



CHCECE055

Meet legal and ethical obligations in children's education and care



Learner Guide



Updated to include
National Quality
Framework changes

Aspire
Learning Resources

CHCECE055

Meet legal and ethical obligations in children's education and care

Release 1

Learner Guide

Aspire Version 2.1



CHCECE055 Meet legal and ethical obligations in children's education and care, Release 1

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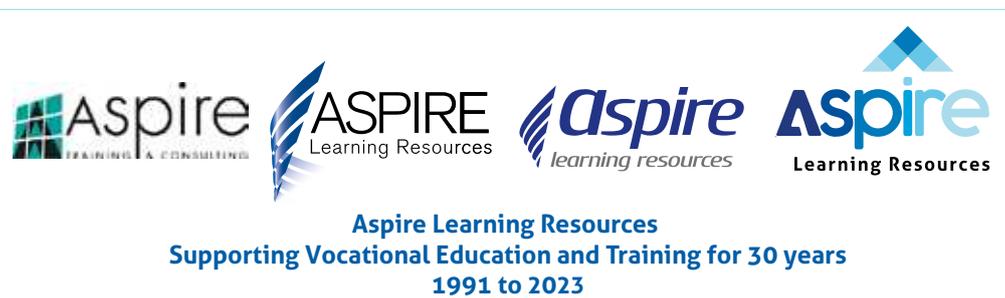
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Before you begin

This Learner Guide is based on the unit of competency *CHCECE055 Meet legal and ethical obligations for children's education and care*, Release 1.

Your trainer or training organisation must give you information about this unit of competency as part of your training program. Information regarding how this Learner Guide relates to this unit of competency is detailed in our mapping guide.

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 |
|------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Learning content | <ul style="list-style-type: none"> ➤ 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. |
| Examples | <ul style="list-style-type: none"> ➤ These highlight learning points and provide realistic examples of workplace situations. |
| Practice Tasks | <ul style="list-style-type: none"> ➤ Practice Tasks give you the opportunity to put your skills and knowledge into action. Your trainer will tell you which Practice Tasks to complete. |
| Summaries | <ul style="list-style-type: none"> ➤ Key learning points are provided at the end of each topic. |
| Learning Checkpoints | <ul style="list-style-type: none"> ➤ There are Learning Checkpoints at the end of each topic. Your trainer will tell you which activities to complete. These activities give you an opportunity to check your progress and apply the skills and knowledge you have learnt. |

This table maps each topic in this Learner Guide to the National Quality Standard and national learning framework: Early Years Learning Framework (EYLF).

T = Topic

| Topics | National Quality Standard (NQS) |
|---------------|--------------------------------------------------------------------------|
| T1 | Quality Area 1: Educational program and practice |
| T1, T2 | Quality Area 2: Children's health and safety |
| T1, T2 | Quality Area 3: Physical environment |
| T1, T2 | Quality Area 4: Staffing arrangements |
| T1, T2 | Quality Area 5: Relationships with children |
| T1, T2 | Quality Area 6: Collaborative partnerships with families and communities |
| T1, T2 | Quality Area 7: Governance and leadership |
| | Early Years Learning Framework |
| | Principles |
| | Secure, respectful and reciprocal relationships |
| | Partnerships |
| | Respect for diversity |
| | Aboriginal and Torres Strait Islander perspectives |
| | Equity, inclusion and high expectations |
| | Sustainability |
| T1, T2 | Critical reflection and ongoing professional learning |
| T1, T2 | Collaborative leadership and teamwork |
| | Practice |
| | Holistic, integrated and interconnected approaches |
| | Responsiveness to children |
| | Play-based learning and intentionality |
| | Learning environments |
| | Cultural responsiveness |
| | Continuity of learning and transitions |
| | Assessment and evaluation for learning, development and wellbeing |
| | Learning Outcomes |
| | 1. Children have a strong sense of identity |
| | 2. Children are connected to and contribute to their world |
| | 3. Children have a strong sense of wellbeing |
| | 4. Children are confident and involved learners |
| | 5. Children are effective communicators |



Topic 1

In this topic you will learn about:

- 1A** Legal sources of information
- 1B** Ethical sources of information

Identify legal and ethical obligations

While working in an education and care service you must follow a range of legal and ethical requirements.

