



Governance, Management, Records and Confidentiality Policy

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Rationale and Policy Considerations

The education and care service understands it has legal responsibilities associated with setting up and operating a service. The approved provider has a legal responsibility to comply with Family Assistance Law; Education and Care Services National Law; account for Australian Government funds; ensure the fitness and propriety of the provider, including managing bodies, and any authorised supervisor/nominee in day to day charge of the service; comply with any Australian Government funding agreements; and ensure the service remains financially viable. The service has a responsibility to maintain appropriate governance arrangements for the service that reflects the legal status and authority to hold a provider approval and service approval, and to effectively manage the service.

The education and care service also understands it has a responsibility to protect and manage records in a way that respects the privacy and confidentiality of all stakeholders, whilst maintaining business requirements. It also recognises the importance of developing practices that respect privacy and confidentiality so that families will trust the service and openly exchange information with educators/staff. Legislation requires that families provide personal information to the service so that appropriate care can be taken of their children. The service will retain and use this information in accordance with regulatory, taxation and privacy requirements and may discuss a child's personal details with another child care professional in order to fulfil their responsibilities towards the child. It is important therefore to ensure that educators/staff are fully aware of their responsibilities for maintaining strict confidentiality under the Privacy Act (1988), and also that families are informed of their rights in regard to access to their own personal information, and how the service will ensure the information is protected from unauthorised access. Families need to be informed about which people have authorised access to their child's personal information. Records that need to be retained will be filed or stored in a manner that protects them from unauthorised access.

Legislation and Government Requirements

- Privacy Act 1988 (Cth.)
- Family Assistance Law
- Corporations and Associations Laws
- Fair Work Act 2009
- Taxation laws
- Education and Care Services National Law (WA) Act 2012
- Education and Care Services National Regulations 2012

Needs

Children's

The provision of a quality education and care service. Records pertaining to children's health, learning, behaviour and other sensitive issues are only accessed by authorised people, and used to support the child's learning and wellbeing.

Families'

The provision of a quality education and care service; information about how the service is managed; opportunity to give input into management of the service; assurance that the service is financially viable and legally run. Security that private information given to the service re income levels, family arrangements etc. are kept confidential; knowledge about what is recorded about them and their children; access to their own personal records. Ability to speak to educators re: confidential matters that impact on their child's care. Access to their own personal records.

Educators

Competent employer; efficient management and administration of the service; management structure that allows for effective communication between management and staff. Personal records, details, appraisals are treated as confidential; knowledge about what is recorded about them; access to records that contain information about them. clear guidelines re what they should/shouldn't disclose about children and families and how families may access their own personal records; freedom to raise personal issues that impact on workplace.

Management

Clarity of roles and responsibilities; competent management team; appropriate decision making processes; compliance with all legal responsibilities; continuity of management.

Maintenance of all records required to be kept by law; safe storage of records for the required periods; no unauthorised access to records. To make decisions about confidential issues; to obtain relevant and current personal details from clients.

Scope

This policy is written for all staff and families of Merino Court Childcare Centre

Policy Statement

The service will provide a quality education and care service and will operate according to all legal requirements. It will make every effort to reflect the special nature of the community and will encourage family input and take into account family, children's and educator/staff needs in the operation of the service. The approved provider will ensure that decisions are made in a legitimate way and in the best interests of the service.

The service has a duty to keep adequate records about educators/employees, families, children and business transactions in order to operate responsibly and legally. The service will protect the interests of the children and their families and educators/employees including appropriate privacy and confidentiality. The service will also protect the integrity of business records by keeping appropriate and accurate records for the required time periods set down by law. All records kept at the service will be protected from unauthorised access in accordance with service Confidentiality/Privacy policy. Prescribed information will be displayed in accordance with the Education and Care Services National Law Act. Archived records will be stored in a safe and secure manner.

The education and care service protects the privacy, dignity and confidentiality of individuals by ensuring that all records and information about individual children, families, educators/staff and management is treated with discretion and kept in a secure place and only accessed by or disclosed to authorised people who need the information to fulfil their responsibilities at the service or have a legal right to know.

