

Early Years Services – QA7.3 Confidentiality, Information Sharing and Storage of Records

TRIM Reference: D15/16337 Due for Review: 02 December 2023
Responsible Officer: Coordinator Early Years

Purpose

This policy outlines Surf Coast Shire Council's commitment to maintain appropriate confidentiality for all persons involved in Surf Coast Shire Council's Early Years Services. The Services are committed to protecting privacy of and conducting business with respect and integrity. It is important for the service to collect relevant personal information from families and for staff to maintain records of each child's individual development and enrolment. This policy ensures that information given to Surf Coast Shire Council Early Years Services staff/educators is used for the purposes of provision of the service or shared in accordance relevant legislation.

This policy ensures that services maintain and securely store all records as required under legislation, ensuring confidentiality of service users and ease of access to records by authorised persons. Regulatory, licensing and funding bodies require the retention and maintenance of records relating to service stakeholders and children. Documentation is also required when requests for information are made or received.

Policy Principles

Evidence of link to National Quality Standards: 6.1, 6.2, 6.3, 7.1, 7.2
Evidence of link to Education and Care Services National Law: 168(2) (l), 181-184
Evidence of link to Education and Care Services National Regulations: 177(l),
Victorian Children's Services Regulations 2020
Maternal and Child Health Service Program Standards 2009 (Amendment 2019)
Maternal and Child Health Service Program Guidelines 2019

Scope

Confidentiality, and Storage of Records: All Surf Coast Shire Council Early Years Services staff, students, formal volunteers, Family Day Care educators and children and families accessing Surf Coast Shire Council Early Years Services.

Information Sharing: Surf Coast Shire Maternal and Child Health Service staff and Kindergarten Teachers

Policy

Records, documentation and information is to be appropriately shared, maintained and stored in accordance with the following (as applicable):

- Surf Coast Shire Council MPP-005 - Privacy and Data Protection
- Freedom of Information Act 1982 Version 102, 2018
- Information Privacy Act 2014
- Privacy Data and Protection Act 2014 Vic
- National Privacy Act 1988 – Australian Privacy principals 2014
- Privacy Data and Protection Act (VIC) 2014
- Children, Youth and Families Act 2005
- Health Records Act, 2001.
- Education and Care Services National Law 2010,
- Education and Care Services National Regulations 2011,
- Victorian Children's Regulations 2020(Amendment 2011)
- Maternal and Child Health program Standards 2019

- *Child Wellbeing and Safety Act 2005 (Vic)*
- *Child Wellbeing and Safety (Information Sharing) Regulations 2018*
- *Family Violence Protection Act 2008 (Vic)*
- *Family Violence Protection (Information Sharing and Risk Management) Regulations 2018*

1. Required Records

Applicable Surf Coast Shire Council Early Years Services must keep the following required records under *Section 177 of the Education and Care Services National Law 2010*:

- The documentation of child assessments
- An incident, injury, trauma, and illness record.
- A medication record
- Risk Minimisation and Communication Plan
- A children's attendance record
- Child enrolment records
- A record of visitors

Applicable Surf Coast Shire Council Early Years Services must keep the following records under *Part 3 Records of the Victorian Children's Services Regulations 2020*:

- Child Enrolment Records
- Attendance Records
- Medication Records
- Risk Minimisation and Communication Plan
- Accident, Illness, Injury and Trauma Records
- Staff Records
- Family Day Care Educator (contractors) Records.

2. Maternal and Child Health Service

Required Records:

The Maternal and Child Health Service is to maintain accurate and appropriate health information records for the child, mother and family in accordance with the *Health Records Act 2001*.

The minimum information to be included within the health record is:

- the identity of the maternal and child health worker who made the record and had contact with the child and family,
- information on assessment, information provided, referrals and recommendations made and other aspects of the consultation

All contact with clients should be entered into Child Development Information System (CDIS) in a timely manner, i.e. at time of contact, or as soon as practicable after

All hard copy documentation (eg: discharge summary) should be scanned in colour and saved in CDIS as an attachment, and the original disposed of appropriately.

