

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 all locations of Bethany Kindergarten Services (BKS) in order to ensure compliance with privacy legislation.

POLICY STATEMENT

VALUES

BKS 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.

SCOPE

This policy applies to BKS as the Approved Provider, Nominated Supervisor, educators, other BKS staff, students on placement, volunteers, parents/guardians, children and others attending the programs and activities of all BKS services.

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

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

- Guidelines to the Information Privacy Principles:
<http://www.privacy.gov.au/law/apply/guidance>
- Early Learning Association Australia *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 Safe Policy*
- *Code of Conduct Policy*
- *Complaints and Grievances Policy*
- *Delivery and Collection of Children Policy*

- *Enrolment and Orientation Policy*
- *Information Technology Policy*
- *Staffing Policy*
- *Inclusion and Equity Policy*

PROCEDURES

BKS as the Approved Provider 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 all services comply 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
- 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
- ensuring all parents/guardians are provided with BKS's *Privacy Statement* and all relevant forms
- informing parents/guardians that a copy of the complete policy is 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 BKS as the Approved Provider to implement this policy
- reading and acknowledging they have read the *Privacy and Confidentiality Policy*
- providing adequate and appropriate secure storage for personal information collected by the service
- providing notice to children and parents/guardians when photos/video recordings are going to be taken at the service
- ensuring educators are provided a copy of this policy and that they complete the *Letter of acknowledgement and understanding*
- ensuring a copy of this policy, including the *Privacy Statement*, is prominently displayed at the service and available on request
- obtaining informed and voluntary consent of the parents/guardians of children who will be photographed or videoed.

Educators are responsible for:

- reading and acknowledging they have read 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 DET during an inspection or Assessment and Rating 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 service, 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, BKS as the Approved Provider will:

- 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: Privacy Statement
- Attachment 4: Permission form for photographs and videos
- Attachment 5: Special permission notice for publications/media

AUTHORISATION

This policy was adopted by BKS on 22nd June, 2012 and last updated on 1 July 2017.

REVIEW DATE: 1 JULY 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 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. Contact details for the purpose of emergency evacuation will also be provided to BKS as the Approved Provider.
- *Medication records and incident, injury, trauma and illness records*: Regulations 87 and 92 of the *Education and Care Services National Regulations 2011* require BKS as 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 BKS as the Approved Provider need access to secure storage for personal and health information. Documents might be required to be stored off the service premises. Wherever confidential information is stored, it is important that it is not accessible to unauthorised staff or other persons. When confidential information is required to be taken off-site (e.g. on excursions, a list of children with medical conditions and contact numbers will be required), consideration must be given to how this is transported and stored securely.
- *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. Collection processes (Privacy Principle 1)

1.1 Type of personal and health information to be collected

BKS as the Approved Provider will only collect the information needed, and for which there is a purpose that is legitimate and related to its 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.

BKS as the Approved Provider 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 BKS services, 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 BKS as the Approved Provider 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. BKS 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 BKS to deny access in accordance with the limited reasons for denial that are contained in the legislation (refer to Privacy Principle 6.1).

1.3 Anonymity (Privacy Principle 8)

Wherever it is lawful and practicable, individuals will have the option of not identifying themselves when entering into transactions with BKS.

¹ *Information Privacy Act 2000*

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

2.1 Use of information

BKS as the Approved Provider will use personal information collected for the primary purpose of collection (refer to the table below). BKS 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 BKS will use personal and health, (including sensitive) information include:
Children and parents/guardians	<ul style="list-style-type: none"> • To enable BKS services to provide for the education and care of the child attending the service • To promote BKS services (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 • 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 • Promoting BKS services through external media, including the BKS website • BKS as the Approved Provider, will delegate to educators at the service: <ul style="list-style-type: none"> • Duty Rosters • Visual Displays • Newsletters
The BKS Board	<ul style="list-style-type: none"> • For the management of the service 	<ul style="list-style-type: none"> • For communication with, and between, the Executive Director as representative of the Approved Provider, other Board members, employees and members of the association • To satisfy BKS’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 BKS services through external media, including BKS’s website

2.2 Disclosure of personal information, including health information

BKS may disclose some personal information held about an individual to:

- government departments or agencies, as part of its legal and funding obligations
- local government authorities, in relation to enrolment details for planning purposes
- organisations providing services related to staff entitlements and employment
- insurance providers, in relation to specific claims or for obtaining cover
- law enforcement agencies
- health organisations and/or families in circumstances where the person requires urgent medical assistance and is incapable of giving permission
- anyone to whom the individual authorises the service to disclose information.

