

GRIEVANCE POLICY (Staff)

Rationale and Policy Considerations

Feedback from families, educators, staff and the wider community is fundamental in creating an evolving Childcare Service working towards the highest standard of care and education. It is foreseeable that feedback will include divergent views, which may result in complaints. This Policy details our Service's procedures for receiving and managing informal and formal complaints from staff. Educators can lodge a grievance with management with the understanding that it will be managed conscientiously and confidentially.

Legislation and Government Requirements

- Education and Care Services National Law Act 2010 (SA)
- Education and Care Services National Regulations
- Privacy Act (1988) Commonwealth

National Quality Framework

Education and Care Services National Regulations 168, 173, 176, 183

National Quality Standard for Early Childhood Education Elements 4.1.1, 4.1.2, 4.2, 4.2.1, 4.2.2

Policy Statement

We aim to investigate all complaints and grievances with a high standard of equity and fairness. We believe in team collaboration to ensure a safe, healthy and harmonious work environment.

We will ensure that all persons making a complaint are guided by the following policy values:

- Procedural fairness and natural justice
- Code of ethics and conduct
- Culture free from discrimination and harassment
- Transparent policies and procedures
- Opportunities for further investigation
- Adhering to our service philosophy

Procedural fairness and natural justice

Our Service believes in procedural fairness and natural justice that govern the strategies and practices, which include:

- The right to be heard fairly
- The right to an unbiased decision made by an objective decision maker
- The right to have the decision based on relevant evidence

Strategies for Policy implementation

Grievances can transpire in any workplace. Handling them appropriately is imperative for sustaining a safe, healthy, harmonious and productive work environment. The Grievance Policy ensures that all persons are presented with procedures that:

- Value the opportunity to be heard

- Promote conflict resolution
- Encourage the development of harmonious partnerships
- Ensure that conflicts and grievances are mediated fairly
- Are transparent and equitable

DEFINITIONS

Complaint: An issue of a negligible nature that can be resolved within 24 hours and does not require a comprehensive investigation. Complaints include a manifestation of discontentment, such as poor service, and any verbal or written complaint directly related to the Service (including general and notifiable complaints). Complaints do not include staff, industrial or employment matters, occupational health and safety matters (unless associated with the safety of children).

Complaints and Grievances Register: Records information about complaints and grievances received at the centre, along with the outcomes. This register must be kept in a secure file, accessible only to educators and Regulatory Authority. The register can provide valuable information to the Approved Provider and Nominated Supervisor of the service to ensure children and family's needs are being met.

Grievance: A grievance is a formal statement of complaint that cannot be addressed immediately and involves matters of a more serious nature. For example: If the service is in breach of a regulation causing injury or possible harm to a child.

Mediator: A person who attempts to assist and support people involved in a conflict come to an agreement.

Mediation: An attempt to bring about a peaceful settlement or compromise between disputants through the objective intervention of a neutral party.

Notifiable complaint: A complaint that alleges a breach of the Regulation and Law, National Quality Standard or alleges that the health, safety or wellbeing of a child at the service may have been compromised. Any complaint of this nature must be reported by the Approved Provider or Nominated Supervisor to the Regulatory Authority within 24 hours of the complaint being made (Section 174(2)(b), Regulation 176(2)(b)).

If the Director is unsure whether the matter is a notifiable complaint, it is good practice to contact the Regulatory Authority for confirmation. Written reports must include:

- details of the event or incident
- the name of the person who initially made the complaint
- if appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)
- contact details of a nominated member of the Grievances Subcommittee (or Nominated Supervisor)
- any other relevant information.

Written notification of complaints must be submitted using the appropriate forms, which can be found on the ACECQA website: www.acecqa.gov.au and logged using NQA ITS (National Quality Agenda IT System).

Serious incident: An incident resulting in the death of a child, or an injury, trauma or illness for which the attention of a registered medical practitioner, emergency services or hospital is sought or should have been sought. This also includes an incident in which a child appears to be missing, cannot be accounted for, is removed from the centre in contravention of the Regulations or is mistakenly locked in/out of the centre premises (Regulation 12).

A serious incident should be documented in an *Incident, Injury, Trauma and Illness Record* as soon as possible and within 24 hours of the incident. The Regulatory Authority must be notified within 24 hours of a serious incident occurring at the centre (Regulation 176(2)(a)). These records are required to be retained for the periods specified in Regulation 183.

