



CHCLEG001

# Work legally and ethically

Release 1

Learner guide

Aspire Version 2.1



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### CHCLEG001 Work legally and ethically, Release 1



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## Before you begin

This learner guide is based on the unit of competency *CHCLEG001 Work legally and ethically*, Release 1. Your trainer or training organisation must give you information about this unit of competency as part of your training program. You can access the unit of competency and assessment requirements at: [www.training.gov.au](http://www.training.gov.au).

## How to work through this learner guide

This learner guide contains a number of features that will assist you in your learning. Your trainer will advise which parts of the learner guide you need to read, and which practice tasks and learning checkpoints you need to complete.

| Feature of the learner guide | How you can use each feature  |
|------------------------------|---|
| <b>Learning content</b>      | <ul style="list-style-type: none"> <li>▶ Read each topic in this learner guide. If you come across content that is confusing, make a note and discuss it with your trainer. Your trainer is in the best position to offer assistance. It is very important that you take on some of the responsibility for the learning you will undertake.</li> </ul>  |
| <b>Examples</b>              | <ul style="list-style-type: none"> <li>▶ These highlight learning points and provide realistic examples of workplace situations.</li> </ul>   |
| <b>Practice tasks</b>        | <ul style="list-style-type: none"> <li>▶ Practice tasks give you the opportunity to put your skills and knowledge into practice. Your trainer will tell you which practice tasks to complete.</li> </ul>  |
| <b>Video clips</b>           | <ul style="list-style-type: none"> <li>▶ Where QR codes appear, you can use smartphones and other devices to access video clips relating to the content. For information about how to download a QR reader app or accessing video on your device, please visit our website: <a href="http://www.aspirelr.com.au/help">www.aspirelr.com.au/help</a></li> </ul>  |
| <b>Summaries</b>             | <ul style="list-style-type: none"> <li>▶ Key learning points are provided at the end of each topic.</li> </ul>  |
| <b>Learning checkpoints</b>  | <ul style="list-style-type: none"> <li>▶ There are learning checkpoints at the end of each topic. Your trainer will tell you which learning checkpoints to complete. These checkpoints give you an opportunity to check your progress and apply the skills and knowledge you have learnt.</li> </ul>  |



## Topic 1

In this topic you will learn about:

**1A Sources of legislation**

**1B Legal responsibilities**

**1C Legal work practices**

**1D Reporting breaches**

## Identify and respond to legal requirements

While working in children's services, you must meet a range of statutory and regulatory requirements.

The regulations have a direct impact on your daily work, as do national standards relating to quality outcomes for children. As a responsible staff member, you must be familiar with the legislation and regulations, as well as your personal duty of care to other staff, parents and children.

The following table maps this topic to the National Quality Standard and both national learning frameworks.

| <b>National Quality Standard</b>      |  |
|---------------------------------------|--|
| ✓                                     | Quality Area 1: Educational program and practice                         |
|                                       | Quality Area 2: Children’s health and safety                             |
|                                       | Quality Area 3: Physical environment                                     |
|                                       | Quality Area 4: Staffing arrangements                                    |
|                                       | Quality Area 5: Relationships with children                              |
|                                       | Quality Area 6: Collaborative partnerships with families and communities |
|                                       | Quality Area 7: Governance and leadership                                |
| <b>Early Years Learning Framework</b> | <b>My Time, Our Place</b>  |
| <b>Principles</b>                     |  |
| ✓                                     | Secure, respectful and reciprocal relationships                          |
| ✓                                     | Partnerships   |
|                                       | High expectations and equity   |
| ✓                                     | Respect for diversity  |
| ✓                                     | Ongoing learning and reflective practice                                 |
| <b>Practice</b>                       |  |
| ✓                                     | Holistic approaches  |
|                                       | Responsiveness to children   |
|                                       | Learning through play  |
|                                       | Intentional teaching   |
|                                       | Learning environments  |
| ✓                                     | Cultural competence  |
|                                       | Continuity of learning and transitions                                   |
|                                       | Assessment for learning  |
| <b>Outcomes</b>                       |  |
|                                       | Children have a strong sense of identity                                 |
|                                       | Children are connected to and contribute to their world                  |
| ✓                                     | Children have a strong sense of wellbeing                                |
|                                       | Children are confident and involved learners                             |
|                                       | Children are effective communicators                                     |

# 1A Sources of legislation

Regardless of where your work is located or the nature of your service, there are always rules to follow. As the role of caring for children is a significant responsibility, there are many associated legal requirements.



## The legal system

Laws are developed to create a consistent understanding of what is appropriate and what is inappropriate.

The legal system determines the ways in which laws are made or developed.

The federal government is responsible for some areas of the law, while state and territory governments are responsible for others. The legal authority of each government (state, territory or federal) is known as its jurisdiction.

The Australian legal system is made up of five types of law, as outlined here.

### Common law

Common law is developed by judges and courts, and occurs when individual decisions are made that set a precedent (example) for future decisions. Common law precedence can establish a basis for statute law.

### Statute law

Statute law relates to laws that are created by Acts of parliament. In Australia, each state and territory can set its own legislation to cover the areas it is responsible for, such as education. The federal government can set laws that govern the whole country in areas such as immigration.

### Constitutional law

Changes to the Australian Constitution require the federal government to achieve a two-thirds majority in a referendum, which is a vote by the Australian people.

### International law

International law covers a number of conventions to which Australia is a signatory, such as the Convention on the Rights of the Child.

### Customary law

Customary law is recognition that Aboriginal and Torres Strait Islander peoples have their own form of law. This notion was rejected by the British when they colonised Australia, but the Mabo decision by the High Court in 1992 recognised that Indigenous Australians could retain common law rights to land.

## Acts of parliament

Acts of parliament are forms of legislation that have been passed by the government. A new Act is developed through a rigorous governmental process, where a bill (draft legislation) is created, discussed, debated, amended and eventually passed to create an Act. A current Act can only be changed by a new or amended Act coming into force.

Acts may be at a federal (Commonwealth) level, or may apply only to a particular state or territory. You need to understand the relevant legislation in your children's services environment, which will depend on the state or territory of your organisation.



The following video explains how laws are made at a state level, which is similar to how Commonwealth laws are made: <http://aspirelr.link/how-law-is-made-video>

## Regulations

Acts often have regulations, which are rules that support the general requirements of the legislation. For example, the *Child Protection Regulation 2011* (Qld) was made under the *Child Protection Act 1999* (Qld).

Regulations are common to people who work in children's services. They are discussed regularly, and policies and procedures reflecting regulations are developed to ensure every worker is aware of their responsibilities.

### Your responsibilities in regard to regulations and laws:

- ▶ Understand what is required of you.
- ▶ Implement procedures that link to regulations and Acts.
- ▶ Ensure you have access to regulations and Acts.
- ▶ Ask about changes that may be made to regulations and Acts.
- ▶ Use the regulations and Acts to determine your actions.

## National Quality Framework

In the children's services sector, a National Quality Framework (NQF) has been implemented with the establishment of the *Education and Care Services National Law Act 2010*. It covers long day care, family day care, outside school hours care and preschools.

The NQF incorporates licensing, regulations and quality assurance into a single system operating Australia-wide.

Its goal is to enable services to use one unified system for working towards safety, best practice and quality. Within this framework are regulations and standards, which have been developed to establish uniform control over the operation of programs and services, and aim to ensure high-quality, consistent care across Australia. These include:

- ▶ the Education and Care Services National Regulations
- ▶ the National Quality Standard (NQS).

## NQF objectives

The NQF uses the standards and regulations to improve services and make an impact on children’s development and safety while providing families with information to make informed choices.

| NQF objectives   |
|--|
| ▶ To protect the health, safety, education and welfare of children who enter the service.                    |
| ▶ To guard against the exploitation of children and their families.  |
| ▶ To promote care environments that address healthy growth and development through equality of opportunity.  |
| ▶ To ensure services are accountable to parents and children, as well as the community and funding agencies. |

## Your role in relation to the NQF

You have the following responsibilities in relation to the NQF:

- ▶ Understand what is required of you by reading and talking about relevant documentation.
- ▶ Implement procedures that link to the NQS.
- ▶ Ensure you have access to the NQS quality areas and elements.
- ▶ Ask about changes that may relate to the NQS.
- ▶ Use the NQS to determine your actions.
- ▶ Measure your service performance as well as your individual performance in relation to the NQS quality areas.

You can find more information about the legislation, standards and regulations relevant to children’s services at: <http://aspirelr.link/nationalqualityframework>

## Privacy legislation

Confidentiality and privacy is a legal and ethical aspect of your role. The *Privacy Act 1988* (Cth) protects all personal information handled by an organisation.

States and territories may have specific privacy and confidentiality legislation, such as the *Privacy and Personal Information Protection Act 1998* (NSW).



Personal information about individuals includes:

- ▶ criminal records
- ▶ health and medical records
- ▶ membership of a professional or trade association
- ▶ membership of a trade union
- ▶ political affiliations or opinions
- ▶ racial or ethnic origin
- ▶ religious affiliations or beliefs
- ▶ sexual orientation or practices.

This information about an individual could be used by others to discriminate against them or identify someone who wishes to remain anonymous.

## Australian privacy principles

The *Privacy Act 1988* (Cth) includes 13 Australian privacy principles (APPs) that regulate the handling of personal information.

### Australian privacy principles

- 1 Open and transparent management of personal information**  
Ensures that organisations manage personal information in an open and transparent way.
- 2 Anonymity and pseudonymity**  
Requires organisations to give individuals the option of not identifying themselves, or of using a pseudonym. Some exceptions apply.
- 3 Collection of solicited personal information**  
This privacy principle outlines when an organisation can ask for (solicit) personal information. It applies higher standards to the collection of sensitive or highly personal information.
- 4 Dealing with unsolicited personal information**  
Unsolicited information is information that is volunteered by the individual without being asked to provide it. This principle outlines how organisations must deal with unsolicited personal information.
- 5 Notification of the collection of personal information**  
Outlines when and in what circumstances an organisation that collects personal information must notify an individual of certain matters.
- 6 Use or disclosure of personal information**  
Outlines the circumstances in which an organisation may use or disclose personal information that it holds.
- 7 Direct marketing**  
An organisation may only use or disclose personal information for direct marketing purposes if certain conditions are met.
- 8 Cross-border disclosure of personal information**  
Outlines the steps an organisation must take to protect personal information before it is given to a person or organisation overseas.

- 9 Adoption, use or disclosure of government-related identifiers**  
 Government-related identifiers include a Centrelink reference number, a Medicare number, a drivers licence or a passport number. This principle outlines when an organisation may adopt, use or disclose a government-related identifier of an individual.
- 10 Quality of personal information**  
 An organisation must take reasonable steps to ensure the personal information it collects is accurate, up-to-date and complete.
- 11 Security of personal information**  
 An organisation must take reasonable steps to protect any personal information it holds from misuse, interference and loss, and from unauthorised access, modification or disclosure. It also outlines obligations to destroy or de-identify personal information in certain circumstances.
- 12 Access to personal information**  
 Outlines an organisation’s obligations when an individual requests to be given access to personal information held about them.
- 13 Correction of personal information**  
 Outlines an organisation’s obligations in relation to correcting the personal information it holds about individuals.

Australian privacy principle 11.1 is particularly relevant to your role as a childcare worker. According to this principle, any information about the children in your care and their family members must be kept private at all times, and only shared with the appropriate people at the appropriate time.

This includes the following requirements:

- ▶ Children’s medical records should be stored in a locked filing cabinet, with access only granted to the workers who require this information.
- ▶ If you need to discuss something about a child with another educator, you must do it in private where other children and parents can’t hear.

More information about Australian privacy principles can be found at:  
<http://aspirelr.link/app-guidelines>

## Privacy policy and procedures

There is a range of policies and procedures that link to privacy and confidentiality; for example, your service may have a security policy that covers all the organisational systems used for collecting, storing and sharing personal information. Responses to any security risks your service faces may also be included in this policy as well as measures to reduce these risks.

Your manager should inform you of your organisation’s responsibilities regarding your privacy. Speak to your manager if you are unsure of your responsibilities regarding the privacy of the children’s and families’ personal information.

**You have the following responsibilities in relation to privacy:**

- ▶ Understand what is required of you.
- ▶ Read and implement procedures that link to privacy and confidentiality.
- ▶ Access and follow the policies and procedures relating to confidentiality.
- ▶ Ask about changes that may be made to confidentiality procedures.
- ▶ Use the privacy principles to determine your actions.

## Health and safety legislation

Health and safety legislation is designed to protect the health and safety of everyone in the workplace. It sets out the duties and rights of people in the workplace to protect the health and safety of themselves and others.

Each state and territory has its own health and safety legislation, largely based on the model *Work Health and Safety Act 2011* (Cth). In Victoria, workplaces are required to follow the *Occupational Health and Safety Act 2004* (Vic), while Western Australian workplaces are governed by the *Occupational Safety and Health Act 1984* (WA).

**Responsibilities related to health and safety legislation:**

- ▶ Take reasonable care of your own health and safety.
- ▶ Do not adversely affect the health and safety of others.
- ▶ Comply with any reasonable instruction given by your manager.
- ▶ Cooperate with any reasonable policy or procedure relating to health and safety in the workplace.

## Duty of care

Under health and safety legislation, a person conducting a business or undertaking (PCBU) has a duty of care to maintain a healthy and safe workplace. Employers are generally regarded as PCBUs, and are legally obliged to ensure workers are able to carry out their work safely and without risk to their health. This legislation also places responsibility on supervisors, managers and workers.