Policy Principles

Management Responsibilities

- The approved provider will ensure that the organisation is properly set up and operates in accordance with relevant legislation and in a financially responsible manner.
- The approved provider will ensure all members of the management team are oriented into the roles and responsibilities of maintaining the legal operation of the service.
- Families will be actively encouraged to participate in the management of the service through:
 - providing feedback to management through surveys, and other communication strategies;
 - involvement in service activities, community projects.
- The approved provider is responsible to the regulatory authority for ensuring that the service operates in accordance with the conditions of approval. This includes ensuring the presence of a certified nominated supervisor; the design, safety and maintenance of the premises; minimum number of educators and their qualifications; that educators, coordinators, staff and other persons who have contact with children are fit and proper; number of children in education and care within various age groups is not exceeded; appropriate policies, procedures and records in place etc.
- The approved provider is responsible to notify the regulatory authority of those circumstances set down within the Education and Care Services National Law Act in relation to changes that may require amendments to provider approval, service approval, responsible persons or nominated supervisor status.

- The approved provider is responsible for ensuring that effective strategies and resources are in place to allow the nominated supervisor to realistically achieve his/her role as required by the Education and Care Services National Regulations. This will include:
 - facilitating effective communication between the nominated supervisor and the approved provider;
 - the availability of adequate human and physical resources to meet the provisions of the regulations such as effective policies and procedures;
 - the availability of adequate financial resources to meet the provisions of the regulations;
 - the performance management and professional development of the nominated supervisor.
- The nominated supervisor is the person responsible for the effective supervision and control of the education and care service, that is, the person who is present at the service to:
 - effectively communicate with the approved provider about strategic day to day operational matters and any matters that may affect the approved provider's ability to comply to the regulations;
 - professional development, supervision and performance management of educators/staff;
 - quality assuring the development and implementation of appropriate learning and development programs for the children attending the service;
 - maintaining up to date policies and procedures as required by the regulations;
 - maintaining at least the minimum educator to child ratios as required by the regulations;
 - overseeing of effective excursion plans to ensure the safety of children attending the excursion;
 - facilitating communication between educators and families;
 - ensuring children's records such as enrolments, emergency contacts, medical and developmental progress are kept up to date;
 - reporting allegations of abuse, injury or illness to the relevant child protection authority as required by the regulations.
- The approved provider will ensure the philosophy reflects the needs and values of those people for whom the service exists e.g. children, families, educators/staff and community. This will be done by evaluating the statement at least annually. The approved provider will also ensure the operation of the service is consistent with the philosophy or statement of principles.
- Policies and procedures will be regularly updated to ensure they meet current needs. Adopted policies and procedures will be strictly followed by everyone within the service.
- Decisions about the overall management of the service will be made in consultation with all stakeholders. This will be achieved through surveys and discussions with individuals, involvement in policy review and evaluation of quality improvement plans. The best interests of the service will always take priority in determining decisions.
- Responsibility for the day to day management of the service is delegated to the nominated supervisor. Any matters that the nominated supervisor is not confident in resolving or determines to be of a significant nature, will be brought to the attention of the approved provider for discussion as soon as possible.

Displaying information

- The approved provider will display the following prescribed information required by the Education and Care Services National Law Act, in a display folder near the main entrance to the service:
 - Provider approval information;
 - Service approval information;
 - Nominated supervisor information;
 - Any service waivers or temporary waivers held by the service;
 - Hours, days of operation of the service;
 - Name, telephone number of the person at the service to whom complaints may be addressed;
 - Name and position of the responsible person in charge of the service;
 - Contact details of the regulatory authority;
 - Notice regarding enrolment of a child at the service at risk of anaphylaxis (if applicable);
 - Notice of an occurrence of an infectious disease at the service (if applicable).

Maintaining records

- The service will maintain an efficient record keeping system by adhering to the following strategies:
 - Setting up an organised filing system;
 - Updating records regularly;
 - Ensuring records can be understood by all authorised persons;
 - Establishing strategies to check accuracy of records;
 - Documenting where backup records are stored.

