



PENNANT HILLS WAR MEMORIAL CHILDREN'S CENTRE

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PENNANT HILLS WAR MEMORIAL CHILDREN'S CENTRE (PHWMCC) PRIVACY & CONFIDENTIALITY POLICY

Introduction

Privacy is acknowledged as a fundamental human right. PHWMCC has an ethical and legal responsibility to protect the privacy and confidentiality of children, individuals and families as outlined in the *Privacy Act 1988 (Cth)*. The right to privacy of all children, their families, and team members of PHWMCC will be upheld and respected, whilst ensuring that all children have access to high quality early education and care. All staff will maintain confidentiality of personal and sensitive information to foster positive trusting relationships with families.

PHWMCC requires personal information from families to provide appropriate and responsive care and education. This policy has been developed to comply with the Australian Privacy Principles (APPs), under the *Privacy Act 1988 (Cth)* and pursues the highest standard in the protection and preservation of privacy and confidentiality.

Each family, staff, volunteer, student and committee member is provided with a *PHWMCC Privacy Collection Statement* upon enrolment or commencement of employment. This statement outlines the type of personal information collected by PHWMCC and how information is acquired, used and shared.

Aim

PHWMCC will maintain private and confidential files for educators, staff, children and their families. We will develop systems for the appropriate use, storage and disposal of records.

PHWMCC will ensure the information in these files is used only for the education and care of the child enrolled in the service, and only shared with relevant or authorised people as defined within authorisations of the *Education and Care Services National Law Act 2010* and *Education and Care Services National Regulations (2011 SI 653)*.

Legislative context

Under the *Education and Care Services National Law Act 2010* section 263, Early Childhood Services are required to comply with Australian privacy law which includes the *Privacy Act (1988)* aimed at protecting the privacy of individuals. Schedule 1 of the *Privacy Act (1988)* includes 13 Australian Privacy Principles (APPs) which all services are required to apply. The APPs set out the standards, rights and legal obligations in relation to collecting, handling, holding and accessing personal information. A breach of an Australian Privacy Principle is viewed as an 'interference with the privacy of an individual' and can lead to regulatory action and penalties.

Notifiable Data Breaches

The Notifiable Data Breaches (NDB) scheme requires all businesses regulated by the Privacy Act (including education and 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 (ie. data leaks) that are “likely” to result in “serious harm.”

- Should there be a NDB at our service, 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 significant fine.
- 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 via the below online form:

<https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=OAIC-NDB&tmFormVersion>

Procedure

PHWMCC aims to meet these goals through the adoption of this specific Privacy and Confidentiality policy and the *PHWMCC Privacy Collection Statement* which will guide our practices in this area.

The Approved Provider will:

- Ensure PHWMCC acts in accordance with the requirements of the *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 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 collected by the Service to ensure protection of personal information from unauthorised access.
- Provide PHWMCC staff with relevant information regarding changes to Australian privacy law and PHWMCC policy's.
- Ensure all relevant staff understand the requirements under Australia's privacy law and Notifiable Data Breaches (NDB) scheme.
- 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*.
- Regularly back-up personal and sensitive data from computers to protect personal information collected.
- Ensure all computers are password protected and install security software- antivirus protection.
- 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 *PHWMCC Complaints Handling Policy* and procedures.
- Ensure families only have access to the files and records of their own children.
- Ensure individual 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.

Collection of Information

- Ensure that each family, staff, volunteer, student and committee member is provided with a *PHWMCC Privacy Collection Statement* upon enrolment, that includes details about how they can access their personal information, have this corrected as needed, and make a complaint about a breach of privacy, if one occurs. This can also be accessed on our website at www.phwmcc.org.au
- Ensure information pertaining to each staff member, committee member, volunteer and student is correct in personnel and other files. This includes information on qualifications, working with children checks or equivalent, criminal history checks, staff entitlements, contact and emergency information, health and immunisation information, and any relevant medical and legal information. This would include any other relevant information collected by PWHMCC.
- 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 (2011 SI 653)* s181, 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;
 - 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 the appropriate and permitted use of images of children. Ensure families are informed upon enrolment how images/photographs of their children will be used on the Internet and/or publications and gain written approval prior to collection and publication.
- Provide families with information on the *PHWMCC Complaints Handling Policy* if any privacy or confidentiality procedure has been breached. Individuals can make a complaint to the Approved Provider if they believe there has been a breach of their privacy in relation to the Australian Privacy Principles. 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 *PHWMCC Complaints Management Policy*.
- Ensure information provided by families, staff and committee members is only used for the purpose it was collected for.