**PCBU duty of care**

- ▶ Ensure safe systems of work.
- ▶ Ensure safe use of equipment, structures and substances.
- ▶ Provide adequate facilities for the welfare of workers.
- ▶ Notify and keep records of workplace incidents.
- ▶ Provide adequate information, training, instruction and supervision.
- ▶ Ensure compliance with requirements under the Work Health and Safety Regulations.
- ▶ Provide effective systems for monitoring the health of workers and workplace conditions.
- ▶ Provide a safe work environment.

### Worker duty of care

- ▶ Take reasonable care to work safely and ensure your acts or omissions do not affect the safety of other people in the workplace, including workers, children, parents and visitors.
- ▶ Exercise duty of care in relation to what is reasonably expected.
- ▶ Comply with any reasonable instruction that is given by a manager or the PCBU.
- ▶ Be proactive and actively involved in consultation activities designed to improve health and safety.
- ▶ Cease or refuse to carry out work if there is a reasonable concern of a serious health or safety risk.
- ▶ Comply with any health and safety policies and procedures that have been put in place.
- ▶ Report any injuries or illnesses that occur at your workplace.
- ▶ Be proactive in recognising and reporting potential safety hazards in the workplace.

## Duty of care to children

As someone who provides care and education to children, you have a duty of care to make sure you provide appropriate care to meet the children's needs, treat them with respect and maintain their right to privacy.

This legal duty of care means you are responsible for the child and for your own action or inaction while caring for the child. This means that if the child is injured or harmed during this time, you could be sued for negligence.

To prove negligence, the following four things need to have occurred.

### 1. Duty of care was required

The person being sued owed a duty of care to the child.

### 2. Breach of duty of care

The person responsible for the child did not take the adequate degree of care needed in the situation.

### 3. Harm occurred

The child was harmed – physically, psychologically, emotionally, socially or financially.

### 4. Link between breach of care and harm caused

The breach of duty of care caused the harm to occur.

## Duty of care to parents

You also have a duty of care towards parents. Whenever you can, you must provide them with enough information about your service or program to make informed decisions prior to their child participating in any activity.

### Information

Some things parents need to be informed of in advance:

- ▶ any change to rooms or the main care providers of their children
- ▶ excursions and incursions
- ▶ the introduction of new foods or drinks for infants
- ▶ providing meals not usually provided, such as dinner
- ▶ any visiting specialists; for example, a doctor, dentist or inclusion support officer.

### Permission

Part of your duty of care responsibilities is to seek permission from a child's parent for:

- ▶ observation records to be taken of their child
- ▶ photographs to be taken of their child
- ▶ photographs or other visual materials of their child to be displayed
- ▶ their child to participate in excursions and incursions
- ▶ emergency medical help to be provided.

## Negligent advice

In some cases you or the organisation might be sued for providing negligent advice. Your organisation should have public liability insurance and/or professional indemnity insurance to protect workers if they are sued.

### How to meet your duty of care to children:

- ▶ Read and follow regulations, legislation, standards and guidelines.
- ▶ Provide adequate and continuous supervision.
- ▶ Maintain a healthy and safe environment.
- ▶ Ensure hazards and risks are minimised.
- ▶ Be aware of your role and participate as directed.
- ▶ Provide advice according to the level of your qualifications.
- ▶ Never prescribe or suggest medications.
- ▶ Never diagnose illnesses.

## Dignity of risk

Dignity of risk is about respecting the abilities and disabilities of others by allowing them to make choices for themselves. When you allow others this independence you are advocating for their rights; however, you must also attempt to ensure the decisions they make are safe.

Allow children to take calculated risks when they are learning new physical skills, and make calculated decisions appropriate to their age and developmental stage. The goal is for each person to make as many choices about their lives as possible, while protecting them from harm.



## Universal Declaration of Human Rights

Australia was a founding member of the United Nations (UN) and participated in the drafting of the Universal Declaration of Human Rights. This declaration recognises that freedom, justice, peace, life, liberty, free speech and privacy are rights all people should enjoy. Although the declaration is not legally binding, it is an expression of values that have a profound influence on international human rights.

In relation to discrimination, Article 7 reads: 'All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination'.

Article 23 reads: 'Everyone, without discrimination, has the right to equal pay for equal work'.

You can read the Universal Declaration of Human Rights at: <http://aspirelr.link/udhr>

## Anti-discrimination

The quality of any organisation is largely affected by the ability of its staff to observe the rights of their clients, including parents, children and others. These rights are influenced by your specific role and by the type of organisation. Any individual or organisation that neglects these rights can be deemed negligent, either through lack of appropriate action or by giving poor advice.

Client rights are being violated when either they are being judged based on their values, discriminated against due to their individual needs or placed in a situation where they may feel unfairly treated. All services must be available to all clients to ensure non-judgmental, ethical practice regardless of their personal values, beliefs, attitudes and culture. This can be achieved by assessing each client and situation equally and according to your organisation's procedures.



By eliminating bias in your own values and attitudes, you can reduce the chance of non-judgmental practice occurring. To do this, always ask yourself what is the best outcome for the people involved and how can you reach this outcome. Remain unbiased in your personal values and attitudes when dealing with any situation.

## Anti-discrimination legislation

All workers in Australia must comply with a variety of federal Acts and standards related to discrimination. It is unlawful to discriminate against another person for any reason.

National anti-discrimination legislation relates to the following areas.

|                          |   |
|--------------------------|---|
| <p><b>Age</b></p>        | <p><b>Age Discrimination Act 2004 (Cth)</b></p> <p>The Age Discrimination Act protects people who are discriminated against because of their age and states that, regardless of age, everyone has the same right to equality before the law.</p> <p>The Act also allows appropriate benefits to be given to people of a certain age, particularly younger and older people, according to their circumstances.</p> <p>Exemptions include stipulations regarding youth wages, health care and voluntary work.</p>   |
| <p><b>Disability</b></p> | <p><b>Disability Discrimination Act 1992 (Cth)</b></p> <p>The Disability Discrimination Act gives a broad definition of disability, and prohibits direct or indirect discrimination based on disability. It also prohibits discrimination against friends, relatives, carers and co-workers of a person with a disability.</p> <p>The Act makes it unlawful to discriminate in the areas of:</p> <ul style="list-style-type: none"> <li>▶ employment</li> <li>▶ education</li> <li>▶ access to public premises</li> <li>▶ purchase of house and land</li> <li>▶ provision of goods, services and facilities</li> <li>▶ administration of Commonwealth Government laws and programs.</li> </ul> <p>The employer is expected to make reasonable adjustments for someone with a disability, unless this would cause them unjustifiable hardship. An example of an unjustifiable hardship is an organisation seeking to hire a cook to work in a kitchen with high benches. If an applicant uses a wheelchair the kitchen would require major (and costly) reconstruction to make it accessible and safe.</p> |

|                            |   |
|----------------------------|---|
| <p><b>Race</b></p>         | <p><b><i>Racial Discrimination Act 1975 (Cth)</i></b></p> <p>The Racial Discrimination Act prohibits discrimination and offensive behaviour based on racial intolerance. This includes discrimination based on race, colour, descent, and national or ethnic origin. It also protects those who may be discriminated against based on their association with people of a particular ethnicity. The Act applies to everyone in Australia and all organisations.</p> <p>Exceptions to the law often relate to the right to free speech, such as a newspaper report on racially based violence.</p>  |
| <p><b>Sex</b></p>          | <p><b><i>Sex Discrimination Act 1984 (Cth)</i></b></p> <p>The Sex Discrimination Act makes it unlawful to discriminate against someone based on their sex, marital or relationship status, pregnancy or potential pregnancy, sexual orientation, gender identity, intersex or breastfeeding status. It sets out laws against sexual harassment as well as dismissal from work based on family duties, including pregnancy.</p> <p>This Act also makes sexual harassment unlawful because it is a form of discrimination.</p> <p>An exception to the Act includes employing a person of a particular sex (such as a female carer) to look after a child in the child's home.</p> |
| <p><b>Human rights</b></p> | <p><b><i>Australian Human Rights Commission Act 1986 (Cth)</i></b></p> <p>The Australian Human Rights Commission deals with breaches of anti-discrimination laws and promotes human rights education.</p> <p>The Act promotes human rights for all people, and covers most forms of discrimination, including discrimination on the basis of:</p> <ul style="list-style-type: none"> <li>▶ criminal records</li> <li>▶ marital status</li> <li>▶ medical records</li> <li>▶ political opinions</li> <li>▶ religion</li> <li>▶ sexual preference</li> <li>▶ social origin</li> <li>▶ trade union activity.</li> </ul>  |

## Dealing with complaints

When a complaint relating to discrimination or rights arises, it must be dealt with by following organisational policies and procedures. This may involve an initial internal process; however, you can initiate an external process straightaway if you feel uncomfortable about raising the issue in your organisation, or if the leaders in the organisation are the subject of the complaint.

The following are some examples of situations where client rights have not been upheld:

- ▶ A family who is next on the waiting list is not notified of a vacancy because of their values, beliefs, attitudes or culture.
- ▶ The requests of a family are followed through based on the decision of educators rather than policies or legislation.
- ▶ Parents are communicated with unfairly based on how sociable or approachable they seem.
- ▶ A family is forced to provide information they feel uncomfortable sharing.
- ▶ A family's confidential information is being used for something other than the direct care of their child, without the family's consent.

If you are a member of a union, a representative can support you through an internal or external process.

### Internal processes for dealing with complaints

- ▶ Contact your supervisor and/or service leader. Explain your concerns, what has happened and how it is affecting you.
- ▶ Identify who needs to take action. Is there something you need to do, such as documenting the issues, or does the supervisor need to do something, such as removing a notice or speaking with a staff member?
- ▶ If these actions are not effective you may try to speak to a supervisor at a higher level or take the issue to an external body.

### External processes for dealing with complaints

- ▶ Lodge your written complaint with the Anti-discrimination Board or Australian Human Rights Commission.
- ▶ An officer will investigate the issue. They will contact you and all people involved in the complaint.
- ▶ If the complaint moves forward it will go to a conciliation meeting where both parties can express their account of the situation and come to an agreement, if possible.
- ▶ If conciliation is not successful, the complaint can move to the Administrative Decisions Tribunal or the Federal Court or Federal Magistrates Court (for disability discrimination). A court hearing will occur and a decision will be made.

## Human needs and human rights

The terms 'human rights' and 'human needs' are perceived very differently when it comes to ethical and legal issues:

- ▶ Human rights relate to the immediate and important aspects of respect, dignity and fairness.
- ▶ Human needs are basic physical needs, including adequate food, water, air, clothing and sleep.



The UN Convention on the Rights of the Child is made up of 54 articles, which outline the minimum standards governments should meet to provide adequate services and support for children and their families in the areas of health, welfare and education. It signifies the international community's recognition that children, as human beings, are entitled to the full enjoyment of human dignity.

**Rights you must uphold include those relating to:**

- ▶ privacy
- ▶ confidentiality
- ▶ dignity
- ▶ freedom of association
- ▶ informed choice
- ▶ ability to voice concerns
- ▶ openness in sharing ideas and opinions
- ▶ agreed standards
- ▶ access to services.

## Child protection laws

Legislation in each state and territory governs the way that child protection services are provided. The United Nations Convention on the Rights of the Child underpins Australian child protection legislation.

The following table sets out the legislation that applies to each state or territory.

**Child protection legislation**

**Australian Capital Territory**

*Children and Young People Act 2008 (ACT)*

**New South Wales**

*Children and Young Persons (Care and Protection) Act 1998 (NSW)*

**Northern Territory**

*Care and Protection of Children Act 2007 (NT)*

**Queensland**

*Child Protection Act 1999 (Qld)*

**South Australia**

*Children's Protection Act 1993 (SA)*

**Tasmania**

*Children, Young Persons and their Families Act 1997 (Tas.)*

**Victoria**

*Children, Youth and Families Act 2005 (Vic.)*

**Western Australia**

*Children and Community Services Act 2004 (WA)*

There are a number of frameworks in Australia that support the rights of others. These frameworks provide access and equity policy in education and care services, including accommodating children:

- ▶ with disabilities
- ▶ from diverse cultural backgrounds
- ▶ at risk of being abused or neglected.

At a state and territory level, mandatory reporting on child protection issues is embedded in workplace procedures.

The following are also frameworks, approaches and instruments that you will use in your workplace as guides to appropriate practice:

- ▶ the National Quality Framework (NQF), including laws, regulations and standards
- ▶ *Belonging, being and becoming: The early years learning framework (EYLF)* and/or *My time, our place: Framework for school age care in Australia (MTOP)*
- ▶ Early Childhood Australia's Code of Ethics 2006
- ▶ the United Nations Convention on the Rights of the Child
- ▶ national and state/territory legislation
- ▶ organisation policies and procedures.

## Supporting clients

As part of your duty of care, you must ensure that every client receives professional care and has their needs met. This means you have a legal responsibility to respectfully support all clients when they identify and express their concerns. When you do this you are advocating for their needs.

### **Supporting and advocating for clients can be achieved by:**

- ▶ creating a client-oriented culture
- ▶ having a non-discriminatory approach to all clients
- ▶ respecting individual differences
- ▶ assisting clients to access services they need and manage any issues they have
- ▶ supporting clients to express their concerns
- ▶ taking client concerns seriously and working respectfully to resolve these
- ▶ following complaints policies and procedures when needed
- ▶ reporting any signs of abuse or neglect
- ▶ supporting cultural, linguistic and/or religious diversity, and providing support for practices
- ▶ providing interpreters and/or translators as needed.

## Advocacy services

You can also support clients by referring them to an advocacy service, if appropriate. An advocate stands up for the client and helps them to make decisions about their own or their child's care. The advocate may attend discussions about the child's care and make sure the client receives the service they want and need.

As well as professional advocates, an advocate may be a friend, family member or professional such as a support worker, doctor or lawyer.

There are many organisations that provide advocacy assistance, such as those listed below.

