

**POL&PROC_
R&R/PCD/V4/1
9/08/22**

Core Supports_Division 1: RIGHTS and RESPONSIBILITIES

Applies to:

All families, staff, volunteers, Board and Other Agencies involved with EarlyEd

Specific responsibility:

All staff, Board and Other Agencies involved with EarlyEd

Policy: PRIVACY, CONFIDENTIALITY&DIGNITY

POLICY CONTEXT

Standards or other
external requirements

- National Disability Insurance Scheme Practice Standards
[NDIS Practice Standards | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](https://www.ndiscommission.gov.au/ndis-practice-standards)
 - Core Module
- Division 1. Rights and Responsibilities
- Division 2. Provider Governance and Operational Management
- Division 3. Provision of Supports
- Division 4. Provision of Supports
 - Early Intervention Supports
 - Specialist Behaviour Support
- National Disability Insurance Scheme (Code of Conduct) Rules 2018
- [NDIS Code of Conduct \(NDIS Providers\) | NDIS Quality and Safeguards Commission \(ndiscommission.gov.au\)](https://www.ndiscommission.gov.au/ndis-code-of-conduct)
<https://www.legislation.gov.au/Details/F2018L00629>
- National Guidelines Best Practice in Early Childhood Intervention
<https://www.flipsnack.com/earlychildhoodintervention/ecia-national-guidelines-best-practice-in-eci/full-view.html>

Legislation or other
requirements

- National Disability Insurance Scheme Act 2013
<https://www.legislation.gov.au/Details/C2019C00332>
- National Disability Insurance Scheme (Registered Providers of Supports) Rules 2013
<https://www.legislation.gov.au/Details/F2013L01009>
- National Disability Insurance Scheme (Code of Conduct) Rules 2018
<https://www.legislation.gov.au/Details/F2018L00629>
- State Records Act 1998
<https://www.legislation.nsw.gov.au/#/view/act/1998/17>
- Disability Discrimination Act 1992
<https://www.legislation.gov.au/Series/C2004A04426>
- Racial Discrimination Act 1975
- Sex Discrimination Act 1984

	<ul style="list-style-type: none"> • Australian Human Rights Commission Act 1986 (Cth) • Age Discrimination Act 2004 • Workplace Gender Equality Act 2012 • Australian Human Rights Commission Act 1986 https://www.legislation.gov.au/Series/C2004A03366 <p>including</p> <p>Convention on the Rights of Persons with Disabilities Convention on the Rights of the Child</p> <ul style="list-style-type: none"> • United Nations Conventions on the Rights of the Child (CRC) https://www.humanrights.gov.au/convention-rights-child • Australian Privacy Principles Australian Privacy Act 1988 • Privacy Amendment (Enhancing Privacy Protection) ACT 2012 • Health Records and Information Privacy Act 2012 • Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB Act) https://www.legislation.gov.au/Details/C2017A00012 • Chapter 16A http://www.community.nsw.gov.au/kts/guidelines/info-exchange/provide-request • Child Protection (Working with Children) Regulation 2013 • The Ombudsman Act 1974 (NSW) https://www.legislation.nsw.gov.au/#/view/act/1974/68 • Australian Privacy Principles National Disability Insurance Scheme Act 2013 • https://www.legislation.gov.au/Details/C2016C00934 https://www.ndiscommission.gov.au/about/legislation-rules-and-policies/privacy-collection-statement <p>Australian Privacy Act 1988</p> <p>Privacy Amendment (Enhancing Privacy Protection) ACT 2012 Health Records and Information Privacy Act 2012 Privacy Amendment (Notifiable Data Breaches) Act 2017 (NDB Act) https://www.legislation.gov.au/Details/C2017A00012</p>
Contractual Obligations	<ul style="list-style-type: none"> • Funding agreements eg NSW Dept of Education and NSW Dept of Communities and Justice • Organisational contracts and community grants/fundraising, leases • National Disability Insurance Scheme Business Rules • EarlyEd Service Agreement Documents. • HR: Staff contracts regarding role, supervision and professional development • EarlyEd Enterprise Agreement • Rules of Association 2020 (EarlyEd)

POLICY STATEMENT

EarlyEd is committed to protecting and upholding the right to privacy, confidentiality and dignity of children and family members, staff, volunteers, board members and representatives of agencies we deal with.