The Nominated Supervisor will:

- 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 PWHMCC. This would include any information required to be recorded under the *Education and Care National Law and Regulations*, the *Family Assistance Law* other relevant information collected to support the enrolment of a child.
- Ensure that information given to staff will be treated with respect and in a confidential and professional manner.
- Ensure that information shared with us by the family will be treated as confidential unless told otherwise.
- Adhere to PWHMCC's policies and procedures at all times.

- Ensure staff, volunteers, and families are aware of the *PHWMCC Privacy and Confidentiality Policy*.
- Ensure PHWMCC obtains written 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.
- Not discuss individual children with people other than the family of that child, except for the purposes of curriculum planning or group management.
- Provide families with details on the collection of personal information collected via the *PHWMCC Privacy Collection Statement*.

Information in the *PHWMCC Privacy Collection Statement* 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

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

What we collect

The Privacy Act defines personal information as “Information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a. whether the information or opinion is true or not
- b. whether the information or opinion is recorded in material form or not”

The types of personal information we collect for children and families includes but is not limited to:

- name, date of birth (date of birth is verified by receiving the Australian Immunisation History Statement)
- contact information such as home address, phone numbers and email address
- immunisation records of children, Medicare number,
- personal information including age, cultural background, languages spoken, family and lifestyle information
- details of any Court Orders, Parenting Orders or Parenting Plans relating to parenting arrangements or contact arrangements with the child
- family violence intervention orders that relate to conditions made to protect children’s safety, welfare or wellbeing
- information regarding any medical conditions, and any additional needs. This may include health care professionals reports, medical management plans, medication a child may be taking, and developmental assessments.
- any person over the age of 16 who is authorised to collect the child, along with their contact details
- any practical support the child may require eg sleep habits or toileting support required by the child
- financial information such as bank account and credit card details (only on an as needed basis)

- photos, images and written records of children to use at PHWMCC to document children's learning and development and to display at PHWMCC.

The type of information we collect for PHWMCC employees include:

- bank account details
- Tax File number
- superannuation account details
- address, phone number and email address
- date of birth
- salary information
- medical details
- worker's compensation claim information
- performance review documents
- copies of qualifications, working with children checks, certificates from professional development

Association Members who become members of the PHWMCC Management Committee need to provide identity documents such as driver's license, working with children check, criminal history check, and other documents required to become an Approved Provider.

PHWMCC will also collect and hold information about students, volunteers, job applicants, contractors and other people who come into contact with PHWMCC.

PHWMCC only collects personal information when individuals specifically and knowingly elect to provide this, such as when individuals enrol a child, pay fees or subscriptions, and provide health or family information to support the inclusion of a child.

CCTV

PHWMCC has installed CCTV cameras to monitor and record any trespassers after hours in the playground of the preschool. The cameras are set to record movement after hours on weekdays, and for 24 hours over the weekend. Video monitoring or surveillance equipment is not used to monitor children or staff during the preschool day. Cameras are clearly visible, and signs are located at each entrance stating that we are using a security monitoring device.

Method of collection

For children and families

Personal information will generally be collected by using our forms, over the internet, via email or written communication, or via a telephone conversation.

- *PHWMCC Waiting List Form*
- *PHWMCC Child and Family Information Form* upon enrolment
- Making observations of a child's learning and development
- Taking photographs or video recordings of a child
- Information provided directly by a parent or a person authorised to provide information on your behalf
- A third party eg a health provider who has treated your child, government agency, another early childhood service

For PHWMCC employees or others

Personal information will generally be collected by using our forms, over the internet, via email or written communication, or via a telephone conversation.

Purpose of collection

PWHMCC collects personal information of parents and guardians, children, employees and stakeholders for the primary purposes of providing early childhood education and care services to you or another organisation that we are working with to support you.