These requirements have a direct impact on your daily work. As a responsible staff member you must be familiar with legislation and regulations.

1A Legal sources of information

As the role of caring for children is a significant responsibility, there are many associated legal requirements.

The National Quality Framework (NQF) is a system used across Australia to help education and care services work toward best practice and best quality. The Australian Children's Education and Care Quality Authority (ACECQA) oversees the implementation of the NQF. ACECQA also educates and informs the community, the education and care industry and government about current research and best practice across Australia.

The NQF incorporates licensing, regulations and quality assurance into a single system operating Australia-wide. It is interrelated with:

- the Education and Care Services National Law
- the Education and Care Services National Regulations
- the National Quality Standard (NQS)
- an assessment and quality ratings process
- national approved learning frameworks.

The NQF applies to:

- long day care
- family day care
- preschool/kindergarten
- outside school hours care.

The following diagram may help make the system clear.

The National Quality Framework



Source: ACECQA, *The Guide to the National Quality Framework*, www.acecqa.gov.au/

Navigating NQF documents

The Guide to the National Quality Framework is a very detailed document that explains what you need to do, think about and prepare for to meet the requirements of the NQF.

You can access the *Guide to the National Quality Framework* here: aspirelr.link/guide-to-the-nqf.

The Guide sets out the following:

1. Applications and approvals – Outlines the responsibilities of those who manage or maintain the service and sets out the fees that are applicable.
2. National Quality Standard and assessment and rating – Shows how the standards, laws and regulations all link together, and explains what the assessment and ratings system is, including the expectations.
3. Operational requirements – Outlines responsibilities of each level of staff and gives guidance to regulation authorities to help them determine whether a service is compliant.
4. Regulatory authority powers – Describes how regulatory authorities put the NQF into action and use it for monitoring and enforcing compliance.
5. Reviews – Explains how a service might challenge a regulatory authority if they disagree with a decision.
6. Glossary – Lists definitions of key terms.

You can use the *Guide to the National Quality Framework* to find out more about your responsibilities. To do this you might go into the guide, then choose the section that relates to the NQS; for example, Quality area 2: Children's health and safety. You should then read through the information provided in the quality area.

The guide links this to any relevant laws or regulations. This means you can check the actual law or regulation if you choose.

Sources of information

Any information you gather must come from current and reliable sources.

These are sources of information that have come from recognised, respected, authoritative bodies or individuals. Textbooks and study materials are useful, as are factsheets from specialists.

To ensure your information is relevant and current, remember to:

- check issue dates to ensure your materials are current
- use information that is less than 10 years old
- check whether a more recent version is available
- attempt to use Australian resources where possible
- be aware that new information might be listed under a new title, topic or organisation
- check if government bodies and organisations have changed their name

If you use information from the internet, you should use a site that is government-based or linked to a reputable source.

ACECQA has the most reliable and appropriate online information about current trends in the education and care industry.

At aspirelr.link/acecqa, you will find a 'Latest News' page, along with links, libraries, factsheets, and details for educators, service providers and families. Reputable websites may be recognised in the following ways.

| Type of website | Site address includes | Example |
|-------------------------------------------------------|-----------------------|----------------------|
| Government organisations | .gov | www.dese.gov.au |
| Organisational sites and foundations | .org | simplypsychology.org |
| Educational sites including universities and colleges | .edu | www.utas.edu.au |

Laws and regulations

The NQF includes the Education and Care Services National Regulations, which are developed to reflect the Education and Care Services National Law.

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. Laws and regulations document requirements that education and care services must follow.

The following shows how some work activities are influenced by legal obligations.



