

PRIVACY and CONFIDENTIALITY POLICY

Revised Sept 2022

INTRODUCTION

Alstonville Community Preschool 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, incorporating the Australian Privacy Principles (APPs)

The right to privacy of all children, their families, and educators and staff of the preschool 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.

PURPOSE

- To ensure that the confidentiality of information and all files relating to the children, families, staff and visitors using the preschool is upheld at all times.
- 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.
- Alstonville Community Preschool takes data integrity very seriously and will ensure that all records and information are held in a secure place, and only retrieved by or released to people who have a legal right to access this information.

SCOPE

This policy applies to children, families, staff, committee and visitors of the preschool.

IMPLEMENTATION

Early Childhood Education and Care Services are required to comply with Australian privacy law including the Privacy Act 1988 (the Act) which was amended in 2017. The new law introduces a Notifiable Data Breaches (NDB) scheme that requires Early Childhood Services to provide notice to the Office of the Australian Information 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). Further information about the APPs is included in Appendix 1 of this policy.

The Approved Provider will:

- Ensure that all families, staff, volunteers, students and committee members are provided with this policy and a Privacy Collection statement that includes details about how they can access their personal information, have this corrected as needed, and make a complaint about a breach of privacy, if one occurs. A copy of this policy can be found on the preschool’s website www.alstonvillepreschool.com.au
- Make sure all staff understand the requirements under Australia's privacy law and provide them with information of any relevant changes.
- Ensure personal information is protected in accordance with our obligations under the Privacy Act 1988 and Privacy amendments (Enhancing Privacy Protection) Act 2012.

- Ensure each staff member, committee member, volunteer and students' information is correct in personnel and other files. This includes information on qualifications, WWCC, criminal history checks, working visa's, staff entitlements, contact and emergency information, health and immunisation information, and any relevant medical and legal information.
- Ensure all records and documents are maintained and stored in a private and confidential manner at all times in accordance with Education and Care Service National Regulations.
- Ensure the preschool keeps up to date with the Australian Privacy Principles (APPs) and acts in accordance with the requirements of the Privacy Principles and Privacy Act 1988 by continuously developing, reviewing and implementing procedures and practices that identify:
 - the name and contact details of the preschool.
 - what information the preschool collects and the source of information
 - why the information is collected
 - who will have access to the information
 - collection, storage, use, disclosure and disposal of personal information collected by the preschool
 - any law that requires particular information to be collected
 - adequate and appropriate storage for personal information collect by the preschool
 - protection of personal information from unauthorised access.
- Deal with privacy complaints promptly and in a consistent manner.
- Provide families with information on the Complaints and Feedback procedure if any privacy or confidentially 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.
 - 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 the Approved Provider and the individual to resolve the situation, in line with the Complaints and Feedback procedure.
- Ensure information relating to staff employment remains confidential to the people directly involved with making personnel decisions.

The Nominated Supervisor will ensure:

- All preschool policies and procedures are adhered to by all members of the preschool community
- Educators, staff, volunteers and families are aware of the Privacy and Confidentiality policy and receive a copy of the Privacy Collection Statement.
- 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 the preschool. This includes 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.
- That procedures are in place so that such information is not divulged or communicated (directly or indirectly) to another person other than the ways outlined as appropriate in the Education and Care Services National Regulations, 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, ensuring families only have access to the files and records of their own children
 - 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.

- Families are provided with details on the collection of personal information collected by way of the preschools' Privacy Collection Statement.
This information will include:
 - the types of information collected by the preschool.
 - the purpose of collecting the information.
 - what types of information will be disclosed to the public or other agencies; and when and why disclosure may occur.
 - how information is securely stored at the preschool.
 - 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 of.
- Information provided by families and staff is only used for the purpose it was collected for.
- Ensure the appropriate use of images of children, and that families are informed upon enrolment how images/ photographs of their children will be used within the preschool, on social media and/or publications, and obtain authorization/consent from them for such use.
- Only necessary information regarding the children's day to day health and wellbeing is given to non-primary contact educators – for example food allergies
- Information about individual children is not discussed 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 preschool by the family will be treated as confidential unless told otherwise.

