



Privacy and Confidentiality Policy

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1. Aim

This policy addresses the issues of privacy and confidentiality of children, educators, volunteer workers and parents using the service. It aims to protect their privacy and confidentiality by ensuring that all records and information about individual children, families, educators and management are kept in a secure place and disposed in a confidential manner.

This policy has been developed to comply with the Australian Privacy Principles (APPs) (2014) and pursues the highest standard in the protection and preservation of privacy and confidentiality.

This Policy ensures that all records and information are only accessed by or disclosed to those people who need the information to fulfill their responsibilities at the service or have a legal right to know.

2. Collection of Information

- Gymea Community Preschool understands that privacy is an important issue for individuals. Our preschool is a non-profit and, in part, government funded, corporation committed to the provision of a quality early childhood service.
- To do this effectively we need, by law, to collect a great deal of personal information about children and their families, guardians, and others. Much of this information will be "sensitive confidential information".
- Gymea Community Preschool is regulated by legislation and government-imposed rules of practice, much of which has a bearing on what personal information we collect and what we do with it. Wherever possible, we will seek to protect privacy within the parameters of those laws and requirements.
- This is defined in the Privacy Act to be information concerning an individual's racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of professional or trade associations, membership of a trade union, sexual preferences or practices or "health information".

Gymea Community Preschool will only collect information by lawful means where collection is:

- for a lawful purpose which is directly related to one of its activities; and



- reasonably necessary for that purpose.
- Gymea Community Preschool will ensure that the information collected is relevant, accurate, up to date and not excessive, and that collection does not intrude to an unreasonable extent on the personal affairs of the individual.
- Gymea Community Preschool will collect information directly from the individual concerned unless it is unreasonable or impracticable to do so.
- Gymea Community Preschool Privacy Collection Statement (*attachment 3*), provides further detail concerning collection of information.

Access, Accuracy and Amendment of Information

- We sometimes need to disclose this information to do our job. Sometimes this will be because the law requires such disclosure and sometimes it will be because the welfare of the child demands it.
- All reasonable steps will be taken by Gymea Community Preschool to ensure that information it collects, holds or discloses is accurate, complete, up to date and not misleading.
- Gymea Community Preschool will respond to enquiries from an authorised individual as to whether it holds that individual's information including any rights of access to it.
- Gymea Community Preschool will allow an individual to:
 - access his/her own information held by Gymea Community Preschool without unreasonable delay or expense;
 - make appropriate amendments, corrections or updates to his/her information where necessary.
- Gymea Community Preschool Privacy Collection Statement (*attachment 3*) provides further detail concerning access, accuracy and amendment of information.
- Individuals have a right to request access to their personal information and to request its correction (APPs 12 and 13). This can be done by writing to the Nominated Supervisor PO box 27, Gymea, NSW, 2227 or at gymeadirector@bigpond.com or on 02 95248098.
- Personal information will not be disclosed to overseas recipients.
- The access and correction requirements in the Privacy Act operate alongside and do not replace other informal or legal procedures by which an individual can be provided with access to, or correction of, their personal information, including the FOI Act
- Information may be denied under the following conditions:
 - the organisation reasonably believes that giving access would pose a serious threat to the life, health or safety of any individual, or to public health or public safety (APP 12.3(a))
 - giving access would have an unreasonable impact on the privacy of other individuals (APP 12.3(b))
 - the request for access is frivolous or vexatious (APP 12.3(c))
 - the information relates to existing or anticipated legal proceedings between the organisation and the individual, and would not be accessible by the process of



- discovery in those proceedings (APP 12.3(d))
- giving access would reveal the intentions of the organisation in relation to negotiations with the individual in such a way as to prejudice those negotiations (APP 12.3(e))
 - giving access would be unlawful (APP 12.3(f))
 - denying access is required or authorised by or under an Australian law or a court/tribunal order (APP 12.3(g))
 - the organisation has reason to suspect that unlawful activity, or misconduct of a serious nature, that relates to the organisation's functions or activities has been, is being or may be engaged in and giving access would be likely to prejudice the taking of appropriate action in relation to the matter (APP 12.3(h))
 - giving access would be likely to prejudice one or more enforcement related activities conducted by, or on behalf of, an enforcement body (APP 12.3(i))
 - giving access would reveal evaluative information generated within the organisation in connection with a commercially sensitive decision-making process (APP 12.3(j))

4. Retention and Security of Information

Gymea Community Preschool will take all reasonable steps to ensure that information is:

- held for no longer than is necessary, subject to the State Records Act 1998 (NSW) and the Education and Care Services National Regulations (2011)
- disposed of securely in accordance with approved methods; and
- protected to the extent reasonable in the circumstances from loss, unauthorized access, use, modification or disclosure, and against all other misuse.
- Gymea Community Preschool Privacy Collection Statement (*attachment 3*) provides further detail concerning retention and security of information.