There may be specific laws and regulations that apply to the state or territory where your service is based.

| Work activity | Legal obligations | Description |
|------------------------------|-----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Health, safety and wellbeing | Regulation 78: Food and beverages | <ul style="list-style-type: none"> ➤ Children must have access to clean drinking water at all times. ➤ All foods and beverages need to be nutritious and adequate in quantity. ➤ Children must be offered food and beverages appropriate to the needs of each child on a regular basis throughout the day. |

| Work activity | Legal obligations | Description |
|----------------------------------------------|------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Incidents, injury, trauma and illness | Regulation 87: Incident, injury, trauma and illness record | <ul style="list-style-type: none"> ➤ An approved record must be completed that includes all details as required. |
| Response to medical condition | Regulation 90: Medical conditions policy | <ul style="list-style-type: none"> ➤ Practices must be set out for managing medical conditions including asthma, diabetes and anaphylaxis and the requirements that arise such as medical management plans and risk minimisation plans. |
| Emergency response | Regulation 97: Emergency and evacuation procedures | <ul style="list-style-type: none"> ➤ An emergency rehearsal must occur every three months and must be documented. ➤ A copy of the emergency and evacuation floor plan and instructions must be displayed in a prominent position near each exit. |
| Governance and leadership | Regulation 168: Education and care service must have policies and procedures | <ul style="list-style-type: none"> ➤ Specific policies and procedures are required and must be followed. |
| Physical environments | Regulation 105: Furniture materials and equipment | <ul style="list-style-type: none"> ➤ Each child must have access to sufficient materials and developmentally appropriate equipment suitable for their education and care. |
| Staffing arrangements | Regulation 122 Educators must be working directly with children to be included in ratios | <ul style="list-style-type: none"> ➤ Educators cannot be calculated in the educators to child ratio unless they are working directly with the children. |

Regulatory authorities

Regulatory authorities are bodies appointed by the government to enforce laws.

The education and care services industry has a regulatory authority in each state and territory. Regulatory authorities check that services meet laws, regulations and standards. They check all policies and procedures are in place and are being followed. If a service is not meeting the minimum expectations, the regulatory authority takes action to help the service improve, or to commence legal action. Legal action might mean closure of a service, charging financial penalties or notifying relevant legal bodies of non-compliance.

You can find the contact details for regulatory authorities on the ACECQA website: aspirelr.link/acecqa-regulatory-authorities.

If you are unsure about laws, regulations or standards that apply to the service, you can contact ACECQA and ask them for advice.

Navigating legal documents

The Education and Care Services National Law is represented in both the NQS and the policies and procedures that apply to your service.

You can find the national law at this website: aspirelr.link/education-and-care-national-law. This also provides links to the laws of each state and territory, so you can access the ones relevant to your service.

A paper copy of the Law must be kept available at every service so it is easy for all staff to access.

The Education and Care Services National Law is divided into schedules, parts and divisions. Parts help you find what you need and the divisions break this down into different topic areas. Each division has numbered items to make them easy to look up and refer to.

The heading in the Law: Schedule—Education and Care Services National Law is where you will find most of the information you need. This schedule is broken down into the following parts:

- Part 1 – Preliminary (what the law is, the definitions and how to interpret the law)
- Part 2 – Provider approval
- Part 3 – Service approval
- Part 4 – Functions and powers
- Part 5 – Assessments and ratings
- Part 6 – Operating an education and care service
- Part 7 – Compliance with this law
- Part 8 – Review
- Part 9 – Monitoring and enforcement
- Part 10 – Ministerial council
- Part 11 – Australian Children's Education and Care Quality Authority
- Part 12 – Regulatory authority
- Part 13 – Information, records and privacy
- Part 14 – Miscellaneous
- Part 15 – Transitional provisions

The Law also details penalties that apply if the expectation is not upheld. For example, failure to adequately supervise children is a breach of Regulation 165(1); the penalty is \$10,000 in the case of an individual or \$50,000 in any other case.

Example**Using the Education and Care Services National Law**

You may need to refer to the Law for a number of reasons. For example, you could use the Education and Care Services National Law to find out more about your responsibilities in relation to children's health and safety. To do this, access the Law and look up Part 6 – Operating an education and care service.

The following sections are particularly relevant:

- Section 165 – Offence to inadequately supervise children
- Section 166 – Offence to use inappropriate discipline
- Section 167 – Offence relating to protection of children from harm and hazards
- Section 168 – Offence related to required programs
- Section 169 – Offence relating to staffing arrangements

Most of these sections identify the penalties that apply if these laws are broken.