In particular, EarlyEd is committed to protecting and upholding the rights to privacy in the way we collect, disclose, store and use information related to children and their families, their needs and the services we provide to them.

The information EarlyEd collects is only used in the way it was intended.

EarlyEd requires staff, volunteers and board members, and representatives of agencies we work with to be consistent and careful in the way they manage what is written and said about individuals and how they decide who can see or hear this information.

PRIVACY and CONFIDENTIALITY

This policy sets out how EarlyEd

- meets its legal and ethical obligations as an employer and service provider in relation to protecting the privacy, confidentiality and dignity of clients and organisational personnel
- clients are provided with information about their rights regarding privacy
- clients and organisational personnel are provided with privacy when they are being interviewed or discussing matters of a personal or sensitive nature

All staff, Governing body/Management Committee members and volunteers understand what is required in meeting these obligations will adhere to all requirements imposed under the Privacy Act 1988, including the requirements imposed by the Privacy Amendment (Notifiable Data Breaches) Act 2017, to strengthen the protection of personal information.

This policy conforms to the Privacy Act (1988) and the Australian Privacy Principles which govern the collection, use and storage of personal information.

It acknowledges our responsibility to minimise the risk of data breaches and requirements to report such and have processes in place to manage this and any complaints regarding this.

EarlyEd:

- clearly explains to those we support or provide services to about the types of personal information we collect about individuals and how we collect, store, use and disclose that information (including images and recording);
- clarifies how we manage personal information with particular importance being paid to permissions to share information; and take account of any relevant cultural or religious sensitivities of people using services in the way information about them is collected, stored and used. Steps are taken to communicate this in a way that makes sure this is understood including language and cultural support, interpreters and assistive technology.
- makes transparent of our operations and information management.

EarlyEd has a designated Privacy Officer.

DIGNITY:

EarlyEd has an expectation that all children (and their families) will experience interactions and communications that respect them as individual persons not a disability or group. Particular care is taken when supporting and planning for personal independence and self-care. This includes when setting plans, goals, and strategies and when implementing them. Staff will support family members, carers and any person who works with a child to do the same and maintain the dignity of the child.

The needs of staff are respected and their dignity is respected if they need support personally or in undertaking their duties.

Orientation and induction, resources and professional development help all staff to consider the language used when talking to and about children (and their families) as well writing to and about children (and their families).

Leadership teams review and supervise to maintain consistency in the way staff, volunteers, board members, and representatives of agencies work with, communicate with or about children and families and how they decide who can see or hear this information.

The dignity and privacy is reflected in taking of, choice and use of images, recordings and photographs.

When personal care is discussed, planned for or supported the child's individual choice and preferences will be sought, acknowledged, included in plans and strategies and respected. This includes the use of assisted communication.

With regard to personal care staff will advocate for practices that respect the child's privacy and dignity.

PROCEDURE: PRIVACY, CONFIDENTIALITY & DIGNITY

All staff are responsible for the management of personal information to which they have access, and in the conduct of research, consultation or advocacy work. Staff will be given orientation and ongoing training and support in following the policy guidelines.

PRIVACY CONTACT OFFICER

EarlyEd's Chief Executive Officer is the Privacy Contact Officer and is responsible for this policy.