**Advocacy services that can assist clients to have their rights upheld include:**

- ▶ the Australian Human Rights Commission
- ▶ Early Childhood Australia
- ▶ the Association of Children’s Welfare Agencies
- ▶ Child Wise
- ▶ Save the Children
- ▶ state-, territory- and community-based advocacy organisations, such as the Queensland Child Advocacy Service.

## Practice task 1

Read the case study, then answer the questions that follow.

### Case study

Leon has been working with Sally in an education and care service for over a year. They enjoy each other’s company and have always joked and chatted happily during their breaks.

Leon has recently broken up with his girlfriend and since that occasion, Sally has been taking all her breaks at the same time as Leon. She has made some jokes about his sexual activity and asked private questions about what he is doing over the weekend.

At first Leon thinks Sally is just being supportive, but some of Sally’s questions make him feel very uncomfortable; for example, Sally once asked him if he makes late night phone calls to women he works with. Following this he found a note in his locker with Sally’s name and phone number on it.

Leon feels uncomfortable about this as he likes to keep his personal and work life separate. He is not sure what to do, but feels the situation may end badly as he sees Sally only as a work colleague.

1. What initial action might Leon take to deal with this situation?

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2. What is wrong with Sally’s actions?

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3. List **four** types of discrimination not related to this case study.

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# 1B Legal responsibilities

Each education and care service operates according to its policies, procedures and protocols, which reflect the basic philosophy of the service and its legal obligations. You will most likely receive a manual or handbook that contains vital information about policies and procedures for all staff, particularly those who are new to a service.

As an educator, it is essential that you take responsibility for understanding legislation and guidelines, and implementing actions that uphold these.



Those you work with will expect you to do so. However, you should always ask for support and assistance if you are uncertain about any situation.

## Scope of legal responsibilities

Being familiar with the relevant federal, state and territory laws and regulations enables you to apply them as part of your daily work.

### Knowledge of legislation allows you to:

- ▶ ensure your own legal compliance
- ▶ understand your obligations
- ▶ contribute to policy and procedure development
- ▶ support others in understanding their work roles
- ▶ accept responsibility for your own actions
- ▶ provide correct and clear information to parents.

## Position descriptions

The purpose of a position description is to provide a clear explanation of the boundaries of a person's job role and the skills required to perform this job.

A position description should:

- ▶ explain the purpose or objective of the role
- ▶ indicate the key responsibilities of the role
- ▶ identify the tasks that must be performed to fulfil each responsibility
- ▶ explain the accountability structure and reporting arrangements to ensure the responsibilities of the position are met
- ▶ indicate whether there are any specialised skills or necessary knowledge
- ▶ outline the key selection criteria used to determine the suitability of applicants
- ▶ describe the terms and conditions of employment.

Position descriptions also help to clarify roles and responsibilities of staff and the management body. They provide a foundation for human resources management in the following ways.

### **Staff recruitment and selection**

Position descriptions assist management to understand the sort of person required for the role and assist job applicants to assess whether the role is suited to them.

### **Staff appraisal**

Staff appraisals provide the opportunity for you and your supervisor to discuss your performance based on the position description. You can then both identify areas where you would like to receive more training or support (you may even discuss career prospects and future opportunities).

### **Performance counselling**

Supervisors are able to measure your performance from the position description and then provide training or support in areas of need. This may include disciplinary actions if you are not performing appropriately.

## **Statement of duties**

You might breach duty of care obligations or other legislative requirements if you are completing tasks incorrectly or above your role. The tasks you are expected to complete are usually outlined in the statement of duties section of the position description.

If the statement of duties is unclear, or if you are unsure about any tasks, unclear of a duty or want to make sure you are taking on the correct responsibilities for your role, seek clarification from the policies and procedures manual, or from your supervisor or manager.



By clarifying information you are not only able to undertake duties appropriately, but are assisting to update and improve the statement so all staff members can interpret it correctly.

## **Work role breaches**

A breach occurs if you fail to meet your work role, or your legal or ethical obligations.

Examples of work role breaches include:

- ▶ breaking confidentiality or privacy of a client or colleague
- ▶ disciplining a child physically or using an inappropriate tone of voice or language
- ▶ failing to meet a duty of care
- ▶ demonstrating disrespectful behaviour
- ▶ undertaking actions outside of regulations.

A number of consequences could occur should you breach your work role boundaries. Breaches of legislation may pose significant risk, and could result in penalties being imposed on you and/or the organisation.

At a personal level, organisations will have a discipline policy in place, which will outline the procedures and possible consequences that apply when breaches occur. During a disciplinary process employees are able to have the support of an advocate or union representative, should they wish.

Common outcomes of legislative and policy breaches are outlined here.

### **Feedback**

For a minor breach your supervisor may discuss your actions with you and ensure you are aware of how you have breached work role boundaries.

### **Formal discussion**

Your supervisor may formally meet with you to discuss a more serious breach or a repeated breach, advising you of the expected behaviour and warning you of an official process should you repeat the breach or continue a particular action. There may be written notice of this meeting, along with a written outline of what has occurred in the meeting.

### **Verbal caution or written warning**

You may receive a verbal caution or a written warning.

### **Dismissal or disciplinary action**

If misconduct or a breach of role responsibilities continues, disciplinary action such as dismissal may occur.

If a breach of work role responsibilities is severe, it is possible that an immediate dismissal will occur. For example, this would occur if a child is physically or intentionally harmed by an educator, or if the funds of the organisation have been stolen or intentionally misused.

## **Respond to legal issues**

Legal issues are actions that are taken that result in legislation being breached. In an education and care service there are many legal issues to consider. Some of these rely on your individual professional practice, such as duty of care. Other issues link to how the whole service operates.

### **Legal issues may relate to:**

- ▶ licensing
- ▶ child protection
- ▶ employment and industrial relations
- ▶ child supervision
- ▶ discrimination
- ▶ health and safety, including duty of care
- ▶ confidentiality and privacy
- ▶ criminal activity such as fraud
- ▶ negligence.

You may be placed in a situation where you witness or identify a legislative breach in your workplace. The breach may have been committed by you or a colleague, or may be the result of a supervisor's actions.

If you are aware that you have breached legislation, speak to your supervisor as soon as possible to attempt to rectify the situation. If the breach was committed by you due to the expectations others place on you, advise your supervisor of your concerns.

A situation where legal issues are repeatedly breached can result in fines and/or legal proceedings. Always take action when breaches occur. For example, if you are placed in a situation where you are breaching legislation, report this to your regulatory authority immediately.

If a colleague or supervisor's actions result in a breach of work role responsibilities, you may be able to speak to the supervisor or their manager. Where this is inappropriate or not possible, you may wish to pursue the matter formally by reporting it to your regulatory authority.

## Regulatory authorities

Regulatory authorities are bodies appointed by the government to enforce their laws. The education and care services industry has a regulatory authority in each state and territory.

You can find the contact details for regulatory authorities on the Australian Children's Education and Care Quality Authority (ACECQA) website:  
<http://aspirelr.link/acecqa-regulatory-authorities>

## Practice task 2

Read the case study, then answer the questions that follow.

### Case study

Merian, an educator, has observed her co-worker Kimberley raise her voice to a child, place her face close to the child's and hold his arm tightly. Kimberley then pushed the child as she walked away, causing the child to fall backward.

Merian is very upset about what she saw and knows this is not appropriate behaviour for an educator. Merian immediately speaks to her supervisor about what happened and explains what she had seen.

1. Why is it important for Merian to be familiar with the regulations of her state or territory and how she can put them into practice as part of her daily work?

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2. What type of legal issue is Merian responding to?

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3. If Merian was in your state/territory, what is the website, mailing address, email address and phone number of the children’s services regulatory authority she would contact?

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4. Is the child’s right to be safe in this situation a human right or a human need?

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# 1C Legal work practices

You may be faced with a range of issues and dilemmas while working within the children's services sector. The way you deal with these will impact directly on you, the children, their families and your colleagues. At times it may be necessary to discuss your role and responsibilities and causes of concern with other educators or your supervisor. By being familiar with your service's policies and procedures, legislative requirements and your job description, you will be most likely to work within your role.

## Reporting requirements

Legislation relating to child protection states that any person who believes a child is in need of protection should notify a child protection service. As an educator and an advocate for children, this is your moral obligation.

Child protection legislation provides guidelines for how to report abuse and how to act in situations where you are concerned that harm is occurring.

### You may be concerned that harm is occurring due to:

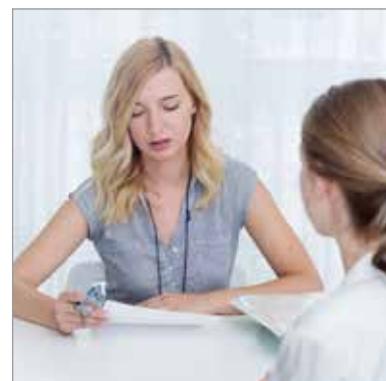
- ▶ abuse in all forms including physical, sexual and emotional abuse
- ▶ domestic and family violence
- ▶ neglect
- ▶ exploitation
- ▶ alcohol and other drug (AOD) concerns
- ▶ systems abuse (harm done to children through policies, procedures, legislation and guidelines).

## Mandatory reporting

Notifications of a child in need of protection are made under the relevant state and territory Act. These Acts state that any person who believes a child is in need of protection must report the situation and provide the details that have made them believe this. Any person can make a report, regardless of profession or position, to the child protection service or state department that deals with child abuse.

You must report a situation of abuse if you are concerned the child's parents are unable or unwilling to protect the child. If you are in this situation you are free to report your concerns for moral reasons rather than because the law compels you to do so.

The Acts and regulations of each state and territory also state that certain professionals must report abuse when they believe a child is in need of protection. This is referred to as mandatory reporting and differs throughout Australia. Commonly, doctors, nurses, midwives, school teachers, medical professionals, health professionals and police officers are all mandated to report abuse. The types of abuse they are mandated to report also vary, but include sexual, physical, emotional/psychological abuse and any form of neglect.



To identify if you are required to report child abuse under mandatory reporting laws, go to the Australian Institute of Family Studies website:

<http://aspirelr.link/mandatory-reporting-child-abuse>

To view your state or territory authority for reporting, or advice and support regarding child abuse go to the Australian Institute of Family Studies website:

<http://aspirelr.link/state-child-abuse-authority>

You should also be aware of reporting requirements that exist outside of mandatory reporting. For example, in Victoria early childhood teachers are mandated to report child abuse while educators are not. However, Child Safe Standards deem that all adults working in an organisation that cares for children in Victoria are legally required to report abuse.

To find out more about Child Safe Standards, go to the Department of Education and Training Victoria website: <http://aspirelr.link/child-safe-standards>

## Records management

It is a legal requirement that confidential information is stored in a secure location, but is still accessible to staff. Any form of communication with others, including personal records, emails, photos, reports and incident notes are included in this requirement.

Locked filing cabinets, folders, private computers or other technology-based resources are all appropriate places to store records. These records need to be easily accessible and securely stored for as long as they are needed, then destroyed once they are no longer required.



While service records may include a range of legal documents that collect enrolment, fee and other information, you will need to keep records that may include:

- ▶ children's portfolios
- ▶ observations
- ▶ incident reports
- ▶ illness records
- ▶ allergy and medical information
- ▶ individual care requirements
- ▶ cultural backgrounds.

Regardless of the type of information being recorded, you must follow service policies and procedures when completing each record. Ensure you include sufficient evidence and information, and store these confidentially and safely for record-keeping, reference, evidence and as part of auditing. All records must be kept in order, up-to-date and readily available upon request.

## Complaints management

When clients are clearly aware of the service policies and procedures, are part of continuous improvement processes and have their needs met, their concerns or complaints should be minimal. Similarly, parents who have developed a trusting relationship with you are more likely to discuss issues with you prior to a situation escalating.

Every service has a complaints policy and appropriate procedures to support the policy (this may also be known as a parent grievance policy). A complaints policy informs each party of their role and explains how the complaint should be handled. The policy must be made available to all clients in the language of their choice to ensure it is understood and can be implemented. The policy and procedures must be followed when your service receives a complaint.

### Steps to take when dealing with a complaint:

- ▶ Outline time frames for dealing with the issue.
- ▶ Specify how the complaint should be recorded; for example, as a progress report, incident report or as case notes.
- ▶ Specify whether the complaint can be managed verbally (on the phone or face to face).
- ▶ Identify whether there is a nominated complaints officer.
- ▶ Explain how relevant people will be involved.
- ▶ List what advice or support is available.
- ▶ Describe how recorded information should be handled and stored, including how long the information will be kept for.
- ▶ Describe how the complaint resolution links into the review and improvement of the service policies and procedures.
- ▶ Include contact details of the regulatory body responsible for the service.
- ▶ List advocacy services the client should be referred to, if appropriate.

## Complaints policies

Complaints policies and procedures may vary between organisations, so ensure you understand your role and responsibilities for dealing with complaints in your organisation. Your role may involve recording details of the complaint, or referring the complaint to your supervisor or complaints officer.

The Education and Care Services National Regulation states the following in relation to complaints:

- ▶ Regulation 168 (0): All education and care services must have policies and procedures dealing with complaints.
- ▶ Regulation 173 (2) (b): Prescribed information must be displayed, including the name and telephone number of the person at the education and care service whom complaints may be addressed to.

Clients who would like to make a complaint must be supported and encouraged to do so in the service so that the issue can be promptly managed and resolved. This is an important part of ensuring clients' needs are met. However, a client may also contact a regulatory body if they feel they are unable to approach the service, that the issue is not resolvable at service level or that their complaint has not been resolved adequately.

**General complaints that may occur in education and care services relate to:**

- ▶ lost clothing
- ▶ concerns regarding parts of the program
- ▶ uncertainty about routines and whether a child's needs are being met
- ▶ concerns about the menu
- ▶ concerns about the fee structure
- ▶ a lack of available spaces.