2.3 Disclosure of sensitive information (Privacy Principle 10)

Sensitive information (refer to *Definitions*) will be used and disclosed only for the purpose for which it was collected or a directly related secondary purpose, unless the individual agrees otherwise, or where the use or disclosure of this sensitive information is allowed by law.

3. Storage and security of personal information (Privacy Principle 4)

In order to protect the personal information from misuse, loss, unauthorised access, modification or disclosure, BKS as the Approved Provider and staff will ensure that, in relation to personal information:

- access will be limited to authorised staff, BKS, or other individuals who require this information in order to fulfil their responsibilities and duties
- information will not be left in areas that allow unauthorised access to that information
- all materials will be physically stored in a secure cabinet or area
- computerised records containing personal or health information will be stored safely and secured with a password for access
- there is security in transmission of the information via email, fax or telephone, as detailed below:
 1. emails will only be sent to a person authorised to receive the information
 2. faxes will only be sent to a secure fax, which does not allow unauthorised access
 3. telephone – limited and necessary personal information will be provided over the telephone to persons authorised to receive that information
 - transfer of information interstate and overseas will only occur with the written permission of the person concerned or their parents/guardians.

4. Data quality (Privacy Principle 3)

BKS will endeavour to ensure that the personal information it holds is accurate, complete, up to date and relevant to its functions and/or activities.

5. Disposal of information

Personal information will not be stored any longer than necessary.

In disposing of personal information, those with authorised access to the information will ensure that it is either shredded or destroyed in such a way that the information is no longer accessible.

6. Access to personal information (Privacy Principle 6)

6.1 Access to information and updating personal information

Individuals have the right to ask for access to personal information BKS services hold about them without providing a reason for requesting access.

Under the privacy legislation, an individual has the right to:

- request access to personal information that BKS services hold about them
- access this information
- make corrections if they consider the data is not accurate, complete or up to date.

There are some exceptions set out in the *Information Privacy Act 2000*, where access may be denied in part or in total. Examples of some exemptions are where:

- the request is frivolous or vexatious
- providing access would have an unreasonable impact on the privacy of other individuals
- providing access would pose a serious threat to the life or health of any person
- BKS is involved in the detection, investigation or remedying of serious improper conduct and providing access would prejudice that.

6.2 Process for considering access requests

A person may seek access, to view or update their personal or health information:

- if it relates to their child, by contacting the Nominated Supervisor
- for all other requests, by contacting BKS as the Approved Provider.

Personal information may be accessed in the following way:

- view and inspect the information
- take notes
- obtain a copy.

Individuals requiring access to, or updating of, personal information should nominate the type of access required and specify, if possible, what information is required. BKS as the Approved Provider will endeavour to respond to this request within 45 days of receiving the request.

BKS as the Approved Provider will provide access in line with the privacy legislation. If the requested information cannot be provided, the reasons for denying access will be given in writing to the person requesting the information.

In accordance with the legislation, BKS reserves the right to charge for information provided in order to cover the costs involved in providing that information.

The privacy legislation also provides an individual about whom information is held by BKS services, the right to request the correction of information that is held. BKS will respond to the request within 45 days of receiving the request for correction. If the individual is able to establish to BKS's satisfaction that the information held is incorrect, BKS will endeavour to correct the information.

ATTACHMENT 3

BKS Privacy Statement

We believe your privacy is important.

BKS has developed a *Privacy and Confidentiality Policy* that illustrates how we collect, use, disclose, manage and transfer personal information, including health information. This policy is available on our website.

To ensure ongoing funding and licensing, our services are required to comply with the requirements of privacy legislation in relation to the collection and use of personal information. If we need to collect health information, our procedures are subject to the *Health Records Act 2001*.

Purpose for which information is collected

The reasons for which we generally collect personal information are given in the table below.

Personal information and health information collected in relation to:	Primary purpose for which information will be used:
Children and parents/guardians	<ul style="list-style-type: none">• To enable us to provide for the education and care of the child attending the services• To manage and administer the services as required
BKS Board	<ul style="list-style-type: none">• For the management of the services• To comply with relevant legislation requirements
Job applicants, employees, contractors, volunteers and students	<ul style="list-style-type: none">• To assess and (if necessary) to engage employees, contractors, volunteers or students• To administer the individual's employment, contracts or placement of students and volunteers

Please note that under relevant privacy legislation, other uses and disclosures of personal information may be permitted, as set out in that legislation.

