



Privacy and Confidentiality Policy

Mandatory – Quality Area 7

PURPOSE

This policy will provide guidelines:

- for the collection, storage, use, disclosure and disposal of personal information, including photos, videos and health information at services administered by Black Hill Kindergarten
- to ensure compliance with privacy legislation.

POLICY STATEMENT

1. VALUES

Black Hill Kindergarten is committed to:

- responsible and secure collection and handling of personal information
- protecting the privacy of each individual's personal information
- ensuring individuals are fully informed regarding the collection, storage, use, disclosure and disposal of their personal information, and *their* access to that information.

2. SCOPE

This policy applies to the Approved Provider, Nominated Supervisor, Certified Supervisor, educators, staff, students on placement, volunteers, parents/guardians, children and others attending the programs and activities of services administered by Black Hill Kindergarten.

3. BACKGROUND AND LEGISLATION

Background

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.

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*.

Legislation and standards

Relevant legislation and standards include but are not limited to:

- *Education and Care Services National Law Act 2010*
- *Education and Care Services National Regulations 2011*: Regulations 181, 183
- *Freedom of Information Act 1982*

- *Health Records Act 2001 (Vic)*
- *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)
- *Public Records Act 1973* (Vic)

DEFINITIONS

The terms defined in this section relate specifically to this policy. For commonly used terms e.g. Approved Provider, Nominated Supervisor, Regulatory Authority etc. refer to the *General Definitions* section of this manual.

Freedom of Information Act 1982: Legislation regarding access and correction of information requests.

Health information: Any information or an opinion about the physical, mental or psychological health or ability (at any time) of an individual.

Health Records Act 2001: State legislation that regulates the management and privacy of health information handled by public and private sector bodies in Victoria.

Information Privacy Act 2000: State legislation that protects personal information held by Victorian Government agencies, statutory bodies, local councils and some organisations, such as early childhood services contracted to provide services for government.

Personal information: Recorded information (including images) or opinion, whether true or not, about a living individual whose identity can reasonably be ascertained.

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.

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 (refer to Attachment 2: *Privacy principles in action*) or any relevant code of practice.

Public Records Act 1973 (Vic): Legislation regarding the management of public sector documents.

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.

Unique identifier: A symbol or code (usually a number) assigned by an organisation to an individual to distinctively identify that individual while reducing privacy concerns by avoiding use of the person's name.

SOURCES AND RELATED POLICIES

Sources

- *Child Care Service Handbook 2011–2012*: Section 4.9
www.deewr.gov.au/Earlychildhood/Programs/ChildCareforServices/Operation/Documents/CCS_Handbook.pdf
- Guidelines to the Information Privacy Principles: <http://www.privacy.gov.au/law/apply/guidance>
- KPV *Early Childhood Management Manual*
- Office of the Health Services Commissioner: www.health.vic.gov.au/hsc/
- Privacy Victoria: www.privacy.vic.gov.au

Service policies

- *Child Protection Policy*
- *Code of Conduct Policy*

- *Complaints and Grievances Policy*
- *Delivery and Collection of Children Policy*
- *Enrolment and Orientation Policy*
- *Inclusion and Equity Policy*

PROCEDURES

The Approved Provider Black Hill Kindergarten is responsible for:

- ensuring all records and documents are maintained and stored in accordance with Regulations 181 and 183 of the *Education and Care Services National Regulations 2011*
- ensuring the service complies 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* by developing, reviewing and implementing processes and practices that identify:
 - what information the service collects about individuals, and the source of the information
 - why and how the service collects, uses and discloses the information
 - who will have access to the information
- risks in relation to the collection, storage, use, disclosure or disposal of and access to personal and health information collected by the service
- ensuring parents/guardians know why the information is being collected and how it will be managed
- providing adequate and appropriate secure storage for personal information collected by the service
- developing procedures that will protect personal information from unauthorised access
- ensuring 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
- developing procedures to monitor compliance with the requirements of this policy
- ensuring all employees and volunteers are provided with a copy of this policy, including the *Privacy Statement* of the service (refer to Attachment 4)
- ensuring all parents/guardians are provided with the service's *Privacy Statement* (refer to Attachment 4) and all relevant forms
- informing parents/guardians that a copy of the complete policy is available on request
- ensuring a copy of this policy, including the *Privacy Statement*, is prominently displayed at the service and available on request
- establishing procedures to be implemented if parents/guardians request that their child's image is *not* be taken, published or recorded, or when a child requests that their photo *not* be taken.