We acknowledge that conflict is a natural part of the work environment. It is important that all conflict is resolved as unresolved conflict can lead to tension; stress; low productivity; bitter relationships; excess time off; ill health; anxiety and many other destructive emotions. When conflict is addressed and handled constructively the outcomes are feelings of relaxation; openness; high productivity; vitality; good health, empowerment; a sense of achievement etc.

Positive communication between educators is vital to the smooth running of the Service and to ensure a positive environment for children. Educators are expected to treat other educators with respect, accept differences and share ideas. It is every staff member's responsibility to contribute to the development of an open, healthy and constructive work environment. All grievances, whether considered minor or not, are to be dealt with promptly, professionally and thoroughly.

The Service's employees are expected to look at conflict in a positive way, ready to learn something new, reflect on good quality practice, improve work relationships and ultimately provide better care and education for children.

Employees are also to be aware of their responsibility to be a good role model for children, and appropriately and professionally handle conflict with work colleagues, children, parents, and other associates.

Employees should regularly reflect on *Early Childhood Australia's Code of Ethics* for guidance of appropriate behaviour when dealing with conflict. The Code of Ethics states that all team members should "*make every effort to use constructive methods to resolve differences of opinion in the spirit of collegiality.*"

Privacy and Confidentiality: Management and Educators will adhere to our *Privacy and Confidentiality Policy* when dealing with grievances. However, if a grievance involves a staff member or child protection issues, a government agency may need to be informed. (see: Reportable Conduct Scheme in *Child Protection Policy*)

Conflict of Interest

It is important for the complainant to feel confident in

- being heard fairly
- an unbiased decision-making process

Should a conflict of interest arise during a grievance or complaint that involves the Approved Provider or Nominated Supervisor, other Management will be nominated as an alternative mediator.

Our Service may also engage the resources of an Independent Conflict Resolution Service to assist with the mediation of a dispute. We will ensure that throughout the conflict resolution process the Services Code of Conduct is adhered to.

The Approved Provider/ Nominated Supervisor will:

- ensure staff and educators are aware of the person to whom complaints can be made and the processes required
- treat all grievances seriously and as a priority
- ensure grievances remain confidential
- ensure grievances reflect procedural fairness and natural justice
- discuss the issue with the complainant within 24 hours of receiving the verbal or written complaint
- investigate and document the grievance fairly and impartially.

The investigation will consist of:

- reviewing the circumstances and facts of the complaint (or breach) and inviting all affected parties to provide information where appropriate and pertinent
- discussing the nature of the complaint (or breach) and giving the accused educator, staff member, volunteer or visitor an opportunity to respond
- permitting the accused person to have a support person present during the consultation (for example: Union Representative or family member; however, this does not include a lawyer acting in a professional capacity).
- providing the employee with a clear written statement outlining the outcome of the investigation.
- Advise the complainant and all affected parties of the outcome within 7 working days of receiving the verbal or written complaint.
 - management will provide a written response outlining the outcome and provide a copy to all parties involved
 - if a written agreement about the resolution of the complaint is prepared, all parties will ensure the outcomes accurately reflects the resolution and sign in agreeance
- should management decide not to proceed with the investigation after initial enquiries, a written notification outlining the reasoning will be provided to the complainant.
- keep appropriate records of the investigation and outcome and store these records in accordance with our *Privacy and Confidentiality Policy* and *Record Keeping and Retention Policy*
- monitor ongoing behaviour and provide support as required
- ensure the parties are protected from victimisation and bullying
- request feedback on the grievance process using a feedback form

- track complaints to identify recurring issues within the Service
- notify the Regulatory Authority within 24 hours if a complaint alleges the safety, health or wellbeing of a child is being compromised.

Educators and staff will:

- be aware of the possible ramifications of their actions when dealing with staff issues
- raise the grievance or complaint directly with the person they have grievance with, in a professional manner and at an appropriate time. Both parties should try to resolve the issue and develop solutions to ensure the problem does not happen again. Discussions should be based on the principles of privacy, confidentiality, respect and open-mindedness, will not involve other educators, staff, volunteers or visitors (e.g. parents) and will take place away from children.
- if the person is unable to resolve the issue or feels uncomfortable raising the matter directly with the person concerned, the grievance or complaint must be raised with the Approved Provider/Management or Nominated Supervisor. The Approved Provider or Nominated Supervisor (or other manager) may ask for the issue to be put in writing.
- provide all relevant information, outlining the issue, identifying any other person involved in the problem, and any suggested solution.
- communicate openly about the issue with the relevant parties.
- raise any grievance involving suspected or actual unlawful activity (including bullying) with the Approved Provider or Nominated Supervisor immediately and privately.
- maintain confidentiality at all times.
- maintain professionalism at all times.