You may need to refer to the Act for a number of reasons. For example, you could use the Education and Care Services National Law to find out more about your responsibilities in relation to children's health and safety. To do this, access the Act and look up Part 6 – Operating an education and care service.

The following sections are particularly relevant:

- Section 165 – Offence to inadequately supervise children
- Section 166 – Offence to use inappropriate discipline
- Section 167 – Offence relating to protection of children from harm and hazards
- Section 168 – Offence related to required programs
- Section 169 – Offence relating to staffing arrangements

Most of these sections identify the penalties that apply if these laws are broken.

Navigating regulation documents

The Education and Care Services National Regulations describe how laws are applied in services.

The Regulations are very detailed and set out exactly what needs to happen for a service to be compliant.

A paper copy of the Regulations must be available at every service so it is easy for all staff to access. You can find the national Regulations at this website: aspirelr.link/acecqa-national-regulations. This also includes a link to the Regulations that apply specifically in Western Australia.

Regulations are represented in the NQS and in-service policies and procedures. It is likely you will occasionally need to refer to the Regulations to find details that support your role.



Make sure you know how the Regulations affect you as an educator.

The Regulations are divided into chapters, parts and divisions, which each outline individual regulations. The chapters help you find the main topic you need, and the parts break this down into specific topic areas. Each division has numbered regulations to make them easy to look up and refer to.

The Education and Care Services National Regulations is broken down into the following chapters:

- Chapter 1 – Preliminary (what the Regulations are and information about meanings)
- Chapter 2 – Approvals and certificates
- Chapter 3 – Assessments and ratings
- Chapter 4 – Operational requirements
- Chapter 5 – Review, enforcement and compliance
- Chapter 6 – Administration
- Chapter 7 – Jurisdiction-specific and transitional and saving provisions

The Regulations also detail penalties that apply if the Education and Care Services National Law is not upheld.

Example

Using the Education and Care Services National Regulations

You may need to refer to the Regulations for a number of reasons. For example, you could use the Education and Care Services National Regulations to find out more about your responsibilities in relation to providing food for children's health and safety. To do this, you could access the Regulations then look up Chapter 4 – Operational requirements, Part 4.2 – Children's health and safety, Division 1 – Health, safety and wellbeing of children.

Particularly relevant to food are:

- Regulation 77 – Health, hygiene and safe food practices
- Regulation 78 – Food and beverages
- Regulation 79 – Service providing food and beverages
- Regulation 80 – Weekly menu

Most of these regulations identify penalties that apply if they are not complied with.

National Quality Standard

The National Quality Standard (NQS) is part of the NQF; its role is to provide services with a clear set of guidelines showing how they can meet an expected level of quality.

The NQS is broken down in the following ways:

- Quality areas are very broad areas that identify what services must consider and apply.
- Standards break the quality areas down into key areas.
- Elements tell you exactly what needs to be done in relation to each standard to meet the quality level required.

The following shows how various work areas are influenced by NQS obligations.

| Topic | Quality area | Standard | Element |
|-------------------------------------|---------------------------------------------------------------------------|------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Health, safety and wellbeing | Quality area 2 – Children’s health and safety | Standard 2.1 – Each child’s health and physical activity is supported and promoted | Element 2.1.1 – Each child’s wellbeing and comfort is provided for, including appropriate opportunities to meet each child’s need for sleep, rest and relaxation |
| Collaborating with families | Quality area 6 – Collaborative partnerships with families and communities | Standard 6.1 – Supportive relationships with families | Element 6.1.2 – The expertise, culture, values and beliefs of families are respected and families share in decision-making about their child’s learning and wellbeing |

Navigating the NQS

The NQS describes how best practice should be applied in a service.

The *Guide to the National Quality Framework* sets out exactly what would be expected to meet each standard. You can access it here: aspirelr.link/guide-to-the-nqf.

You can also access the NQS quick reference guide, which is a two-page document outlining each quality area, section and element. You can access it here: aspirelr.link/nqs-quick-reference-guide.

You will need to refer to the NQS often and you must be clear about how it works and what your role is in relation to it. Service policies and procedures are likely to reflect the NQS and refer you back to specific components of it.

