



These Guidelines have been developed to support approved providers and their services apply the National Model Code for Taking Images or Videos of Children while Providing Early Childhood Education and Care (National Model Code). The Guidelines remain voluntarily, whilst possible legislative reform is considered by governments.

# TAKING IMAGES OR VIDEOS OF CHILDREN WHILE PROVIDING EARLY CHILDHOOD EDUCATION AND CARE

## GUIDELINES FOR THE NATIONAL MODEL CODE

### Purpose

Together, the National Model Code and the Guidelines aim to:

- support providers and their services to implement child safe practices regarding the use of electronic devices for taking images or videos of children while providing education and care
- increase awareness of staff, volunteers and families regarding child safety risks and considerations in using electronic devices for taking images or videos of children while providing education and care
- encourage approved providers of centre-based early childhood services to commit to adopting and implementing child safe practices regarding use of electronic devices across their services, ahead of possible introduction of regulatory changes under the *Education and Care Services National Law 2010* (National Law)
- offer best practice advice and information to support approved providers to adopt these practices.

The Guidelines should be read in conjunction with the National Model Code.

### Scope

The National Model Code and Guidelines have been developed for use in centre-based early childhood education (ECEC) services under the National Quality Framework (NQF), including long day care, pre-schools, and kindergartens (but excluding outside school hours care (OSHC))<sup>1</sup>.

However, any other children's education and care service type may choose to adapt the National Model Code and Guidelines to their service context, as appropriate.

The National Model Code and Guidelines can be applied at any time when education and care is being provided to children, which, under the NQF, includes when children are transported by, or on transport arranged by, a service.

Reference to 'personal electronic devices' includes any device that can take images or videos, such as mobile phones, digital cameras, tablets, smart watches and other new and emerging technologies, where those technologies have image taking or video recording capability. The National Model Code and Guidelines also address use and possession of unapproved / personal storage media devices, for example, an SD card, USB drive, hard drive or use of a cloud-based application which can store images or video recordings.

<sup>1</sup> More information under 'Context' below.

## Application

The National Model Code and Guidelines are voluntary. Providers and their services are strongly encouraged to adopt the National Model Code and implement the Guidelines in the interests of promoting the safety, health and wellbeing of children.

In implementing the National Model Code, approved providers of ECEC should consider consulting with educators, other staff and families / carers to address their service/s specific situation and unique context. This includes in relation to use of devices by families, carers and other visitors to the service, and use of children's personal electronic devices, where applicable.

## Context

### *Child safety reforms arising from the Review of Child Safety Arrangements under the NQF*

When used intentionally as part of implementing an educational program, electronic devices can be effectively utilised when providing education and care, including to assist in documenting a child's learning.

To minimise risks to children, child safe practices need to be clearly set, understood and implemented when taking images or recording videos of children.

For this reason, governments have agreed to explore legislative change options to mandate that:

- only service-issued / approved devices may be used in centre-based services when taking / recording images or videos of children, with further requirements for approved providers to have strict controls in place for the appropriate storage and retention of images (Recommendation 2.3), and
- anyone who is working or engaged in a centre-based service in any capacity is prohibited from having personal electronic devices that can take images or video, such as tablets, phones and smart watches, on their person whilst with children (Recommendation 2.4).

This is one of a number of commitments made in response to the [Review of Child Safety Arrangements](#) under the NQF, which highlights the child safety risks of using personal electronic devices to take images or videos of children in education and care settings.

Some approved providers of centre-based services have already adopted policies and procedures that limit or restrict the use of personal electronic devices or service-issued electronic devices in this way.

The National Model Code and Guidelines are an interim measure to support the health, safety and wellbeing of children in early education and care, while legislative changes are being considered.

Education Ministers decided that OSHC services will not be targeted for participation in the National Model Code and Guidelines, on the basis that OSHC is delivered in a unique service setting and primarily to an older cohort of children. This needs further exploration and will be addressed as part of future work to explore legislative change options.

## Child safety risks

Documentation of children's learning is a requirement of the Education and Care Services National Regulations (regulation 74, 177(1)(a) and 178(1)(a)). Digital photos and videos have become the most common tools used to document children's learning and engagement, and many providers submit these images to families through a range of applications (often restricted for use by authorised persons such as parents and carers) to allow them to view their child's participation in early learning experiences. This type of communication can and does play a role in engaging families and carers in a child's education and care experiences, particularly where there may be low levels of literacy or English is not a first language.