## Serious complaints

Serious complaints may be dealt with immediately at the service level. However, in some states and territories they must also be reported to the regulatory authority by the service.

Examples of serious complaints that may be reported directly to the regulatory body are listed here.

**More serious complaints may relate to:**

- ▶ child-staff ratios not being met
- ▶ food being inadequate or unhealthy
- ▶ food handling and storage practices being below standard
- ▶ observations of an educator treating a child inappropriately
- ▶ a lack of program planning, or planning not meeting the children's needs
- ▶ use of biased or disrespectful language, attitudes or actions
- ▶ a child being removed or leaving the service without parental consent
- ▶ incorrect administration of medication.

When a serious complaint is made, an education and care service must follow the Education and Care Services National Regulation 176 (2) (b). The organisation must notify the relevant regulatory authority within 24 hours if the complaint relates to an incident that requires an approved provider to close the premises or reduce the number of children attending the organisation.

## Assistance with complaints

Individual client needs must be taken into consideration when dealing with complaints. For example, a client's cultural, linguistic or religious diversity may impact their ability to communicate or make a complaint. This should never stand in the way of a client being able to make a complaint and have it resolved appropriately. Therefore, you must take steps to recognise and respond to these needs. For example, you may need to provide interpreters to help communicate exactly what the client wants and needs, and to help ensure the client understands the process and how their complaint will be dealt with.



After a complaint has been made and steps have been taken to rectify the situation, follow up with the client to ensure they are satisfied with the resolution and that the problem has been resolved appropriately. If the client is not satisfied, follow your organisation's procedures to further assist the client until an appropriate resolution can be implemented.

## Informed consent

You must obtain permission before conducting, performing or implementing specific practices, guidelines or procedures in your service. You must ensure:

- ▶ the person consenting has the ability to make the decision
- ▶ you have provided enough detailed information
- ▶ the person giving consent has made their decision without being pressured
- ▶ the person giving consent understands the information they have received and that they can withdraw their consent at any time.

Parents or guardians of a child commencing enrolment in a regulated children's service should be asked to provide signed authorisations that consent to you making decisions and taking actions on behalf of the child. Each of the following examples require consent from a parent or guardian before a child can participate in or be treated in accordance with organisational policies and procedures.

### Permissions you must receive include approval to:

- ▶ administer medication
- ▶ provide first aid
- ▶ call an ambulance if a child is seriously injured
- ▶ record observations of a child
- ▶ take photos of the child
- ▶ apply sunscreen before going outdoors
- ▶ leave the premises on a regular basis to attend a specific location, such as the supermarket or a local park
- ▶ involve children in particular celebrations
- ▶ introduce specific foods that are not normally included in the child's diet.

Without this consent from the child’s parent or guardian, you are breaching both legal and ethical guidelines if you carry out any of the above actions. You must make sure that the parent or guardian knows clearly what you want to do and why. This means that you should be very clear in the description of the permissions so that parents feel they have been fully informed of your intentions when they sign.

## Practice standards

When you are working to legal and ethical guidelines and your actions are in line with the current goals of your service procedures and processes, you will be following practice standards. By doing this you will also learn new skills, gain further knowledge and practise the standards set out by both your service and legislative requirements.



The NQF will guide your actions. In following the components of the NQF, you are following the practice standards of the education and care services industry.

## Rights and responsibilities

Rights and responsibilities not only play a significant role in determining specific actions or ways to conduct certain tasks, but are also governed by legislative requirements and organisational policies and procedures.

Each educator, supervisor, manager, client and family member has roles and responsibilities relevant to their participation and involvement in the environment. Each of these groups and individuals need to be aware of your organisation’s expectations and specific policies and procedures to ensure they are following these while they are on the premises.

## Client rights

Every client entering your service, particularly parents and children, has rights and responsibilities, as described below.

| <b>Clients have a right to:</b>   |
|---|
| ▶ a safe, clean and hazard-free environment                               |
| ▶ feel safe   |
| ▶ be treated as equals  |
| ▶ have their say and voice their concerns                                 |
| ▶ feel welcomed   |
| ▶ feel confident in having their physical, social and emotional needs met |
| ▶ be respected  |
| ▶ participate in the environment.   |

## Client responsibilities

When clients have additional needs, they have the right to access available support systems, including such services as:

- ▶ inclusion support
- ▶ interpreter services
- ▶ medical and allied health professionals
- ▶ preschool field officers
- ▶ organisations providing early intervention support for children with disabilities.



Clients also have responsibilities when entering your service, including:

- ▶ ensuring the safety of others around them
- ▶ managing records such as enrolment forms, medication forms, attendance records and allergy information
- ▶ keeping the lines of communication open with the educators, informing them about their child's needs, difficulties, family situations and any other factors that can influence their care and education.

All clients need access to organisational policies and procedures, particularly those that will affect them or their children directly. They also need to understand the ways they can:

- ▶ report concerns or issues
- ▶ make complaints
- ▶ make changes to their enrolment information
- ▶ commence a medical action plan
- ▶ ensure their child's dietary requirements are being met.

## Employer rights and responsibilities

Your employer has rights and responsibilities in relation to all of their employees and clients, as well visitors who enter the organisation. This includes their safety, and emotional and psychological welfare, along with a duty of care towards every individual entering, using and visiting the organisation.

Health and safety legislation outlines specific requirements and conditions that must be present in the workplace. The legislation covers:

- ▶ the work environment
- ▶ the condition and availability of resources and grounds
- ▶ employee breaks and shifts
- ▶ the cleanliness, safety and structure of the building, including its internal and external premises.

All employers must abide by the elements and criteria set out in the legislation or may face legal proceedings and fines.

## Worker rights and responsibilities

As an educator you have certain rights and responsibilities. These are clearly documented and set out for you in your position description, service policies and procedures, the NQF, and health and safety legislation. When aspects of these rights and responsibilities are not being upheld, breaches may occur that may result in incidents and injuries. Disciplinary action may be taken against you or your workplace if this occurs.

### Example

#### Assist with complaints

Bianca, an educator, is greeting the parents and children as they arrive in the morning. Darim, five years, recently commenced at the organisation after his family moved to Australia from the Middle East. Although Darim's mother Adira doesn't speak English well, she seems quite happy with the organisation.



Today when they arrive Bianca notices that Adira doesn't look happy. Adira walks up to Bianca and gives her a picture of a Christmas tree that Darim coloured in the day before, and says, 'Christmas, no pray'. Bianca doesn't know what she means, so she says, 'I'm sorry, I don't understand'. Adira shakes her head, points at the Christmas tree and says, 'Darim, Christmas, no pray'. Bianca can see that Adira is quite upset, so she takes her into her supervisor's office and goes to find her supervisor, Farah, for assistance.

Bianca explains to Farah that Adira is not happy, but she is not sure why, as they are having trouble communicating. Farah suggests that they use an interpreter service to help them communicate.

Farah rings an interpreter service and is transferred to someone who speaks the same language as Adira. Through the interpreter, Bianca and Farah learn that Adira is unhappy that Darim has been given a Christmas tree to colour in as he is Muslim and does not celebrate Christian events. Adira says she understands that there are Christian children in the centre and she is happy for Darim to be involved, but that she does not want Darim to be part of any Christian worship such as prayer or discussion of the bible.

Farah says that she understands the concerns and apologises if she has offended Adira. She explains that no Christian worship is included in the program and that the children are only involved in the activities they choose. Farah says that within the program many celebrations are reflected and asks Adira if she can suggest some activities that may help the other children learn about Darim's celebrations. Adira says she thinks this is a good idea, but she's not sure what is appropriate. Farah suggests that they have someone from the local community Muslim youth group come to talk to the children and involve them in some games. Adira thinks this is an excellent idea and is very happy that she has been understood and that her concerns have been resolved.

## Practice task 3

1. List **four** places where information on the responsibilities of an educator can be found.

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2. If another educator is heard communicating inappropriately in the work environment, what procedure should be followed?

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3. What is informed consent and why is it necessary to obtain it from parents or guardians?

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4. List **two** types of abuse that you may need to report under mandatory reporting laws.

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# 1D Reporting breaches

As a duty of care requirement you must report any potential or actual breaches of practice in accordance with your service's policies and procedures. Your response should be prompt to ensure the breach ceases immediately with no repeat occurring in the short or long term.

## Recognise and respond to a breach

When you are aware of your organisational policies and procedures as well as the legislative requirements of the NQF, you should be able to understand and recognise a breach in practice. This may be a breach you or others have unintentionally caused.

When noticing a breach, you must determine the appropriate legal and ethical action, and report this to an appropriate person. If the person you report to does not act, or you are concerned for the welfare of a child or co-worker, you may need to report directly to the relevant regulatory authority.



## Organisational procedures

Each education and care service will have its own policies and procedures that align with industry-related legislative requirements, codes of practice and duty of care requirements. Read and keep up-to-date with each of these to fully understand your role and responsibilities. Staff meetings and professional development training plays a significant part in maintaining your knowledge of changes to current practice, including your organisational procedures. You will implement best practice if you are proactive. If you are not sure of something, always ask another educator or supervisor, or read the appropriate policy for clarification.

## Policy breaches

Breaches of policies and procedures can easily occur. Be familiar with your responsibilities so you can best ensure the safety and health of all children, families and staff. Use open and direct communication with co-workers to assist in determining when, why or how a breach may be possible. Follow procedures even if others aren't. If someone else's actions are in breach, voice your concern or ask them why this is happening. If you lack confidence in speaking up, seek support from your peers or supervisor.

Here are some examples of breaches of practice in an education and care environment:

- ▶ An educator feeds a child food that the family has requested they are not to be given.
- ▶ An educator shares individual children's lunches with others.

- ▶ Children’s photos at play are posted online without prior informed consent from parents or guardians.
- ▶ Food with traces of nuts is found in the kitchen when the centre is advertised as nut-free.
- ▶ Children’s nappies are not being changed regularly, causing nappy rashes.
- ▶ Educators tell parents their children have slept when they haven’t.
- ▶ Educators tell parents their child has had a fantastic day when they haven’t.
- ▶ Eating areas are not being cleaned after children have finished snack and meals times, and children are walking or crawling in these areas and eating scraps from the floor.
- ▶ Children are not being given individual water bottles or cups to drink from.
- ▶ Child–staff ratios are not being implemented at all times.
- ▶ Children are not wearing hats or sunscreen when going outdoors during summer months.
- ▶ Clothing preferences are not being respected.
- ▶ Children are participating in experiences that are against their cultural beliefs and practices.
- ▶ Educators are using loud, rude and abrupt tones with the children.

## Legal breaches

When legislation is breached, consequences occur. The outcome will depend on:

- ▶ the breach itself
- ▶ how, why and when it occurred
- ▶ who was involved.

Your organisation should have policies and procedures in place, which you must follow when a legal or ethical breach occurs. These procedures may include ensuring training occurs or taking disciplinary action, including written or verbal warnings. Depending on the severity of the breach, it may result in immediate dismissal from the organisation.

When breaches are identified by regulatory authorities due to a complaint or report, or as part of the assessment and rating process, ultimatums may be given. For example, the organisation may be required to demonstrate compliance within a set period, or may need to provide a detailed action plan and periodically report on its progress.

## Practice task 4

Read the case study, then answer the questions that follow.

### Case study

Lucy is an educator at a long day care centre and is busy getting morning tea ready. She is cutting up some fruit and placing it in bowls ready to serve the children. Cara comments when walking past, ‘Don’t forget to give Riley his medication – he needs to have it with food’. Lucy is in a rush, as it is nearly her break time, and she forgets to organise Riley’s medication. Later in the day she remembers, and is worried she’ll get in trouble, so she fills in and signs the medication administration form, and forges her co-worker’s signature, even though Riley never received the medication.

1. How has Lucy breached legislation?

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2. What should Lucy have done in this situation?

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## Summary

- ▶ Laws are rules that apply to all people. They are developed to create a consistent understanding of what is and is not appropriate.
- ▶ In the education and care services sector, a National Quality Framework (NQF) has been implemented with the establishment of the Education and Care Services National Law.
- ▶ Confidentiality and privacy are important factors when considering the legal and ethical aspects of your role.
- ▶ Anyone caring for children has a duty of care towards those children.
- ▶ Dignity of risk is about respecting the abilities and disabilities of others by allowing them to make choices for themselves.
- ▶ Each education and care service operates according to its policies, procedures and protocols, which reflect the basic philosophy of the service.
- ▶ Being familiar with the regulations of your state or territory enables you to put them into practice as part of your daily work.
- ▶ The purpose of a position description is to provide a clear explanation of the boundaries of a person's job role and the skills required to perform that job.
- ▶ If you are aware that you have breached legislation, speak to your supervisor as soon as possible to attempt to rectify the situation.

# Learning checkpoint 1

## Identify and respond to legal requirements

This learning checkpoint allows you to review your skills and knowledge in identifying and responding to legal requirements.

### Part A

1. How can you identify, access and interpret information about the legal requirements of your job role?

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2. Describe what discrimination means, and give **two** examples of discrimination.

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3. List **five** types of legal and ethical issues that may occur in a children's services workplace.

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4. Describe what is meant by the term 'dignity of risk'.

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5. What is informed consent?

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6. Which article of the Universal Declaration of Human Rights relates to equal pay for equal work?

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7. If a child had an accident and you completed an incident record, what are **two** things you could do to manage this record appropriately?

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8. If you notice your supervisor pinching a child and leaving a bruise, would you be required to report this according to mandatory reporting laws in your state or territory?

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## Part B

Read the case study, then answer the questions that follow.