The *Guide to the National Quality Framework* includes:

- an overview of each quality area and a description of the concepts
- how each standard contributes to quality education and care
- questions that guide your reflection
- the aim of each element and underpinning law and regulations
- an assessment guide that includes what regulatory authority assessors might observe, discuss or sight when measuring compliance with each element.

Example

Using the National Quality Standard (NQS)

You will need to refer to the NQS for a number of reasons. For example, you could use the NQS to find out more about your responsibilities in relation to children’s health and safety. To do this, you could look up Quality area 2 – Children’s health and safety. For information on health, you would refer to Standard 2.1 – Each child’s health and physical activity is supported and promoted. For information on safety, you would refer to Standard 2.2 – Each child is protected.

Your responsibilities can then be identified in the elements. For example, Element 2.1.1 is about children’s wellbeing and comfort. It looks at how ‘each child’s wellbeing and comfort is provided for, including appropriate opportunities to meet each child’s need for sleep, rest and relaxation’.

Approved learning frameworks

Approved learning frameworks are in place so that educators know how to meet best practice in the service.

Regulation 254 of the Education and Care Services National Regulations lists the following as approved learning frameworks.

| Approved learning framework | Common name | Jurisdiction (where it can be used) | Child's age |
|----------------------------------------------------------------------------------------|-------------|-------------------------------------|---------------------|
| <i>Belonging, being and becoming: The early years learning framework for Australia</i> | EYLF | Australia | Birth to five years |
| <i>My time, our place: Framework for school age care in Australia</i> | MTOP | Australia | Five to 12 years |

All educators have access to two national approved learning frameworks (EYLF and MTOP). The service will identify which is relevant based on the age of the children.

The approved learning frameworks outline the following:

- Vision – belonging, being and becoming
- Principles – what children need from educators so they can be successful
- Practices – what educators need to do to make their curriculums successful
- Learning outcomes – ways to capture the learning that children are experiencing

The following example shows how various work activities are influenced by legal obligations.

Example

Using the approved learning framework

| Work activity | Learning framework obligations | Description |
|------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Health, safety and wellbeing | Practice: <ul style="list-style-type: none"> ➤ Continuity of learning and transitions (EYLF) ➤ Continuity and transitions (MTOP) | Make routines, change and learning opportunities as consistent as possible. Take into account the emotional needs of children and work from this to help them become confident and capable. |

Service policies and procedures

Service policies and procedures should reflect the whole NQF, including the approved learning framework that applies.

Policies and procedures are in place to make sure that the education and care laws, regulations, standards and approved learning frameworks are followed.

Services will have a range of policies that explain how they expect things to be done. Particular policies that services must have, are listed in Regulation 168 and include the following:

- Nutrition, food and beverages, dietary requirements
- Sun protection
- Water safety, including safety during any water-based activities
- The administration of first aid
- Sleep and rest for children
- Incident, injury, trauma and illness procedures, complying with Regulation 85
- Dealing with infectious diseases, complying with Regulation 88
- Dealing with medical conditions in children, including the matters set out in Regulation 90
- Emergency and evacuation, including the matters set out in Regulation 97
- Delivery of children to and collection of children from education and care service premises, complying with Regulation 99
- Excursions, complying with Regulations 100–102
- Providing a child safe environment
- Staffing including a code of conduct, determining the responsible person present, and participation of volunteers and students on practicum placements
- Interactions with children, including the matters set out in Regulations 155 and 156
- Enrolment and orientation
- Governance, leadership and management of the service, including confidentiality of records
- The acceptance and refusal of authorisations
- Payment of fees and provision of a statement of fees charged by the education and care service
- Dealing with complaints

Policies link to the NQF as shown in this example.

| Policy: Child protection policy and procedures | |
|---------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Component | Link to the NQF |
| Education and Care Services National Law | Section 162A – Persons in day-to-day charge and nominated supervisors to have child protection training |
| Education and Care Services National Regulations | Regulation 84 – Awareness of child protection law |
| National Quality Standard (NQS) | Element 2.2.3 – Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect |

Each policy and procedure should include information that highlights the responsibilities of staff at each level. This may include responsibilities of families and others.

