

	<b>Privacy &amp; Confidentiality Policy &amp; Procedures</b>
<b>Version No.</b>	Created November 2018
<b>Authorisation</b>	General Manager
<b>Expiry Date</b>	Policy to be reviewed Annually
<b>Responsible Officer</b>	Manager Evolve Early Learning & Kindergarten
<b>Policy Owner</b>	Evolve Early Learning & Kindergarten

## Policy

Evolve Early Learning & 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.

## Purpose

Evolve Early Learning & Kindergarten is committed to:

- Ensuring compliance with appropriate legislation for the collection, storage, use, disclosure and disposal of Personal Information, including photos, videos and Health Information at Evolve Early Learning & Kindergarten, and ensuring compliance with privacy legislation.
- This policy has been adapted from *PolicyWorks* Manual - National Quality Framework released by the Early Learning Association Australia.

## Scope

This policy applies to Evolve Early Learning & Kindergarten who is responsible for the direct education and care of children including offsite excursions and activities.

This policy applies to the Approved Provider, Nominated Supervisor, Certified Supervisor, Primary Nominee, Educators, Staff, Students on placement, Volunteers, Parents/guardians, Children and others attending Evolve Early Learning & Kindergarten

## National Quality Standards (NQS)

### Quality Area 7: Governance and Leadership

**7.1 Governance** - Governance supports the operation of a quality service

**7.1.1 Service philosophy and purpose** - 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.

## 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* (see *Definitions*) (Part 1, 7.1) and the *Privacy and Data Protection Act 2014* (see *Definitions*) (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*.

## Education and Care National Regulations

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

## Responsibility/Accountability

The Approved Provider, according to Regulations is responsible for the implementation of this policy. This will be achieved through the Centre Manager and the staff:

- All records and documents are maintained and stored in accordance with Regulations (National Regulations 181 and 183)
- The service complies with the requirements of the Privacy Principles as outlined in the *Health Records Act 2001* (see *Definitions*), the *Privacy and Data Protection Act 2014* (see *Definitions*) and, where applicable, the *Privacy Act 1988* (see *Definitions*) 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
  - 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
- 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
- All employees and volunteers are provided with access to this policy
- Access to this policy is available on request
- Establishing procedures to be implemented if parents/guardians request that their child's image not be taken, published or recorded, or when a child requests that their photo not be taken.

**The Nominated Supervisor/Primary Nominee is responsible for:**

- Assisting the Approved Provider to implement this policy
- Reading the *Privacy and Confidentiality Policy*
- 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 with access to this policy
- Obtaining informed and voluntary consent of the parents/guardians of children who will be photographed or recorded.

**Certified Supervisors/Nominees and other educators/staff are responsible for:**

- Reading the *Privacy and Confidentiality Policy*
- Recording information on children, which must be kept secure and may be requested and viewed by the child's parents/guardians and representatives of Department of Education & Training (DET) 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 of the handling of personal and Health Information, as set out in this policy
- Respecting parents' choices about their child being photographed or recorded, and children's choices about being photographed or recorded.

**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 recorded
- Being sensitive and respectful of the privacy of other children and families in photographs/recordings when using and disposing of these photographs/recordings.
- Volunteers and students, while at the service, are responsible for following this policy and its procedures.

## Definitions

The terms defined in this section relate specifically to this policy and related procedures. For commonly used terms e.g. Approved Provider, Regulatory Authority etc. refer to the *Glossary of Terms*.