### Case study

Carla works with three other educators who all have very different views, ideas and concepts relating to what is best practice for the children. Carla likes to ask questions about her work role to ensure she is performing her role in accordance with her service's policies and procedures. She notices some of her colleagues implement practices that seem to be in breach of the guidelines. As Carla is new to the service, she is hesitant to report the breaches to her supervisor.

1. If Carla notices a breach of ethical or legal responsibilities, what should she do as part of her duty of care?

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2. What could Carla do to find out more about the NQF, specific laws, regulations, industrial relations legislation and health and safety practices (including duty of care) necessary in the education and care services environment?

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3. If a parent notices the service practices are inappropriate, which policy should they follow?

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4. If a parent's concerns are about their child's access to water during the day, would this relate to a human need or human rights?

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## Topic 2

In this topic you will learn about:

**2A Ethical responsibilities**

**2B Meet ethical responsibilities**

**2C Help with ethical issues**

**2D Ensure non-judgmental practice**

**2E Ethical problem-solving**

**2F Recognise and report unethical conduct**

**2G Conflicts of interest**

## Identify and meet ethical responsibilities

You are likely to face a number of ethical dilemmas as an educator working with children and their families. An ethical dilemma is a situation where you need to choose from two or more morally questionable courses of action. When these dilemmas occur, you should seek support from your supervisor or manager and be guided by appropriate documentation, such as Early Childhood Australia's Code of Ethics.

By working in the boundaries of your role, you can minimise many potential ethical dilemmas. Be aware that every service may approach these challenges differently and you must follow the expectations of your service.

The following table maps this topic to the National Quality Standard and both national learning frameworks.

| <b>National Quality Standard</b>      |  |                                       |
|---------------------------------------|--|---------------------------------------|
| ✓                                     | Quality Area 1: Educational program and practice                         |                                       |
| ✓                                     | Quality Area 2: Children's health and safety                             |                                       |
| ✓                                     | Quality Area 3: Physical environment                                     |                                       |
| ✓                                     | Quality Area 4: Staffing arrangements                                    |                                       |
| ✓                                     | Quality Area 5: Relationships with children                              |                                       |
| ✓                                     | Quality Area 6: Collaborative partnerships with families and communities |                                       |
| ✓                                     | Quality Area 7: Governance and leadership                                |                                       |
| <b>Early Years Learning Framework</b> | <b>My Time, Our Place</b>  |                                       |
| <b>Principles</b>                     |  |                                       |
| ✓                                     | Secure, respectful and reciprocal relationships                          |                                       |
| ✓                                     | Partnerships   |                                       |
| ✓                                     | High expectations and equity   |                                       |
| ✓                                     | Respect for diversity  |                                       |
| ✓                                     | Ongoing learning and reflective practice                                 |                                       |
| <b>Practice</b>                       |  |                                       |
| ✓                                     | Holistic approaches  | Holistic approaches                   |
|                                       | Responsiveness to children   | Collaboration with children           |
|                                       | Learning through play  | Learning through play                 |
|                                       | Intentional teaching   | Intentionality                        |
|                                       | Learning environments  | Environments                          |
| ✓                                     | Cultural competence  | Cultural competence                   |
|                                       | Continuity of learning and transitions                                   | Continuity and transitions            |
|                                       | Assessment for learning  | Evaluation for wellbeing and learning |
| <b>Outcomes</b>                       |  |                                       |
|                                       | Children have a strong sense of identity                                 |                                       |
|                                       | Children are connected to and contribute to their world                  |                                       |
| ✓                                     | Children have a strong sense of wellbeing                                |                                       |
|                                       | Children are confident and involved learners                             |                                       |
|                                       | Children are effective communicators                                     |                                       |

# 2A Ethical responsibilities

While legal issues relate to specific legislation or guidelines, ethical dilemmas are often less clear and sometimes can be interpreted differently from one person to another.

Ethical dilemmas are common in education and care services. They include the following situations:

- ▶ Parents asking you to keep their child awake all day so they will sleep better at night.
- ▶ Parents wanting you to hold an infant over a toilet after each meal until the child passes urine or has a bowel movement.
- ▶ Observing other educators interacting inappropriately around the children.
- ▶ A parent confiding in you that they think a supervisor at your service is responsible for bruises on their child's arm.



## Ethical information

Ethical information may be required as you combat an array of practices, requests and roles with other staff, children and their families. You will need to research, converse and enquire as you make attempts to find useful, factual and insightful information relating to specific ethical requirements. It is useful to discuss this information with others or use it as a guide.

Your organisational code of conduct plays an important role in outlining specific values, behaviours and expectations. Following a code of conduct helps you to implement practices that are consistent and in line with organisational standards.

Watch this video for more information about accessing information to meet your legal and ethical obligations.



## Ethical responsibilities

To demonstrate best practice, you must be able to interpret any applied code of conduct and uphold the morals, values, beliefs and expected practices of the organisation.

Ethical responsibilities include day-to-day practices or attitudes, and the specific behaviours and expectations you must adhere to when interacting with others. Other people's ideas, beliefs and values may differ greatly from your own. However, you must respect and accommodate them if they are ethically sound. The end result should always be what is best for all parties involved and what is reflected by the expectations set out in your organisation's code of conduct, policies, procedures, protocols, philosophy and your duty of care requirements.

## Legal and ethical frameworks

Legal and ethical frameworks provide a guide to specific actions, practices and interactions that should be implemented.

The legal framework that applies to the education and care service is the National Quality Framework (NQF). It includes:

- ▶ Education and Care Services National Law
- ▶ Education and Care Services National Regulations
- ▶ National Quality Standard (NQS)
- ▶ EYLF
- ▶ MTOP

In addition, some international frameworks apply, such as the Universal Declaration of Human Rights and the United Nations Convention on the Rights of the Child.

Ethical frameworks work hand-in-hand with legislative requirements. Your organisational code of conduct, policies, procedures and philosophy outline these requirements.

## Ethical breaches

Ethical breaches may be a result of inexperience, lack of skills or misunderstanding. They may also occur when educators enforce their own values that are not in line with industry standards or a family's requests.

When ethical breaches occur, mentors or supervisors may work with the individual to assist them to increase their skills and/or knowledge to ensure a repeat does not occur and that they understand the situation clearly. As with legal breaches, severe situations may result in disciplinary procedures (including immediate dismissal) if responsibilities or duty of care requirements were neglected.

## ECA Code of Ethics

Early Childhood Australia (ECA) is a peak education and care advocacy organisation acting in the interests of young children, their families and those in the education and care field. ECA has developed a code of ethics that provides a basis for critical reflection, a guide for professional behaviour and principles to inform individual and collective decision-making.

More information about ECA's Code of Ethics can be found at: <http://aspirelr.link/eca-code-of-ethics>



## Early Childhood Australia's Code of Ethics

The core principles in this Code of Ethics are based on the fundamental and prized values of the profession. They act to guide decision making in relation to ethical responsibilities. These core principles require a commitment to respect and maintain the rights and dignity of children, families, colleagues and communities.

1. Each child has unique interests and strengths and the capacity to contribute to their communities.
2. Children are citizens from birth with civil, cultural, linguistic, social and economic rights.
3. Effective learning and teaching is characterised by professional decisions that draw on specialised knowledge and multiple perspectives.
4. Partnerships with families and communities support shared responsibility for children's learning, development and wellbeing.
5. Democratic, fair and inclusive practices promote equity and a strong sense of belonging.
6. Respectful, responsive and reciprocal relationships are central to children's education and care.
7. Play and leisure are essential for children's learning, development and wellbeing.
8. Research, inquiry and practice-based evidence inform quality education and care.

### **1. In relation to children, I will:**

1. Act in the best interests of all children
2. Create and maintain safe, healthy, inclusive environments that support children's agency and enhance their learning
3. Provide a meaningful curriculum to enrich children's learning, balancing child and educator initiated experiences
4. Understand and be able to explain to others how play and leisure enhance children's learning, development and wellbeing
5. Ensure childhood is a time for being in the here and now and not solely about preparation for the future
6. Collaborate with children as global citizens in learning about our shared responsibilities to the environment and humanity
7. Value the relationship between children and their families and enhance these relationships through my practice
8. Ensure that children are not discriminated against on the basis of gender, sexuality, age, ability, economic status, family structure, lifestyle, ethnicity, religion, language, culture or national origin
9. Negotiate children's participation in research by taking into account their safety, privacy, levels of fatigue and interest
10. Respect children as capable learners by including their perspectives in teaching, learning and assessment
11. Safeguard the security of information and documentation about children, particularly when shared on digital platforms.

**II. In relation to families, I will:**

1. Support families as children's first and most important teacher and respect their right to make decisions about their children
2. Listen to and learn with families and engage in shared decision making, planning and assessment practices in relation to children's learning, development and wellbeing
3. Develop respectful relationships based on open communication with the aim of encouraging families' engagement and to build a strong sense of belonging
4. Learn about, respect and respond to the uniqueness of each family, their circumstances, culture, family structure, customs, language, beliefs and kinship systems
5. Respect families' right to privacy and maintain confidentiality.

**III. In relation to colleagues, I will:**

1. Encourage others to adopt and act in accordance with this Code, and take action in the presence of unethical behaviours
2. Build a spirit of collegiality and professionalism through collaborative relationships based on trust, respect and honesty
3. Acknowledge and support the diverse strengths and experiences of colleagues in order to build shared professional knowledge, understanding and skills
4. Use constructive processes to address differences of opinion in order to negotiate shared perspectives and actions
5. Participate in a 'lively culture of professional inquiry' to support continuous improvement
6. Implement strategies that support and mentor colleagues to make positive contributions to the profession
7. Maintain ethical relationships in my online interactions.

**IV. In relation to community and society, I will:**

1. Learn about local community contexts and aspirations in order to create responsive programs to enhance children's learning, development and wellbeing
2. Collaborate with people, services and agencies to develop shared understandings and actions that support children and families
3. Use research and practice-based evidence to advocate for a society where all children have access to quality education and care
4. Promote the value of children's contribution as citizens to the development of strong communities
5. Work to promote increased appreciation of the importance of childhood including how children learn and develop in order to inform programs and systems of assessment that benefit children
6. Advocate for the development and implementation of laws and policies that promote the rights and best interests of children and families.

**VII. In relation to the professional, I will:**

1. Base my work on research, theories, content knowledge, practice evidence and my understanding of the children and families with whom I work
2. Take responsibility for articulating my professional values, knowledge and practice, and the positive contribution our profession makes to society
3. Engage in critical reflection, ongoing professional learning and support research that builds my knowledge and that of the profession
4. Work within the scope of my professional role and avoid misrepresentation of my professional competence and qualifications
5. Encourage qualities and practices of ethical leadership within the profession
6. Model quality practice and provide constructive feedback and assessment for students as aspiring professionals
7. Mentor new graduates by supporting their induction into the profession
8. Advocate for my profession and the provision of quality education and care.

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## Ethical responsibilities

By being aware of your responsibilities and rights and the boundaries of your work role, you are better able to work ethically and handle situations that are difficult or distressing.

You are not expected to deal with all ethical dilemmas yourself, and should always act within your position description and ask your colleagues and supervisors for help when necessary. Organisational policies and procedures will also guide you in deciding what actions to take and what decisions you are trained and qualified to make.

You may not agree with the beliefs, actions, customs or lifestyle of someone else. However, you have a professional obligation to respect these, as long as they cause no harm. To manage this appropriately, you need to have an open mind to difference.

When working with such a vast range of people, you are bound to come across ethical challenges. Some of these are recurrent or familiar experiences that standards of practice and procedures recognise and guide; others may require a more considered approach.

## Educator—client boundaries

Educators have boundaries of expertise and this limitation means that some actions are inappropriate.

### Boundaries may relate to:

- ▶ parent information exchanges, request responses, questions, advice and guidance
- ▶ behaviour guidance practices
- ▶ social relationships
- ▶ sharing personal information.

If you cross professional boundaries, you are not only causing a legal or ethical breach, you are also creating future problems for yourself and your organisation.

Regardless of the ways you exchange information, you must be professional at all times and follow service policies and procedures. This may mean telling families you are unable to assist, or referring them to a more suitable person, service or method of gathering information.

**Example**

**Display ethical behavior by showing respect**

Patricia has been working as an educator for the past three years. She cares for Tim, a preschooler who must follow a strict diet due to his religious faith. Patricia is not religious and does not agree with Tim’s restricted eating. However, she realises how important it is for Tim and his family that his beliefs are respected and that his needs are met in the education and care environment.

Patricia makes sure that Tim only eats the food his parents have either provided for him or approved, and checks each meal carefully before serving it to him.



## Practice task 5

Read the case study, then answer the questions that follow.

### Case study

As Susan drops off her son Andy, she approaches the educator, John, and asks if he can ensure Andy sleeps today as the family is planning to stay out late tonight. Andy is four years old and doesn’t usually have a nap.

John acknowledges Susan’s request and suggests that he can sit with Andy while he is lying down, to encourage him to go to sleep.

Susan says that won’t work and to hold Andy down if he wriggles around, until he wears himself out and falls asleep. She says that is the only way she can get him to go to sleep at home.

1. What should John do in this situation?

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2. When quiet time commences how could Andy’s need for a nap be accommodated?

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3. If John tells Susan that it may be distressing for Susan to hold Andy down to go to sleep and gives her some new ideas, would he be breaching educator–client boundaries?

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4. If John tells Susan that she doesn't deserve to be a parent because of her behaviour towards Andy, would he be breaching educator–client boundaries?

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5. Outline **two** other examples of ethical issues that may occur in a children's services workplace.

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6. What is the purpose of the ECA Code of Ethics?

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## 2B Meet ethical responsibilities

When faced with an ethical dilemma, you are usually faced with at least two choices. The best choice to make is the one that has the greatest chance of resulting in your own and others' happiness and wellbeing, while the less favoured choice decreases these aspects.

