

1.2 COMPLAINTS

Policy No: 1.2

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Version No: 2 under Education and Care Services National Regulations under the Education and Care Services National Law

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PURPOSE To provide a fair and consistent problem solving procedure for educators, families and employee's

POLICY All complaints are investigated in a manner which ensures open input from all parties involved; all parties are informed of the process and outcomes; in the instance of complaints against educators, strict investigation and recording procedures are followed and an appeals process provided

PROCEDURES

1. Complaints between parents/guardian's and educators

- 1.1 the complainant is firstly encouraged to discuss the issue of concern with the other party; family day care staff offers assistance if required by suggesting strategies to resolve the complaint
- 1.2 if the complaint is not able to be resolved at this level, the parties are requested to put the complaint in writing (including email) to the Manager Child Care Services Taree & Districts Inc nominated supervisor, who shall offer to assist in resolving the matter; mediation can be offered if requested by any party
- 1.3 all written complaints receive a written response
- 1.4 those registering a complaint may elect to have their name withheld during the investigation process these details may be released however if required by the Freedom of Information Act
- 1.5 if required an interpreter will be sourced
- 1.6 educator receives written notification of the outcome of any investigation at the earliest possible time
- 1.7 a copy of the complaint, investigation details and outcome are retained in confidential file, in hard copy and service electronic systems. All such records will remain confidential.
- 1.8 all parties are requested to keep the details of the complaint confidential
- 1.9 complainants are advised that if a child is identified as at "significant risk of harm", the matter will be reported to the Community Services Helpline & the Ombudsman; the complainant can also make a notification to the Community Helpline on 13 21 11
- 1.10 educators are to refer to the Child Protection policy for further details if complaints are related to children "at significant risk of harm"

2. Interview and investigation procedures

- 2.1 if the complaint is made against an educator, as soon as practical, the nominated

supervisor notifies the educator of the complaint relating to them and seeks information from the educator and any other party directly involved in the complaint

- 2.2 the nominated supervisor will follow the directives of other agencies who may be involved eg Community Services, Joint Investigation and Response Team, or Police, in regards to notifying the educator about the complaint
- 2.3 if required, an interview will be arranged at the educators residence or at the service office; a written record will be taken of the interview
- 2.4 one or two coordinators may attend the interview with the Nominated Supervisor—one to act as a witness and, if required, one to care for the children in an area separate from where the interview is conducted; the educator is given the option of having another party present at the interview; open-ended questions are used wherever possible in the interview to allow the educator unimpeded input
- 2.5 if required, the Nominated Supervisor consults with the approved providers delegate, any other parties having direct involvement/knowledge of the allegation under investigation and, where relevant, Community Services and the NSW Ombudsman
- 2.6 the Nominated Supervisor considers the children's best interests and may at their discretion determine that children are removed from the educator until the investigation is finalised; only those parents who use care on a day that business is closed will be contacted; no information is supplied to parents/guardian's as to the nature of the allegation
- 2.7 if children have been removed from care, the educator is not entitled to any payment while the investigation is taking place
- 2.8 any fees owing for care provided prior to notice to terminate has been given, must be finalised by the family before further referrals can be made within the service; Bond refunds & Penalty fees e.g. insufficient notice to terminate care or absences on final days/s of care are the responsibility of the educator
- 2.9 new children will not be referred whilst the investigation is active without the approval of the nominated supervisor

3. Recording Complaints

- 3.1 a written record is taken of any discussions in relation a complaint and investigation
- 3.2 a written record is taken of any interview ; at the time of the interview, the educator and nominated supervisor are to both sign their agreement to the accuracy of the interview record and it is witnessed by any other party present
- 3.3 in the event that the educator does not agree with the record, the educator is to identify those items which the educator does not agree to and rectify the record in agreement with the nominated supervisor prior to the termination of the interview; if an agreement cannot be reached, the areas in dispute are to be identified in the record and the document signed by the educator and nominated supervisor
- 3.4 the Nominated Supervisor provides the educator with a copy of the interview record as soon as practicable after the interview
- 3.5 the details are used by the service to identify areas of improvement and staff/educator training requirements

- 3.6 if a complaint is made alleging that the safety, health or wellbeing of a child was compromised while that child was being educated and cared for by the service, or the Law was contravened, the approved provider must notify the regulatory authority in writing within 24 hours of the complaint