5. Use of Information

- In general terms, 'use' of information refers to the communication or handling of information within Gymea Community Preschool.
- Gymea Community Preschool will only use information for the primary purpose for which it was collected unless:
 - the use of the information is directly related to the primary purpose for which the information was collected; or
 - the use of the personal information is necessary to deal with a serious and imminent threat to any individual's life or health; or
 - the use of the health information is necessary to deal with a serious and imminent threat to any individual's life, health or safety, or is necessary to lessen or prevent a



- serious threat to public health or public safety; or
- the individual provides consent to any other use.
- Gymea Community Preschool will only use information without an individual's consent in limited circumstances, including (but not limited to):
 - where the use is permitted or required under an Act or any other law; or
 - where the use is reasonably necessary for the purpose of research, or the compilation of statistics, in the public interest.

6. Disclosure of Information

In general terms, 'disclosure' of information refers to the communication or transfer of information outside Gymea Community Preschool.

Gymea Community Preschool will not disclose information it holds unless:

- the disclosure of the information is directly related to the primary purpose for which the information was collected and there is no reason to believe that the individual concerned would object to the disclosure; or
- the individual is reasonably likely to have been aware, or has been made aware, that information of that kind is usually disclosed to a third party; or
- the disclosure of the personal information is necessary to deal with a serious and imminent threat to any individual's life or health; or
- the disclosure of the health information is necessary to deal with a serious and imminent threat to any individual's life, health or safety, or is necessary to lessen or prevent a serious threat to public health or public safety; or
- the individual provides consent to any other disclosure.

Gymea Community Preschool will not disclose information to any person or body who is in a jurisdiction outside NSW or to a Commonwealth agency unless one of the following additional criteria are met:

- Gymea Community Preschool reasonably believes that the recipient of the information is subject to a law, binding scheme or contract that upholds the principles for the fair handling of the information that are substantially similar to the principles of NSW privacy laws; or
- the individual expressly consents to the disclosure; or
- the disclosure is necessary for the performance of a contract between the individual and Gymea Community Preschool; or
- the disclosure is necessary, on reasonable grounds, to prevent or lessen a serious and imminent threat to the life or health of any individual; or
- the disclosure is permitted or required by an Act (including an Act of the Commonwealth) or any other law; or
- Gymea Community Preschool has taken reasonable steps to ensure that the



information disclosed will be handled in a manner that is consistent with NSW privacy laws.

Gymea Community Preschool will only disclose information without an individual's consent in limited circumstances, including (but not limited to):

- where the disclosure relates to law enforcement and related matters such as:
 - disclosing information to a law enforcement agency for the purpose of ascertaining the whereabouts of an individual who has been reported to police as a missing person; or
 - disclosing information to a law enforcement agency in order to investigate an offence where there are reasonable grounds to believe that an offence may have been committed; or
- where disclosure is permitted or required under an Act or any other law; or
- where the disclosure is reasonably necessary for the purpose of research, or the compilation of statistics, in the public interest, and:
 - either the purpose cannot be served by de-identified information and it is impracticable to seek the consent of the individual for the disclosure, or reasonable steps have been taken to de-identify the information; and
 - if it could reasonably be expected to identify individuals, the information is not published in a publicly available publication; and
 - the use must be in accordance with any guidelines issued by the NSW Privacy Commissioner.

Gymea Community Preschool will only disclose sensitive information with the consent of the individual unless disclosure is necessary to deal with a serious and imminent threat to any individual's life or health.

Gymea Community Preschool Privacy Collection Statement (*attachment 3*) provides further detail concerning disclosure of information and other circumstances where Gymea Community Preschool may disclose information without an individual's consent.

7. Notifiable Data Breaches (NDB)

- The Notifiable Data Breaches (NDB) scheme requires all businesses regulated by the Privacy Act (including ECEC 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 (ie. data leaks) that are "likely" to result in "serious harm."
- Should there be a NDB at Gymea Community Preschool, the approved provider will 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.
- Individuals at likely risk of serious harm will be notified promptly.
- The Office of the Australian Information Commissioner must also be notified as soon as practicable through a statement about the eligible data breach.