Example

Identifying roles and responsibilities

The following is an example of a clothing policy that identifies roles and responsibilities of staff in the service.

Clothing policy

Policy

- We will endeavour to encourage children to dress themselves after sleep times, toileting, using dress-up clothing, etc.
- We will ensure the children are wearing appropriate clothing for the weather conditions by monitoring the warmth of the children and changing clothing accordingly.
- Footwear needs to be appropriate for the weather and worn for outdoor activities. Shoes do not need to be worn inside; however, this needs to be discussed with individual families.

Staff responsibilities

- Staff will ensure the safety of children during sleep times by removing outer layers of clothing. Loose clothing or jumpers with hoods and cords are a hazard and are not appropriate for sleeping.
- Staff will monitor the temperature of the child and change clothing accordingly. Staff will ensure children are wearing appropriate clothing for the weather conditions.
- Staff will model appropriate dress by wearing hats and sun-safe clothing while outside and wearing appropriate clothes and shoes that are safe and allow them to comfortably interact with the children.
- Staff will support independence by encouraging the children to dress themselves after sleep times, toileting, using dress-up clothing, etc.

Family responsibilities

- The clothing worn by the child can make a difference to the quality of their experiences and can affect how the child gets involved in the experiences provided. What they wear can also influence a child's health, safety, comfort and wellbeing.
- During a busy day it is not possible for the children to always remain clean, so it may be best to dress your child in clothes that wash easily and are durable.
- Please try to dress your child in clothes that they can manage themselves – for example, pants that they can pull down without assistance when toilet training.

Clothing policy

Policy review

This policy will be reviewed biannually unless there are any regulatory or legislative requirements and/or any feedback from staff, parents and the community.

Version 3

Source: rednose.org.au

Refer to: Sleeping policy, Sun safety policy

Practice Task 1

1. Draw a line to match the key components related to the NQF to the navigation details.

- | | |
|-------------------------------|-------------------------------------------------------|
| * Regulation | * Parts, schedules and divisions |
| * Law | * Chapters, parts and divisions |
| * Approved learning framework | * Quality areas, standards and elements |
| * NQS | * Vision, principles, practices and learning outcomes |

2. Which of the following is an authoritative source of information? Select all that apply.

- Australian Children's Education and Care Quality Authority
- The Guide to the National Quality Framework*
- Work Safe Australia
- Childcare Educators Facebook group

3. Regulation 97 of the Education and Care Services National Regulations states the following:

(3) The approved provider of an education and care service must ensure that—

- a. the emergency and evacuation procedures are rehearsed every 3 months that the service is operating, by the nominated supervisor, staff members and volunteers and children being educated and cared for by the service; and
- b. the rehearsals of the emergency and evacuation procedures are documented.

Penalty: \$2,000.

Which of the following are correct interpretations of this regulation? Select all that apply.

- Services must rehearse emergency and evaluation procedures at least every three months.
- The nominated supervisor, staff members, volunteers and children need to participate in a rehearsal of emergency and evacuation procedures.
- If rehearsals and documentation are not completed every three months, the service will be fined \$2,000.
- If rehearsals and documentation are completed every three months, the service will be paid \$2,000.
- Every three months the approved provider must discuss an emergency and evaluation procedure with the nominated supervisor.

4. Draw a line to match each regulation or section of the law to the relevant work activity.

- | | |
|------------------|-----------------------------------------|
| * Regulation 90 | * Record of visitors |
| * Section 165 | * Incidents, injury, trauma and illness |
| * Regulation 97 | * Medical conditions |
| * Regulation 87 | * Emergency and evacuation procedures |
| * Regulation 107 | * Governance and leadership |
| * Regulation 123 | * Physical environment |
| * Regulation 183 | * Staffing arrangements |

1B Ethical sources of information

Ethical dilemmas are often less clear than legal issues and can be interpreted differently from one person to another.

Ethical dilemmas are common in education and care services. Examples include:

- Parents asking you to keep their child awake all day so they will sleep better at night.
- Observing other educators interacting inappropriately around children.