3. Confidentiality of Records

- All persons involved in Surf Coast Shire Council Early Years Services have the right to the maintenance of appropriate confidentiality. The Services are committed to protecting the privacy of stakeholders and conducting business with respect and integrity.
- It is a condition of employment that staff and educators maintain confidentiality in relation to children in the services, and their families; any breach of confidentiality may result in disciplinary action.
- Confidentiality expectations for students, formal volunteers and family helpers refer to – *Surf Coast Shire Volunteer Policy and Procedure*.
- The service will ensure all records relating to children and their families are securely stored as required under legislation, ensuring confidentiality and easy access by authorised persons. This includes both electronic and hardcopy format.

4. Storage of Records and other documents

i) National Quality Frameworks Laws and Regulations:

Surf Coast Shire Early Years Services (as applicable) must ensure that records and documents as set out in *regulation 183* are stored —

- a. in a safe and secure place; and
- b. for the relevant period set out in *sub-regulation (2)*.

ii) Victorian Children's Services Regulations 2020

Surf Coast Shire Early Years Services (as applicable) must ensure that records and documents are stored as set out in *Part 3*.

iii) Maternal and Child Health Service Program Standards 2019

Surf Coast Shire Maternal and Child Health Service must ensure that:

- Records are maintained until the child is 25 years of age and/or seven years following the last contact with the MCH Service
- A confidential and secure personal file for each MCH worker is maintained

5. Information Sharing

No information is to be given to any outside Agencies or Government Departments unless access to this information is required under:

- *Child Wellbeing and Safety Act 2005 (Vic)*
- *Child Wellbeing and Safety (Information Sharing) Regulations 2018*
- *Family Violence Protection Act 2008 (Vic)*
- *Family Violence Protection (Information Sharing and Risk Management) Regulations 2019*
- *Regulation 181 Confidentiality of records kept by approved provider (Education and Care Services National Regulations 2011) or;*
- *The Children, Youth and Families Act 2005 Information Sharing Framework.*
- *Surf Coast Shire Council MPP-005 - Privacy and Data Protection.*
- *Information Privacy Act 2000.*
- Wherever possible and appropriate parent/guardian consent is to be sought prior to any sharing of information.
- In some instances seeking parent/guardian consent prior to sharing information may be inappropriate - refer to Child Safe Standards Policy and relevant regulations
- Where a request for information is made, the applicable Early Years Service Team Leader or Early Years Coordinator/ Manager Community Strengthening must be consulted about the appropriateness of the request. Any such information should be limited to a minimum number of staff/educator and representatives as is possible.
- Only necessary information on families should be discussed with other individuals, agencies or government departments:
 - If a subpoena (summons) is received directing a service, staff or Family Day Care educator to give evidence or produce records.
 - If a police officer or other authorised officer has a search warrant.
 - As expressly authorised, permitted or required to be given by or under any Act or Law, or to the Regulatory Authority or an authorised officer.
 - To reduce risk to a child in a medical emergency.
 - By written authorisation of the parent/guardian or staff/Family Day Care Educator.

Legislated Information Sharing Schemes

In 2018 the Victorian Government introduced the Child Information Sharing Scheme (CISS), which enables prescribed organisations and services to share information to promote the wellbeing and safety of children and the Family Violence Information Sharing Scheme (FVISS), which enables prescribed organisations and services to share information to facilitate assessment and management of family violence risk to children and adults. The legislation recognises that a child's safety takes precedence over any individual's privacy. The purpose of the schemes is to promote the safety of children and their families.

The Surf Coast Maternal and Child Health Service and Kindergartens are prescribed Information Sharing Entities (ISEs) under these Schemes.

Important notes about the CISS and FVISS:

- Consent is not required from any person prior to sharing information that is relevant to assessing or managing the risk of family violence to a child, or promoting the wellbeing or safety of a child or group of children. This includes information about a child, a perpetrator of family violence, the child's parent, or any other person.
- Working within the CISS, information can only be shared without consent by the MCH Service or Kindergarten if there is a reasonable belief that the information may promote the wellbeing and safety of a child or group of children.