This specific form of documentation is not a requirement of the NQF, and when used without a targeted purpose, can create increasing expectations to transmit frequent updates in the place of more meaningful documentation. It also can reduce educators' abilities to effectively supervise, interact and engage with children in their learning. In these circumstances, educators may be present with children but not providing adequate supervision or utilising important 'teachable moments' to extend the child's interests, learning and development of skills. More intentional approaches to documentation of children's learning, including ensuring electronic device usage is in line with the National Model Code, can help reduce this risk.

More concerningly, there is a very real risk that persons within a service could use their own personal electronic device to take or record images or videos of children for inappropriate purposes. This risk includes taking and sharing inappropriate or even illegal images, in particular where physical or sexual abuse is occurring to the child, or when sexualised images of the child are produced.

Managing and monitoring what images are being taken and where, or to whom they are being sent, is very difficult when educators and other staff use personal electronic devices while providing education and care. Approved providers are responsible for ensuring that service-issued devices are monitored regularly to assess if appropriate usage of the electronic device is occurring by staff at the service.

The NQF has an explicit focus on considering and supporting each child's dignity and rights. Demonstrating child safe practices in the digital age provides new challenges as well as additional benefits for approved providers, educators and services.

Australia's National Principles for Child Safe Organisations collectively illustrate that a child safe organisation is one that creates a culture, adopts strategies and takes action to promote child wellbeing and prevent harm to children and young people. Principle 8, which focuses on physical and online environments, promoting safety and wellbeing, and minimising the opportunity for children and young people to be harmed, is particularly relevant to taking images and videos of children.

## Applying the National Model Code

The National Model Code addresses the use of service-issued electronic devices and personal electronic devices while providing children's education and care, including taking images or videos of children. The below guidance will support approved providers and their services to incorporate the National Model Code in policies, procedures and everyday practice.

**National Model Code, Part 1: Only service-issued electronic devices should be used when taking images or videos of children while providing education and care. The appropriate use of service-issued electronic devices for taking, sending and storing images or videos of children should be clearly outlined in policies and procedures.**

### *Service-issued devices*

A personal electronic device should not be approved as a service-issued device.

### *Oversight, control and access to images*

Approved providers need to be vigilant and have oversight and control of who has access to images of children. This includes, but is not limited to, the following considerations:

- the accessing of images and videos within the service, for example, staff accessing digital and hardcopy files, including the movement of these onto devices and platforms that are not approved or monitored by the service
- images, videos and content posted online, for example, through an application to share with a child's family / carer, or for promotional purposes of the service
- that images, videos or content are not inappropriately posted online or shared through other applications, including those not for the purpose of sharing with a child's family or carer
- use of service-issued electronic devices is regularly monitored to ensure that they are being used appropriately
- how to monitor the use of devices at the service, including ensuring educators do not use personal electronic devices for taking images or recording videos and communicating with families and carers.

### *Taking images or recording videos*

Approved providers should be clear in their services' policies and procedures about who can take or record images or videos of children and for what purpose, how consent is obtained by the service, and what electronic devices can and cannot be used to take or record images or videos of children.

### *Inappropriate images or videos*

Inappropriate images or videos are any that are not directly relevant to the child's participation in the activities of the approved provider. Examples of inappropriate (and potentially illegal) images or videos include where a child is:

- not appropriately dressed, for example, in their underwear, in a state of undress, completely undressed or with their genitalia exposed
- in a position that could be perceived as sexualised in nature
- in distress or anxious / experiencing or demonstrating distress or dysregulation.

### *Inappropriate sharing of images or videos*

It is inappropriate for an image or video of a child to be shared to platforms beyond the intended educational purpose of the image or video. Any image or video recording of a child can become inappropriate if shared in the wrong context or for an unintended purpose. This includes if an individual transfers images to their own account or device either directly or via the cloud, for example, to post images or videos on social media or other applications / software platforms that were not its intended purpose.