We collect information for the purposes of:

- Providing you with a service if you are a parent or employment if you are a staff member
- Building and conducting a supportive relationship with families and staff
- Complying with legal obligations
- Seeking funding in regard to education and care services
- Processing payments and refunds
- Ensuring children are safe and that any health concerns, medical conditions, developmental needs are managed
- Performing functions and operational processes
- Managing and resolving any complaints or issues
- Managing our risks
- Developing a learning profile of each child and clearly documenting the cycle of learning
- Receiving feedback

PHWMCC will not use or disclose personal information for any other purposes unless:

- Consent has been given by the individual or their legal guardian
- We are required by law and / or under the Privacy Act

Photographs and images of children obtained by PHWMCC will be used for observations, documentation of children's learning, communication with families, and in the classroom for the provision of a high quality education and care program. These images will not be made public unless individual consent has been given. If specific individual consent has been given by families, photos may be used on Facebook, on PHWMCC's website and in PHWMCC publications. If a child is unable to be identified in a photo, these may be used publicly without consent.

Children's and staff personal information including attendance patterns is submitted to the Department of Education in order to receive funding for the preschool. Families and staff sign a Department of Education *Consent to use and disclosure of personal information* form upon enrolment.

Storage of Information

PHWMCC will ensure that education and care service records, personnel records, and children's and families information is stored securely reducing the chance of unauthorised access, use or disclosure and remains private and confidential within the education and care environment at all times.

PHWMCC complies with the Payment Card Industry Data Security Standards (PCIDSS) when handling credit card transactions and securely stores all credit card information for Direct Debit or credit card payment/eftpos payments in accordance with *PHWMCC Financial Processes Policy*.

Personal information is stored in a safe and secure manner, using locked filing cabinets and in password protected computers and laptops with firewall and antivirus protection in place. Information is backed up electronically and stored on an encrypted device in an off-site location. Some information may at times be stored in a third party service provider, in accordance with the with the *Australian Privacy Act (1988)* and *Privacy Amendments (Enhancing Privacy Protection) Act (2012)*.

Hard copy information is stored at PHWMCC, which is secured to prevent entry by unauthorised people. Any personal information not actively being used may be archived and disposed of, in accordance with regulatory requirements.

Access to Information

PHWMCC will ensure that personal information is not divulged or communicated directly or indirectly to another person other than:

- Medical and developmental information that is required to adequately provide education and care for the child
- 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.

Individuals will be allowed access to their personal information as requested. Individuals must request this information in writing from the Nominated Supervisor. Authorised persons may request to view any information kept on their child.

Information may be denied under the following conditions:

- Access to information could compromise the privacy of another individual;
- The request for information is frivolous or vexatious; and
- The information relates to legal issues, or there are legal reasons not to divulge the information such as in cases of custody and legal guardianship.

Individuals may ask to access, update or delete personal information held about them at any time. An individual's identity will be verified before granting access, making any corrections to, or deleting information.

Individuals requiring access to, or wanting to update personal information, can contact PHWMCC on (02) 9484 1133 or phwmcc@inet.net.au.

Third Party Servers

We may include or offer third party products or services as part of our delivery of early childhood education and care services. Where third parties are used to store or handle sensitive or confidential information, a risk assessment will be undertaken prior to engaging with a third party and this will be used to inform decision making and identify necessary risk mitigation measures. Where confidential information may be handled, third party products that require Two-Factor Authentication to access data will be sought. Third parties have separate and independent privacy policies. We will only disclose personal and confidential information to third parties with parental permission. We will take measures to ensure that third party providers delete all information when we no longer require this information to be stored with the third party, or as soon as is practicable upon request. We will take all reasonable steps to ensure third party providers and their subcontractors are compliant with the Australian *Privacy Act (1988)* and *Privacy Amendments (Enhancing Privacy Protection) Act (2012)*. Any third party privacy policies are available on request should you require more information.

When utilising third party providers, some of your information may be stored on servers outside of Australia. We will take all reasonable steps to ensure that these providers and their subcontractors are compliant with Australian privacy legislation.

The PHWMCC has no control over and assume no responsibility for the content, privacy policies, or practices of any third-party services.

The PHWMCC webpage (<https://phwmcc.org.au/live/>) may contain links to other sites. If you click on a third-party link, you will be directed to that site. Note that these external sites are not operated by us. Therefore, we strongly advise you to review the Privacy Policy of these websites. We have no control over and assume no responsibility for the content, privacy policies, or practices of any third-party sites or services.