The Privacy Contact Officer will be responsible for:

- ensuring that all staff are familiar with the Privacy Policy and administrative procedures for handling personal information
- ensuring that clients and other relevant individuals are provided with information about their rights regarding privacy
- handling any queries or complaint about a privacy issue

You can contact our Chief Executive Officer on the following details:

Email: admin@earlyed.com.au

Phone: (02)9923 2727

Post: 3 Cunningham Street, North Sydney NSW 2060

This position is responsible for content in EarlyEd's publications, communications and web site and must ensure the following:

- appropriate consent is obtained for the inclusion of any personal information about any individual including EarlyEd's personnel
- information being provided by other agencies or external individuals conforms to privacy principles
- that the website contains a Privacy statement that makes clear the conditions of any collection of personal information from the public through their visit to the website

This position is responsible for safeguarding personal information relating to EarlyEd's staff, clients, Board members, volunteers and and contractors members.

Child Protection

EarlyEd staff are all mandatory reporters and are required to provide information to the appropriate authorities.

Collection of personal information

EarlyEd only collects personal information that is necessary for or directly related to our functions and activities. These purposes include:

- Referral to EarlyEd programmes
- Provision of an individualised programme that is reflective of the priorities identified in the family's Individualised Family Service Plan
- Reporting on funded services eg NDIS
- Administrative activities
- Sector and community development activities
- Fundraising
- Complaint handling
- Marketing and promotion
- Sharing information

Generally, we will collect personal information about children and family directly from the family. When we collect personal information, we will inform the purposes for which we are collecting the information. However, in some cases, we may collect personal information from referring doctors or other medical practitioners if they have been given permission to share this information.

The types of personal information we collect includes:

- Child's name, address, date of birth, disability and funding information
- Child's development needs and support
- Intervention and community activities and programs that are being accessed

- Parent's name, address, contact details. Any financial information such as bank accounts and credit card details are destroyed after each use
- Child's past and present health information, including treatment goals and plans
- Photographs of children, their parents and our staff members

EarlyEd ensures all reasonable precautions are taken to ensure personal information that we collect, use and disclose is accurate and up-to-date. Families are asked to inform the service of any changes to the information supplied.

EarlyEd releases itself from any responsibility if families choose to disclose to any staff member any private and / or personal information which is not required-

Families do not have to provide personal information. However, it may affect EarlyEd's ability to provide services or products that enable participation in programs or events.

EarlyEd is required to collect and share personal information under rules and regulations from government funding bodies such as Section 55 and Child protection legislation such as Chapter 16.

In some cases, we may receive unsolicited information from a third party. If we do get personal information in these circumstances, we determine whether we could have lawfully collected the information. If we could not, we destroy the information or de-identify it.

Use and disclosure

EarlyEd will only use personal information for the purposes for which it was given to us, or for purposes which are directly related to one of our functions or activities. We will not use or disclose personal information for other purposes unless:

- we have consent; or
- it is reasonably expected, or families have been informed, that information of that kind is usually passed to other organisations; or
- it is otherwise required or authorised by law; or
- we believe that it will prevent or lessen a serious and imminent threat to somebody's life, health or safety or a serious threat to public health or safety.

EarlyEd will obtain parent / guardian consent before disclosing a child's personal and sensitive information to any professional from another service for the specific purpose of providing a service for your child. This includes preschool / childcare teachers, schools, therapists, doctors and counsellors.

Parents and children can request access to data which will be provided. with appropriate notice

Families can subpoena their documents for court proceedings

Privacy for interviews and personal discussions

To ensure privacy for clients, families or staff when discussing sensitive or personal matters EarlyEd the organisation will

1. organise a private interview space or room or space to meet (this may include ways to meet without

children overhearing/ or parents overhearing)

2. ensure staff have a place where they take phone calls so that others can't hear calls
3. position computers so that no unauthorised people can see information or others when they are involved in video meetings
4. position computers so that no unauthorised people can participate when they are involved in video meetings
5. ensure paper documents are not visible or accessible to the public.

If staff are meeting children and families in public places or at home when others are around they will check with families about whether the situation meets their needs for privacy.

If staff are meeting in schools and early childhood / preschool settings they will need to arrange to talk away from anyone not directly supporting the child as well as away from other children.