<b>Word/Term</b>	<b>Definition</b>
<b><i>Freedom of Information Act 1982</i></b>	Legislation regarding access and correction of information requests.
<b>Health Information</b>	Any information or an opinion about the physical, mental or psychological health or ability (at any time) of an individual.
<b><i>Health Records Act 2001</i></b>	State legislation that regulates the management and privacy of Health Information handled by public and private sector bodies in Victoria.
<b>Personal Information</b>	Recorded information (including images) or opinion, whether true or not, about a living individual whose identity can reasonably be ascertained.
<b><i>Privacy Act 1988</i></b>	Commonwealth legislation that operates alongside state or territory Acts and makes provision for the collection, holding, use, correction, disclosure or transfer of Personal Information.
<b><i>Privacy and Data Protection Act 2014</i></b>	State legislation that protects Personal Information held by Victorian Government agencies, statutory bodies, local councils and some organizations, such as early childhood services contracted to provide services for government.
<b>Privacy Principles</b>	Cover the collection, use, disclosure and storage of personal information. They also allow individuals to access that information and have it corrected if it is wrong.
<b>Sensitive Information</b>	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.
<b>Unique Identifiers</b>	A symbol or code (usually a number) assigned by an organization to an individual to distinctively identify that individual while reducing privacy concerns by avoiding use of the person's name.

## PRIVACY & CONFIDENTIALITY PROCEDURES

### Purpose

This procedure will provide a process for the collection, storage, use, disclosure and disposal of Personal Information, including photos, recordings and Health Information at Evolve Early Learning & Kindergarten, and ensures compliance with privacy legislation.

### Procedure

#### In terms of records collection and management

Relevant records are kept for all programs. The types of records required to be kept by the services as per National Regulations (177 and 183 - storage of records and other documents) are:

Record	Time to Be Kept
Certified Supervisors Placed in Day to Day Charge	Until the end of three years after the last date on which the Nominated Supervisor provided education and care on behalf of the service
Children's Attendance	Until the end of three years after the last date on which the child was educated and cared for by the service
Child's Assessments or Evaluations of the Educational Program	Until the end of three years after the last date on which the child was educated and cared for by the service
Child's Enrolment	Until the end of three years after the last date on which the child was educated and cared for by the service
Incident, Injury, Trauma, Illness Records	Until child is 25 years old or in the event of death, until seven years after the child died
Medication	Until the end of three years after the last date on which the child was educated and cared for by the service
Record of Centre managers, Educator Assistants	Until the end of three years after the last date on which the staff member provided education and care on behalf of the service
Record of Responsible Person at the Service	Until the end of three years after the last date on which the Approved Provider operated the education and care service
Record of Service's Compliance	Until the end of three years after the last date on which the Approved Provider operated the education and care service
Record of Volunteers and Students	Until the end of three years after the date on which the record was made

The privacy of Personal Information collected will be safeguarded in accordance with the principles of the *Privacy and Data Protection Act 2014* (see *Definitions*), the *Health Records Act 2001* (see *Definitions*) and National Regulations 181 and 183 that refer to confidentiality and storage requirements.

### **In terms of records that will be held in accordance with the following:**

- All documents containing Personal Information on families, children, staff and educators will be securely stored.
- Only information that is relevant to the provision of care and/or for the operation of the service will be collected.
- Educators will only be given information about families that is authorised by the parent/guardian and is considered necessary to provide quality child care
- The information provided will not be disclosed to any other party except with the consent of the individual acting on behalf of the child or in accordance with relevant laws.

### **In terms of integrity of information**

- To ensure that Personal Information is up to date, families need to update their form if their circumstances change.

### **In terms of access to records**

Access to Personal Information (including Health Information) can be provided by the service except in the circumstances outlined in the *Privacy and Data Protection Act 2014*, for example:

- Where the information relates to legal proceedings
- Where the *Freedom of Information Act 1982* (see Definitions) applies
- Where in relation to Health Information, granting access would pose a threat to life
- Where another person gave the information in confidence.

### **In terms of disposal of records**

- When it is no longer necessary to retain the Personal Information collected, to fulfil the purpose for which it was collected, or as required by law, all documentation will be archived in accordance with the Public Records Standards 98/01 Version 2002.

### **References, Sources, Links to Legislation and Other Documents**

Please refer to Reference and Sources page.

#### **Related service policies:**

*Code of Conduct Policy*  
*Complaints and Grievances Policy*  
*Delivery and Collection of Children Policy*  
*Enrolment and Orientation Policy*  
*Inclusion and Equity Policy*  
*Staffing Policy.*