Access and security

- Security of records will be maintained through:
 - Using secure computer passwords;
 - Using lockable filing cabinets;
 - Following procedures to check individuals identity before granting access to records;
 - Storing records in an area that is away from those who do not need to access it;
 - Storing digital backups of important records in a secure place;
 - Discussing security procedures regularly with educators/employees.
- During orientation the service will provide relevant information to educators/employees and families about which records are kept and how they are protected within the service.
- A **Privacy Statement** will be attached to all forms that require families to provide personal information.
- Records relating to enrolled children are maintained in an up to date form in a secure area at the service.
- These records are only accessed by authorised personnel or the enrolled child's family.
- Records relating to staff qualifications, evidence of enrolment in training, working with children check/card, medical clearances, and timesheets will be maintained and provided to the regulatory authority on request.

Retaining records

- The service will retain records for the periods required in accordance with:
 - Taxation laws - records kept for 5 years
 - Fair Work Act - employee records kept for 7 years
 - Family Assistance Law - records kept for 3 years
 - Education and Care Services National Law Act 2010
 - Accident/Injury/Illness/Trauma Records for children kept until child reaches 25 years
 - Death of a child - records kept for 7 years
 - Any other records required to be kept for 3 years
- Records relating to former enrolled children are archived in a safe and secure location.
- Information about where archived records are stored is kept at the service.
- Records that are no longer required to be kept by the service and which are considered to have no historical importance will be destroyed by being shredded.
- Shredded paper is used in line with the Sustainability Policy.

We are required by law to hold onto certain records for a period of time (Reg 183). The following is a list of the information we need to keep and for how long. Records will be stored and destroyed after the required time.

- Accident and injury forms to be kept until child reaches 25 years of age.
- Death of an enrolled child during a care session details need to be kept for seven years.
- Attendance records to be kept for three years.
- Excursion authority and plan to be kept for three months after the event.
- Record of food preparation staff having completed a food handling and hygiene course and a course in nutrition should be kept for three years.
- Emergency evacuation rehearsals to be kept for three years.
- Authorities from parents to include children in an older or younger aged group to be kept for three years.
- Qualifications of staff to be kept for three years.
- Staff time sheets to be kept for three years.
- Children's activity programmes to be kept for three months.

Records will not be disclosed or communicated to another person except

- As required or permitted under the Act or any other written law; or
- With the written authorisation of the person or, in the case of a child, a parent of the child, to whom the information relates.

In the event of a transfer of service approval, under the Law, documents will be transferred also after parent consent has been given. (Reg 184)

Information about families

- Personal information will only be collected in so far as it relates to the service's activities and functions, and in line with relevant legislation.
- Collection of personal information will be lawful, fair, reasonable and unobtrusive.
- Every enrolling family who provides personal information will be advised in the form of a **Privacy Statement** of: the name and contact details of the service; the fact that they are able to gain access to their information; why the information is collected; the organisations to which the information may be disclosed; any law that requires the particular information to be collected; and the main consequences for not providing the required information.
- Families will be notified of the time for which particular records are required to be retained under the Education and Care Services National Regulations.
- The use or disclosure of personal information will only be for its original collected purpose, unless the individual consents or unless it is needed to prevent a health threat, or is required or authorised under law.
- Information pertaining to children and their families, staff, management, students and volunteers, will only be discussed with discretion and sensitivity and in a professional manner. Names will not be used to reveal private information.
- Gossip will not be tolerated. Grievances will only be discussed with the persons concerned.
- The service will take steps to ensure the personal information collected, used or disclosed, is accurate, complete and up to date. Families will be required to update their enrolment details annually, or whenever they experience a change in circumstances. Computer records will be updated as soon as new information is provided.
- Personal information will be kept in a secure and confidential way, and destroyed by shredding, when no longer needed.
- Individuals will be provided with access to their personal information and may request that their information be up-dated or changed where it is not current or correct.
- Individuals wishing to access their personal information must make written application to the approved provider/nominated supervisor, who will arrange an appropriate time for this to occur. The approved provider/nominated supervisor will protect the security of the information by checking the identity of the applicant, and ensuring someone is with them while they access the information to ensure the information is not changed or removed without the approved provider/nominated supervisor's knowledge.
- The approved provider/nominated supervisor will deal with privacy complaints promptly and in a consistent manner, following the service's Grievance Procedures. Where the aggrieved person is dissatisfied after going through the grievance process, they may appeal in writing to the Privacy Commissioner within the Office of the Australian Information Commission (www.oaic.gov.au)
- Visual images of enrolled children will not be taken, recorded, removed from the service, or used for any purpose without the written consent of the parent/guardian, except where visual images are used within the service for monitoring of an enrolled child, or visual images are taken by an authorised officer acting in the course of his/her duties, in which case only the parent/guardian and authorised staff will have access to the images. Parental/guardian consent will be given or denied on the child's enrolment form.
- Confidential conversations that educators have with family members, or the approved provider/nominated supervisor has with educators/staff members will be conducted in a quiet area away from other children, family members and staff. Such conversations are to be minuted and stored in a confidential folder.
- Information pertaining to the centre's business transactions and issues of management will not be discussed by any persons within or outside the centre, except in professional meetings to address such issues i.e. staff meetings.