Disclosure of personal information, including health information

Some personal information, including health information, held about an individual may be disclosed to:

- government departments or agencies, as part of our legal and funding obligations
- local government authorities, for planning purposes
- organisations providing services related to employee entitlements and employment
- insurance providers, in relation to specific claims or for obtaining cover
- law enforcement agencies
- health organisations and/or families in circumstances where the person requires urgent medical assistance and is incapable of giving permission
- anyone to whom the individual authorises us to disclose information.

Laws that require us to collect specific information

The *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*, *Associations Incorporation Act 1981* and employment-related laws and agreements require us to collect specific information about individuals from time-to-time. Failure to provide the required information could affect:

- a child's enrolment at the service
- a person's employment with the service
- the ability to function as an incorporated association.

Access to information

Individuals about whom we hold personal or health information are able to gain access to this information in accordance with applicable legislation. The procedure for doing this is set out in our *Privacy and Confidentiality Policy*, which is available on the website.

For information on the *Privacy and Confidentiality Policy*, please refer to the copy available at the service or contact BKS as the Approved Provider.

ATTACHMENT 4

Permission form for photographs and videos

Background information

Photographs and videos are now classified as ‘personal information’ under the *Information Privacy Act 2000*.

The purpose of this permission form is to:

- comply with the privacy legislation in relation to all photographs/videos taken at a BKS service, whether by BKS as the Approved Provider, Nominated Supervisor, Certified Supervisor, educators, staff, parents/guardians, volunteers or students on placement
- enable photographs/videos of children to be taken as part of the program delivered by a BKS service, whether group photos, videos or photos at special events and excursions etc.
- notify parents/guardians as to who will be permitted to take photographs/videos, where these will be taken and how they will be used.

Photographs/videos taken by staff

Staff at a BKS service may take photographs/videos of children as part of the program. These may be displayed at the service, on the BKS website or placed in BKS’s publications or promotional material to promote BKS services, or for any other purpose aligned to BKS’s business operations. Some staff may use learning journals in which photographs are included.

When the photographs/videos are no longer being used, BKS services will destroy them if they are no longer required, or otherwise store them securely. It is important to note that while a BKS service can nominate the use and disposal of photographs they organise, the service has no control over those photographs taken by parents/guardians of children attending the program or activities of a BKS service.

Group photographs/videos taken by parents/guardians

Parents/guardians may take group photographs/videos of their own child/children at special service events such as birthdays, excursions and other activities. Parents must ensure that where the photographs/videos include other children at the service they are sensitive to and respectful of the privacy of those children and families in using and disposing of the photographs/videos. It is requested that these are not posted on social media without the consent of the children’s parents.

Photographs taken by a photographer engaged by the service

A photographer may be engaged by BKS services to take individual and/or group photographs of children. Information will be provided in written form to parents/guardians prior to the event, and will include the date and the photographer’s details.

Photographs/videos for use in newspapers, BKS website and other external publications

The permission of parents/guardians of children will, on every occasion, be obtained prior to a child’s photograph being taken to appear in any newspaper/media or external publication, including the BKS’s newsletter, publications and website.

Photographs/videos taken by students on placement

Students at BKS services may take photographs/videos of children as part of their placement requirements.

Access to photographs/videos

Access to any photographs or videos, like other personal information, is set out in BKS’s *Privacy and Confidentiality Policy*, which is available on the website.

Confirmation of consent

I consent/do not consent to the arrangements for the use of photographs and/or videos, as stated in this permission form.

Parent's/guardian's name

Child's name

Signature (parent/guardian)

Date

ATTACHMENT 5: SPECIAL PERMISSION NOTICE FOR PUBLICATIONS/MEDIA

Use of photographs, digital recordings, film or video footage of children in media, social media, newspapers and publications, including any service publication or media outlet

[Date]

Dear [insert name of parent/guardian],

The purpose of this letter is to obtain permission for your child to be photographed or filmed by [insert name of the organisation/individual taking the photograph or filming the child] and for your child's photograph, digital recording, film or video footage to appear in [insert name of the newspaper, publication (including the service's publication) or media outlet where it will be displayed].

I, _____, consent/do not consent to my child

_____ (name of child)

being photographed or filmed by [insert name of the organisation/individual taking the photograph or filming the child] and for my child's photograph, digital recording, film or video footage to appear in the following publication and/or media outlet:

[insert name of the newspaper, publication (including the service's publication) or media outlet where it will be displayed].

Signature (parent/guardian)

Date