Anonymity

Wherever appropriate we will give individuals the option of remaining anonymous when communicating with PHWMCC. This is most relevant when information is collected via surveys or through our suggestion box. If information that is collected identifies an individual, we will de-identify it before using it.

Feedback

PHWMCC is committed to providing an open, transparent and responsive service. If you are a parent or staff member and have any concerns about how your personal information is being handled, please contact the Director or Management Committee.

Complaints or concerns

If you are dissatisfied with the way your personal information has been managed by PHWMCC and wish to make a complaint about a breach of privacy please go through our complaints procedure as outlined in the *PHWMCC Complaints Handling Policy*.

The first step is to lodge your complaint in writing to the Management Committee of PHWMCC.

3-7 Shields Lane
Pennant Hills
phwmcc@inet.net.au

All complaints are responded to in a timely manner.

If your complaint remains unresolved you may take your complaint to the Office of the Australian Information Commissioner.

1300 363 992
enquiries@oaic.gov.au
www.oaic.gov.au

Maintenance of Records

PHWMCC will ensure records are maintained and archived as per the following table:

Records and documents required to be kept at the service (Regulation 183)			
Type of Record	Responsibility	Time Frame	Reference
Evidence of current public liability insurance. Note : Does not apply if the insurance is provided by a state or territory government.	Approved Provider	Available for inspection at service premises or family day care office	Regulations 29, 30, 180
Quality Improvement Plan	Approved Provider	Ongoing, to be revised annually	Regulations 31, 55, 56
Child assessments or evaluations for the delivery of the educational program	Approved Provider	Until the end of 3 years after the child's last attendance.	Regulations 74, 183, 177(1)(a)
Incident, injury, trauma and illness records	Approved Provider	Until the child is 25 years old	Regulations 87, 183, 177(1)(b)
Medication record	Approved Provider	Until the end of 3 years after the child's last attendance.	Regulations 92, 183, 177(1)(c)
Child attendance record	Approved Provider	Until the end of 3 years after the child's last attendance	Regulations 158, 183, 177(1)(k),
Child enrolment record	Approved Provider	Until the end of 3 years after the child's last attendance	Regulations 160, 183, 177(1)(l)
Death of a child while being educated and cared for by the service	Approved Provider	Until the end of 7 years after the death	Regulations 12, 183(2)(c)

Record of service's compliance history	Approved Provider	Until the end of 3 years after the Approved Provider operated the service	Regulation 167, 183(2)(e)
Records relating to child abuse that has, or is alleged to have occurred.	Approved Provider	45 years	
For centre based services only			
Staff record	Approved Provider	Until the end of 3 years after the staff member works for the service	Regulations 145, 183(2)(g)
Record of access to early childhood teachers	Approved Provider	Until the end of 3 years after the staff member works for the service	Regulation 152, 183(2)(f)
Record of educators working directly with children	Approved Provider	Until the end of 3 years after the staff member works for the service	Regulation 151, 183(2)(f)
Record of volunteers and students, contact details and days in attendance	Approved Provider	Until the end of 3 years after the volunteer or student attended the service	Regulations 149, 183(2)(f)
Record of responsible person in day-to-day charge including nominated supervisors placed in day-to-day charge	Approved Provider	Until the end of 3 years after the staff member works for the service	Section 162 Regulations 145, 150, 177

PHWMCC will also maintain records as below:

Keep for 5 years:

- WHS notifications, records, reports and risk assessments
- Staff Meeting minutes (or anything referring to WHS)

Keep for 7 years:

- Asset register

- Leasing documentation
- Grant and donation records
- Collection of fees
- Financial statements
- Budgets
- All other financial records e.g. receipts, bank statements, backups of computer finance data files
- Insurance policies and documents relating to insurance
- Documentation of Enterprise Agreements
- Centre policies (after they are no longer applicable)

Keep permanently:

- All child protection documentation
- Register of all records destroyed (?)
- Licensing documentation and Licenses
- Management Committee Meeting minutes

Destroy when child is no longer eligible for care at the preschool:

- Waiting list forms

Disposal of information

- Ensure records are maintained and archived as per *National Regulations* 181- 183.
- Ensure that personal information is destroyed by shredding when no longer needed or as mandated by law.
- Personal information will be removed from IT devices and all remote storage locations, including those held by third party service providers, when no longer required by regulatory or legislative requirements

Under the *Children (Education and Care Services) National Law (NSW) No 104a of 2010*, enrolment and other documents must, to the extent practicable, be kept at PHWMCC, if they relate to the operation of the service, any staff member or child.

