



ATTACHMENT 1

Record keeping and privacy laws

Early childhood services must ensure that their processes for the collection, storage, use, disclosure and disposal of personal, sensitive and health information meet the requirements of the appropriate privacy legislation and the *Health Records Act 2001*.

The following are examples of records 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 classified as personal, sensitive and health 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 nominated supervisor/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.
- **Medication records and incident, injury, trauma and illness records:** Regulations 87 and 92 of the *Education and Care Services National Regulations 2011* require the approved provider of a service to maintain incident, injury, trauma and illness records, and medication records which contain personal and health 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 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.
- **Electronic records:** It is important that electronic records containing personal, sensitive or health information are stored in password protect folders or software platforms and can only be accessed by authorised personnel. Services need to incorporate risk management measures to ensure that passwords are recorded and stored in a secure folder at the service, and to limit access to the information only to other authorised persons. (refer to the Information Communication 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.
- **Retention of records:**
 - records relating to an incident, illness, injury or trauma suffered by a child while at the service, until the child is aged 25 years
 - records relating to an incident, illness, injury or trauma suffered by a child that may have occurred following an incident while at the service, until the child is aged 25 years
 - records relating to the death of a child while at the service, until the end of 7 years after the death
 - and other records relating to a child enrolled at the service, until the end of 3 years after the last day on which the child attended the service

- records relating to the approved provider, until the end of 3 years after the last date on which the approved provider records relating to a nominated supervisor or staff member of an education and care service, until the end of 3 years after the last date on which the nominated supervisor or staff member provided education at the service
- any other records, until the end of 3 years after the date on which the record was made.