Employee/educator and service management issues

- All staff, including management, students and volunteers will respect the rights to privacy of children, families, staff, management, students and volunteers associated with Merino Court Childcare Centre, and comply with the National Privacy Principles, including the Privacy Act.
- Personnel forms and employee information will be stored securely.
- Applicants, students or volunteers will be informed that their personal information is being kept, for what reason, for how long, and how it will be destroyed at the end of the time period.
- Applicants will be asked for their consent before their references are checked. Unsuccessful applicants will be advised of when and how their personal information will be destroyed.
- Information about educators/staff members will only be accessed by the approved provider/nominated supervisor and individual staff member concerned.
- Every employee/educator and the approved provider/nominated supervisor is provided with clear written guidelines detailing:
 - what information is to be kept confidential and why;
 - what confidential information they may have access to in order to fulfil their responsibilities and how this information may be accessed;
 - who has a legal right to know what information;
 - where and how the confidential information should be stored.
- Every employee/educator and the approved provider/nominated supervisor is required to sign a Confidentiality Statement. Deliberate disregard for this policy will be subject to instant dismissal.
- No member of staff/educator may give information or evidence on matters relating to children and/or their families, either directly or indirectly, to anyone other than the responsible parent/guardian, unless prior written approval by the responsible parent/guardian is obtained. Exceptions may apply regarding information about children when subpoenaed to appear before a court of law. Notwithstanding these requirements, confidential information may be exchanged in the normal course of work with other staff members at the service and may be given to the approved provider/nominated supervisor/coordinator, when this is reasonably needed for the proper operation of the service and the wellbeing of users and educators/staff.
- Educators/staff are aware of the need for sensitivity and confidentiality in handling information regarding child protection issues.
- Reports, notes and observations about children will be accurate and free from biased comments and negative labeling.
- Observations about children will be stored on the app and/or child programming files at the centre in a restricted area. Information will be viewed by relevant staff and families only.
- Staff will protect the privacy and confidentiality of other staff members by not relating personal information about another staff member to anyone either within or outside the service.
- Confidential information about staff members will only be accessed by the nominated supervisor, approved provider, other staff member that requires access in order to fulfil their role e.g. administration assistant and individual staff member concerned. Some information pertaining to individual circumstances may be disclosed to the approved provider/nominated supervisor in certain instances.
- Students/people on work experience/volunteers will not make staff/children or families at the service, an object for discussion outside of the service (e.g. college, school, home etc.), nor will they at any time use family names in recorded or tutorial information.
- Students/people on work experience/volunteers will only use information gained from the service upon receiving written approval from the service to use and/or divulge such information, and will never use or divulge the names of persons.
- All matters discussed at staff meetings will be treated as confidential.
- Staff relationships with families outside of work hours will be discouraged. Staff are not permitted to discuss other staff, families or management decisions with parents.

Social media

- It is not permitted to use photos of children, or any other information that may identify children or families on social media sites such as Facebook, unless families have provided specific permission for

this to occur. This policy strategy applies to educators, other staff, management committees, students, people on work experience, volunteers or any other person that may have access to children at the service.