Early Childhood Educators and Staff will:

- Maintain children's information and store documentation according to PHWMCC policies at all times.
- Not share information about PHWMCC, management information, other educators or children and families, without written permission or legislative authority.
- Not use or attempt to use any such information or materials in any manner, which may cause or be calculated to cause injury or loss to PHWMCC.
- In keeping with the Early Childhood Australia (ECA) *Code of Ethics* (2016), the *Education and Care Services National Regulations* and the Australian Privacy Principles, educators and staff employed by PHWMCC are 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 an employment contract as it relates to privacy and confidentiality of information.
- Ensure documented information and photographs of children are kept secure but may be accessed 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 and in a professional manner. Complete a Department of Education *Consent to use and disclosure of personal information* form.

Students and Volunteers will:

- Not share information about PHWMCC, management information, other educators or children and families, without written permission or legislative authority.
- Not use or attempt to use any such information or materials in any manner, which may cause or be calculated to cause injury or loss to PHWMCC.
- In keeping with the Early Childhood Australia (ECA) *Code of Ethics* (2016), the *Education and Care Services National Regulations* and the Australian Privacy Legislation, students and volunteers at PHWMCC are 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. Students and volunteers will sign an Induction Procedure form as it relates to privacy and confidentiality of information

Families will:

- Upon enrolment complete the *PHWMCC Child and Family Information Form* and keep PHWMCC updated when any information changes.
- Complete a Department of Education *Consent to use and disclosure of child's personal information* form.
- Read the *PHWMCC Privacy Collection Statement* upon enrolment at PHWMCC.

Monitoring, Evaluation and Review

This policy will be monitored to ensure compliance with legislative requirements and unless deemed necessary through the identification of practice gaps, the preschool will review this policy every three years.

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 preschool will ensure that families of children at the preschool 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 preschool; a family's ability to utilise the preschool; the fees charged or the way in which fees are collected.

Definitions

Regulatory Authority:	Early Childhood Education and Care Directorate
Approved Provider:	Pennant Hills War Memorial Children's Centre Management Committee
Nominated Supervisor:	Director of Pennant Hills War Memorial Children's Centre
Responsible Person:	Nominated Supervisor or an Educator who has been placed in day-to-day charge of the Preschool
Early Childhood Educators:	Teachers and Child Care Workers

Related Legislation

Education and Care Services National Law Act 2010
Children (Education and Care Services) National Law (NSW) No 104a of 2010
Education and Care Services National Regulations (2011 SI 653)
Children and Young Persons (Care and Protection) Act 1998 No 157
Privacy Act 1988 (Cth)
Australian Privacy Principles
Australian Child Protection Legislation
Work Health and Safety (WHS) Act 2011 No 10
Work Health and Safety (WHS) Regulation 2011

**Related Guidelines,
Standards, Frameworks**

National Quality Standard, Quality Area 7: Governance and Leadership
Australian Privacy Principles – www.oaic.gov.au

Sources

Community Early Learning Australia – Sample Privacy and Confidentiality Policy and Privacy Collection Statement
KU Privacy Policy
Aurum Kids Privacy Policy

Relevant Documents

Early Childhood Australia *Code of Ethics*
PHWMCC Acceptance and Refusal of Authorisations Policy
PHWMCC Child and Family Information Form
PHWMCC Complaints Handling Policy
PHWMCC IT Policy
PHWMCC Privacy Collection Statement
PHWMCC Providing a Child Safe Environment Policy
PHWMCC Financial Processes Policy
PHWMCC Fraud Policy
PHWMCC Governance Policy
PHWMCC Staff employment contracts
PHWMCC Staff Code of Conduct
PHWMCC Management Committee Code of conduct
PHWMCC Waiting List form
PHWMCC Volunteer and Student, and casual staff Induction Procedures

Policy Reviewed:

September 2023

Next Review Date:

September 2026