

STORYPARK

Submission to the Office of the Australian Information Commissioner

Exposure Draft — Privacy (Children's Online Privacy) Code 2026

To: Children's Online Privacy Code team, Office of the Australian Information Commissioner

By email: copc@oaic.gov.au

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Submission by: Storypark Limited, the early childhood education documentation and family-engagement platform.

Publication: Storypark consents to this submission being published. It contains no personal information.

1. About Storypark and why we are responding

Storypark is a digital documentation and family-engagement platform used by ~6,300 Australian early childhood education and care (ECEC) services and the families who attend them. Educators use Storypark to record children's learning and development including notes, observations, photos and video — and to share that record securely with the child's parents and authorised carers.

We are responding because Storypark is squarely within the likely scope of the Code. As a designated internet service that handles the personal information of children and is, by design, concerned with children's activities, we expect to be a regulated entity. We strongly support the Code's objective of lifting privacy protections for children. Our submission argues that, for services in this category, the strongest expression of that objective is a framework that empowers parents as their child's primary privacy stewards rather than applying a framework calibrated for platforms that commercialise children's data. Our purpose in this submission is constructive: to help the OAIC ensure the Code works as intended for a service model the drafting does not yet squarely address — documentation about young children, created by adults (educators), for the benefit of those children and their families. Storypark is designed to support Quality Areas 1 and 6 (QA1 and QA6) of the National Quality Standard (NQS).

2. Summary of our position

- **We support the Code's core principles** — best interests of the child, data minimisation by default, genuine consent, transparency, and a right to deletion. These align with how we believe a children's record should be handled.
- **The Code should expressly address services where the child is the data subject but not the end-user.** ECEC documentation platforms differ fundamentally from social media and gaming services the Code appears built around. Clarity here prevents both under- and over-regulation.
- **Consent should be parent/guardian-mediated for this cohort, with the service's role clarified.** ECEC children are universally below the age of self-consent. The Code should make the consent pathway workable in a setting with two adult parties — the service and the parent.
- **Age-assurance and child-directed transparency obligations should be calibrated to service type.** Verifying the age of a three-year-old, or writing a privacy notice "directed at"

a pre-literate child, is not meaningful. The meaningful assurance is verifying the authority of the adult acting for the child.

- **Lifecycle and deletion expectations should be clear, default-on, and recognise legitimate retention of the educational record.** We already build toward this and would welcome the Code setting the standard.
- **Please confirm the compliance timeline and align it with concurrent state ECEC reforms** to avoid duplicative or conflicting obligations on services.

3. Detailed comments

3.1 Scope — services where children are documented by adults

The exposure draft is framed around services children themselves use and interact with. A large and growing category of regulated entities will instead be services where adults create and exchange information about children. In ECEC, the end-users are educators and parents; the children are the subjects of the record, not account-holders. We recommend the OAIC create a defined category — such as child-subject documentation services — in the Code or Schedule, with tailored obligation mapping. A named category provides regulatory certainty for providers and consistent protection for families, without requiring providers to self-assess how obligations designed for consumer-facing platforms apply to a fundamentally different service model. Without this, providers face material uncertainty about how to comply, and families risk inconsistent protection across providers.

3.2 Consent — make parent/guardian mediation the operative pathway

We support the draft's position that, for children under 15, consent must come from an adult with parental responsibility, and that consent must be voluntary, informed, specific, current and capable of withdrawal. For ECEC, we ask the OAIC to clarify two practical points. First, the relationship between the service (which typically collects information in a professional or quasi-custodial capacity) and the parent (who should hold consent rights over the sharing of their child's record). Second, how the prohibition on "bundled" consent operates in a setting where a parent reasonably enrolls once: granular, withdrawable controls should be required, but the Code should not make ordinary enrolment impractical. Storypark supports granular, parent-held controls and would welcome these being the baseline.

3.3 Age assurance — calibrate to risk and service type

ECEC children are, without exception, below the Code's self-consent threshold — typically under six. Age verification of the child is therefore moot, and applying generic age-assurance expectations to this cohort would add friction without protective benefit. We recommend the Code's "reasonable steps" standard explicitly allow that, for services concerned with young children, the appropriate assurance is verifying the authority of the adult acting on the child's behalf, rather than estimating the child's age. We also caution against the Code mandating specific age-assurance technologies — such as biometric checks or document verification — without regard to service type. Applying such mechanisms to an ECEC documentation platform would introduce new privacy risks directly contrary to the Code's purpose, and would add material technical and compliance overhead without any protective benefit for children who are, without exception, not self-directing their use of the service.

