

Complaints and Grievances

Education and Care Services National Law:

- 172 – Notification of change of policies or procedures.
- 174- Offence to fail to notify information to the regulatory authority.

Education and Care Services National Regulations:

- 168 – Education and care service must have policies and procedures.
- 170 -Policies and procedures must be followed.
- 171- Policies and procedures are to be kept available.
- 173- Prescribed information to be displayed.
- 176- Time to notify certain information to regulatory authority.

National Quality Framework:

- 7.1 – Governance
- 7.2.1 – Continuous improvement
- 7.2.3 – Development of professionals

Age Discrimination Act 2004

Disability Discrimination Act 1992

Work Health and Safety Act 2011

Privacy Act 2009 (was previously Privacy Act 1988)

Racial Discrimination Act 1975

Sex Discrimination Act 1984

Policy Link:

- Child Safe Environments
- Fees
- Governance and Leadership
- Interaction with Children
- Orientation and Enrolment
- Records and Record Keeping
- Adult Safe Environments
- Bullying and Occupational Violence
- Privacy and Confidentiality

- Code of Conduct
- Commitment Statement to Children and Young People
- Directors Manual
- Educator Handbook
- Parent Handbook

Definitions

| Term | Meaning | Source |
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| ACECQA- Australian Children’s Education and Care Quality Authority | The independent national authority that works with all regulatory authorities to administer the National Quality Framework, including the provision of guidance, resources, and services to support the sector to improve outcomes for children. | acecqa.gov.au |
| Complaint | Expression of dissatisfaction made to or about an organisation related to its products, services, staff or the handling of a complaint, where a response or resolution is explicitly or implicitly expected or legally required. | Australian and New Zealand standard guidelines for complaint management in organisations- AS/NZS 10002:2014 |

| | | |
|----------------------|---|---|
| Complaints handling | Effective resolution of a problem before it becomes worse and providing a remedy. | Commonwealth Ombudsman- Better practice complaint handling guide |
| Investigation | A formal and systematic inquiry to establish facts about a complaint by collecting, documenting, examining, and evaluating evidence. An investigation is not an end in itself. Throughout the investigation, the investigator should keep an open mind about the possible outcomes of the investigation, such as education, compliance action or a decision not to pursue the matter. | Guide to the National Quality Framework -monitoring, compliance and enforcement. |
| Personal information | Information or an opinion about an identified individual or an individual who is reasonable identifiable: <ul style="list-style-type: none"> • Whether the information or opinion is true or not; and • Whether the information or opinion is recorded in a material form or not. | Privacy Act 1988 (Cth) |

Policy Statement

The Complaints and Grievances Policy supports and guides the actions of each stakeholder that access the service. This includes children and families, educators, management, and the wider community. This policy values:

- Procedural fairness and natural justice
- A code of ethics and conduct
- A service culture free from discrimination and harassment
- Transparent policies and procedures
- Avenues for recourse and further investigation

Goals / What are we going to do?

- Value feedback from educators, families, and the broader community as a mechanism to support continuous improvement.
- Provide all families with a copy of our Code of Conduct on enrolment; families must sign to say they have received this during their orientation.
- Encourage the development of harmonious partnerships.
- Ensure that conflicts and grievances are mediated fairly and are transparent and equitable.
- Ensure families / educators do not suffer reprisals for making a complaint.

The service has a duty of care to ensure that all persons are provided with a high level of equity and fairness concerning grievances, complaints, management, and procedures. In meeting the service's duty of care, management, educators, and parents agree to abide by the Code of Conduct.

Failure to do so will result in families care needs or employment being terminated.

Procedures / How will we do this?

Procedures for working through workplace conflicts:

Educators are expected to communicate positively with all families and educators, particularly those they work

closely with. If a conflict occurs, talk to the person concerned and aim to work out a solution to the conflict.

Gossip, backstabbing, malicious, and negative discussion are destructive and will not be tolerated. If your concern is genuine, then as an employee you should be willing and able to address the issue and problem and solve workplace solutions that assist everyone to work in a healthy work environment. If you cannot communicate with your colleague, then the Director can act as a facilitator or confidential sounding board.

