

# Complaints and Grievances

## **National Regulations:**

168 – Education and care service must have policies and procedures

## **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 Statement**

The Complaints and Grievances Policy supports and guides the actions of each stakeholder that accesses 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 of educators, families and the wider 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 from 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 in relation to grievances and 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 an Informal investigation**

Educators are expected to communicate frequently and in a positive way with all families and educators particularly those they work closely with. If conflict occurs, talk to the person concerned and aim to work out a solution to the conflict.

Gossip, backstabbing, malicious, and negative discussion is destructive, and will not be tolerated. If your concern is genuine then an employee should be willing and able to address the issue and problem solve workplace solutions that assist everyone to work in a healthy work environment.

If you feel unable to communicate with your colleague then, the Director is able to act as a facilitator or confidential sounding board.

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](mailto:julie@playandlearn.net.au)

The service understands that raising issues may be 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 than the service expectation then the said matter is now finalised. Therefore, the service would consider it to be 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 not appropriate 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 counselling meetings.

The steps to take in conflict resolution are as follows;

1. Think through the situation and keep it in context.
2. Decide on when and how you're going to deal with it – set up a safe meeting space.
3. Let both parties know in advance that a mediation meeting will occur.
4. Explain that the rules of engagement in this process will be to adhere to the code of conduct.
5. Each party should be given uninterrupted time to speak and state 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 at a later date. Take a break if required – an understanding that these can be emotional times for people.
8. Both parties in the meeting should be encouraged to negotiate some points of agreement.
9. Not all disputes can be resolved first meeting and this process may need to be revisited.
10. Document and have both parties sign.

### Using 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 really like the way you spend time helping the children, but it is really important not to do it for them because they need to learn to become independent”.
- Give the other person a chance to respond and really listen to what they have to say, or give them a chance to get back to you.
- It is important to differentiate the issue from the person, so it does not become a personal attack. Identify the issue 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.”

### Procedures in Formal Workplace Investigations

Workplace investigations will occur when an employee makes allegations about a colleague’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 employee document their concerns. This ensures that we all understand the specific information around the

complaint and satisfactory outcomes can be achieved for all parties.

2. Management will ensure there is sufficient evidence or basis to undertake an investigation.
3. Management will decide who will investigate the complaint – it may be deemed appropriate for an internal investigation or an 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
  - Evolve Workplaces – 1300 414 179
  - WISE – 1300 580 685

Follow the steps outlined in a formal investigation:

1. Provide reasonable notice in writing of the meeting, including time and location of the meeting, allowing the employee time to prepare for the meeting;
2. Provide a written reason for the meeting being held;
3. Provide a list of the specific issues (allegations) to be covered in the meeting;
4. Provide copies of all evidence that will be used by the employer; and
5. Provide copies of all relevant policies and procedures to be referenced.

### Meetings

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



### Procedures in managing underperformance

Disciplinary processes will follow procedural fairness, ensuring that employees are not treated harshly. Only

then can the duty to ensure natural justice in any disciplinary matter be discharged by both the employer and the service.

Before an employer requests an employee to attend a meeting for disciplinary reasons, management will have:

- Provide reasonable notice in writing of the meeting, including time and location of the meeting, allowing the employee time to prepare for the meeting;
- Provide a written reason for the meeting being held;
- Provide a list of the specific issues (allegations) to be covered in the meeting;
- Provide copies of all evidence that will be used by the employer; and
- Provide copies of all relevant policies and procedures to be referenced.

In disciplinary meetings involving educators, the educator may choose to have Union delegates and/or officials to represent and 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 union position and opinion to the employer,
- Guide and advise the union member during meeting,
- 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 within a reasonable time before any decisions or actions are taken. The delegate and/or organiser will assist the union member in preparing their response. Union members then expect that all findings and actions from the employer will be provided, in writing, to the union member in a reasonable amount of time. United Voice ([www.memberassist.org.au](http://www.memberassist.org.au) or 1800 065 885 or 07 3291 4600 in Brisbane)

### **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 posted.

**Step 3.** An AHRC officer will contact the organisation, provide them with 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, then 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 the safety, health or wellbeing of a child was or is being compromised, or that the law has been breached within 24hrs of the complaint being made. This can be done via the ACECQA IT portal.



### **Parent Complaints**

Should a conflict of interest arise that involves any member of staff employed by the service please raise this with the Director. If the complaint is about an issue that a Director considers to be outside their control, or the family does not wish to share it with a Director the complaint should be directed to service's Area Manager or Operations Manager Julie Watts on 0433 449 600.

The complaint will be:

- Documented and any legal requirement in relation to the complaint will be considered,

such as the need to notify the regulatory authorities.

- The complaint will be handled during working hours and management will not make contact with families outside of this time unless it is considered an emergency.
- The complainant will be asked to provide information regarding how the situation could be rectified to their satisfaction.
- All reasonable complaints will be given high priority and dealt with as soon as possible.
- At no time will service employees or management put up with being verballed, threatened or abused in any manner. Please expect care to be ended if this occurs. I am happy to facilitate a complaint but it must be done with respect and factual information.
- The service may seek legal advice from the service lawyers.
- Should the grievance be against the Operations Manager contact the Approved Provider Sam Feng on 0408 156 802.

### 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 issue 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 at any time a situation attracts media attention it is the service's responsibility to protect the interests and wellbeing of all parties involved. In order to avoid placing anyone's privacy at risk or providing incorrect information the release of information will be the responsibility of the media representative within the company. Legal representation will be acquired.

### Links to Theory

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

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

Employees will likely 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 with a focus on effective resolution at the workplace level may help to 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 with the aim of encouraging families' engagement and to build a strong sense of belonging"

In relation to the 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 effective self-assessment and quality improvement process in place.

7.2.3. Educators, co-ordinators 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 clearly 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.

Review of change is an important step:

- Evaluate whether the changes have improved practice or whether other