Making the best choice can be particularly difficult. Sometimes it is harder when the choice involves other workers and many views; at other times it is harder to decide on your own.

You may also be under considerable pressure to take a certain course of action; for example, to resolve the situation quickly, or to not raise your concerns if it involves the conduct of a senior staff member. Despite any pressure you may be facing, always put the children's welfare first – you must strive to uphold this at all times. In addition, remember your position description and what your role is. Sometimes it will not be your role to resolve the dilemma; at other times you will be expected to support others to resolve it.



### Workplace policies and protocols

Each service develops policies, procedures and protocols that are unique to the philosophy and values of the team. These determine how all work tasks and activities are undertaken and help you to resolve ethical issues that arise. When you commence employment at an organisation, it is vital that you read the policies and procedures manual so you understand the workplace's philosophy and the expectations placed on you. In particular, check how your position description links to these policies, procedures and protocols.

Here is a brief description of each:

- ▶ **Policies:** Usually based on legislation, and are used to guide and determine decisions. They are developed to provide an overall plan with general goals; for example, all children must wear a hat when outdoors, which helps to protect their health.
- ▶ **Procedures:** Describe actions that need to be executed as a sequence of activities, tasks, steps and processes. When undertaken, they produce the desired result or outcome.
- ▶ **Protocols:** A set of rules that describe appropriate behaviours that all workers must follow. For example, all educators must demonstrate professional behaviour and a caring manner at all times. Common protocol areas for an education and care service are shown below. Examples of ethical dilemmas and how these link to the protocols are also provided.

### Health, hygiene and safety practices

This includes incidents and emergencies, illness and infectious diseases, medication, immunisation and sun care.

Examples of ethical dilemmas:

- ▶ A parent refuses to come early to pick up their child who has become ill.
- ▶ A staff member wears a hijab (traditional headscarf) and refuses to wear a sun hat outdoors.

### General practices

This includes acceptable behaviour and guidance, clothing, lost property and excursions.

Examples of ethical dilemmas:

- ▶ A parent insists that their child gets hot when playing outdoors during winter and should not wear a coat or jumper.
- ▶ You have planned an excursion and one family feels strongly that this is inappropriate for their children.

### Routine practices

This includes meals and snacks, dental care, rest times and toileting.

Examples of ethical dilemmas:

- ▶ A parent asks you to ensure their child brushes her teeth after each meal. You don't usually include this practice, but the child has decayed teeth.
- ▶ A parent wishes for their baby to stay up during the day, even if they are tired.

### Administration

This includes absences, accounts and receipts, school holiday care, fee payments and outstanding accounts.

Examples of ethical dilemmas:

- ▶ It is the day of an excursion and one family has not paid their fee. Their children have already been dropped off and the parents are not contactable. They have given authority for their children to attend.
- ▶ A family is booked into full-time care and pays their accounts on time, but their children only attend a couple of random days per week and stay only for an hour or two each visit.

Policies and procedures outline the day-to-day operations within the service. Not only do they help you resolve ethical issues, they also ensure that staff:

- ▶ are aware of the expectations relevant to their job role
- ▶ maintain care to the highest possible standard
- ▶ can undertake tasks in the appropriate manner.

Watch this video for more information on what policies and procedures relate to.



## Practice task 6

1. Describe how policies, procedures and protocols can help you understand your ethical responsibilities.

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2. If you are faced with an ethical dilemma, how might you find out if you are meeting your ethical responsibilities or if the ethical dilemma is the responsibility of another staff member?

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# 2C Help with ethical issues

When ethical issues and dilemmas arise you may ask for the help of others involved and for support from a senior staff member. It is your duty to inform others and raise concerns when an issue occurs.

You may be unable to deal with an ethical dilemma on your own due to the following factors:

- ▶ You lack knowledge regarding the specific issue, processes or policies surrounding the concern.
- ▶ Your roles and responsibilities are not in this area of experience or expertise.
- ▶ You are unable to confront the individual causing the concern.



Sometimes you may be unaware of issues that can be related to a dilemma.

## Recognise potential ethical issues

To recognise a potential ethical issue or concern, you must be able to recognise the difference between legal and ethical issues. Once you have established this you can work towards fixing the dilemma.

In any work environment you may observe unethical actions, behaviours or communication. When you understand the organisation's code of conduct – in particular the NQF components – you will be able to recognise unethical actions.

## Types of ethical issues

The ethical issues that may occur will vary immensely depending on the factors and specifics of the situation.

### Ethical issues may include incidents regarding:

- ▶ parental requests
- ▶ staff actions
- ▶ communication strategies
- ▶ actions or specific practices implemented
- ▶ communication
- ▶ ideas or beliefs
- ▶ personalities
- ▶ morals
- ▶ prior experiences.

## Respond to issues and dilemmas

Your service's policies and procedures explain how to report particular ethical dilemmas if they occur. The ECA Code of Ethics is included in these policies and procedures as part of a National Quality Standard (see Element 4.2.2 of the NQS). This provides you with guidance strategies to use in particular events and situations, enabling the best possible course of action to be implemented.

You should be aware of who you can contact or report to if you witness unethical conduct; for example, your manager or the director. Your service's grievance procedures can also guide you as these provide details of actions to take.

Each service will expect you to seek guidance from and report to a particular person. In some services, only senior staff members are expected to resolve ethical dilemmas as they feel that less qualified educators may be placed in too stressful a situation.

You may be expected to report unethical conduct verbally; for example, by speaking to your supervisor face to face or on the phone. You may also be required to report in writing via an incident report or email. How you report depends on your organisation's procedures.

## Distinguish between ethical and legal issues

The following are examples that demonstrate the difference between ethical and legal issues.

| Legal issue   | Ethical issue  |
|---|--|
| <p>If a parent asks you to smack their child if they bite, this would be a legal issue. You know that legally you are unable to inflict any physical punishment on any child.</p>   | <p>If a parent asks you to tell them if their child is biting other children, so they could smack them as punishment, this would be an ethical dilemma. You know you should tell the parent about any biting, but you would also feel it is inappropriate for the parent to smack the child, particularly as a delayed response.</p> |
| <p>If an educator tells you they are going on a break when you know the educator-child ratios will be inappropriate (for example, you will be on your own with 10 infants), this is a legal issue as you are not allowed to care for this many infants alone.</p> | <p>If an educator tells you they are going on break and the ratios will be appropriate, but there are a number of children upset and a range of difficult situations occurring, this is an ethical issue.</p>  |

# Practice task 7

Read the case study and answer the questions that follow.

## Case study

Davey has come to pick up his four-year-old daughter Lea from the long day care service. Davey has not been to the service before. Davey is legally allowed to pick Lea up. When Lea sees Davey she begins to scream. She refuses to go with Davey and he seems to be getting aggressive toward her.

1. Is this an ethical issue or a legal issue? Provide reasons.

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2. Who might be an appropriate person for the educator to discuss this situation with?

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## 2D Ensure non-judgmental practice

Each individual or family will have their own set of values; they will behave in individual ways, and have their own priorities.

As an educator it is imperative that you respect other people's choices and ideas, and the events they choose to participate in. You should ensure your interactions towards others remain impartial, non-judgmental and positive, and recognise that your own lifestyle is as different from others as theirs is to yours.



### Your own values and attitudes

The way you present yourself and express your values and attitudes to others plays an important role in how you will be treated in return. Everyone is entitled to their own opinion; however, people in professional roles must respect individuality. This can be made simple by thinking about what is important to you and identifying your life priorities, your own values and attitudes.

When you do this, you can identify when you are relying on professional guidelines and when you are applying your own point of view. This individual perspective enables you to approach your work in a unique and valuable way, but your decision-making must take other aspects into consideration.

Consider your attitude when discussing your own and others' values. Are you demonstrating a feeling that you have about a topic relevant to the situation, or are you being disagreeable or causing offence?

Professionally, you are encouraged to share your values and attitudes if they positively benefit education and care practices. This is different from voicing values and attitudes that link with public opinion or community affairs.

### Codes of practice and conduct

A code of practice is a set of guidelines that has been developed by a professional organisation that will support their members to work ethically.

The ECA Code of Ethics guides your workplace practice in helping you to decide on the way you will respond and deal with situations, events or issues when they arise.

When a set of rules is developed that outlines norms and responsibilities related to ethics, this is called a code of conduct. In the education and care services environment, individual organisations will present their employees with a code of conduct.

Education and Care Services National Regulation 168 states that all education and care services must have a code of conduct for staff members. The following is an example of a code of conduct.

**Code of Conduct**

Staff, students and volunteers will follow the Code of Conduct at all times.

**Relevant legislation**

- ▶ *Education and Care Services National Law Act 2010* (Cth): Section 166, 167, 174
- ▶ *Education and Care Services National Amendment Regulations 2017*
- ▶ *Education and Care Services National Regulations 2011: Regulations 155, 156, 157, 175*
- ▶ *National Quality Standard, Quality Area 4: Staffing arrangements*
- ▶ *Charter of Human Rights and Responsibilities Act 2006* (Vic.)
- ▶ *Children, Youth and Families Act 2005* (Vic.), as amended 2011
- ▶ *Child Wellbeing and Safety Act 2005* (Vic.), as amended 2011
- ▶ *Disability Discrimination Act 1992* (Cth)
- ▶ *Equal Opportunity Act 2010* (Vic.)
- ▶ *Fair Work Act 2009* (Cth)
- ▶ *Fair Work Regulations 2009* (Cth)
- ▶ *Occupational Health and Safety Act 2004* (Vic.)
- ▶ *Occupational Health and Safety Regulations 2007*
- ▶ *Racial Discrimination Act 1975* (Cth)
- ▶ *Racial and Religious Tolerance Act 2001* (Vic.)
- ▶ *Sex Discrimination Act 1984* (Cth)

**Background**

The Code of Conduct establishes a standard of behaviour to be followed by all staff, students and volunteers at the service. The Code of Conduct defines how individuals should behave towards each other, towards the children, and towards other organisations and individuals in the community.

**Definitions**

- ▶ **Assault:** An incident where a person causes injury, pain, discomfort or damage to another person. It also includes insult or deprivation of liberty. Assault can be physical or verbal.
- ▶ **Duty of care:** Refers to the responsibilities of organisations to provide people with an adequate level of protection against harm and all reasonable foreseeable risk of injury.
- ▶ **Ethical conduct:** Always act in the best interests of children, their parents/guardians and families, and users of the service.
- ▶ **Harassment:** When someone is demeaning, derogatory or intimidating towards another person. Harassment includes:
  - racial taunts
  - taunts about sexual orientation or gender identity
  - sexual harassment: unwelcome physical, verbal or written behaviour of a sexual nature
  - repeated insulting remarks.
- ▶ **Respect:** Value the rights, religious beliefs and practices of individuals. Refrain from actions and behaviour that constitute harassment or discrimination.

- ▶ **Support:** Work in a cooperative and positive manner.
- ▶ **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 service in contravention of the Regulations or is mistakenly locked in/out of the service premises (Regulation 12). A serious incident should be documented in an Incident, Injury, Trauma and Illness Record (sample form available on the ACECQA website) as soon as possible and within 24 hours of the incident. The Regulatory Authority (DEECD) must be notified within 24 hours of a serious incident occurring at the service (Regulation 176(2)(a)). Records are required to be retained for the periods specified in Regulation 183.

## **Professional standards for staff, students and volunteers**

### **Relationships with children**

In their relationships with children, all staff, students and volunteers will demonstrate their commitment to high-quality education and care for children by:

- ▶ being a positive role model at all times
- ▶ encouraging children to express themselves and their opinions
- ▶ allowing children to undertake experiences that develop self-reliance and self-esteem
- ▶ maintaining a safe environment for children
- ▶ respecting the rights of all children
- ▶ contributing to a service environment that is free from discrimination, bullying and harassment
- ▶ speaking to children in an encouraging and positive manner
- ▶ listening actively to children and offering empathy and support
- ▶ giving each child positive guidance and encouraging appropriate behaviour
- ▶ regarding all children equally, and with respect and dignity
- ▶ having regard to the cultural values, age, physical and intellectual development, and abilities of each child at the service
- ▶ providing opportunities for children to interact, and develop respectful and positive relationships with each other, and with other staff members and volunteers at the service
- ▶ informing children if physical contact is required for any purpose, and asking them if they are comfortable with this interaction
- ▶ ensuring all interactions with children are undertaken in full view of other adults
- ▶ encouraging and assisting children to undertake activities of a personal nature for themselves, e.g. toileting and changing clothes
- ▶ respecting the confidential nature of information gained about each child while participating in the program.

### **Relationships with parents/guardians and families**

In their relationships with parents/guardians and families, the staff, students and volunteers will demonstrate their commitment to collaboration by:

- ▶ being respectful of, and courteous towards, parents/guardians and families at all times
- ▶ considering the perspective of parents/guardians and families when making decisions that impact on the education and care of their child
- ▶ communicating with parents/guardians and families in a timely and sensitive manner
- ▶ responding to concerns expressed by parents/guardians and families in a timely and appropriate manner
- ▶ respecting the cultural context of each child and their family
- ▶ working collaboratively with parents/guardians and families
- ▶ respecting the privacy of information provided by parents/guardians and families, and keeping this information confidential, as required under the Privacy and Confidentiality Policy.

### **Relationships with colleagues at the service**

In their relationships with colleagues, the staff, students and volunteers will demonstrate collegiality by:

- ▶ developing relationships based on mutual respect, equity and fairness
- ▶ working in partnership in a courteous, respectful and encouraging manner
- ▶ valuing the input of their peers
- ▶ sharing expertise and knowledge in appropriate forums, and in a considered manner
- ▶ respecting the rights of others as individuals
- ▶ giving encouraging and constructive feedback, and respecting the value of different professional approaches.

