

# PRIVACY AND CONFIDENTIALITY POLICY

The right to confidentiality and privacy of the child and the family is outlined in Early Childhood Code of Ethics and National Education and Care Regulations. 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.

## NATIONAL QUALITY STANDARD (NQS)

QUALITY 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.

EDUCATION AND CARE SERVICES NATIONAL REGULATIONS	
168	Education and care services must have policies and procedures
181	Confidentiality of records kept by approved provider
181-184	Confidentiality and storage of records

## PURPOSE

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 by ensuring continuous review and improvement on our current systems, storage, and methods of disposal of records, ensuring that all records and information about individual children, families, educators, and management are held in a secure place and are only retrieved by or released to people who have a legal right to access this information.

## SCOPE

This policy applies to children, families, staff, management, and visitors of the Service.

## IMPLEMENTATION

Early Childhood Services are required to comply with Australian privacy law which includes the *Privacy Act 1988* (the Act) which was amended in February 2017, with changes taking effect on February 22, 2018.

The new law introduces a Notifiable Data Breaches (NDB) scheme that requires Early Childhood Services, Family Day Care Services, and Out of School Hours Care 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 failure to notify that is found to constitute a serious interference with privacy under the Privacy Act may result in a fine of up to \$360,000 for individuals or \$1.8 million for organisations. In order to comply, 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.

### 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

- 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.

#### Management will:

- Provide Staff and Educators with relevant information regarding changes to law and Service policy.
- Ensure all relevant staff understand the requirements under Australia's privacy law.
- Maintain currency with the Australian Privacy Principles (this may include delegating a staff member to oversee all privacy-related activities to ensure compliance).
- Ensure personal information is protected in accordance with our obligations under the *Privacy Act 1988* and *Privacy Amendments (Enhancing Privacy Protection) Act 2012*.
- Ensure all records and documents are maintained and stored in accordance with Education and Care Service National Regulations.
- Ensure the service acts in accordance with the requirements of the Privacy Principles and *Privacy Act 1988* by developing, reviewing, and implementing procedures and practices that identify:
  - the name and contact details of the service;
  - what information the service 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 service;
  - any law that requires the particular information to be collected;
  - adequate and appropriate storage for personal information collect by the service;
  - protection of personal information from unauthorised access.
- Ensure the appropriate and permitted use of images of children.
  - Ensure all employees, students, volunteers, and families are provided with a copy of this policy.
  - Deal with privacy complaints promptly and in a consistent manner, following the Service's Grievance Procedures.
  - Ensure families only have access to the files and records of their own children.
  - Ensure information given to Educators will be treated with respect and in a professional and confidential manner.
  - Ensure child and staff files are stored in a locked and secure cabinet.
  - Ensure Information relating to staff employment will remain confidential and available only to the people directly involved with making personnel decisions.
  - Ensure that information shared with us by the family will be treated as confidential unless told otherwise.

#### A Nominated Supervisor will:

- Adhere to centre policies and procedures, supporting management.
- Ensure educators, staff, volunteers, and families are aware of the privacy and confidentiality policy.
- Ensure the service obtains consent from parents and/or guardian of children who will be photographed or videoed by the service.
- Ensure families only have access to the files and records of their own children.
- Ensure that information given to Educators will be treated with respect and in a confidential and professional manner.
- Ensure only necessary information regarding the children's day-to-day health and wellbeing is given to non-primary contact educators; for example, food allergy information.
- 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 us by the family will be treated as confidential unless told otherwise.

### Responsible Persons and Staff will:

- 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.
- 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.
- Will 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 us 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 to share information about the individual or service, management information, or other staff as per legislative authority.

