

Record Keeping & Confidentiality Policy

Policy Statement & Commitments

Brunswick East Primary School Outside School Hours Care Service (BEPS OSHC Service) believes that your privacy is important, and we are committed to full compliance with our obligations under Victorian Legislation. Therefore, the information collected under our Commonwealth obligations, in terms of its nature, storage and principles of access, is subject to the *Privacy and Data Protection Act 2014 (Vic)* along with the *Health Records 2001 Act (Vic)*. The Office of the Commissioner for Privacy website provides general information on these legislative instruments: <https://www.cdpd.vic.gov.au/>

All the information BEPS OSHC Service collects is essential in helping it provide a high level of individual care for each child, and also to enable the processing of payments. Some of the information we collect is to satisfy our legal obligation under the Education and Care Services National Law, including the maintenance of staff records. Information will not be disclosed to those not associated with BEPS OSHC Service including its educators, families and children, unless with written consent, or unless required to meet legislative requirements. This may include an inspection of the records or providing copies of information.

BEPS OSHC Service is committed to:

- ensuring the responsible and transparent collection and handling of health and personal information
- protecting the privacy of each individual's health and personal information
- ensuring that the information kept about staff, families and children is accurate, complete and up to date
- taking reasonable steps to protect this information from misuse or loss and from unauthorised access or disclosure
- ensuring individuals are fully informed regarding the collection, storage, use and disposal of their personal or health information and their access to that information
- obtaining written approval from a parent, if a student needs to gather certain information about a child or family for their study requirements
- ensuring that ALL management and staff at BEPS OSHC Service actively implement this policy.

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This policy will provide guidelines for the collection, use, storage, access and disposal of personal information, including photos and videos, and health information; ensure that all records and information about individual children, families, educators and management are in a secure place and are only accessed by or disclosed to those people who need the information to fulfil their responsibilities at BEPS OSHC Service, or by people who have a legal right to know; and provide a process to manage the confidentiality of information that ensures the privacy of families and educators in compliance with legislative obligations.

This policy applies to the School Council, OSHC Management Sub-committee, OSHC Coordinator/s, educators, volunteers, students, ancillary staff (such as the bookkeeper) and the families and users of BEPS OSHC Service.

Media Enquiries & Requests

All media releases and announcements are to be made by and/or approved by the School Principal, who may delegate responsibility to the OSHC Coordinator. All educators contacted by the media must inform the OSHC Coordinator as soon as possible.

General Guidelines

Records and information held by BEPS OSHC Service are:

- stored appropriately to ensure confidentiality
- available from the service
- maintained in accordance with legislative requirements.

BEPS OSHC Service adopt the following principles for handling personal information based on the *Privacy and Data Protection Act 2014 (Vic)*:

- Collection of information will be lawful and fair.
- People will be told why information is collected, and collected with their consent.
- People will have access to their own records.
- Use of personal information will be relevant to the Service.

Information that is kept in a record as required by the *Education and Care Services National Regulations (2011)* will not be communicated (either directly or indirectly) with anyone other than:

- educators who require the information for the education and care of the child
- medical personnel who require the information for medical treatment of the child
- the parent/guardian of the child that the record relates to (except for an educator's record)

Approved	May 2017	Review date:	October 2018
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- the regulatory authority or an authorised officer.

Information may be communicated in other circumstances, such as:

- if authorised or required under any Act or Law
- if the person who provided the information gives written permission (for example, a parent may give written permission for BEPS OSHC Service to share information about their child with a support agency such as Inclusion Support).

Definitions

Personal information – This means information or an opinion (including information or an opinion forming part of a data base), that is recorded in any form including photos and videos and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion. Personal information can be any information linked to an individual such as their name, address, sex, age, financial details, marital status, education, criminal record or employment history, but does not include information to which the *Health Records Act 2001* applies.

Health information – This refers to any information or an opinion about the physical, mental or psychological health (at any time) of an individual, a disability (at any time) of an individual. The *Health Records Act 2001* defines 'Health Information' as including information or opinion about a person's physical, mental or psychological health or disability that is also classified as personal information. This includes information or opinion about a person's health status, medical history, fitness levels and vital statistics, such as weight and height.

Sensitive information – Applied under the *Privacy and Data Protection Act 2014*, this means 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 preferences or practices, criminal record, that is also personal information.

Unique identifier – This means an identifier (usually a number) assigned by an organisation to an individual in order to uniquely identify that individual for the purposes of the operations of the organisation (e.g. Tax File Number).

