policy*, which details the procedures to ensure the safe and confidential storage, use and access of data records. All personal information is used and accessed in accordance with relevant policies and procedures, for example *Enrolment and Orientation Policy*.

## RATIONALE

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Sweetpeas recognises and respects the importance of privacy and confidentiality as an individual right and a foundation for healthy partnerships with families. Privacy is acknowledged as a fundamental human right. Our Service has an ethical and legal responsibility to protect the privacy and confidentiality of children, individuals and families as outlined in *Early Childhood Code of Ethics, Education and Care Services National Regulations* and the *Privacy Act 1988 (Cth)*. The right to privacy of all children, their families, and educators and staff of the Service will be upheld and respected, whilst ensuring that all children have access to high quality early years care and education. All staff members will maintain confidentiality of personal and sensitive information to foster positive trusting relationships with families.

## SCOPE - WHO IS AFFECTED BY THIS POLICY?

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- Children
- Staff
- Educators
- Families
- Students/Visitors
- Management

## NATIONAL QUALITY STANDARD

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### AREA 7 (GOVERNANCE AND LEADERSHIP)

- 7.1 (Governance) - *Governance supports the operation of a quality service*
- 7.1.1 (Service philosophy and purposes) - *A statement of philosophy guides all aspects of the service's operations.*
- 7.1.2 (Management Systems) - *Systems are in place to manage risk and enable the effective management and operation of a quality service.*
- 7.1.3 (Roles and Responsibilities) - *Roles and responsibilities are clearly defined and understood and support effective decision-making and operation of the service.*
- 7.2 (Leadership) - *Effective leadership builds and promotes a positive organisational culture and professional learning community.*

## RELATED POLICIES AND LEGISLATION

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### RELATED SWEETPEAS POLICIES:

- Acceptance and Refusal of Authorisations Policy
- Arrival and Departure Policy
- Child Protection Policy
- Child Safe Environment Policy
- CCS Governance and Management Policy
- Ethical Code of Conduct Policy
- Enrolment and Orientation Policy
- Handling Grievances and Complaints Policy
- Medical Conditions Policy
- Transition to School Policy
- Social Media Policy

## RELATED EDUCATION AND CARE SERVICES NATIONAL REGULATIONS:

- Regulation 168 - Education and care services must have policies and procedures
- Regulation 181 - Confidentiality of records kept by approved provider
- Regulation 181-184 - Confidentiality and storage of records

## RELATED LEGISLATION:

- A New Tax System (Family Assistance) Act 1999
- Child Care Subsidy Secretary's Rules 2017
- Family Assistance Law
- Family Law Act 1975
- Privacy Act 1988

## TERMINOLOGY

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- **Personal Information** - Personal information includes a broad range of information, or an opinion, that could identify an individual.
- **Sensitive Information** - Sensitive information is personal information that includes information or an opinion about a range of personal information that has a higher level of privacy protection than other personal information. (Source: OAIC-Australian Privacy Laws, Privacy Act 1988)

## GLOSSARY OF ABBREVIATIONS

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- **ACECQA** - Australian Children's Education and Care Quality Authority
- **APPs** - Australian Privacy Principles
- **NDB** - Notifiable Data Breaches
- **OAIC** - Office of the Australian Information Commissioner

## IMPLEMENTATION AND STRATEGIES

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### AUSTRALIAN PRIVACY PRINCIPLES

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 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*)

### RESPONSIBILITIES FOR THE APPROVED PROVIDER

- Ensure that each family is provided with a privacy collection statement in the *Sweetpeas Terms and Conditions of Enrolment* upon enrolling at the Service, 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. This can also be accessed on [HubHello](#) in the linked T&Cs of Enrolment document.
- Ensure that information collected from families, educators, committee members and the community is maintained in a private and confidential manner at all times.
- Ensure that such information is not divulged or communicated (directly or indirectly) to another person other than the ways outlined as appropriate in *Education and Care Services National Regulation 181*, which says information can be communicated:
  - To the extent necessary for the education, care or medical treatment of the child;

- To the parent of the child to whom the information relates (except for information in staff records);
- To the regulatory authority or an authorised officer;
- As authorised, permitted or required to be given by or under any act or law; and
- With written consent of the person who provided the information.
- Ensure families are informed upon enrolment how images/photographs of their children will be used on the Internet and/or publications.
- Provide families with information on the Complaints and Feedback procedure if any privacy or confidentially procedure has been breached: <https://www.sweetpeaskindergarten.com/feedback>
  - Individuals can make a complaint to Management if they believe there has been a breach of their privacy in relation to the Privacy principles.
  - The breach will be assessed by Management within 14 days.
  - Where the information collected is incorrect, the information will be corrected.
  - Where a serious breach of privacy is found, appropriate actions will be negotiated between Management and the individual to resolve the situation, in line with the *Handling Grievances and Complaints Policy* and *Ethical Code of Conduct Policy*.
- Ensure information provided by families, staff and community members is only used for the purpose it was collected for.
- Ensure all computers are password protected and install security software-antivirus protection.