Participants in research projects

People being invited to participate in a research project must be:

- given a choice about participating or not
- given the right to withdraw at any time
- informed about the purpose of the research project, the information to be collected, and how information they provide will be used
- given copies of any subsequent publications

The collection of personal information will be limited to that which is required for the conduct of the project. Individual participants will not be identified.

Organisational participants in research projects will generally be identified in EarlyEd research, unless the nature of a particular project requires anonymity or an organisation specifically requests it.

Data quality

EarlyEd will take steps to ensure that the personal information collected is accurate, up-to-date and complete. These steps include maintaining and updating personal information when we are advised by individuals that their personal information has changed and at other times as necessary.

Data security

EarlyEd maintain systems and procedures to ensure that personal information we hold is protected against misuse, interference and loss from unauthorised access, modification or disclosure. It monitors the performance of strategies by our IT provider in place to protect electronic data.

To support the security of current client data EarlyEd uses a cloud based client record management system. Historical information is stored in an Australian commercial off site facility.

Other than circumstances such as unlawful activity or serious threats to health and safety (as in the case of mandatory reporting), we do not share personal information with outside organisations without consent.

It is a legal requirement for EarlyEd to keep children's records for a number of years, specifically:

- Records will be retained until the child reaches 25 years of age

- The records of a deceased child will be retained in accordance with legislative requirements, for 7 years after the death.

When personal information that we collect is no longer required, EarlyEd destroys or deletes it in a secure manner, in accordance with best practice for document and data destruction.

Cloud storage:

EarlyEd will take steps to

- limit the possibility of your third party provider breaching the APPs
- require the provider to comply with the APPs and include indemnities against any breach of the applicable Privacy Law or Health Privacy Law
- understand how the third party provider handles, stores, and deals with data and personal information
- maintain strong access, security controls and procedures over who has access to your data and what they can do with it
- make sure the third party provider understands your obligations under Privacy Laws

Data Breaches

EarlyEd is required to comply with the Privacy Act obligations in handling privacy breaches and will notify affected individuals and the OAIC and Australian Privacy Commissioner of 'eligible data breaches' where appropriate as per the Notifiable Data Breaches (NDB) scheme 2018. An eligible data breach occurs when the following criteria are met:

- There is unauthorised access to or disclosure of personal information held by an entity (or information is lost in circumstances where unauthorised access or disclosure is likely to occur).
- This is likely to result in serious harm to any of the individuals to whom the information relates.
- The entity has been unable to prevent the likely risk of serious harm with remedial action.

EarlyEd staff will follow EarlyEd's **Data Breach Response Plan** (Appendix A) if EarlyEd experiences a data breach or suspected data breach.

Access and correction

Families have the right to access the personal information EarlyEd holds about their child and family under Freedom of Information. Families can request to access this information or to update it by contacting EarlyEd's Chief Executive Officer whose contact details are outlined on page 2.

There may be occasions where access is denied. Such occasions would include where access would have an unreasonable impact on the privacy of others, where access may result in a breach of EarlyEd's duty of care to the child, or where children have provided information in confidence. We will carefully consider any request made. If a request is declined, we will inform the applicant of the reasons why.

Data Retention - electronic

EarlyEd's electronic document retention management needs to meet multiple objectives:

1. that email retention does not materially degrade IT system performance;
2. that important emails remain accessible for operational purposes;
3. that legal document retention requirements are met; and
4. that Privacy Act obligations to delete certain personal information is complied with.

Employees and volunteers of EarlyEd acquire no rights over any material, electronic or otherwise, created by in the course of their employment, or accessed on EarlyEd equipment.

EarlyEd helps employees determine what information sent or received by email should be retained and for how long, this policy identifies the broad categories of electronic messages processed by the EarlyEd system and sets out the factors to be considered in setting practice guidelines to be adopted in each case.