8. Complaints and Enquiries

- Individuals can make a complaint to directly to the Approved Provider if they believe there has been a breach of their privacy in relation to the Privacy principles. This can be done in writing and placed in the board of management box in the foyer or by email to gymeadirector@bigpond.com or by phone on 02 95248098 and asking to be put in touch with the President of the Board of Management.
- Complaints can be made anonymously.
- 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.
- Complaints can also be made directly to the Regulatory Authority on 1800 619 113 or the OAIC at <https://www.oaic.gov.au/privacy/privacy-complaints/lodge-a-privacy-complaint-with-us/>

9. Responsibilities of the Approved Provider

The Approved Provider of Gymea Community Preschool, is responsible for Gymea Community Preschool's overall compliance with its privacy obligations

Collection of Information

- Ensure that information relating to each staff member, committee member, volunteer and student is correct in personnel and other files. This includes information on qualifications, WWCC, staff entitlements, contact and emergency information, health and immunisation information, and any relevant medical and legal information. This includes any other relevant information collected by the service.
- Ensure that information collected from families, educators, committee members and the community is maintained in a private and confidential manner at all times.
- Ensure 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 (except for information in staff records).
- 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.
- Ensure families are informed upon enrolment how images/photographs of their children will be used on the Internet and/or publications.
- Will ensure information provided by families, staff and committee members is only used for the purpose it was collected for.

Management of Information

- Personal information will be managed in an open and transparent way, supported by the provision of this policy and a policy statement to all families, staff and volunteers.

Complaints about a breach of APPs

- Provide families with information on the Complaints and Feedback procedure if any privacy or confidentiality procedure has been breached.
- Follow the procedures as listed above.

10. Responsibilities of the Nominated Supervisor

- Ensure that each family, staff, volunteer, student and committee member is provided with a privacy collection statement upon enrolment and request, that includes details about how they can access their personal information, have this corrected as needed, make a complaint about a breach of privacy, if one occurs.
- Ensure 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, and any medical or legal information – such as family court documentation – required by our education and care service. This would include any information required to be recorded under the National Law and Regulations or other relevant information collected to support the enrolment of a child.
- Provide families with details on the collection of personal information collected: This information will include:
 - The types of information collected by our education and care service.
 - The purpose of collecting information.
 - What types of information will be disclosed to the public or other agencies; and when and why disclosure may occur.
 - How information is stored at the service.
 - Approaches used to keep information secure.



- 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.
- Will ensure information provided by families and staff is only used for the purpose it was collected for.

Storage of Information

- Ensure that education and care service records, personnel records, and children's and family's information is stored securely reducing the chance of unauthorised access, use or disclosure and always remains private and confidential within the education and care environment.

Access to Information

- Will ensure that information kept is not divulged or communicated, directly or indirectly, to anyone other than:
 - Medical and developmental information that is required to adequately provide education and care for the child.
 - The Department of Education and Communities, or an authorised officer; or
 - As permitted or required by any Act or Law.

11. Responsibilities of Educators

- Maintain children's information and store documentation according to policy at all times.
- Not share information about the education and care service, management information, other educators or children and families, without written permission or legislative authority.
- 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 education and care service 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 service.
- Educators will sign a Confidentiality Statement as it relates to privacy and confidentiality of information.

12. Links to Relevant Standards and Frameworks

National Quality Standards



QA4	4.2.2	Professional standards guide practice, interactions, and relationships
QA5	5.1.2	The dignity and the rights of every child are maintained.
QA6	6.1	Respectful relationships with families are developed and maintained and families are supported in their parenting role.
QA7	7.1.2	Systems are in place to manage risk and enable the effective management and operation of a quality service.

7. Links to Regulations, Law and Legislation

Education and Care Services National Regulations (2011): 181, 182, 183, 184

Education and Care Services National Law Act 2010

Children and Young Persons (Care and Protection) Act 1998

[Australian Privacy Principles](#)

[Office of the Australian Information Commissioner](#)

[Privacy Act 1988 \(Privacy Act\)](#)

Privacy Act amendment 2017

[Early Childhood Australia](#)

Freedom of Information Act 1989

14. Sources

National Quality Standard

United Nations Convention of the Rights of a Child

[Australian Childcare Alliance - Changes to Australia's Privacy Laws](#)

Australian Privacy principle Guidelines July 2019 (see supporting documents)

15. Review



This policy will be monitored to ensure compliance with legislative requirements and unless deemed necessary through the identification of practice gaps, the service will review this Policy every 24 months.

Families and staff are essential stakeholders in the policy review process and will be given opportunity and encouragement to be actively involved.

In accordance with R. 172 of the Education and Care Services National Regulations, the service will ensure that families of children enrolled at the service are notified at least 14 days before making any change to a policy or procedure that may have significant impact on the provision of education and care to any child enrolled at the service; a family's ability to utilise the service; the fees charged or the way in which fees are collected.

16. Version Control Table

Version Control	Date Released	Next review	Approved By	Amendment
1	August 2018	August 2020	Tricia Brown	
2				Added NDB Added personal information will not be disclosed overseas Complaints about breaches to APP's Added contact details for complaints Added NS responsibility to distribute Privacy policy Updated reasons to withhold information. Updated sources New formatting and heading with relevant categorization of content.
3	March 2023	March 2025	Rochelle Hewett	