- Working within the FVISS, only family violence risk relevant information can be shared. Excluded from information sharing is information that may cause harm or relates to court or legal proceedings.
- If a person believes their information has been unlawfully shared they can make a complaint.
- The CISS and FVISS protects information sharers from prosecution if the information was shared in good faith and with reasonable care within the purposes of the schemes.

Required Records

The MCH Service and/or Kindergarten is to maintain accurate and appropriate records when sharing information to promote child wellbeing and safety under the CISS or FVISS. Use of the MAV Information Sharing templates is strongly advised. These, and other record keeping checklists, can be accessed at <https://www.mav.asn.au/what-we-do/policy-advocacy/social-community/children-youth-family/maternal-and-child-health-children-0-6-years/maternal-and-child-health-resources>.

When disclosing confidential information under the CISS the following must be recorded;

- The name of the person and organisation who requested the information
- What information was requested
- The date the request was made
- What information was shared
- The name of the person and organisation with whom the information was shared
- The date the information was shared
- If you have prepared a family violence risk assessment or a safety plan for a victim survivor (including a child) or perpetrator of family violence, or another member of the family. Keep a copy of that risk assessment or safety plan
- Whether you sought the views of the child or their parent/guardian and, if not, the reason why
- Whether you informed the child or their parent/guardian that their information was shared

Information Sharing with other Surf Coast Shire Council Early Years Services

Key Principles:

- Information Sharing is undertaken within the aforementioned legal requirements and Surf Coast Shire Council Early Years Services policies.
- Information shared is on a need to know basis only.
- Information is to be appropriately shared with the relevant Surf Coast Shire Council Early Years Service only, as indicated.
- The appropriate *Consent to Share Information* processes are attended to (*described above*).

Family Day Care

- No personal information of any parent, child, Family Day Care educator or Family Day Care staff member is to be discussed within or external to the Family Day Care service; unless asked by the Coordination Unit as part of the aforementioned Consent to Share Information process.
- Family Day Care Educator: All records (both electronic and hard copy) are stored securely ensuring access to individual records is only by the educator.
- Any breach of confidentiality as per the Surf Coast Shire Council and Early Years' Services policies and procedures constitutes a breach of contract and may result in disciplinary procedure or termination of contract.

Definitions

Information Sharing Entity (ISE)

Child Information Sharing Scheme (CISS)

Family Violence Information Sharing Scheme (FVISS)

Related Procedure

Nil.

References

Freedom of Information Amendment (Reform) Act 2010
 Privacy and Data Protection Act 2014
 Education and Care Services National Law 2010
 Education and Care Services National Regulations 2011
 Victorian Children’s Services Regulations 2020
 Maternal and Child Health Service Program Standards 2019
 Maternal and Child Health Service Program Guidelines 2019
 Children, Youth and Families Act 2005
 Child Safety and Wellbeing Act 2005
 Child Information Sharing Scheme Ministerial Guidelines 2018
 Family Violence Information Sharing Guidelines 2018
 Child Information Sharing and Family Violence Information Sharing Toolkit – Maternal and Child Health Services 2018

Related Surf Coast Shire Council and Early Years Services Policies

MPP-005 Information Privacy Policy
 D14/34010 Early Years Responding to Subpoenas Policy
 IS-005 Social Media Policy
 D16/75844 MPP – 052 Child Safe Organisation Policy

Related Surf Coast Shire Council and Early Years Services Work Instructions and Forms

D15/63330 Incident, Injury, Trauma and illness Early Years Services record form.
 D14/48936 Early Years Services Medication Record
 D17/30062 Early Years Risk Minimisation and Communication Plan
 D17/67342 Family Day Care Support Visit Record Template
 D19/57436 Educator Support Visit – Building Partnerships – Family Day Care - template

Document History

Version	Document History	Approved by – Date
1	Approved	General Manager Culture and Community – 1 April 2014
2	Amended	Manager Aged and Family – 11 August 2017
3	Amended	Manager Community Strengthening – 8 May 2019
4	Amended	Manager Community Strengthening – 9 October 2020
5	Amended	Manager Community Strengthening – 02 June 2022