**National Model Code, Part 2: Personal electronic devices that can take images or videos (such as tablets, phones, digital cameras, smart watches) and personal storage and file transfer media (such as SD cards, USB drives, hard drives and cloud storage) should not be in the possession of any person while providing education and care and working directly with children. Any exceptions to this should be for limited, essential purposes that are authorised in writing (or through another means if written authorisation is not reasonably practicable) by the approved provider at the service, and where that access does not impede the active supervision<sup>2</sup> of children.**

**National Model Code, Part 3: Essential purposes for which use and / or possession of a personal electronic device may be authorised for purposes other than taking images or recording videos of children include:**

- communication in an emergency situation involving a lost child, injury to child or staff member, or other serious incident, or in the case of a lockdown or evacuation of the service premises
- personal health requirements, e.g. heart or blood sugar level monitoring
- disability, e.g. where a personal electronic device is an essential means of communication for an educator or other staff member
- family necessity, e.g. a worker with an ill or dying family member
- technology failure, e.g. when a temporary outage of service-issued electronic devices has occurred
- local emergency event occurring, to receive emergency notifications through government warning systems, for example, bushfire evacuation text notification.

### *Unacceptable use of personal electronic devices*

Staff should never use a personal electronic device to photograph children, or record audio or visual images of children for any purpose, including to document children's learning.

### *Monitoring and review of authorisation*

Approved providers and their services should have processes for ongoing monitoring and review of any authorised use of a personal electronic device to ensure use of the device is consistent with what is permitted, and the authorisation remains current.

<sup>2</sup> See [QA2-Active Supervision Ensuring Safety and Promoting Learning](#) for more information on active supervision.

## National Model Code, Part 4: Approved providers and their services should have strict controls in place for the appropriate storage and retention of images and videos of children.

### *Access to images and videos*

Approved providers should ensure their services' policies and procedures clearly state who can access images or videos of children, and how they are stored securely, including how long and how they are destroyed.

Under the Australian Privacy Principles<sup>3</sup>:

- organisations must take reasonable steps to protect personal information it holds from misuse, interference and loss, and from unauthorised access, modification or disclosure;
- an organisation has obligations to take reasonable steps to destroy or de-identify personal information when no longer needed for the purpose it was collected.

### **Guidance on implementing policies, procedures, and practices about use of electronic devices**

An approved provider and their service can adopt the National Model Code and Guidelines through their existing policies and practices. This may involve reviewing relevant policies and procedures, such as providing a child safe environment or staff Code of Conduct.

Any changes to policies and procedures should be communicated to staff, parents and carers. Communication materials have been created to support you in this process at [National Model Code – Images in ECEC](#).

### *Reviewing policies and procedures: taking images or recording videos of children*

Approved providers and services may consider the following questions in determining how to adopt the National Model Code and Guidelines into existing policies and procedures.

### *Using service-issued electronic devices appropriately*

- How do you document that an electronic device is issued for use at the service?
- What factors do you consider when planning for electronic devices to be accessible amongst your different rooms? Do educators share electronic devices across rooms or have one per room? How are the images captured used for planning and programming?
- Have you undertaken a risk assessment for usage of service-issued electronic devices, including during excursions or for transporting children?
- How do you review the usage of the service-issued electronic devices currently? How often does this occur? Is there still a need for images and videos to be retained, or have they served their purpose?
- How do you support staff when using service-issued electronic devices to capture children's learning to also ensure adequate supervision of children?
- How do you support educators to ensure child-centred image taking that is purposeful and supports quality educational practice and reflection, as well as family connection?
- How do you monitor who is using service-issued devices to take images or videos of children?
- When is it appropriate to take images or videos of children using a service-issued electronic device? Have you considered other circumstances where you may be asked to take images or videos that are not for recording a child's learning, for example, to record an injury or if asked / instructed to take an image of a child by the Police or a Child Protection Agency?

<sup>3</sup> Both the [Australian Privacy Principles](#) (APPs) and the APP guidelines apply to any organisation or agency the *Privacy Act 1988* (Privacy Act) covers. The Privacy Act covers Australian Government agencies and organisations with an annual turnover of more than \$3 million, and some other organisations, which includes small businesses operating a child care centre or a private school. The Privacy Act is a federal law and [will not apply](#) to most state or territory preschool or child care services. Instead, state or territory privacy laws may apply.

- How will you manage families, external visitors, or organisations engaged by the service and their taking images or videos of children, for example, photo day or marketing or external activities / presenters, or excursions where the presenter would like to take photos for their own purposes?
- If a student as part of their practicum wants to take images of children, do your service's policies and procedures permit this via appropriate use of a service-approved devices?
- Have you conducted a risk assessment to ensure an adequate number of telecommunications devices are still readily available at all times for essential communications, including in the event of a serious incident or emergency? Specific attention should be paid to when services are on excursions and other scenarios outside the service premises.