The Nominated Supervisor is responsible for:

- assisting the Approved Provider to implement this policy
- reading and acknowledging they have read the *Privacy and Confidentiality Policy* (refer to Attachment 3)
- providing notice to children and parents/guardians when photos/video recordings are going to be taken at the service
- ensuring educators and all staff are provided a copy of this policy and that they complete the *Letter of acknowledgement and understanding* (Attachment 3)
- obtaining informed and voluntary consent of the parents/guardians of children who will be photographed or videoed.

Certified Supervisors and other educators are responsible for:

- recording information on children, which must be kept secure and may be requested and viewed by the child's parents/guardians and representatives of DEECD during an inspection visit
- ensuring they are aware of their responsibilities in relation to the collection, storage, use, disclosure and disposal of personal and health information
- implementing the requirements for the handling of personal and health information, as set out in this policy
- respecting parents' choices about their child being photographed or videoed, and children's choices about being photographed or videoed.

Parents/guardians are responsible for:

- providing accurate information when requested
- maintaining the privacy of any personal or health information provided to them about other individuals, such as contact details
- completing all permission forms and returning them to the service in a timely manner
- being sensitive and respectful to other parent/guardians who do not want their child to be photographed or videoed
- being sensitive and respectful of the privacy of other children and families in photographs/videos when using and disposing of these photographs/videos.

Volunteers and students, while at the Black Hill Kindergarten, are responsible for following this policy and its procedures.

EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, Black Hill Kindergarten will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness
- monitor the implementation, compliance, complaints and incidents in relation to this policy
- keep the policy up to date with current legislation, research, policy and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required
- notify parents/guardians at least 14 days before making any changes to this policy or its procedures.

ATTACHMENTS

- Attachment 1: Additional background information
- Attachment 2: Privacy Principles in action
- Attachment 3: *Letter of acknowledgment and understanding*
- Attachment 4: *Privacy Statement*
- Attachment 5: Permission form for photographs and videos
- Attachment 6: Special permission notice for publications/media
- Attachment 7: Special permission for health information to be displayed for safety reasons

ENDORSEMENT

This policy was adopted by the Approved Provider of Black Hill Kindergarten **May 2016**

Review Date: May 2019

ATTACHMENT 1

Additional background information

- Early childhood services must ensure that their processes for the collection, storage, use, disclosure and disposal of personal and health information meet the requirements of the appropriate privacy legislation and the *Health Records Act 2001*.
- The following are examples of practices impacted by the privacy legislation:
- *Enrolment records*: Regulations 160, 161 and 162 of the *Education and Care Services National Regulations 2011* detail the information that must be kept on a child's enrolment record, including personal details about the child and the child's family, parenting orders and medical conditions. This information is regarded as sensitive information (refer to *Definitions*) and must be stored securely and disposed of appropriately.
- *Attendance records*: Regulation 158 of the *Education and Care Services National Regulations 2011* requires details of the date, child's full name, times of arrival and departure, and signature of the person delivering and collecting the child or the Nominated Supervisor/educator, to be recorded in an attendance record kept at the service. Contact details may be kept in a sealed envelope at the back of the attendance record or separate folder for evacuation/emergency purposes.
- *Medication records and incident, injury, trauma and illness records*: Regulations 87 and 92 of the *Education and Care Services National Regulations 2011* require the Approved Provider of a service to maintain incident, injury, trauma and illness records, and medication records which contain personal and medical information about the child.
- *Handling and storage of information*: Limited space can often be an issue in early childhood service environments, and both authorised employees and the Approved Provider need access to secure storage for personal and health information. It is important that confidential information is not removed from the service premises at any time, and that folders/files are not accessible to unauthorised staff or other persons attending the service.
- *Computerised records*: It is important that computerised records containing personal or health information are stored securely, and can only be accessed by authorised personnel with a password. Services need to incorporate risk management measures to ensure that passwords are recorded and stored in a secure place at the service, and to limit access to the information only to other authorised persons (refer to the *Information Technology Policy*).
- *Forms*: Enrolment forms and any other forms used to collect personal or health information should have the service's *Privacy Statement* (refer to Attachment 4) attached.
- *Collecting information for which there is no immediate use*: A service should only collect the information it needs and for which it has a specific purpose. Services should not collect information that has no immediate use, even though it may be useful in the future.