### **Professional responsibilities**

The educators and all staff will demonstrate commitment to their professional responsibilities by:

- ▶ undertaking their duties in a competent, timely and responsible way
- ▶ ensuring their knowledge and expertise is up-to-date and relevant to their role
- ▶ understanding and complying with legal obligations in relation to:
  - discrimination, harassment and vilification
  - negligence
  - mandatory reporting
  - privacy and confidentiality
  - occupational health and safety
  - raising any complaints or grievances.

### **Sources**

Early Childhood Australia Code of Ethics: [www.earlychildhoodaustralia.org.au](http://www.earlychildhoodaustralia.org.au)

KPV Early Childhood Management Manual

The Universal Declaration of Human Rights: [www.un.org/en/documents/udhr/](http://www.un.org/en/documents/udhr/)

Victoria Legal Aid: [www.legalaid.vic.gov.au](http://www.legalaid.vic.gov.au)

United Nations, Convention on The Rights of the Child

**Example**

**Competing values**

Amalia is a team leader from a Christian background. Her values are strong in regards to believing in God and saying a prayer with the children before each meal.

Kate works alongside Amalia each day and holds no beliefs or faiths, but doesn't feel it is appropriate to expect the children to say a prayer before eating, as this may be against their parents' values and beliefs.

Kate decides to be honest with Amalia and express her concerns regarding this practice. She puts across her points of view, values and beliefs, asking Amalia to do the same.

Together they come to an agreement that the children will talk about the things they are thankful for before meals, but will not acknowledge God or use a prayer. This compromise enables both Kate and Amalia's values and beliefs to be combined and accommodated.



## Practice task 8

1. What is the purpose of a code of practice?

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2. List **three** of your own personal values and attitudes. For each one, identify a value or attitude that another person may have that would oppose your view.

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3. Read the example code of conduct provided. Which statements help you to be non-judgmental when it comes to working with your colleagues?

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# 2E Ethical problem-solving

If you recognise a potential ethical dilemma, you will be guided by a supervisor, manager or senior educator. As well as having this expectation, you should take responsibility for your own actions, and use your problem-solving skills when dealing with ethical issues.

It is unreasonable to expect that all supervisors, managers and senior educators will be flawlessly ethical in their own practice. In some situations they may be less supportive in providing appropriate guidance.

## Some problem-solving principles you can use when dealing with ethical principles include:

- ▶ When in doubt about what to do, put the child's welfare first.
- ▶ Strive to be fair to all children.
- ▶ Keep personal problems private during work times.
- ▶ Show respect to children.
- ▶ Respect each family's right to privacy.
- ▶ Consider situations from other points of view.
- ▶ Support and assist team members, where possible.
- ▶ Keep out of negative discussions about your workplace and the people in it.

## Competing value systems

Families and children place you in a role of trust as an educator. This type of relationship can be damaged quite easily. You have your own professional and personal views and behaviours, and these will be challenged by the behaviours and attitudes of others.

When dealing with competing value systems, you may face an ethical dilemma. This can be upsetting, unnerving or discouraging; however, your main role is to ensure you use best practice and make decisions based on the supporting information you can gather.



## Problem-solving strategies

Use the ECA Code of Ethics as a set of guidelines to help you make the right decisions in difficult situations and to know which behaviours should be supported. The Code of Ethics will assist you to maintain standards of practice, protecting others who are powerless, and solving problems when exposed to competing value systems.

The following suggestions may also help.

### Understand implications

Ensure you understand the dilemma and are clear about any legal implications. Ask a supervisor or senior colleague if you need help.

### Set priorities

When deciding on the correct action to take, try the following strategies:

- ▶ Read and consider the Code of Ethics.
- ▶ Put the welfare of children first.
- ▶ Strive to be fair to all children.
- ▶ Respect the right to privacy.
- ▶ Ask for and consider situations from other people's points of view.
- ▶ Support and assist team members.
- ▶ Weigh up your options and choose the most ethical response.

## Example

### Resolve an ethical issue

Michelle, an educator, consistently shows favouritism to her niece, who attends the day care centre. This causes her niece to limit her range of activities and makes other children vie for Michelle's attention. Kylie, another educator, feels this presents a dilemma.

Should Kylie say something to Michelle and attempt to change things, or should she keep out of the situation?

To solve this problem, Kylie considers the situation:

- ▶ She identifies that there are no legal issues and that this is purely an ethical issue.
- ▶ She considers the priorities. The ECA Code of Ethics states:
  - 'In relation to my colleagues, I will:
    - encourage others to adopt and act in accordance with this Code, and take action in the presence of unethical behaviours
    - build a spirit of collegiality and professionalism through collaborative relationships based on trust, respect and honesty
    - acknowledge and support the diverse strengths and experiences of colleagues in order to build shared professional knowledge, understanding and skills
    - use constructive processes to address differences of opinion in order to negotiate shared perspectives and actions
    - participate in a 'lively culture of professional inquiry' to support continuous improvement
    - implement strategies that support and mentor colleagues to make positive contributions to the profession
    - maintain ethical relationships in my online interactions.'



- ▶ She puts children’s welfare first. A number of children are being affected by the favouritism as they are receiving limited interaction and levels of care from Michelle.
- ▶ She strives to be fair to all children – favouritism is not fair to any child.
- ▶ She respects the right to privacy. The issue should be solved privately using clear communication.
- ▶ She considers the situation from another point of view. It must be nice to have a niece at the service and Michelle obviously enjoys all activities during the time her niece is in care. However, this should not occur to the detriment of other children.
- ▶ She supports and assists team members. Michelle needs Kylie’s support and assistance to become a more effective educator.

Kylie decides that the most ethical action to take is to try to change the situation so favouritism does not occur. If things don’t go well she will speak to a senior staff member about the situation.

Kylie speaks to Michelle and explains what she has noticed. Michelle says this upsets her, as she hadn’t realised she was showing favouritism. They make a plan that if Kylie notices this happening, she will approach Michelle, who will encourage her niece to become involved in an alternative activity.

The plan works and Michelle thanks Kylie as she can see that her niece is participating more with the other children now.

## Practice task 9

Read the case study, then answer the questions that follow.

### Case study

Fran and George work together in the toddlers room. They have very different ideas about what is appropriate in relation to the program of activities, including whether they are age-appropriate.

Fran and George are both diploma-trained and share the team leader role. Fran focuses on safety and plans activities where the children are limited but safe at all times. George likes children to be challenged, but knows the safety rules still apply.

1. Fran and George have different viewpoints regarding the program for the children. Explain why this an ethical and not a legal issue.

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2. Fran and George could argue about their different values. What is one action they could take to solve the problem?

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## 2F Recognise and report unethical conduct

When unethical conduct occurs it can be upsetting and sometimes it may be unclear as to why it has occurred.

For many people this brings up feelings of confusion and may cause distance between staff.

Regardless of why unethical conduct is occurring, it is your duty of care to report this behaviour to appropriate supervisors. All organisations are expected to have policies in place that have been established for the entire team, and these are developed to guide practices and behaviours.



Unethical conduct, despite the person's role or level in your service, needs to be dealt with promptly.

Where service teams participate in ongoing unethical action, team relationships usually break down, and new individuals to the environment can be shocked by the level of service being provided. This can cause long-term damage and high staff turnover.

### Recognise unethical conduct

Unethical conduct occurs when people do things that are not acceptable practice or when they apply morally improper actions to the situation they are in. In education and care services there are many actions that could be identified as unethical conduct – this is due to the enormity of the framework that educators are expected to work within.

To identify the depth of any unethical behaviour, you must first acknowledge whether a breach has occurred, then determine who is involved and how this has affected others. Once you have this understanding you can decide on your action.

#### Consider the following examples of unethical conduct:

- ▶ Misusing service equipment, resources or technology.
- ▶ Wasting time during working hours.
- ▶ Implementing inappropriate actions or practices with children.
- ▶ Lying to parents or other educators.
- ▶ Pretending to follow (but not actually following) appropriate practice.
- ▶ Knowing what appropriate practice is but choosing not to follow it.

## Report unethical conduct

If unethical conduct is occurring or you think senior educators are not resolving an issue appropriately, you can seek guidance from external agencies, law enforcement officers and advocates.

You can also seek the assistance of a professional association which provides support to people working in the education and care industry.

### Professional associations may offer support by:

- ▶ providing opportunities for people to meet and discuss issues
- ▶ providing up-to-date information and findings
- ▶ providing advice and guidance
- ▶ acting as a lobby group or public voice for children, families and/or the industry
- ▶ promoting standards of acceptable practice.

### Example

#### Reporting unethical conduct

Nadia notices that Kelly is kneeling over a child and holding him down, trying to get him to sleep.

Nadia mentions politely that she thinks that holding the child down in that way might be seen as restraining him and this could be an issue.

Kelly states that she has always held children down like this and never got into trouble before.

Nadia is concerned, and speaks with her supervisor, asking about the practice and whether it is acceptable.

Nadia's supervisor discusses the situation with her and together they determine what action to take.

## Practice task 10

Read the case study, then answer the questions that follow.

### Case study

Stella and Leana work together. They both know the policies and practices of the service and are very familiar with the frameworks of the industry.

Today Stella is taking photos of the children. While using the device, she checks her Facebook page. She replies to three posts, then gets back to work.

Later in the day, Leana notices that the children are hot. She thinks they should have a play in some water. She tells them to take off their clothes so they don't get wet and they all splash around in the water trough. She tells the children not to tell their parents in case they get in trouble.

1. What **three** ethical issues do you notice in this case study?

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2. If you were an educator working with Stella and Leana and you mentioned these issues but they were ignored, who would you report this to?

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# 2G Conflicts of interest

A conflict of interest occurs if you have a relationship with someone or an interest in something that influences or affects your judgment. Potential conflicts of interest are influenced by both past experience and the nature of the community you serve.

Some organisations aim to avoid possible conflicts of interest by implementing policies to avoid such situations occurring. One such policy you might find is that educators are unable to have their own children attend the service they work in. This type of policy is often developed when an organisation has had to deal with a range of negative issues as a result of a previous conflict of interest.



## Recognise potential conflicts of interest

When a potential conflict of interest exists, you will be able to identify it by noticing that people may benefit from a particular situation. A decision that creates a conflict of interest may make the outcome easier for those involved, but could make it unfair to others.

### Examples of conflicts of interest

- ▶ Two workers are in a personal relationship. One person is a supervisor and they promote and support their partner unfairly over others.
- ▶ An educator recommends a service to families. The educator will gain financially from this referral even though the service does not meet the family's needs.
- ▶ A family friend is enrolled from a waiting list above others who have been waiting longer.
- ▶ A supervisor doesn't report a breach of legislation as they are partly responsible for the breach.

## Take action when conflicts of interest arise

When dealing with a conflict of interest you must remain open-minded to the views and thoughts of each person involved. Listen actively, use open-ended questioning and work together to reach a solution.

When you identify that a conflict of interest is taking place, report your concerns to an appropriate person; for example, your supervisor or manager. Provide appropriate details to this person, explaining the situation that has occurred, who was involved and what you did to try to alleviate the issue. They may want to know what, how and when this occurred.

Work within any relevant policies and procedures relating to the issue, such as your organisation's grievance procedure.

## Conflicts of interest

The following describes some potential conflict of interest situations that may occur.

| Situation  | Conflicts of interest   |
|--|---|
| Your child attends the service where you work                        | <ul style="list-style-type: none"> <li>▶ You expect your child to be treated differently from other children.</li> <li>▶ You provide your child with additional benefits during care.</li> <li>▶ You confuse your role as an educator with your role as a parent.</li> </ul>                            |
| A child you know and dislike attends your service                    | <ul style="list-style-type: none"> <li>▶ You treat the child with less respect or care than other children.</li> <li>▶ You tell other educators about your feelings and convince them to be biased.</li> <li>▶ You share private information about the child without their parents' consent.</li> </ul> |
| You have a personal relationship with a family who uses your service | <ul style="list-style-type: none"> <li>▶ You treat this family differently from other families.</li> <li>▶ You provide the children or parents with additional benefits.</li> <li>▶ You confuse your role as a friend with your role as an educator.</li> </ul>   |

## Practice task 11

Read the case study, then answer the questions that follow.

### Case study

Mimi and her daughter Lily will be commencing at a service where Dalila works. Mimi and Dalila went to the same high school but did not get along. When Mimi and Lily come for their orientation visit, Dalila ignores them during the whole hour they are in the room.

1. Is there a potential conflict of interest in this situation? Explain.

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2. How should Dalila have dealt with this situation?

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## Summary

- ▶ An ethical dilemma is a situation where you need to choose from two or more morally questionable courses of action.
- ▶ Ethical responsibilities include day-to-day practices or attitudes, and the specific behaviours and expectations you must adhere to when interacting with others.
- ▶ Legal and ethical frameworks provide an overview of specific actions, practices and interactions that should be implemented.
- ▶ You must work within legal frameworks under the National Quality Framework. These include:
  - the Education and Care services National Law
  - Education and Care Services National Regulations
  - National Quality Standard
  - EYLF
  - MTOP
- ▶ By being aware of your rights and responsibilities, and the boundaries of your work role in your job description, you are better able to work ethically and handle situations that are difficult or distressing.
- ▶ Making a good choice when faced with an ethical dilemma can be particularly difficult, especially if it involves your co-workers.
- ▶ Everyone is entitled to their own opinion; however, people in professional roles in education and care services must commit to respecting individuality.
- ▶ As an educator you are in a relationship of trust with families and children. This type of relationship with others can be damaged quite easily.
- ▶ If unethical conduct is occurring or you think senior educators are not resolving an issue appropriately, you can seek guidance from external agencies, law enforcement officers or advocates.
- ▶ A conflict of interest occurs if you have an interest or relationship that compromises or affects your judgment in a certain situation. You can recognise a conflict of interest by thinking about how you feel when you are making a decision.