The service understands that raising issues is confrontational and emotional. But in a supportive meeting, focusing on your workplace concerns issues can be resolved. Should you wish to just speak with a manager in confidence and take the grievance no further, then the said matter would be considered finalised.

If the allegation is against your Director, your complaint should be directed to your Area Manager. If again you feel this cannot be resolved with your Area Manager, then your concern should be directed in writing to the Operations Manager, Julie Watts julie@playandlearn.net.au

Therefore, the service would consider it unacceptable to continually address it with others, text or make Facebook posts or innuendos about the grievance. It is not appropriate to isolate the employees with whom you have a grievance. It is inappropriate to direct them to tedious tasks such as cleaning / constant nappy changing etc. These types of behaviours are considered to have a toxic effect on all employees and may result in formal performance meetings.

An example may go like this.....

There is an issue at work, and it's bothering you; For this example, let's say.... Your colleague constantly leaves the room (always to get the mop) and doesn't return. That leaves you on your own frequently There are 17

children in your room, two diagnosed with Autism. One of the autistic children is a flight risk.

You are no longer happy at work, and your partner at home is tired of hearing about it. Nights are restless as the worry sets in. Silence fills the room at work as no one speaks.

How do we respond – Scenario One

Do nothing – there are 6 months left of the year, and then rooms will change. Raising issues is uncomfortable and makes everyone anxious.

However, when we do nothing because it's uncomfortable, we miss opportunities for team growth and reflective practice. We turn the cheek on contributing to *quality* care, and wasn't that the reason you came to the service in the first place?

The even greater risk is that an event happens while you are on your own. Now your anxiety has just reached a new level. There is a workplace investigation currently underway regarding the event. You are required to write a statement of events and are to attend meetings with managers, parents and service needs to report to the ECEC.

Scenario Two

You ask your Director to make ten minutes to get you off the floor so you can have a chat. She says she is "so short-staffed this week it's impossible," You ask if you can have a 45 min lunch break and use 15 mins of the time to discuss a workplace issue. Your Director agrees. You sit down together and ask if she can please monitor how often you are left alone in the room. You worry about something happening, specifically the child with additional needs not being able to be located. Your service leader agrees to monitor the situation. You leave the conversation with a plan in place and ask your manager to write the conversation up so you can both sign and you have a record of the discussion.

Over the next few weeks, you observe several critical professional development opportunities organised by your service leader. Your work colleague has begun to leave the room for shorter periods, and together you have started to evaluate the environment and experiences offered to children. You note that the following policy review questionnaire is about child-safe environments, and several articles regarding supervision have been discussed at the staff meeting. This is what you are here for.....!

Happy days.....

However, after a short time, your colleague returns to the old behaviour. A meeting is held with the service manager and your colleague, and now your colleague will not speak with you at all. A more direct approach is required, and you again ask your manager to speak with them. But....

-You begin to feel isolated from the team.

-Friday night drinks at the tavern – you are not invited.

-Today, your manager is upset you did not give a child's medication; however, your room colleague did not give you this information, and you explain that.

- Six weeks on, and your room colleague still barely mumbles.

This is now workplace bullying! It is a toxic work environment, not conducive to a positive learning environment for children. You must be brave; you must speak up. It is not appropriate to retaliate with similar behaviour. You must professionally follow the processes for raising workplace issues clearly, concisely and professionally—every policy at your service advocates for *quality*. Use them to support you in your work environment.

Working through a workplace meeting

Steps taken to facilitate the meeting include-

1. Think through the situation and keep it in context.
2. Set up a safe meeting space.
3. Let colleagues know in advance that a meeting will occur.
4. Your manager will explain the meeting expectations and that everyone in this process will adhere to the code of conduct.
5. Each party should be given uninterrupted time to express their feelings.
6. The meeting facilitator should be impartial and keep the communication open.
7. Taking notes or voice recording of the meeting will help scribe the meeting minutes later.
8. Take a break if required – an understanding that these can be emotional times for people.
9. Document some clear goals that everyone would like to achieve. Be clear in how that will be demonstrated and measured.
10. Document and have all parties sign and receive a copy.
11. Not all disputes can be resolved at the first meeting, and this process will need review periods. This should be documented, and everyone should be aware of the following steps.