4. Notification

- 4.1 the Nominated Supervisor will inform of all complaints, and the details will be recorded in services record system
- 4.2 the approved provider must notify the regulatory authority within 24 hours of a complaint being made which is in relation to:
- a. the safety, health or well being of a child/ren, is or was being compromised
 - b. the Education and Care Services National law was contravened

5. Outcome

- 5.1 the final outcome of any complaint investigation will entail the educator receiving one of the following:
- a. exoneration OR
 - b. written notification of lack of evidence, together with written clarification concerning the expectations of educator performance, relating to the area of the complaint, OR
 - c. an official warning (in writing) of non-compliance with FDC regulations or service policies—three official warnings will result in suspension
 - d. immediate suspension from providing education and care to children enrolled with the service
- 5.2 immediately following the first and second official warning, a written plan to rectify the area of complaint is devised by consultation between the nominated supervisor and educator and is to be implemented by the educator with assistance from a nominated coordinator
- 5.3 immediately following a third official warning, proceedings will commence to suspend the educator from providing the education and care to children enrolled with the service
- 5.4 the Commission for Children and Young People must be advised of any disciplinary proceedings in relation to substantiated allegations involving child abuse, sexual misconduct or acts of violence
- 5.5 only those parties directly involved in the allegation are informed of the details, the investigation process and its outcome
- 5.6 educators are advised that if they wish to challenge a complaint investigation outcome, they are to contact, in writing, the approved provider's representative (currently the President of Child Care Services Taree & Districts Inc), within 7 days of their receipt of the investigation outcome; the President will review all proceedings and respond to the educator

6. Suspension from providing education and care

- 6.1 the approved provider may suspend an educator from providing the education and care service; in order for this to take effect and to allow for procedural fairness, the approved

provider must provide adequate and appropriate evidence to demonstrate that the educator is no longer a suitable person to continue to be registered as an educator with the service

- 6.2 the regulatory authority may direct the approved provider to suspend an educator from providing an education and care service if they are not complying with the law or there is a risk to the safety, health or wellbeing of children being educated and cared for by the educator; nominated supervisor will personally provide this notice to the educator
- 6.3 immediate suspension from providing education and care to children enrolled with the service may occur in the event that the complaint involves an allegation of a child being at risk of harm and therefore reportable to Community Services
- 6.4 in the event that the result of any complaint investigation is suspension, a meeting is requested between the educator, nominated supervisor and approved providers delegate, in order to provide the educator with the letter of suspension. A written record is taken of any interactions from the meeting and is signed by all parties. A copy is provided to the educator at the earliest possible time
- 6.5 in the event that the educator is suspended, parents will be informed that the educator can no longer provide care and education, and are offered alternate care placements if available; all details regarding the reasons for the suspension are to be kept confidential
- 6.6 within 14 days of receiving notice of suspension from the register, the educator can request an Internal Review of the decision; this request must be made in writing to the The President of Child Care Services Taree & Districts Inc; the out-come of the internal review will be provided in writing within 21 days of receipt
- 6.7 if the educator does not agree with the Internal Review outcome, they can make an application to the Administrative Decisions Tribunal (ADT) for a review of the approved providers decision to suspend an educator from the register for the service; the application must be made within 28 days of receiving the outcome of the internal review; the ADT can be contacted on 1800 060 410
- 6.8 if the decision is revoked, all families whose children had been removed from care are informed that the educators suspension has been cancelled

7. Complaints against coordination unit

- 7.1 all complaints are investigated in accordance with Child Care Services Taree & Districts Inc procedures
- 7.2 those registering a complaint may elect to have their name withheld during the investigation process these details may be released however if required by the freedom of Information Act
- 7.3 written complaints receive a written response
- 7.4 complaints against coordinators are to be referred to the Nominated Supervisor who will assist the parties to resolve any matters of concern and if necessary refer the matter to the President Child Care Services Taree & Districts Inc
- 7.5 complaints against the Nominated Supervisor are to be referred to the approved providers delegate, currently President Child Care Services Taree & Districts Inc
- 7.6 any child abuse allegation against coordination unit staff must be reported to the NSW

Ombudsman in accordance with Ombudsman Amendment (Child Protection and Community Services) Act 1998

7.7 the Commission for Children and Young People must be advised of any disciplinary proceedings in relation to substantial allegations involving child abuse, sexual misconduct or acts of violence

Source:

- Education and Care Services law Act 2010– section 174, 178
- Education and Care Service Regulation—176
- Administrative Decisions Tribunal - Community Services Division Brochure—June 2005

Associated Forms:

- Ombudsman Notification Form