- All child information must be retained with the child's electronic folder as per record keeping legislative requirements
- All legal documents must be saved in the appropriate Business folder as per record keeping legislative requirements
- All HR documents must be saved in the appropriate Business folder as per record keeping legislative requirements
- All Financial documents must be saved in the appropriate business software as per record keeping legislative requirements but also so that the organisation can analyse the financial history.
- All staff health (COVID 19 Vaccination) records retained by EarlyEd are kept in locked Business Operations Team with limited access to the Business and Administration Teams of the organisation.

Complaints

If families have a complaint about the way in which we have handled personal information or feel there has been a privacy breach, they will be supported to follow the Feedback and Complaints procedure including reporting and analysis and notification to the EarlyEd Board.

In the case of a complaint about handling of personal information where families are unhappy with our response, they may apply to the Office of the Australian Information Commissioner to have their complaint investigated.

Website

Cookies

It is our usual practice to collect information about all visitors to our online services and resources using "cookies". Cookies are text files that a website can transfer to the computer when information has been accessed on that site. Cookies allow websites to recognise the browser and provides the following types of information:

- The type of browser and operating system being used
- The top level domain name (for example, .com, .gov, .au, .uk)
- The address of the referring site or the previous site visited
- The date and time of visit
- The address of the pages visited

Search terms

Search terms entered when using our search engine are collected, but not linked to IP addresses. This is to ascertain what people are looking for at this website and to improve the content of the site.

Google Analytics

We use Google Analytics to gather statistics about how the website is accessed. Google Analytics uses cookies to gather information for the purpose of providing statistical reporting. The information generated by the cookie about an individual's use of the website will be transmitted and stored by Google on servers located outside of Australia. No personally identifying information is recorded or provided to Google.

Users can opt out of the collection of information via Google Analytics by downloading the Google Analytics Opt-out browser add on. Cookies can also be disabled in the user's internet browser. Doing so will not affect most of our website, but some functions may not work properly if cookies are disabled.

Email addresses

We will record email addresses provided to us for direct contact purposes. It will be used only for the purpose for which it is provided. We will not disclose email addresses without consent.

Links to other sites

The EarlyEd website contains links to other sites. We cannot be held responsible for the privacy practices (or lack thereof) or the content of other websites.

Child Photography/Video Privacy and Security

EarlyEd is committed to the protection of and respect for all children and families involved with the organisation, as well as ensuring the confidentiality, privacy and security of photo/video recordings at all times.

EarlyEd will always obtain written permission from the parent or carer before use and clearly outline purposes for which the photo or video will be used. A crowd release notice is to be displayed at all EarlyEd events.

Photos or videos taken by EarlyEd staff will be in child and family safe environments and recorded on devices owned by EarlyEd.

Images or recordings obtained for promotional purposes will be kept for as long as they are of value; Images or recordings obtained during service delivery for the purpose of enhancing clinical records will be maintained for a period of 25 years in accordance with the Health Records and Information Privacy Act. Procedure for storage of photographs and video is set out in the Data Quality and Security section above.

When reproducing images or video online, the highest privacy settings allowed on the website and social media account will be applied. Identifying personal information accompanying photos or videos, such as the child's name, school or address, will be removed.

Third Party Photographers

If employing professional photographers or videographers, we will ensure they have appropriate qualifications and experience, and will maintain a high level of professionalism and respect at all times. During the session, photographers/videographers will be supervised by EarlyEd staff during their contact with children. Photographers/videographers will be advised to adhere to Work, Health & Safety requirements.

Professional photographers or videographers will be asked for written acknowledgement of EarlyEd's policy including acknowledgment that images and video taken remain the property of EarlyEd and cannot be used or sold for other purposes. They require express permission from the parent or carer of the child prior to reproducing images on their own sites.

NOTES: Providing and requesting information under Chapter 16A

Chapter 16A allows information to be exchanged between prescribed bodies despite other laws that prohibit or restrict the disclosure of personal information, such as the *Privacy and Personal Information Protection Act 1998*, the *Health Records and Information Privacy Act 2002* and the *Commonwealth Privacy Act 1988*.