Productive Language

- Use "I" statements when talking it through, e.g. "I feel like I'm not getting enough time to spend with the children" or "I feel like I'm not important when I don't get introduced to parents". This way, you are not accusing the other person but focusing on how it makes you feel.
- Start with a positive, e.g. "I like the way you spend time helping the children, but it is essential not to do it for them because they need to learn to become independent".

- Give the other person a chance to respond and listen to what they have to say or give them a chance to get back to you.
- It is essential to differentiate the issue from the person so it does not become a personal attack. Identify the problem and talk about it.
- Some phrases to start a conversation can be: "I've got some concerns about what's been happening", "We need to discuss", "I'm sure we can work something out", "I want to understand why", or "I want to hear where you're coming from and the way you see it."



Meetings

Meetings may take place in the meeting rooms at The Gap Play and Learn Centre, 10-14 Payne Rd The Gap. This space is a neutral ground offering tea or coffee while providing a small break-out room should the meeting adjourn for a break. These meeting rooms allow everyone to meet comfortably. However, a suitable space within your service may be available to facilitate the meeting.

Procedures to be taken in an informal performance management;

It is preferable in cases where an educator's underperformance is not serious; it does not harm the service, a child, a colleague, or a parent.

Working through this meeting

1. Think through the situation and keep it in context.
2. Set up a safe meeting space.
3. Let your colleagues know beforehand that a mediation meeting will occur.
4. Always explain the expectations of the meeting and that the code of conduct will be adhered to.
5. Explain that should any educator need a break, a short break can be taken.
6. Outline what the employee is doing or not doing that is causing the issue; use an example. E.g. Trixie, when you leave the mop sitting in the dirty mop water, they become smelly and unhygienic.

7. Treat the employee as you would like to be treated. Explain how their behaviour affects the service, colleagues, children, or parents.
8. Explain how their behaviour measures up against their job description and the terms and conditions of employment they have signed.
9. Document some clear goals that everyone would like to achieve. Be clear in how that will be demonstrated and measured.
10. Document and have all parties sign and receive a copy.

Procedures for a formal performance management

If informal meetings have not solved a performance issue, then management will be the formal performance management process. Or a situation may have been severe enough to go straight to a formal performance meeting. The disciplinary process is serious but will follow procedural fairness, ensuring no employee is treated harshly.

Before an employer request for an employee to attend a meeting for disciplinary reasons, management will provide the following:

- Reasonable notice in writing of the meeting, including the time and location, allowing the employee time to prepare for the meeting.
- A written reason for the meeting being held.
- A list of the issues (allegations) to be covered in the meeting.
- Copies of all evidence that the employer will use; and
- Copies of all relevant policies and procedures to be referenced.

In disciplinary meetings involving educators, the educator may choose to have Union delegate advocate on behalf of the member. A union delegate can-

- Ask questions of the employer,
- Ask for more information from the employer,
- Put forward suggestions to the union member and the employer,
- Put forward the union's position and opinion to the employer,
- Guide and advise the union member during meetings,
- Suspend meeting to confer with the union member,
- Suspend meeting to obtain further information from employer or union,
- Record the meeting.

Employees must be allowed the right to respond to allegations reasonably before any decisions or actions are taken. United Voice -unitedworkers.org.au or 1800 065 885 or 07 3291 4600 in Brisbane

Procedures in Formal Workplace Investigations

Workplace investigations will occur when an employee or parent makes allegations about an educator's conduct. E.g., harm to a child or workplace harassment or bullying.

