

Policy: 2.2	<b>Access to Confidential Information</b>
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**Policy Statement:**

Orange and District Early Education Program (ODEEP) is committed to transparency in its operations and to ensuring it is open to public scrutiny. It must also balance this with upholding the rights of individuals to privacy and of the organisation to confidentiality on sensitive corporate matters.

ODEEP will prevent unauthorised persons gaining access to an individual's confidential records and permit individuals' access to their own records when this is reasonable and appropriate. Accordingly, access to some ODEEP documents and records will be limited to specified individuals and not be available to others for viewing.

This policy applies to the internal records, client records and unpublished materials of ODEEP whether in hard copy or electronic.

<b>Record of policy development</b>		
Version	Date approved	Date for review
Version 2	October 2020	October 2021

<b>Responsibilities and delegations</b>	
This policy applies to	The ODEEP Board Directors, ODEEP staff and volunteers and ODEEP families and contractors.
Specific responsibilities	This policy is developed by the Manager and reviewed by ODEEP staff and Board of Directors. It is communicated and implemented by the Manager and staff.
Policy approval	ODEEP Manager

<b>Policy context – this policy relates to:</b>	
Standards	NDIS Practice Standards and Quality Indicators 2018 NDIS Code of Conduct
Legislation	NDIS Act 2013 Federal Privacy Act 1988 and Privacy Amendment (Notifiable Breaches) Act 2017 Privacy and Personal Information Protection Act 1998 (NSW) Child Protection (Working with Children) Act 2012
Organisation policies	Privacy Policy Confidentiality Policy Child Protection Policy Reportable Incidents Policy Feedback and Complaints Policy Governance Policy 6: Managing Contracts and Funding

Forms, record keeping, other documents	NDIS ODEEP Service Agreement Data Breach Incident Reporting Form Notable Data Breach Form Echidna Manual Family Enrolment and Consent form ODEEP Services and Support Document Staff Induction Manual Staff and Board meeting minutes templates Board membership information
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**Procedures:**

**Client records**

Client records will be confidential to clients and to all ODEEP staff. Information about clients may only be made available to other parties with the consent of the parent/carer of the client, except in the case of a subpoena or child protection issue where access to client records will be given in accordance with ODEEP’s legal obligations. All client records will be kept secure electronically using the password protected CRMS system (Echidna) and any hard copies stored in a locked filing cabinet and updated, archived and destroyed according to the legal requirements and organisation’s client records policy. Parent/Carers of clients have access to their personal information, Service Reports and assessments. Staff working notes, and in some cases documentation about concerns related to child safety are not available for client access. ODEEP may have documents in client files from external agencies marked “not to be released to a third party”. ODEEP is not able to provide access to these as they must be directly accessed from the author. In rare cases the ODEEP Manager may decide to deny access to confidential information if it is deemed that access to this information may lead to serious harm to the individuals about whom the information refers.

**Board of Management**

All papers and materials considered by the Board of Management will be open to members of the organisation following the meeting at which they are considered, except where the Board passes a motion to make any specific paper or material confidential.

**ODEEP membership records**

A list of current ODEEP members will be available on request to the ODEEP Manager. Personal information about members (including address and contact details) is confidential and may only be accessed by the ODEEP Manager, ODEEP Practice Manager and the ODEEP Office Manager.

**Personnel files**

A personnel file is held for each staff member electronically and in a locked filing cabinet and contains:

- contact details including emergency contact details;
- a copy of the employee’s Employment Agreement;
- correspondence relating to the employee’s recruitment, Position Description, salary changes, supervision and support meetings, training and professional registration as necessary.

Access to personnel information is restricted to:

- the individual staff member accessing their own file;
- the ODEEP Manager and Practice Manager;
- In rare cases the ODEEP Manager may decide to deny access to confidential information if it is deemed that access to this information may lead to serious harm to the individuals about whom the information refers.

Access to personnel payroll details is restricted to:

- The ODEEP Manager and in the event of the absence of the ODEEP Manager the Practice Manager;
- The ODEEP Office Manager and Financial Advisor.
- Administration assistant when processing payroll in the absence of the Office Manager

### **Corporate records**

Corporate records are those that contain confidential or commercially sensitive information about the organisation's business. They include:

- the financial accounts and records;
- taxation records;
- correspondence with regulators;
- project management files;
- contracts between the organisation and other parties.

Access to these records is limited to the ODEEP Manager, Practice Manager, Office Manager, ODEEP Financial Advisor, the Auditor, the President and Treasurer of the Board of Management.

### **Requests for access – general records**

All records and materials not falling into the categories above may be released to the public at the discretion of the ODEEP Manager.

Any request for access to information should be directed to the ODEEP Manager who will:

- make available to staff, Board members or other ODEEP Members information that they are entitled to access.

In considering a request, the ODEEP Manager will take into consideration:

- a general presumption in favour of transparency;
- the relevant provisions of the ODEEP constitution regarding information to be made available to ODEEP members;
- the business, legal, and administrative interests of ODEEP including commercial confidentiality and privacy obligations.

Where an external party requests access to information that requires staff to devote time to collating, copying or otherwise making material accessible, the Office Manager may determine a fee to be charged.

### **Requests for access - client records**

All parents/carers who are authorised to access records and information about their child and their family have the right to access their Service Reports, assessments and personal information, and where necessary to advise the organisation about inaccuracies.

Procedures for access:

- parents/carers are informed of their right to access this information and of the individual staff member who will assist them upon enrolment at ODEEP;
- the staff member documents the family request to access the relevant documents on Echidna;

- in the case of the identified staff member being unavailable the ODEEP Manager will handle the request;
- parents/carers are informed of their right to request copies of Service reports and assessments when they leave ODEEP;
- parents/carers may contact ODEEP and request copies of documents from their child's files once they are no longer with the service up to when their child reaches 25 years of age. The Office Manager handles these requests;
- parents/carers are advised of complaint procedures upon enrolment;
- parents/carers can work with their identified staff member to change records they believe to be inaccurate or misrepresenting, when appropriate.

Requests for information about clients from outside agencies or individuals will be referred to the ODEEP Manager. Before any information is released the ODEEP Manager will ensure that the client concerned is contacted to obtain consent. In the case of child protection issues information may be released without client consent in line with ODEEP's legal obligations.

### **Appeals**

Individuals who are refused access to their own records or information files may appeal by contacting the ODEEP Manager who will review the decision in the context of ODEEP policies.

### **Data Breach**

ODEEP has reporting obligations in the case of a data breach where an individual to whom the data relates could be at serious risk of harm. If a data breach is suspected the Data Breach Incident Reporting form must be completed and provided to the ODEEP Manager. The Manager must undertake an assessment of the situation within 30 days of becoming aware of the breach. Guidelines for assessment are on the OAIC website.

If there are reasonable grounds to believe there has been an eligible data breach the Office of Australian Information Commissioner (OAIC) must be notified through the Notifiable Data Breach form. If action is taken to a breach before any disclosure or serious harm occurs then the notification may not be necessary.

An eligible breach is either:

1. Unauthorised access or disclosure of information that a reasonable person would conclude is likely to result in serious harm to any individuals to whom the information relates;
2. Information that is lost in circumstances where unauthorised access or disclosure is likely to occur and can be concluded is likely to result in serious harm to any individuals to whom the data relates.