3.4 Transparency — child-directed notices for pre-literate cohorts

The requirement for a privacy policy and collection notice "directed specifically at children" is sound for older children but cannot be met literally for infants and pre-schoolers. We recommend

the Code allow this obligation to be satisfied, for young-child services, through clear parent- and carer-facing materials, with age-appropriate child-facing content required only where children are genuinely capable of engaging with it.

3.5 Best interests, data minimisation and the media lifecycle

We strongly endorse the best-interests test and data minimisation by default. We ask the OAIC to apply both principles with recognition that, for ECEC documentation platforms, contextual richness is a requirement, not an excess. A learning story or developmental observation has pedagogical and regulatory value precisely because it is detailed, longitudinal, and specific to a child. A data minimisation reading that treats comprehensive documentation as disproportionate would not serve the child's best interests — it would remove one of the few mechanisms by which parents can see and engage with what is happening in their child's early education, and undermine the evidence base educators rely on for curriculum planning and to identify developmental concerns early.

We therefore ask that the OAIC clarify that “necessary” in the data minimisation principle is assessed relative to the legitimate purpose of the service. For a platform designed to support QA1 and QA6 of the National Quality Standard, the necessary scope of documentation will be broader than for a general-purpose consumer service, and the Code should accommodate this rather than defaulting to the narrowest possible reading.

For services that handle photos and video of children, we encourage the OAIC to recognise concrete, implementable safeguards as evidence of compliance with both best interests and data minimisation: sharing to named, authenticated recipients rather than broad or open audiences; default retention limits with clear extension criteria; and straightforward export and deletion pathways. These are practical expressions of best interests and we would support their inclusion as guidance. We would also welcome guidance on services that cease operation or are acquired, so that families have enforceable rights over the disposition of their child's record in those events — a gap the current draft does not address.

3.6 Right to destruction and retention of the educational record

We support the new right to request destruction of a child's personal information. We ask that the Code resolve three practical conflicts the current drafting leaves open.

Conflict with regulated retention obligations. ECEC providers are required under the National Quality Framework and state-based regulations to retain incident, injury, trauma and illness records, and in some jurisdictions aspects of the educational programme record, for defined minimum periods. A deletion right that can be exercised over these records without qualification would expose providers to regulatory liability under a separate legal regime. The Code should establish that the right to deletion does not override a lawful retention obligation, and should identify a clear mechanism — such as restriction of processing rather than destruction — for cases where both apply.

Conflict with duty of care. Where a child's record contains documentation relevant to a safety or welfare matter — including records of accidents or disclosures — premature deletion could expose a service, an educator, or a family to harm. The Code should recognise that retention for duty-of-care purposes is consistent with the child's best interests, even where a parent requests deletion.

Multi-party consent disputes. Where parents or guardians with shared parental responsibility disagree about deletion, the Code provides no clear footing for the service. We ask the OAIC to address this scenario in guidance.

Subject to these carve-outs, we support a default deletion pathway — including clear retention periods, straightforward parent-initiated deletion of non-regulated content, and a right to export the full record before deletion. These defaults already inform our product design and we would welcome the Code setting them as the sector baseline.

3.7 Workability and alignment with state ECEC reform

ECEC providers are simultaneously absorbing significant state-based reform — including, in NSW, recommendations of the Legislative Council’s 2026 inquiry into the sector that touch directly on the capture and handling of children’s images. We ask the OAIC to confirm the date by which entities must comply with the Code, and to coordinate with Commonwealth and state ECEC regulators so that providers face a single, coherent set of obligations rather than overlapping or conflicting ones.

4. Offer to assist

Storypark would welcome the opportunity to assist the OAIC further — including by participating in an industry Virtual Roundtable, providing detail on how documentation platforms operate in practice, or sharing how the safeguards above can be implemented. We thank the OAIC for the opportunity to contribute and for its work to strengthen children’s privacy.

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