REFERENCES:

BNG NGO Services Online

Office of the Australian Information Commissioner (OAIC) <https://www.oaic.gov.au/>

Education and childcare and Health Services

APPENDIX A

Australian Privacy Principles <https://www.oaic.gov.au/privacy/australian-privacy-principles>

1. Open and transparent management of personal information
2. Anonymity and pseudonymity - give individuals the option of not identifying themselves, or of using a pseudonym.
3. Collection of solicited personal information - when can collect personal information that is solicited. It applies higher standards to the collection of sensitive information.
4. Dealing with unsolicited personal information - how must deal with unsolicited personal information.
5. Notification of the collection of personal information - when and in what circumstances that collects personal information must tell an individual about certain matters.
6. Use or disclosure of personal information - Outlines the circumstances may use or disclose personal information that it holds.
7. Direct marketing - only use or disclose personal information for direct marketing purposes if certain conditions are met.
8. Cross-border disclosure of personal information - steps must take to protect personal information before it is disclosed overseas.
9. Adoption, use or disclosure of government related identifiers: when an organisation may adopt a government related identifier of an individual as its own identifier, or use or disclose a government related identifier of an individual.
10. Quality of personal information - must take reasonable steps to ensure the personal information it collects is accurate, up to date and complete. An entity must also take reasonable steps to ensure the personal information it uses or discloses is accurate, up to date, complete and relevant, having regard to the purpose of the use or disclosure.
11. Security of personal information - must take reasonable steps to protect personal information it holds from misuse, interference and loss, and from unauthorised access, modification or disclosure. An entity has obligations to destroy or de-identify personal information in certain circumstances.

12. Access to personal information - when an individual requests to be given access to personal information held about them by the entity. This includes a requirement to provide access unless a specific exception applies.
13. Correction of personal information - obligations in relation to correcting the personal information it holds about individuals.

Documents related to this policy	
Related policies and procedures	POL Rights _ of Individuals PROC_Rights to Advocacy POLICY_Individual values and beliefs POL_Privacy_Confidentiality & Dignity PROC_IndependenceInformedChoice_Person Centred Supports POL_PROCChild SafetySecurity and Child Protection_Violence, Abuse, Neglect and Exploitation POL_Work Health & Safety POL_Code of Ethics&Conduct POL_Vision and Values POL_Feedback and Complaints POL_PROC Quality Improvement PROC_Incident Response POL_Access to Supports POL_Support Planning & Service Agreements POL_Responsive Support Provision POL_Access,Entry,Transition&Exit PROC_Access,Entry,Transition&Exit POL_Participant Money and Property POL_Collaboration & Capacity Building POL_Evidence Informed & Outcomes Based POL_Inclusion POL_The child and FamilyPositive Behaviour Support Practice Guide _ Policies, Procedures, Templates POL_Volunteers POL_Board POL_RISK MANAGEMENT including Emergency and Disaster Management Conflict of Interest and Succession Planning
Forms, record keeping or other organisational documents	Risk Mnagment Plan Working with Children Agreement (ECIA) Individual Family Service Plan (IFSP) Service Summary Sheet Service Agreement Log_Feedback&Complaints Log_Hazard and Incidents Data Breach Response Plan

	EarlyEd Website What's On and newsletter communications Family information pack NDIS ECEI Review Template EarlyEd Service Charter Working Together Agreement CRM SupportAbility
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Reviewing and approving this policy		
Frequency	Person responsible	Approval
Every 24 months	Chief Executive Officer	Leadership representatives