### Personal information our service may request regarding children:

- ☐ Parent contact details
- ☐ Emergency contact details and persons authorised to collect individual children
- ☐ Children's health requirements
- ☐ Immunisation records
- ☐ Medical history and records
- ☐ Developmental records and summaries
- ☐ External agency information
- ☐ Custodial arrangements
- ☐ Incident reports
- ☐ Medication reports
- ☐ Child care benefit and child care rebate information
- ☐ Permission forms

### Personal information our service may request regarding staff:

- ☐ Personal details
- ☐ Tax information
- ☐ Working contract
- ☐ Emergency contact details
- ☐ Medical details
- ☐ Immunisation details

- ☐ Working with children check
- ☐ Qualifications
- ☐ Medical history
- ☐ Resume
- ☐ Superannuation details
- ☐ Child Protection qualifications
- ☐ First Aid, Asthma and Anaphylaxis certificates

#### Personal information our service may request regarding parents/guardians:

- ☐ Personal details
- ☐ Emergency contact details
- ☐ Bank account details for service fees
- ☐ Occupation information

#### How this information is collected:

- ❖ Through an online waiting list application or online enrolment form
- ❖ When contact is made to us via email or phone
- ❖ Through interaction with our social media platforms
- ❖ Participation in our services and open days
- ❖ Participation through survey and questionnaires
- ❖ Third party collection
- ❖ By other means reasonably necessary

#### Authority:

If you provide us with the *personal information* of another individual, without limiting any other provision of this Privacy Policy, you acknowledge and agree that the other individual:

- ❖ Has authorised you to provide their *personal information* to us; and
- ❖ Consents to us using their *personal information* in order for us to provide our Services.

#### Unsolicited information:

If we receive unsolicited *personal information* about you that we could not have collected in accordance with this Privacy Policy and the Privacy Act, we will, destroy or de-identify such information received, subject to any relevant laws or regulations.

#### Destruction:

Subject to a legal requirement to the contrary, we will destroy or de-identify your *personal information* if:

- ❖ The purpose for which we collected the *personal information* from you no longer exists or applies; or
- ❖ You request us to destroy your *personal information*,
- ❖ And we are not required by law to retain your *personal information*.

### Personal Information Collection Statement:

Please see our Personal Information Collection Statement (if applicable and provided to you) for further details on how we collect your *personal information*.

### Disclosure:

We may disclose *personal information* to:

- ❖ Third parties engaged by us (including Employsure) to perform functions or provide Services on our behalf;
- ❖ Our professional advisors, including our accountants, auditors and lawyers;
- ❖ Our related bodies corporate;
- ❖ Persons authorised by you to receive information held by us;
- ❖ A government authority, law enforcement agency, pursuant to a court order or as otherwise required by law; or
- ❖ A party to a transaction involving the sale of our business or its assets.

### Security and Protection:

In relation to all *personal information*, we will take all reasonable steps to:

- ❖ Ensure that the *personal information* we collect is accurate, up to date and complete;
- ❖ Ensure that the *personal information* we hold, use or disclose is, with regard to the relevant purpose, accurate, up to date, complete and relevant; and
- ❖ Protect *personal information* from misuse, loss or unauthorised access and disclosure.

We require staff and service providers to respect the confidentiality of *personal information*. We store your digital *personal information* on a secure internal server behind a firewall and use security software accessible only by authorised personnel and service providers to protect your *personal information* from unauthorised access, destruction, use, modification or disclosure. We store your hard copy *personal information* in a locked room accessible only by authorised senior personnel and relevant service providers. Only authorised senior personnel are aware of the location of access keys.

Please contact us immediately if you become aware of or suspect any misuse or loss of your *personal information*.

### Data Breaches:

- We are required to comply with the Notifiable Data Breaches scheme under Part IIIC of the Privacy Act.
- If we become aware that a Data Breach in respect of *personal information* held by us may have occurred, we will:
  - ❖ Investigate the circumstances surrounding the potential Data Breach to determine whether a Data Breach has occurred; and
  - ❖ If a Data Breach has occurred, carry out a reasonable and expeditious assessment of



whether there are reasonable grounds to believe that the relevant circumstances amount to an *eligible data breach*.

- If we become aware that there has been an *eligible data breach* in respect of *personal information* held by us, and the *personal information* relates to you or you are at risk from the *eligible data breach*, we will ensure that either we, or a relevant APP entity that is the subject of the same *eligible data breach*:
  - ❖ Prepare a statement that complies with subsection 26WK(3) of the Privacy Act;
  - ❖ Provide a copy of the statement to the Office of the Australian Information Commissioner (OAIC); and
  - ❖ If it is practicable, notify you of the contents of the statement, or otherwise publish a copy of the statement on the Website and take reasonable steps to publicise the contents of the statement, as soon as practicable after the completion of the preparation of the statement.