# Learning checkpoint 2

## Identify and meet ethical responsibilities

This learning checkpoint allows you to review your skills and knowledge in identifying and meeting ethical responsibilities.

### Part A

1. Where could you find information about the scope and nature of your ethical responsibilities?

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2. If a conflict of interest occurs in your organisation, what could be done to overcome the issue?

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### Part B

Read the case study, then answer the questions that follow.

#### Case study

A parent tells Kaitlyn not to give her 13-month-old child any milk, only juice. The parent feels that the child has enough milk at home. At sleep time, the child will not settle down to sleep and constantly asks for milk. Ten minutes later, Kaitlyn finds Simone, a co-worker, has given the child a bottle of milk. When Kaitlyn explains the mother’s wishes, Simone responds, ‘I think the mother is being cruel – just don’t mention it’.

1. Did Simone breach her ethical responsibilities in this situation? Explain your response.

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2. What ethical problem-solving strategies could Kaitlyn use in this situation?

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3. Who should Kaitlyn discuss this situation with?

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4. Was Simone's response non-judgmental? Explain.

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5. Refer to the example code of conduct earlier in this topic. Choose one statement from the code of conduct that relates to this case study.

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6. Refer to the ECA Code of Ethics. Choose one statement from the Code of Ethics that relates to this case study.

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## Topic 3

In this topic you will learn how to:

- 3A Meet legal and ethical responsibilities**
- 3B Share feedback with colleagues and supervisors**
- 3C Review and develop policies**

## Contribute to workplace improvements

Each staff member contributes to the quality of a service. This means that all staff must participate in any improvements that are being made. If only a percentage of staff implement changes, the success of the improvement will be hampered and the staff may feel they are not succeeding or able to work positively toward their goals.

The following table maps this topic to the National Quality Standard and both national learning frameworks.

| <b>National Quality Standard</b>      |  |
|---------------------------------------|--|
|                                       | Quality Area 1: Educational program and practice                         |
|                                       | Quality Area 2: Children’s health and safety                             |
|                                       | Quality Area 3: Physical environment                                     |
|                                       | Quality Area 4: Staffing arrangements                                    |
|                                       | Quality Area 5: Relationships with children                              |
|                                       | Quality Area 6: Collaborative partnerships with families and communities |
| ✓                                     | Quality Area 7: Governance and leadership                                |
| <b>Early Years Learning Framework</b> | <b>My Time, Our Place</b>  |
| <b>Principles</b>                     |  |
|                                       | Secure, respectful and reciprocal relationships                          |
| ✓                                     | Partnerships   |
|                                       | High expectations and equity   |
|                                       | Respect for diversity  |
| ✓                                     | Ongoing learning and reflective practice                                 |
| <b>Practice</b>                       |  |
|                                       | Holistic approaches  |
|                                       | Responsiveness to children   |
|                                       | Learning through play  |
|                                       | Intentional teaching   |
|                                       | Learning environments  |
|                                       | Cultural competence  |
|                                       | Continuity of learning and transitions                                   |
|                                       | Assessment for learning  |
|                                       | Holistic approaches  |
|                                       | Collaboration with children  |
|                                       | Learning through play  |
|                                       | Intentionality   |
|                                       | Environments   |
|                                       | Cultural competence  |
|                                       | Continuity and transitions   |
|                                       | Evaluation for wellbeing and learning                                    |
| <b>Outcomes</b>                       |  |
|                                       | Children have a strong sense of identity                                 |
|                                       | Children are connected to and contribute to their world                  |
|                                       | Children have a strong sense of wellbeing                                |
|                                       | Children are confident and involved learners                             |
|                                       | Children are effective communicators                                     |

# 3A Meet legal and ethical responsibilities

As you build your skills and knowledge you will gain a better understanding of the expectations of an educator and how a service operates. You will hear information from others and witness how people work towards similar goals in different ways. This will become more apparent when you:

- ▶ consider the organisation's practices and procedures
- ▶ look at possible breaches of legislation
- ▶ deal with day-to-day ethical situations
- ▶ participate in professional development opportunities.



## Improve work practices

When you identify an issue or hear about an alternative method for resolving a situation, always be prepared to investigate. Listen and watch others, question their actions to find out about what they are doing and why. Reflect on legislation and ethics with others and work out if a new process or procedure is appropriate and/or practical, or if it brings its own issues. Change should occur in the hope of improving a work practice or decreasing the risks of poor practice.

## Continue professional education

As the National Quality Framework (NQF) is based on legislation, it is implemented in each registered education and care service you work in. The ECA Code of Ethics and the UN Declaration on the Rights of the Child also guide implementation of practice.

When you discuss these components with others, you will notice that each can be interpreted differently by individual educators and organisations.

This means that constant professional development is required if you are to understand how a change can fit with your organisation and with the necessary guidelines. Here is some information on continual professional updates that are available through professional organisations.

## ACECQA

ACECQA provides continual updates on common queries related to the NQF. This includes:

- ▶ a regular newsletter you can subscribe to at: <http://aspirelr.link/acecqa-newsletter>
- ▶ an educators and providers library: <http://aspirelr.link/educators-providers-library>
- ▶ National Education Leader resources: <http://aspirelr.link/national-education-leader>
- ▶ educators and providers FAQs: <http://aspirelr.link/educators-providers-faq>
- ▶ useful links for educators and providers: <http://aspirelr.link/educators-providers-links>

## Early Childhood Australia

Early Childhood Australia provides continuous updates through:

- ▶ their website: <http://aspirelr.link/early-childhood-australia>
- ▶ the *WebWatch* fortnightly eNewsletter – you can subscribe here: <http://aspirelr.link/eca-webwatch>
- ▶ member publications and newsletters: <http://aspirelr.link/eca-membership>

### Example

#### Contribute to workplace improvements

Katie is studying to become an early childcare educator. Laureen is an educator at the service where Katie is undertaking work experience. Laureen keeps asking Katie to move to different places in the room or around the outdoor play area. Katie asks Laureen why she needs to keep changing places.

Laureen tells Katie that it is important that the whole area is supervised clearly by the educators at all times. This means when the children move around, the educators need to move too. Laureen also mentions that Katie should place her body so there is a wall or fence at her back whenever possible, so that no children will be unseen behind her.

Katie thanks Laureen and begins to implement this practice.



## Practice task 12

1. If an educator speaks with others in the service about difficult situations, what information might they find out?

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2. What **two** methods could you use to undertake professional development?

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# 3B Share feedback with colleagues and supervisors

One common feature of a successfully functioning and continuously improving workplace is the ability of team members to discuss issues and share feedback. Feedback and discussion enables all participants to be part of change processes, and gives each person the opportunity to understand why and how things are done.



## Communicate with others and share feedback

When you want to gain information or seek ideas, communicate with your colleagues and supervisors. Each time you are faced with a difficult situation, or when you are challenged to think of a different way to do things, it is useful to speak to others in your service about this.

Communicating with others can enable you to:

- ▶ find out what is happening in the education and care industry
- ▶ identify new ways of dealing with issues
- ▶ ensure you are always improving work practices
- ▶ avoid breaches and/or serious issues.

As part of a team it is your responsibility to contribute to discussions and networking with the team. This may occur informally during the day as you work and chat with co-workers, or in a more formal manner, as described below.

### Opportunities for formally sharing feedback include:

- ▶ staff meetings
- ▶ parent meetings
- ▶ committee meetings
- ▶ team meetings
- ▶ room meetings
- ▶ professional development, in-services or updates
- ▶ performance appraisals
- ▶ feedback sessions.

**Example**

**Share feedback**

During morning activity time, Christine and Liz noticed that many of the children are playing outside. Only two children remain indoors. This means that Christine is required to supervise these two children, while Liz is outside with the remaining group.

That afternoon, Christine and Liz make time to reflect informally on what had happened in the morning, discussing any thoughts and ideas they had. They record their discussion in notes so they can use the information during their planning time. They decide that they need to review their routine and what they can safely offer the children to provide better supervision for them all.



## Practice task 13

1. When could an educator provide formal feedback to their colleagues or supervisor?  
Provide at least **four** points.

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2. Why is it important for all participants in the workplace to be involved in feedback and discussion?

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# 3C Review and develop policies

Developing or updating policies, procedures and protocols is often a catalyst for change. When policies, procedures and protocols are being developed, a consultation process enables all stakeholders to find out about what is being proposed and why. This should involve a thorough explanation, not simply stating that due to legislation it must be done. When stakeholders are involved and provided with the knowledge they need to understand the benefits of a change, they are more likely to support any changes. They are also able to move forward with a positive attitude based on their ability to understand and be involved.



## Develop policies and procedures

The way a policy is developed varies according to the service and the type of policy being addressed. Most service policies are developed to accommodate the National Quality Framework and its requirements.

The following list (which is not exhaustive) illustrates that policy development may exceed the basic requirements of the regulations.

### Policies may evolve from considering:

- ▶ the service's philosophy
- ▶ issues that arise concerning the program, management or clients
- ▶ service goals
- ▶ a need to overcome a problem
- ▶ precedents experienced
- ▶ current practices relating to child care and education; financial management; meetings, etc.
- ▶ family and/or community feedback
- ▶ management needs
- ▶ general discussion.

## The policy and procedure development process

The following table describes a policy and procedure development and maintenance process.

| <b>Stakeholders</b>   |
|---|
| 1. Identify the need for a policy.  |
| 2. Ensure the content of the policy is current and reflects appropriate practice.                     |
| 3. Put the policy into action.  |
| 4. Evaluate – check that the policy works.  |
| 5. How does the government/service/organisational culture influence policy? Are any changes required? |

## Review processes

Part of the policy development process should include a regular review to ensure the policies continue to reflect the organisation's philosophy, practices and protocols, and link with current legislation and industry best practice.

The review process must follow organisational policies and procedures, and the timing of the review depends on the service and the type of policy.

All reviews must involve as many stakeholders as possible, including colleagues, clients, families, other service organisations, funding bodies, community groups and government agencies. Personnel from different groups can provide feedback from their own perspective, thus providing a wide range of information, ideas and suggestions.

The review should include a range of feedback strategies.

### **Common feedback strategies include:**

- ▶ surveys
- ▶ face-to-face interviews
- ▶ staff meetings
- ▶ brainstorming sessions
- ▶ committee/specialist stakeholder meetings.

## Contribute to review process

Your understanding of the service you work in and the education and care industry allows you to provide a valuable contribution to policy and procedure development.

You can contribute by using your communication and problem-solving skills to:

- ▶ participate in staff meeting discussions and policy reviews
- ▶ contribute to reviews as a consultant or stakeholder
- ▶ bring new ideas and/or information to the attention of policy makers
- ▶ raise issues where policies or procedures are unclear
- ▶ place discussion items in a comments or suggestions box.

## Review process

A review process must follow organisational policies and procedures. Here is an example.

### Policies and procedures review process

- ▶ A policy review committee will be formed to oversee the review process.
- ▶ Current policies must be reviewed at least annually to ensure they reflect legislation, service goals and industry practice. Review dates must be listed on each policy.
- ▶ Current policies should be reviewed when there are changes to legislation or work practices.
- ▶ All relevant stakeholders must be consulted via appropriate forums such as meetings, email or phone.
- ▶ A new policy will be created if a current policy is inadequate or if new legislation has been introduced.
- ▶ Current policies are to be amended if they are inconsistent with current terminology, legislation or practice.
- ▶ The organisation’s template must be used to prepare new or amended policies.
- ▶ All documentation involving research and consultation must be kept for future reference.

## Practice task 14

1. Who should be involved in the policy development process? Provide reasons for your answer.

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2. List **two** common strategies to enable people to contribute to policy review.

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## Summary

- ▶ As you build your skills and knowledge you begin to better understand the expectations of an educator and how a service operates. You will also hear information from others and witness how people work towards similar goals in different ways.
- ▶ Speak to others in your organisation each time you are faced with a difficult situation or challenged to think of a different way to do things.
- ▶ Listen and watch others and question their actions to find out why they are taking certain actions.
- ▶ Constant professional development is required if you are to understand how a change can fit with your organisation and with the necessary guidelines.
- ▶ One common feature of a successfully functioning and continually improving workplace is the ability of team members to discuss issues and share feedback. This may be done formally or informally.
- ▶ Most organisational policies are developed based on the legislation and guidelines that impact the service.
- ▶ All policy reviews must involve as many stakeholders as possible, including colleagues, clients, families, other service organisations, funding bodies, community groups and government agencies.
- ▶ You can contribute to policy review by using your communication and problem-solving skills.

# Learning checkpoint 3

## Contribute to workplace improvements

This learning checkpoint allows you to review your skills and knowledge in contributing to workplace improvements.

### Part A

1. Explain why discussions throughout the day are a good opportunity to participate in sharing feedback informally.

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2. What are the **five** most common methods used to consult and gain input from others as part of a policy review?

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3. Draw a diagram to show the policy review process.

4. What are the benefits of involving staff in the policy review process?

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## Part B

Read the case study, then answer the questions that follow.

### Case study

Lorna keeps her smartphone in her pocket in case she receives any important calls. This also allows her to search for information online whenever she is unsure of a topic.

At the water trough Lorna is supervising a small group of children who are busy splashing and pouring water. On the other side of her, some children are cutting and pasting.

Suddenly, Lorna's mobile rings. It is her boyfriend. She looks around and, since no staff are watching, she takes the call.

1. What could Lorna do to improve her work practice?

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2. If a child has an accident while Lorna on the phone with her boyfriend, would she have breached a legal and ethical responsibility? Why?

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3. Lorna may need continuing professional education. Where could she find information to increase her knowledge regarding the consequences of failing to supervise children safely?

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