When the persons involved cannot resolve the grievance between them in a constructive and professional way the following steps will be taken.

The aggrieved person is to contact their immediate supervisor (Room Leader, Nominated Supervisor or Licensee) who will act as Mediator.

The Mediator will have an interview with the persons involved and clarify the facts, work out whether advice is needed from other sources, discuss options available, and help to formulate a plan of action.

If an employee does not feel comfortable in approaching their supervisor, or the conflict is with their immediate supervisor, they can contact the next level of management to act as Mediator.

If an amicable resolution does not occur at this meeting the Mediator is to present a report to the next level of management outlining:

- the nature of the grievance
- the procedures followed to date
- the solution(s) sought
- the recommended plan of action or resolution.

If an agreement is reached the mediator is to present a report to the next level of management outlining:

- the nature of the grievance

- the procedures followed to date
- the solution(s) agreed upon
- the plan of action to reach this solution and review time if warranted
- a copy of this report is to be provided to all persons involved in the grievance, and a copy is to be retained at the workplace.

Grievance Procedures:

Harmonious staff relations within the Service largely depend on staff feeling satisfied that their professionalism is being acknowledged by their involvement in appropriate decision-making processes.

The quality of industrial relations is likely to be substantially better in a workplace if the decision-making processes adopted permit staff to have input into decisions that affect the nature and quality of their professional work.

Management and staff within the organisation will work together to develop and implement appropriate strategies to facilitate consultative and collaborative decision-making processes within the workplace. Where staff feel these processes have failed and are in conflict with decisions made by Management, the following procedure is to be followed:

- the aggrieved person(s) will discuss the grievance with their immediate supervisor
- the supervisor is to report the grievance to the Nominated Supervisor/ Licensee
- the Mediator will seek advice as necessary from other sources, (e.g.: unions, Work Cover and/or funding bodies).
- the Mediator will then advise Management of the possible solutions.

Meetings are to be arranged with the aggrieved person(s) as necessary throughout the process. The outcome of the grievance must be reported to the aggrieved person within a week of the decision.

Resolution of Grievances

Grievances are considered resolved when all persons involved agree to a solution, when the cause of the grievance has been removed or resolved, and when arrangements have been made, if appropriate, to repair any damage and distress suffered by the persons involved. Strategies agreed upon by both parties are to be put in place to help avoid further conflict.

Unresolved Conflict

If resolution of the conflict is unsuccessful after all procedures in the *Grievance Policy* have been followed it may then be necessary to take disciplinary action.

Confidentiality

Mediators are to use discretion and do their utmost to maintain confidentiality. Any breach of this confidentiality could result in a charge of misconduct. However, confidentiality cannot be guaranteed in the following situations: if it is considered that someone is in danger, if disciplinary action or criminal investigation might be necessary; or if employer liability might be involved.

No action will be taken against the person about whom a formal complaint is lodged until they are made aware of any allegations so that they may respond.

Support Person

A Staff member is able to nominate a support person to attend any meetings with them. This person may be a union representative, impartial friend, or family member.

Educators and staff will not

- become involved in complaints or grievances that do not concern them.
- raise complaints with an external complaints body, such as a court or Tribunal, without exhausting the Services' grievance procedures.

Links to other Policies

Child Protection Policy
Code of Conduct Policy
Family Communication Policy
Grievance Policy (Families)
Interactions with Children, Family and Staff Policy
Privacy and Confidentiality Policy
Record Keeping and Retention Policy
Respect for Children Policy
Responsible Person Policy
Student and Volunteer Workers Policy

Sourced from

Australian Children's Education & Care Quality Authority. (2014).
Australian Human Rights Commission: <https://www.humanrights.gov.au>
Commonwealth Ombudsman. (2009). Better practice guide to complaint handling:
https://www.ombudsman.gov.au/_data/assets/pdf_file/0020/35615/Better-practice-guide-to-complaint-handling.pdf
Education and Care Services National Regulation. (2011).
Fair Work Australia: <https://www.fairwork.gov.au/>
National Quality Standard. (2017).
Revised National Quality Standard. (2018).

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