### Complaints:

If you have a complaint about how we collect, use, disclose, manage or protect your *personal information*, or consider that we have breached the Privacy Act or APPs, please contact us using our contact details below. We will respond to your complaint within 14 days of receiving the complaint.

- Once the complaint has been received, we may resolve the matter in a number of ways:
  - ❖ **Request for further information:** We may request further information from you. Please provide us with as much information as possible, including details of any relevant dates and documentation. This will enable us to investigate the complaint and determine an appropriate solution.
  - ❖ **Discuss options:** We will meet with you to discuss options for resolution with you and if you have suggestions about how the matter might be resolved you should raise these with our Director or Privacy Officer.
  - ❖ **Investigation:** Where necessary, the complaint will be investigated. We will try to do so within a reasonable time frame. It may be necessary to contact others in order to proceed with the investigation. This may be necessary in order to progress your complaint.
  - ❖ **Conduct of our employees:** If your complaint involves the conduct of our employees we will raise the matter with the employees concerned and seek their comment and input in the resolution of the complaint.
- After investigating the complaint, we will give you a written notice about our decision.
- You are free to lodge a complaint directly with the OAIC online, by mail, fax or email. For more information please visit the OAIC website at [oaic.gov.au](http://oaic.gov.au).

### Contact:

Please forward all correspondence in respect of this Privacy Policy to:

General Manager - E: [management@balmaincareforkids.com.au](mailto:management@balmaincareforkids.com.au)

## Interpretation and Definitions:

**Personal pronouns:** Except where the context otherwise provides or requires:

- The *terms* **we**, **us** or **our** refers to Balmain Care for Kids Pty Limited; and
- The *terms* **you** or **your** refers to a:
  - (a) user of the Platforms; and/or
  - (b) customer to whom we provide the Services and their child or children (as may be applicable in the circumstances).

Terms italicised and defined in the Privacy Act have the meaning given to them in the Privacy Act.

**Defined terms:** In this Privacy Policy unless otherwise provided, the following terms shall have their meaning as specified:

**APPs** means any of the Australian Privacy Principles set out in Schedule 1 of the Privacy Act.

**Data Breach** means unauthorised access, modification, use, disclosure, loss, or other misuse of personal information held by us.

**Platforms** means all or any of the relevant platforms, electronic interfaces and websites that are owned, provided and/or operated from time to time by us (including, but not limited to the Website), regardless of how those websites are accessed by users (including via the internet, mobile phone, mobile applications or any other device or other means).

**Primary Purpose** means any of the primary purposes listed at clause 2.1. **Privacy**

**Act** means the Privacy Act 1988 (Cth) as amended from time to time. **Privacy**

**Policy** means this privacy policy as amended from time to time.

**Secondary Purpose** means any of the secondary purposes listed at clause 2.2.

**Services** means our child care and education services, and other services that we provide from time to time.

**Website** means [www.balmaincareforkids.com.au](http://www.balmaincareforkids.com.au) and all relevant sub-domains.

## Source

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 & Care Quality Authority.

Early Childhood Australia Code of Ethics. (2016).

Guide to the Education and Care Services National Law and the Education and Care Services National Regulations. (2017).

Guide to the National Quality Standard. (2017). Office of the Australian Information Commission – Australian Privacy Principles: <https://www.oaic.gov.au/privacy-law/privacy-act/australian-privacy-principles>

Privacy Act 1988.

Revised National Quality Standard. (2018).

United Nations Convention of the Rights of a child

## REVIEW

POLICY REVIEWED	MODIFICATIONS	NEXT REVIEW DATE
March 2019	<ul style="list-style-type: none"> <li>Additional information added to points.</li> <li>Sources checked for currency.</li> <li>Sources/references corrected, updated, and alphabetised.</li> </ul>	March 2020
January 2018	<ul style="list-style-type: none"> <li>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</li> </ul>	March 2019
October 2017	<ul style="list-style-type: none"> <li>Updated references to comply with the revised National Quality Standard</li> </ul>	March 2018
March 2017	<ul style="list-style-type: none"> <li>Minor changes made to ensure compliance with regulations</li> </ul>	March 2018