### *Creating a child safe culture*

- How do you support all staff to maintain / create a culture of child safety and to speak up if they see personal electronic devices being used, or service-issued electronic devices being used inappropriately?
- What parts of your service should be off limits for taking or record images or videos of children? e.g. in bathrooms and nappy change facilities, cot rooms, a cubby or places where another educator or other staff member cannot see the image being taken?
- How do you gain consent to having a child's image taken or recorded while providing early childhood education and care?
- What controls, settings or restrictions do your service-issued electronic devices have in place that can minimise the risk of them being used inappropriately?
- Have you considered alternatives to when staff may have been using their personal electronic device to undertake work related activities, such as excursions for keeping in contact with the service or checking the UV rating at the service through an app to determine if outdoor play and / or its length is appropriate?
- How will you manage special events at your service where families may attend and want to take images or videos of children?
- How do you communicate with families about when and how you will take and use images and videos of their child/ren and formally seek their agreement to this? Do you have appropriate parent / guardian permissions to take and share images and video recordings of children for clearly stated purposes?
- How do you manage personal devices that children with additional needs may require access to within your service?
- How do you provide advice to educators about which images to share on social media, such as through apps for communicating with families?
- How do you gain authorisation / consent in relation to other professionals that are not engaged by, but are supporting children at the service (e.g. NDIS funded support professionals, Inclusion Support professionals), and who may have a legitimate need to capture an image or video of a child?

### *Use of personal electronic devices*

- How do educators, other staff and volunteers make or receive personal phone calls / communications when required at your service?
- Do you have secure storage for staff and volunteers to leave their phone and other personal belongings, such as a staff room with lockers? How do you ensure educators can access their personal devices during times when they are not working directly with children, such as their breaks?
- If staff are issued an electronic device for work purposes and also allowed to use it for personal usage, how do you ensure the safety of images and videos of children?
- How do you allow staff / educators to apply for an exception to access a personal electronic device as an essential reason, such as where medical reasons require a device to be on them at all times. How do you document these arrangements?
- How will you ensure visitors and families to the service are aware of your policy for educators and other staff, and if you have one specifically for families in relation to not taking images or videos of children?

## Guidance on minimising risks involved in taking and / or distributing images or videos

Providers and their services should take proactive steps to create a child safe environment in relation to images or videos that are taken or recorded while providing education and care. This includes, but is not limited to:

- Adopting and / or incorporating the recommended National Model Code into policy at the service.
- Reflecting upon practices and policies to ensure they embed the National Principles for Child Safe Organisations and, where in place, state based legislative Child Safe Standards<sup>4</sup> to create a child safe culture. This includes having clear processes and a service culture where everyone feels confident to speak up when they have concerns or have witnessed a concerning behaviour.
- Supporting all staff and volunteers to feel confident to know the process to follow if they see another person taking or recording inappropriate images or videos using a personal electronic device to take or record images or videos, including the assurance that their concerns will be taken seriously.
- Embedding other effective risk assessment and management procedures to manage the risk of inappropriate taking, recording, or dissemination of images or videos of children.
- Embedding child safe culture principles into your service's statement of philosophy.

### REFERENCES AND RESOURCES

- [ACECQA National Model Code – Images in ECEC](#)
- [National Principles for Child Safe Organisations](#)
- [Victoria's Child Safety Standards](#)
- [NSW Child Safety Standards](#)
- [SNAICC- Keeping Our Kids Safe](#)
- [eSafety Commissioner including eSafety checklist for early learning services](#)
- [Privacy Act 1988 \(Cth\)](#)
- [National Privacy Principles](#)
- [ECA Code of Ethics](#)
- [National Office for Child Safety](#)

### REFERENCES AND RESOURCES

- [Child Safe Organisations](#)
- [Securing customer personal data | Australian Cyber Security Centre](#)
- [Guide to securing personal information | Office of the Australian Information Commissioner](#)
- [Protecting customers' personal information | Office of the Australian Information Commissioner](#)
- [Active Supervision: Ensuring safety and promoting learning \(ACECQA sector resource\)](#)
- [Providing a Child Safe Environment – NOF Policy Guidelines \(ACECQA sector resource\)](#)

<sup>4</sup> As at June 2024, these are in place in Victoria and NSW.