Procedures for the Confidentiality of Records

All personal information about users of BEPS OSHC Service is stored in a locked filing cabinet in the administration office and on a computer that is accessible only to the OSHC Coordinator, Nominated Supervisor, and the OSHC Management Sub-committee.

Approved	May 2017	Review date:	October 2018
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In accordance with Regulation 181 of the *Education and Care Services National Regulations (2011)*, BEPS OSHC Service will ensure that information kept in a record under these Regulations is not divulged or communicated, directly or indirectly, to another person other than:

- to the extent necessary for the education and care or medical treatment of the child to whom the information relates
- a parent of the child to whom the information relates, except in the case of information kept in an educator’s record
- the Regulatory Authority or an authorised officer
- as expressly authorised, permitted or required to be given by or under any Act or Law
- with the written consent of the person who provided the information.

Procedures for the Collection of Records & Other Documents

Records will be kept in hard copy and/or electronic form, depending on the type of information and BEPS OSHC Service will ensure that they are accessible as required.

We will only collect the information we need, and for which we have a purpose that is legitimate and related to one of our functions or obligations.

Personal information provided by individuals, either in relation to themselves or their child using BEPS OSHC Service, is generally collected by way of signed forms filled out by individuals. On occasion this may occur via personal interviews and telephone calls, which may be documented.

When collecting personal information, BEPS OSHC Service will provide individuals, from whom we collect information, with a copy of our Policy on Record-keeping & Confidentiality Policy (this Policy).

The type of information we collect and hold includes, but is not limited to, personal information, including health information regarding:

- children and parents/guardians before 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, volunteers and contractors (the information is collected in order to manage the relationship and fulfill our legal obligations)
- School Council members and OSHC Management Sub-committee members
- other parties with which BEPS OSHC Service has contractual arrangements.

Procedures for the Use & Disclosure of Personal Information

BEPS OSHC will use the personal information collected for its primary purpose of collection. It may also use the information for such secondary purposes that are related to the primary purpose of collection and can be reasonably expected, or to which the individual concerned has consented.

Approved	May 2017	Review date:	October 2018
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From time to time we may be obliged to disclose some personal information held about an individual to:

- government departments or agencies as part of their legal and funding obligations
- local government in relation to enrolment details for planning purposes
- organisations providing services related to educators entitlements and employment
- insurance providers in relation to specific claims
- 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 BEPS OSHC Service to disclose information.

Procedures for the Security & Storage of Records & Other Documents

In order to protect the personal information from misuse, loss, unauthorised access, modification or disclosure, the School Council, OSHC Management Sub-committee, educators, staff, students and volunteers, will ensure that in relation to personal information:

- Access will be limited to those who require this information in order to do their jobs.
- Information will not be left in areas that allow for unauthorised access.
- The physical storage of all information will be in a secure cabinet in the administration office.
- Digital records containing personal or health information require password access.

There is additional security in transmission of information from BEPS OSHC:

- Emails will only be sent to a person authorised to receive this material.
- Faxes will only be sent to a secure fax that does not allow unauthorised access.
- Only limited 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 permission of the person concerned or their parent/guardian.

In accordance with Regulation 183 of the *Education and Care Services National Regulations (2011)*, BEPS OSHC Service will ensure that records and documents as set out in Regulation 177 of the *Education and Care Services National Regulations (2011)* are stored in a safe and secure place in the administration office; and for the relevant period set out in subregulation (2) of Regulation 177.

Approved	May 2017	Review date:	October 2018
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Procedures for Access to Records & Information

The only persons permitted to access staff, child and family records or the enrolment files are:

- the parent/legal guardian of the child concerned
- BEPS OSHC Service employees (where appropriate)
- authorised officers from the Department of Education and Training
- authorised officers from the Australian Government Department of Education.

Individuals have the right to ask for access to personal information held about them without providing a reason for requesting access. Access will be granted in accordance with the relevant legislation. Please note that the legislation allows BEPS OSHC Service to deny access, in accordance with the limited reasons for denial that are contained in the legislation.

Personal information may be accessed in the following way:

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

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

- ask for access to personal information that BEPS OSHC Service holds about them
- access this information
- make corrections if they consider the data is not accurate, complete or up to date.

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

- if it relates to action on behalf of their child, by contacting the OSHC Coordinator
- for all other requests, by contacting the OSHC Coordinator, OSHC Management Subcommittee or the School Council.

There are some exceptions set out in the legislation where access may be denied in part or in total. Examples of some of the exemptions are:

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

Requests for access, or to update personal information, should nominate the type of access

Approved	May 2017	Review date:	October 2018
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required, specifying, where possible, what information they seek. No reason is required in relation to why the request is made. The person seeking information, if the employee, School Council member or OSHC Management Sub-committee member does not know them, must provide photo identification.