1. The first step in any workplace investigation is to have the complainant document their concerns. This document should be dated, factual and written in a manner that can be understood by a third party who may not know all the workplace details. It shall be typed and emailed.
2. Management will decide who will investigate the complaint – it may be deemed appropriate for an internal or external investigation. The role of an independent conflict resolution service will be to assist with the mediation of a dispute.
 - Conflict Resolution Centre Brisbane- 0488 580 062
 - Brisbane Workplace Mediations – 1300 669 338

Follow the steps outlined in a formal investigation:

- Reasonable notice in writing of the meeting, including the time and location, allowing the employee time to prepare for the meeting.
- A written reason for the meeting being held.
- A list of the issues (allegations) to be covered in the meeting.
- Copies of all evidence that the employer will use; and
- Copies of all relevant policies and procedures to be referenced.

Complaints about Race, Sex, Disability, and Age Discrimination

Making a complaint about Sex, Race, Disability, and Age Discrimination can be investigated by the Anti-Discrimination Commission Queensland or the Australian Human Rights Commission (AHRC) when an employee or parent has followed the internal complaints procedures and feels that the matter has not been successfully resolved.

- Step 1.** AHRC hotline is 1300 656 419, and a complaint form will be sent to you.
- Step 2.** Making a complaint is free and does not require legal advice. A complaint must be put in writing to the commission and lodged via fax, email or post.
- Step 3.** An AHRC officer will contact the organisation, provide details of the complaint and ask any relevant questions. AHRC will then decide to conciliate or terminate the complaint.
- Step 4.** If the matter is to be terminated, AHRC will talk to you and explain why.

Step 5. The matter may involve conciliation, which means the matter will try to be resolved. The outcome of conciliation may include an apology, policy changes, compensation and/or educator training.

Step 6. If the complaint is not resolved, you have the option of then taking the matter to court. You may need legal advice and to engage the services of a lawyer, however.

Regulatory Authority Report

An approved provider must notify the regulatory authority of any complaints or incidents alleging that a child's safety, health or well-being was or is being compromised or that the law has been breached within 24hrs of the complaint being made. This will be done via the ACECQA IT portal.



Parent Complaints

Should a conflict of interest arise involving any staff member employed by the service, please raise this with the Director. Your service Director should be able to work through complaints about the service and problem-solve with the family to ensure an outcome all parties are satisfied with. The service Director will then contact their Area Manager to report the complaint and outcome to them.

If the complaint is about an issue that the complainant considers to be outside of the Director's control, or the family does not wish to share it with a Director, the complaint should be directed to the service's Area Manager or Operations Manager Julie Watts julie@playandlearn.net.au. This information can also be located in the service foyer.

Steps that will be followed in addressing a complaint made to a manager-

Step 1 -Acknowledged

All complaints will be acknowledged quickly.

Step 2 – Assessed

Assess the complaint, identify whether the regulatory authority should be notified. If in doubt, call the ECEC.

Step 3 -Plan and investigate.

Investigate the complaint. Plan what evidence is required and how you will need to collect it. The complaint will be handled during working hours, and management will only contact families outside this time if it is considered an emergency.

Step 4 – Respond

Respond to the complainant explaining what was found and what was done.

Step 5 – Follow up

Follow-up with any concerns with the complainant

Step6 – Reflect

Reflect on areas of improvement.

At no time should service employees or management tolerate being verbally, threatened, or abused in any manner. Please expect care to be ended if this occurs- as per the code of conduct. We welcome feedback and are happy to facilitate a complaint, but it must be achieved respectfully.

Should the grievance be against the Operations Manager, contact the Approved Provider, Sam Feng, email samfeng@bigpond.net.au

Timeframes

The complainant will be kept informed of progress and contacted to clarify issues. A written response will be provided to the complainant within 30 days. If the problem is complex, we may need to extend that time, and this will be discussed with the complainant. If the grievance cannot be resolved at the service level, it will be referred to management for assessment.

Dealing with the Media

If a situation attracts media attention at any time, it is the service's responsibility to protect the interests and well-being of all parties involved. To avoid placing anyone's privacy at risk or providing incorrect information, releasing information will be the responsibility of the media representative within the company. Legal representation will be acquired.

Links to Theory

Disputes can arise in any workplace. A conflict exists when one or more people disagree about something, and matters remain unresolved. A fair and balanced dispute resolution process is essential for the effective operation of any business.

Effective dispute resolution can help employers maintain good relationships with their employees by dealing with workplace issues early.