- Employees/educators or management committee members are not permitted to discuss the service or its staff on social media sites. Failure to adhere to this policy would be seen as unprofessional behaviour and would be subject to the relevant grievance procedure process.
- The service will include information about social media policy in the family orientation package, educator/staff/student/volunteer orientation procedures, and will include regular reminders about the policy in service newsletters. In addition to this all persons listed above will be required to sign a Confidentiality Statement, which includes a statement about the use of photos and information on social media sites.
- Staff will not invite parents to be friends of Facebook, but can accept requests from parents.
- Any person who slanders or portrays a negative view of Merino Court Childcare Centre will face disciplinary measures.
- The centre website will not contain photos of children without permission, full names of children or any personal information of children, families, educators or management.

Related Documents

- **Education and Care Services National Law Act 2010(Vic)** - the following sections of the Act are relevant to governance and management of the service: Provider Approval; Service Approval; Supervisor Certificates; Operating an Education and Care Service; Compliance with this Law; Monitoring and Enforcement
- Section 3(3)(a); 172; 175; 197; 200; 206; 215 - 216; 263 -265
- **Education and Care Services National Regulations** - Sections on: Provider Approval; Service Approvals; Supervisor Certificates; and also Regulations: 75(a)(b); Part 4.7 - Leadership and service management;
- 74; 75; 87; 92; 116; 145-152; 149-154 158-162; 165; 167-184. 168 (2)(l); 181 - 184; Part 6.2, Division 1 - 195 - 203
- **National Quality Standard for Early Childhood Education and Care and School Age Care (Nov 2010)** - Standard 7.1; Standard 7.2; Standard 7.3 Element 7.3.1
- **Early Years Learning Framework for Australia**
- **Framework for School Age Care in Australia**

Links to other policies

- Community Involvement
- Equal Opportunity
- Grievances and Complaints Management
- Occupational Safety and Health
- Partnership and Communication with Families
- Payment of Fees
- Confidentiality Statement
- Educator/staff Code of Ethics
- Orientation checklists
- Enrolment and Orientation
- Recruitment of Educators, Staff and Volunteers
- Educator, Staff and Volunteer Orientation
- Establishing a Protective Environment
- Sustainability

Sources

www.pscalliance.org.au

Further Sources

Australian chamber of commerce and industry - Retrieved 3 May 2011, from <http://www.acci.asn.au/Home>

Australian Tax Office - *Record keeping for small business* - Retrieved 3 May 2011, from <http://www.ato.gov.au/content/downloads/bus76494nat3029.pdf>

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DEEWR Child Care Service Handbook 2011 - 2012

Section 4.1 - Legal responsibilities for operating a service

Section 4.2 - Business type and provision of documentation

Section 4.9 Information Management

Section 5.1 - Compliance monitoring

Section 5.2 - Approved child care services

Section 5.3 - Sanctions, offences and financial penalties

Section 5.4 - Eligibility rules

Section 5.5 - Key obligations imposed on approved child care services under family assistance law

Section 5.6 - Cooperation with authorised officers under the Act - inspection of records and monitoring of compliance

Section 5.7 - Compliance with all applicable laws imposed by the Australian Government and the state and territory where the service is located

Section 5.8 - Allocation of child care places not to be exceeded

Section 5.9 - Some other things services should know about the family assistance law and associated rules

Section 5.11 - Responsibilities under funding agreements

Section 6.10 Reporting of vacancy (availability) data

Section 9 Reporting enrolment information

Section 10 Reporting attendance information

- Retrieved 9 May 2012, from www.deewr.gov.au

Early Childhood Australia (ECA) (2006) *The Code of Ethics*. - Retrieved 3 May 2011, from http://www.earlychildhoodaustralia.org.au/code_of_ethics/early_childhood_australias_code_of_ethics.html

Fair Work Ombudsman - *Employee Records and Pay Slips Fact Sheet* - Retrieved 3 May 2011, from www.fairwork.gov.au

Privacy Law - Retrieved 16 May 2011, from <http://www.oaic.gov.au/> and www.privacy.gov.au/law

UNICEF (n.d.). *Fact sheet: A summary of the rights under the Convention on the Rights of the Child*. Retrieved 3 May 2011, from http://www.unicef.org/crc/files/Rights_overview.pdf

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