The OSHC Coordinator, School Council member or OSHC Management Sub-Committee member receiving the request will record the request and the date received. Each request will be acknowledged within 14 days, but preferably within two working days. Requests will be complied within 30 days. However, there could be a delay in responding if the timeline occurs over a period when the BEPS OSHC Service is closed.

The OSHC Coordinator, School Council member or OSHC Management Sub-committee member will provide access in line with the privacy legislation. If the requested information is not given, the reasons for denied access will be given in writing to the person requesting the information.

In accordance with the legislation, BEPS OSHC Service reserves the right to charge for information provided, in order to cover the costs involved in providing the information, if necessary.

Personal information, including health information, is not given to others without authorised written consent.

Procedures for the Collection & Access to Information about Educators & Staff

BEPS OSHC Service will adopt the following principles for the collection of and access to information about educators:

- Information about educators collected by BEPS OSHC Service will be essential for management of human resources.
- Information about educators collected by BEPS OSHC Service will be essential for meeting industrial obligations.
- Employees may request for information not to be shared with other educators or members of the School Council.
- Personal information that is collected during employment opportunity processes for educators, who do not subsequently become BEPS OSHC Service employees, is destroyed.
- When families cease enrolment at BEPS OSHC Service, information is kept for the statutory period pertaining to that record only. All other recorded information is destroyed, once it is no longer required.
- Educator’s records will be maintained in compliance with the National Law, and stored securely in the administration office.

BEPS OSHC Service collects information from educators from a personal **unique identifier** assigned by the Australian Government to the employee for the purposes of the operations of the Australian Tax Office in the form of a **Tax File Number** for all employees related to the deduction and

Approved	May 2017	Review date:	October 2018
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forwarding of tax to the Australian Tax Office. Failure to provide this would result in maximum tax being deducted.

Procedures for the Collection of & Access to Information about Children & Families

BEPS OSHC Service adopts the following principles for the collection of and access to information about children and families:

- Information about children collected by BEPS OSHC Service will be essential to providing a high level of individual care for each child.
- Information about families collected by BEPS OSHC Service will be essential to enabling the processing of payments.

Information about children/families is not given to others without the written consent of parents or legal guardians. The only persons permitted to access children’s records or the enrolment files are:

- the parent/legal guardian and BEPS OSHC Service employees (where appropriate)
- authorised officers of the Victorian Government Department of Education & Training
- authorised officers of the Australian Government Department of Education.

Procedures for the Confidentiality of Family Assistance Payments

Child Care Benefit (CCB) assessment notices, enrolment forms, attendance sheets, attendance amendments, payment sheets and medical certificates will be kept in the office.

Information regarding CCB and fees is kept in a locked area and is only accessible to:

- the OSHC Coordinator and Assistant Coordinator
- officers of the Australian Government Department of Education during compliance checks.

BEPS OSHC Service collects information from families from personal **unique identifiers** assigned by the Australian Government to the family for the purposes of the operations of the Family Assistance Office in the form of a **Customer Reference Number (CRN)** for children and families attending child-care services in order for them to access CCB. Failure to provide this would result in the parents/guardian not obtaining CCB.

Procedures for Photography & Video of Children

BEPS OSHC Service adopts the following principles for protecting children and families in digital imaging at the service:

Approved	May 2017	Review date:	October 2018
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- All photographing and/or videoing of the children will only be allowed with written permission from the parent/guardian and remain the property of BEPS OSHC Service.
- Permission is required for all photographs and videos of children used by BEPS OSHC Service, for the purposes of sharing information with families about their child’s wellbeing, learning and development, and for pedagogical purposes.
- Permission is required if photographs and videos are used for publicity or promotions for BEPS OSHC Service.
- Photographs and videos of the children will remain the property of the Service.
- Photographs will be used and displayed at BEPS OSHC Service only, unless written permission has been obtained from the family to do otherwise.
- Photographs and videos will not be used for private or personal use.
- A personal camera may only be used if BEPS OSHC Service does not have a camera, or in the instance of flat batteries. All photographs and videos will remain the property of BEPS OSHC Service.
- Families may request copies of photographs and videos; an administration fee may apply.

Procedures for Confidential Conversations

All personal information about educators, children and their families is to be confidential to BEPS OSHC Service. In practice, this means that some information can be discussed between educators and the OSHC Coordinator, or between the OSHC Coordinator, educators and children’s families.