Employees will be more cooperative and productive if they know that their grievances will be taken seriously by the employer, and there is the opportunity for an

independent party to assist in resolving the dispute if it cannot be resolved at the workplace.

A good dispute resolution process focusing on the effective resolution at the workplace level may help avoid the costs of resolving a claim externally, for instance, via arbitration before the Fair Work Commission or through litigation in the Federal Court of Australia.

Fairwork: Best Guide to Work and Family

Early Childhood Australia Code of Ethics

In relation to the families, I will:

“Develop respectful relationships based on open communication to encourage families’ engagement and build a strong sense of belonging.”

In relation to my colleagues, I will:

“Use constructive processes to address differences of opinion in order to negotiate shared perspectives and actions”

In relation to the profession, I will:

“Work within the scope of my professional role and avoid misrepresentation of my professional competence and qualifications.”

National Quality Framework – Governance and Leadership

7.1. Governance supports the operation of a quality service.

7.2.1. There is an effective self-assessment and quality improvement process in place.

7.2.3. Educators, coordinators and staff members’ performance is regularly evaluated, and individual plans are in place to support learning and development.

Reflective questions about this policy.

Do our educators clearly understand what is expected of them in resolving a grievance?

Does the grievance and complaints policy set out the process for resolving grievances?

When answering the reflective questions, did you have areas identified for improvement:

If change is required:

- Discuss any situations that have led to the team’s reflection on the grievance policy.
- Obtain agreement with others about how issues might be addressed.

To implement the changes effectively:

- Trial the changes
- Seek feedback and consult.

A review of change is an important step:

- Evaluate whether the changes have improved practice or whether other strategies or plans need to be trialled and implemented.

Document in your Quality Improvement Plan.

Roles and Responsibilities in supporting complaints and grievances.

Approved Providers, Area Managers and Responsible Persons;

- Managers will ensure a Complaints and Grievance policy is in place.
- When a complaint or grievance has been assessed as notifiable, the relevant notification is made.
- Identifying, preventing and addressing potential concerns before they become formal complaints/grievances.
- Ensure that the name and telephone number of the person to whom complaints and grievances may be addressed are displayed prominently at the centre's main entrance.
- Managers to always role model respectful behaviour.
- Ensure educators receive information and induction training for complaints and grievances.
- Ensure that educators and volunteers follow policy and procedures.

Educators

- Ensure that you develop an understanding of the grievance procedures.
- Ensure that during the policy review, give feedback.
- Respond to and resolve issues as they arise where practicable.
- Discuss complaints directly with the party involved as a first step.
- Always maintain confidentiality.

Families

- Raise a complaint directly with the person involved to resolve the matter.
- Communicate any concerns relating to the service's management or operation as soon as practicable.
- Ensure that while raising concerns, the Code of Conduct is followed.
- Ensure that you follow the grievance procedures when raising complaints.
- The code of conduct and grievance procedure is outlined in the parent handbook. Should parents breach this policy in any way, their family's care will be cancelled, and a two-week notifying period will apply.
- The service will not tolerate abusive or aggressive behaviour towards any staff member.

Sources and Further Reading

ACECQA www.acecqa.gov.au.

Age Discrimination Act 2004 (Cwlth) Website: <https://www.legislation.gov.au/Details/C2022C00319>

Disability Discrimination Act 1992 (Cwlth) Website: <https://www.legislation.gov.au/Details/C2022C00316>

Anti-Discrimination Commission Queensland Ph: 1300 130 670 Website: www.adcq.qld.gov.au

Australian Human Rights Commission 2007 Website: www.humanrights.gov.au

QLD Ombudsman. (2005). <http://www.ombudsman.qld.gov.au>

Work Health and Safety Act 2011

Privacy Act 1988 (Cwlth) <https://www.legislation.gov.au/Details/C2022C00321>

Racial Discrimination Act 1975 (Cwlth) <https://www.legislation.gov.au/Details/C2022C00320>

Sex Discrimination Act 1984 (Cwlth) <https://www.legislation.gov.au/Details/C2022C00318>