Responsible Persons, educators and staff will:

- Be familiar with and adhere to the Privacy and Confidentiality policy at all times
- In keeping with the Early Childhood Australia (ECA) Code of Ethics (2008), the Education and Care Services National Regulations and the Privacy Legislation, educators and staff employed by our preschool are 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 preschool ie Management Committee members, will sign a Confidentiality Statement as relates to privacy and confidentiality of this information.
- Maintain safe storage of children's information, photographs and documentation according to this policy at all times.
- Ensure families only have access to the files and records of their own children.
- 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.
- Treat private and confidential information from children, families and educators, with respect and in a professional manner and not share information about the preschool, management, other educators or children and families, without written permission or legislative authority.

What information do we collect?

Personal information is collected directly from families through our enrolment and application processes and also through third parties ie funding agencies or health practitioners.

The private information we are required to collect includes but is not limited to:

- your name, address, date of birth and full name, date of birth and address of the child
- known parent contact details
- emergency contact details and persons named as Authorised Nominees including authorised nominees who can:
 - Consent to medical treatment or administration of medication
 - Give permission for a child to leave the preschool for an excursion
 - Collect a child from preschool
- details of any Court orders, parenting orders or parenting plans
- gender

- cultural background of your child/family and languages used at home
- special considerations ie cultural, dietary or religious requirement
- children's health or dietary requirements
- children's Medicare number (if available)
- name and address of a child's registered medical practitioner or medical service
- medical management plans, anaphylaxis management plan or risk minimization plans
- authorisations for
 - the approved provider, nominated supervisor or an educator to seek medical treatment and/or ambulance transportation for children.
 - Educators to take children on regular outings outside the preschool
- immunisation records or exemptions
- residential status, proof of identity, birth certificate
- proof of low income, ie Health Care Card, Pension card ec
- developmental records and summaries

You also need to be aware that when you visit our website, apps or other web-based content and services ("Websites"), that our service provider may record information (such as your computer's IP address and top-level domain name, the type of browser you are using, the date, time and pages accessed) in relation to your visit.

Use and Disclosure

Alstonville Community Preschool will only collect personal information where it is reasonably necessary for one or more of our functions or activities, such as:

- the administration and management of early childhood education and care
- assessing your eligibility for funding support or other benefits
- complying with any legal or regulatory obligations imposed on us
- performing our necessary business functions.

To do this, some of your private information will be shared with government agencies or funding organisations as required, in order for you to access various supports.

The preschool may also disclose your personal information to organisations that carry out functions on our behalf. This may include for example education software or information technology service providers, professional advisers, regulators and government authorities. Our agreements with these entities ensure this information is only used to carry out functions on our behalf and use your private information for the purpose it was disclosed. In all instances we aim to use third parties who are Australian based and who store their data within Australia.

We may also disclose your personal information to an individual or an organisation (a 'third party') if:

- You direct us to do so
- You consent to the third party obtaining the information from us; or
- You consent to the third party accessing the information on our systems, and/or do anything which enables the third party to obtain access.

Your consent to a third party obtaining or accessing information may be implied from:

- your use of any service or application (ie OWNA Childcare Management system, which a third party provides to you, or makes available to you, which involves the third party obtaining or accessing personal information held by us or organisations like us; or
- you doing anything else which enables the third party to obtain access to the information.

Storage of Information

- Alstonville Community Preschool will always ensure that preschool records, personnel records, and children and families' information are stored securely reducing the chance of unauthorised access, use or disclosure and remain private and confidential within the education and care environment at all times

How we manage a data breach

A data breach occurs when personal information is lost or subjected to unauthorised access, modification, use or disclosure or other misuse.

Data breaches can be caused or exacerbated by a variety of factors and give rise to a range of actual or potential harms to individuals, agencies and organisations.