- Confidential conversations that educators have with a parent/guardian/family, or that the OSHC Coordinator has with other educators, will be conducted quietly away from other children and families.
- Educators, including students and volunteers, will not disclose to other families the names of children who have caused injury to other children while at BEPS OSHC Service.
- Educators will treat as confidential any information gained about a family’s private circumstances. Such information is only shared with other educators when it is in the best interests of that family/child that circumstances or strategies be more widely communicated.
- Families have the right to withhold any information that they feel is not relevant to BEPS OSHC Service and the complete care of their child.
- Interviews will take place in private where appropriate.
- The OSHC Coordinator will be available for confidential conversations/interviews in a space away from other educators, children and families or visitors to the Service.

Approved	May 2017	Review date:	October 2018
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Procedures for the Disposal of Information

BEPS OSHC Service will not store personal information longer than necessary. It will ensure that when personal information is disposed of, it will be either shredded or destroyed in such a way that no one can access the information.

- When children and families leave BEPS OSHC Service, information is kept for the statutory period. All other recorded information is destroyed, when it is no longer required.
- Children’s wellbeing, learning and development records will be kept for one year after they have exited from BEPS OSHC Service, and will then be destroyed. Educators may choose to keep the records of some children for longer, if deemed appropriate.
- Personal information collected during the interview/enquiry process, for people who do not subsequently become BEPS OSHC Service users, is destroyed.

Confidentiality and the OSHC Management Sub-committee of School Council

At times, the OSHC Coordinator or Chairperson of the OSHC Management Sub-committee may deem it necessary for its members to be privy to personal information about a child or family using BEPS OSHC Service. A decision to disclose such information is not taken lightly and is done so on the basis of confidentiality.

Given the nature of the community management structure at BEPS OSHC Service and the personal relationships that can develop between children and families, BEPS OSHC Service acknowledges that there may be occasions where the child or family whose personal information is being disclosed has a relationship/friendship with a member of the OSHC Management Sub-Committee or School Council.

In circumstances where a member of the OSHC Management Sub-committee or School Council feels compromised by the disclosure of such information, they are encouraged to temporarily absent themselves from the discussion or meeting.

Members of the OSHC Management Sub-committee and School Council have a legal and moral responsibility not to disclose any personal information they might obtain in the course of their duties. Any breach of this policy jeopardises the confidence that users of BEPS OSHC Service have in the education and care service being provided.

BEPS OSHC Service will adhere to all confidentiality guidelines except where it involves:

- serious and/or illegal action on the part of BEPS OSHC Service users
- any issue that could endanger the safety of other BEPS OSHC Service users, including educators, students and volunteers, or children and/or their families

Approved	May 2017	Review date:	October 2018
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- any issue where the OSHC Coordinator or educators are obliged by moral obligation or law to disclose the information.

This policy should be read in conjunction with:

General Service Information Policy
Confidentiality Statement
Partnerships with Families

Sources & Legislative References

Australian Government Department of Education, Employment and Workplace Relations 2009, *The National Quality Standard for Education and Care and School Age Care*, Australian Government, Canberra.

Australian Government Department of Education, Employment and Workplace Relations 2012, *Child Care Service Handbook 2012–2013*, Australian Government, Canberra.

National Professional Support Coordinator Alliance 2012, *Getting started with policies for the NQF: Policies in Practice template – Confidentiality/Privacy* www.pscalliance.org.au

National Professional Support Coordinator Alliance 2012, *Getting started with policies for the NQF: Policies in Practice template – Records Management*, www.pscalliance.org.au

Office of the Victorian Privacy and Data Protection Commissioner www.cdp.gov.au

Health Services Commissioner <http://www2.health.vic.gov.au>

Community Childcare Association Inc: www.cccinc.org.au

<i>DEEWR Child Care Service Handbook 2011–2012 – Sections 4.9 & 5.5</i>
<i>Education & Care Services National Regulations (2011) – Regulations 168 (2)(l), 181 183</i>
<i>National Quality Standard for Early Childhood Education and Care & School Age Care (2010) – Standard 7.3; Element 7.3.1 & 7.3.5</i>
<i>Privacy and Data Protection Act 2014 (Vic) – Information Privacy</i>
<i>A new Tax System Act 2000 (Cwlth) – Family Assistance Administration</i>
<i>Privacy Act 1988 (Cwlth) – Australian Privacy Principles</i>
<i>Health Records Act 2001 (Vic) – Health Privacy Principles</i>

Approved	May 2017	Review date:	October 2018
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