ATTACHMENT 2

Privacy Principles¹ in action

¹ Information Privacy Act 2000

1. Collection processes (Privacy Principle 1)

1.1 Type of personal and health information to be collected

- Black Hill Kindergarten will only collect the information needed, and for which there is a purpose that is legitimate and related to the service's functions and/or obligations.
- The type of information collected and held includes (but is not limited to) personal information, including health information, regarding:
 - children and parents/guardians prior to and during the child's attendance at a service (this information is collected in order to provide and/or administer services to children and parents/guardians)
 - job applicants, employees, members, volunteers and contractors (this information is collected in order to manage the relationship and fulfil the service's legal obligations)
 - contact details of other parties that the service deals with.
- Black Hill Kindergarten will collect information on the following identifiers (refer to *Definitions*):
- information required to access the *Kindergarten Fee Subsidy* for eligible families (refer to *Fees Policy*)
- tax file number for all employees, to assist with the deduction and forwarding of tax to the Australian Tax Office – failure to provide this would result in maximum tax being deducted
- *For childcare services only*: Customer Reference Number (CRN) for children attending childcare services to enable the family to access the Commonwealth Government's Child Care Benefit (CCB) – failure to provide this would result in parents/guardians not obtaining the benefit.

1.2 Collection of personal and health information

Personal information about individuals, either in relation to themselves or their children enrolled at the service, will generally be collected via forms filled out by parents/guardians. Other information may be collected from job applications, face-to-face interviews and telephone calls. Individuals from whom personal information is collected will be provided with a copy of the service's *Privacy Statement* (Attachment 4). When the service receives personal information from a source other than directly from the individual or the parents/guardians of the child concerned, the person receiving the information will notify the individual or the parents/guardians of the child to whom the information relates of receipt of this information. The service will advise that individual of their right to request access to this information. Access will be granted in accordance with the relevant legislation. Please note that the legislation allows the service to deny access in accordance with the limited reasons for denial that are contained in the legislation (refer to Privacy Principle 6.1).

2. Use and disclosure of personal information (Privacy Principle 2)

2.1 Use of information

Black Hill Kindergarten will use personal information collected for the primary purpose of collection (refer to the table below). The service may also use this information for any secondary purposes directly related to the primary purpose of collection, to which the individual has consented, or could reasonably be expected to consent. The following table identifies the personal information that will be collected by the service, the primary purpose for its collection and some examples of how this information will be used.

Personal and health information collected in relation to:	Primary purpose of collection:	Examples of how the service will use personal and health, (including sensitive) information include:
Children and parents/guardians	<ul style="list-style-type: none"> • To enable the service to provide for the education and care of the child attending the service • To promote the service (refer to Attachments 5 and 6 for permission forms – photographs and videos) 	<ul style="list-style-type: none"> • Day-to-day administration and delivery of service • Provision of a place for their child in the service • Duty rosters • Looking after children's educational, care and safety needs • For correspondence with parents/guardians relating to their child's attendance • To satisfy the service's legal obligations and to allow it to discharge its duty of care • Visual displays in the service • Newsletters • Promoting the service through external media, including the service's website
The Approved Provider if an individual, or members of the Committee of Management/Board if the Approved Provider is an organisation	<ul style="list-style-type: none"> • For the management of the service 	<ul style="list-style-type: none"> • For communication with, and between, the Approved Provider, other Committee/Board members, employees and members of the association • To satisfy the service's legal obligations
Job applicants, employees, contractors, volunteers and students	<ul style="list-style-type: none"> • To assess and (if necessary) to engage the applicant, employees, contractor, volunteers or students, as the case may be • To administer the employment, contract or placement 	<ul style="list-style-type: none"> • Administering the individual's employment, contract or placement, as the case may be • Ensuring the health and safety of the individual • Insurance • Promoting the service through external media, including the service's website