In the event of any suspected data breach, the matter will be investigated to determine:

- the nature of the breach
- the number of people impacted
- the nature of the breach and extent to which an individual or group may be harmed by the breach
- remedial action to minimise or prevent impact
- review of systems to minimise the possibility of future similar breach

De identification and destruction of records

When your child/children leave the preschool, the following documents and records must be retained by law for the periods of time listed. At the conclusion of that period, the documents and records will be de identified and destroyed.

Type of record	Timeframe	Reference
Child Assessments	Until 3 years after child's last attendance	Regulation 74, 183
Incident, injury, trauma and illness records	Until the child is 25 years old	Regulation 87, 183
Medication record	Until 3 years after child's last attendance	Regulation 92, 193
Child's Attendance	Until 3 years after child's last attendance	Regulation 158-159, 183
Child enrolment	Until 3 years after child's last attendance	Regulation 160, 183
Death of a child while being educated and cared for by the service	Until 7 years after child's last attendance	Regulation 12, 183
Staff record	Until 3 years after child's last attendance	Regulation 145
Record of access to early childhood teacher	Until 3 years after child's last attendance	Regulation 152
Record of educators working directly with children	Until 3 years after child's last attendance	Regulation 151
Record of volunteers and students	Until 3 years after child's last attendance	Regulation 149

All other documents and records that are not listed above will be de-identified and destroyed within 30 days of your departure from the preschool.

Changes to this policy

From time to time, it may be necessary for the preschool to review this Privacy and Confidentiality Policy and the information contained in this document. We will notify you of any changes providing you with a revised copy of the document.

Privacy concerns, complaints or changes to your information

If you have concerns, wish to make a complaint regarding the handling of your personal information by us or if you would like to correct information we currently hold, please contact the preschools' Director on 02 66280822

If you are not satisfied with the response provided, you may refer your complaint directly to:

Office of the Australian Information Commissioner

Phone: 1300 363 992


Email: enquiries@oaic.gov.au

www.oaic.gov.au [External Link](#)

EVALUATION

All information pertaining to the preschool, 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.

Relevant Links to the National Quality Standard (NQS):

NATIONAL QUALITY STANDARD		
		
	Concept	Descriptor
QA7		Governance and Leadership
7.1	Governance	Governance supports the operation of a quality service.
7.1.1	Service philosophy and	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.

Education and Care Services National Regulations:

168	Education and care service must have policies and procedures
181	Confidentiality of records kept by approved provider
183	Storage of records and other documents
195	Application of Commonwealth Privacy Act 1988

Statutory Legislation & Considerations

- Children (Education and Care Services National Law Application) Act 2010
- Education and Care Services National Regulations 2011
- Children and Young Persons (Care and Protection) Act 1998 f Australian Privacy Principles – www.oaic.gov.au f Office of the Australian Information Commissioner – www.oaic.gov.au
- Privacy Act 1988.
- Privacy Amendment (Enhancing Privacy Protection) Act 2012 (Privacy Amendment Act)
- ECA Code of Ethics.
- United Nations Convention of the Rights of a child

Source

- Revised National Quality Standard
- Australian Childcare Alliance – Changes to the Australia's Privacy law
- Office of the Australian Information Commission – Australian Privacy Principles

<https://www.oaic.gov.au/agencies-and-organisations/app-guidelines/>

<https://www.oaic.gov.au/privacy-law/privacy-act/australian-privacy-principles>

REVIEW

October 2018	Changes made to comply with changes to the Australian Privacy Act 1988, including the replacement of the National Privacy principles with the Australian Privacy Principles	October 2019
September 2022	Changes made to update practices in relation to third party providers on implementation of OWNA Childcare Management System in the preschool	

APPENDIX ONE

Australian Privacy Principles (APPs)

In order to comply with the Privacy Act, services are required to follow the Australian Privacy Principles (APPs), which are contained in Schedule 1 of the Privacy Act 1988 (Privacy Act). In particular, the principles cover how personal information can be used and disclosed (including overseas), keeping personal information secure, and the open and transparent management of personal information including having a privacy policy.

The principles cover:

- 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
- the 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
- Biometric templates.

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

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 requests 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.