Responding to a privacy breach

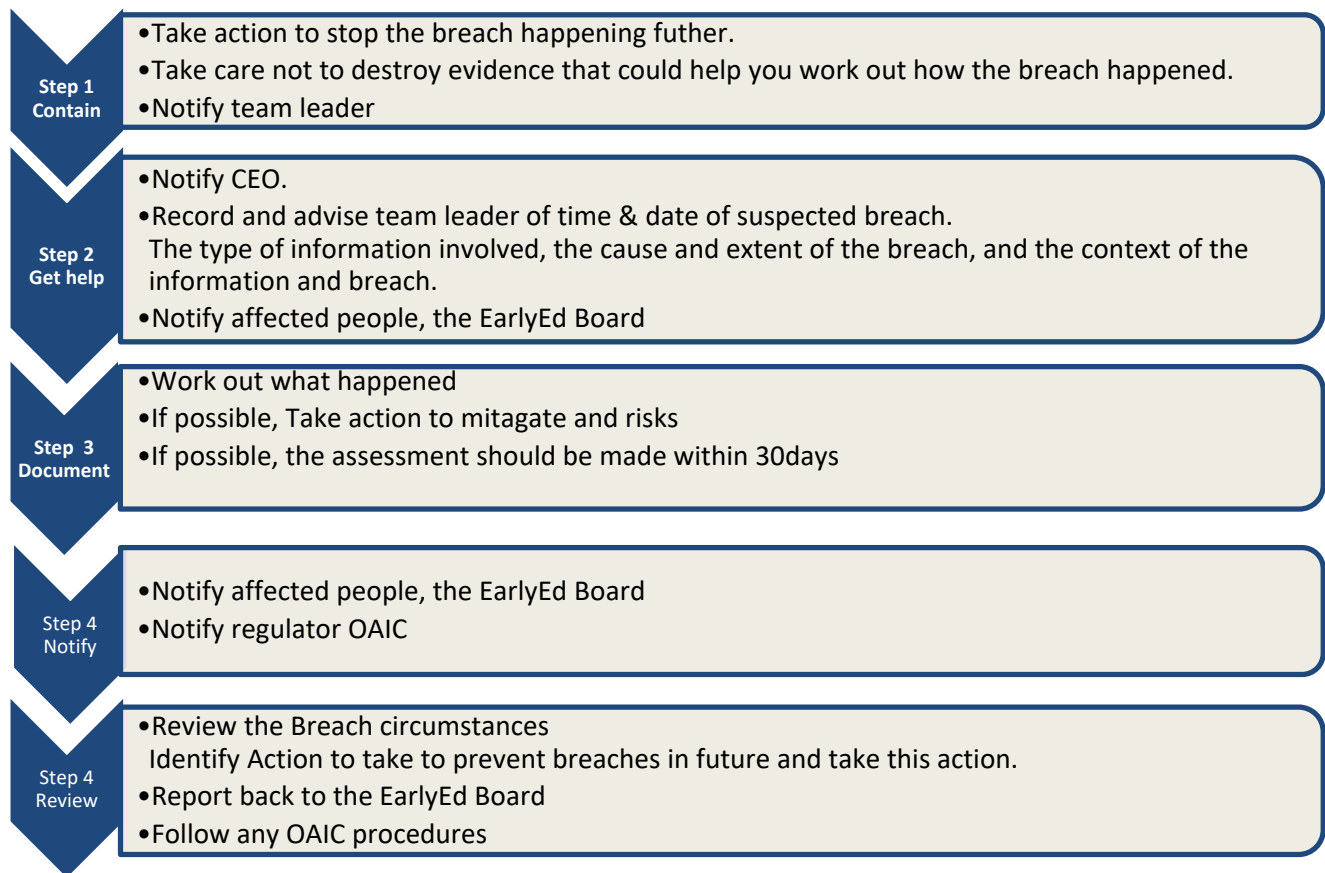
Data Breach Response Plan:

Refer to for direction on actions require in the case of a data breach if an actual or suspected data breach that is likely to result in serious harm occurs, you must notify the regulator and people whose personal information is involved:

The Office of the Australian Information Commissioner (OAIC) provides guidance on responding to a privacy breach in its guide to Data breach preparation and response.

Breach discovered or suspected

This guide sets out a fourstep process for an organisation to follow when a breach of privacy occurs. A summary of the steps is below. Steps 1, 2 and 3 can be taken at the same time.



- Notify team leader