## RESPONSIBILITIES FOR THE NOMINATED SUPERVISOR / DIRECTOR

- Ensure the information of each staff member, volunteer and student is 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.
- 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*, and other relevant information collected to support the enrolment of a child.
- Provide families with details on the collection of personal information collected:
- This information will include:
  - The types of information collected by our education and care service;
  - The purpose of collecting information;
  - What types of information will be disclosed to the public or other agencies; and when and why disclosure may occur;
  - How information is stored at the service;
  - Approaches used to keep information secure;
  - Who has access to the information;
  - The right of the individual to view their personal information;
  - The length of time information needs to be archived; and
  - How information is disposed.
- Ensure information provided by families and staff is only used for the purpose it was collected for.

## STORAGE OF INFORMATION

Ensure that education and care service records, personnel records, CCS information and children's and families information is stored securely reducing the chance of unauthorised access, use or disclosure and remains private and confidential within the education and care environment at all times.

Computer data is backed up to protect personal information collected.

## ACCESS TO INFORMATION

- Will ensure that information kept is not divulged or communicated, directly or indirectly, to anyone other than:
  - Medical and developmental information that is required to adequately provide education and care for the child;
  - The Department of Education or an authorised officer; or

- As permitted or required by any Act or Law.
- 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.
- Information may be denied under the following conditions:
  - Access to information could compromise the privacy of another individual;
  - The request for information is frivolous or vexatious; and
  - 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

## RESPONSIBILITIES FOR THE EDUCATORS

- Read and adhere to the *Privacy and Confidentiality Policy* at all times.
- Ensure documented information and photographs of children are kept secure but may be accessed at any time by the child's parents or guardian (i.e. via *HubHello* records)
- Ensure families only have access to the files and records of their own children
- Treat private and confidential information with respect in a professional manner
- 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.
- Ensure that information shared with the service by the family will be treated as confidential unless told otherwise
- Maintain individual and Service information and store documentation according to this policy at all times
- Not share information about the education and care service, management information, other educators or children and families, without written permission or legislative authority.
- In keeping with the Early Childhood Australia Code of Ethics (2008), the *Education and Care Services National Regulations* 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.

## REFERENCES

- 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 Children's Education and Care Quality Authority (ACECQA): <https://www.acecqa.gov.au/>
- Office of the Australian Information Commissioner (OAIC). Australian Privacy Principles: <https://www.oaic.gov.au/privacy/australian-privacy-principles>
- Children (Education and Care Services National Law Application) Act 2010
- Children and Young Persons (Care and Protection) Act 1998
- Early Childhood Australia (ECA): <http://www.earlychildhoodaustralia.org.au/>
- Education and Care Services National Regulations
- Freedom of Information Act 1982
- HubHello: Childcare Management Software: <https://hubhello.com/>
- NSW Associations Incorporation Act 2009
- Revised National Quality Standard. (2018).
- Sweetpeas Feedback Portal: <https://www.sweetpeaskindergarten.com/feedback>
- Sweetpeas Philosophy
- UN General Assembly (1989). United Nations Convention of the Rights of a Child

## REVIEW AND AMENDMENTS

This policy will be updated regularly to ensure compliance with all relevant legal requirements. Appropriate consultation of all stakeholders (including staff and families) will be conducted on a timely basis. In accordance with *Regulation 172* of the National Regulations, families of children enrolled will be notified at least 14 days and their input considered prior to any amendment of policies and procedures that have any impact on their children or family.

# Privacy and Confidentiality Policy

Version	Amendment(s)	Review Date	Updated By
2.	<ul style="list-style-type: none"><li>Policy was separated from CCS Governance back to an individual policy.</li></ul>	July 2022	Cassandra Way (Assistant Manager) Janine Evans (Managing Director)
2.1.	<ul style="list-style-type: none"><li>Cosmetic update with changes for new template/colours only</li></ul>	August 2022	Cassandra Way (Assistant Manager)
2.2.	<ul style="list-style-type: none"><li>Checked and repaired hotlinks</li><li>Fixed formatting errors and typos</li><li>Added <i>Terminology</i> section</li><li>Added <i>Glossary of Abbreviations</i> section</li></ul>	August 2023	Cassandra Way (Assistant Manager) Janine Evans (Managing Director)
3.	<ul style="list-style-type: none"><li>Expanded educator responsibilities to make section clearer</li><li>Added <i>Australian Privacy Principles</i> section</li><li>Changed name to <i>Privacy and Confidentiality Policy</i> to encompass the scope of the policy</li><li>Added reference to new feedback process via the website</li></ul>	March 2024	Cassandra Way (Assistant Manager) Janine Evans (Managing Director)