Ethical information may be required as you deal with many practices, requests and roles with other staff, children and families. It is useful to discuss this information with others or use it as a guide.



You may find it helpful to discuss ethical issues with other educators.

UN Convention on the Rights of the Child

The United Nations (UN) Convention on the Rights of the Child is the international recognition that children, as human beings, are entitled to full human rights and dignity.

It 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.

Articles relevant to education and care services are shown in the following table. These support your practice and help you to meet ethical obligations.

| Article number | Educator responsibilities |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2 | Whatever the child's race, religion, abilities, whatever they think or say, whatever type of family they come from; they must all be respected and provided rights. |
| 3 | Educators should work towards what is best for each child. |
| 5 | Educators must respect the rights and responsibilities of families to guide their children so that, as they grow up, they learn to use their rights properly. |
| 6 | Help children to survive and develop healthily. |
| 8 | Respect a child's right to a name, a nationality and family ties. |
| 9 | Children whose parents have separated have the right to stay in contact with both parents, unless this might harm the child. |
| 12 | Educators must allow children to be involved in making decisions that affect them and to have their opinions taken into account. |
| 13 | Children have the right to get and to share information, as long as the information is not damaging to them or to others. |

| Article number | Educator responsibilities |
|----------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 14 | Educators must support children to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. |
| 15 | Educators must support children to be involved with other children and teach them about respecting the rights of others. |
| 16 | Children have the right to privacy. |
| 18 | Both parents share responsibility for bringing up their children. Educators must support this and help parents by providing services to support them, especially if both parents work. |
| 19 | Educators must ensure that children are properly cared for and protected from violence, abuse and neglect by their parents, or anyone else who looks after them. |
| 20 | While caring for and educating children, educators must respect their religion, culture and language. |
| 22 | Educators must respect that children who come into a country as refugees should have the same rights as children who are born in that country. |
| 23 | Educators must provide special care and support to children who have any kind of disability so that they can live a full and independent life. |
| 24 | Children have the right to good quality health care, clean water, nutritious food and a clean environment so that they will stay healthy. |
| 27 | Children must be provided care that meets their physical and mental needs. |
| 28 | Children have the right to an education. |
| 29 | Educators should develop each child's talents to the full. They should encourage children to respect their parents. |
| 30 | Children have the right to learn and use the language and customs of their families. |
| 31 | Children have the right to relax, play and to join in a wide range of activities and experiences. |
| 34 | Educators must protect children from sexual abuse by reporting concerns. |
| 36 | Educators must protect children from any activities that could harm their development. |
| 39 | Educators must provide additional help to children who have been neglected or abused to restore their self-respect. |
| 42 | Educators should make the Convention known to all parents and children. |

You can access the full UN Convention on the Rights of the Child at: aspirelr.link/rights-of-the-child-articles.

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: aspirelr.link/eca-code-of-ethics.

The following extract of the ECA Code of Ethics is reprinted with permission.

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 are 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.
-

Early Childhood Australia's Code of Ethics

I. 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:

12. Support families as children's first and most important teacher and respect their right to make decisions about their children
13. 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
14. Develop respectful relationships based on open communication with the aim of encouraging families' engagement and to build a strong sense of belonging
15. Learn about, respect and respond to the uniqueness of each family, their circumstances, culture, family structure, customs, language, beliefs and kinship systems
16. Respect families' right to privacy and maintain confidentiality

Early Childhood Australia's Code of Ethics

III. In relation to colleagues, I will:

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

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

24. Learn about local community contexts and aspirations in order to create responsive programs to enhance children's learning, development and wellbeing
25. Collaborate with people, services and agencies to develop shared understandings and actions that support children and families
26. Use research and practice-based evidence to advocate for a society where all children have access to quality education and care
27. Promote the value of children's contribution as citizens to the development of strong communities
28. 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
29. Advocate for the development and implementation of laws and policies that promote the rights and best interests of children and families

Early Childhood Australia's Code of Ethics

VII. In relation to the profession, I will:

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

Source: The Early Childhood Australia Code of Ethics extract is reprinted with permission.

Ethical responsibilities

By being aware of your responsibilities and rights as well as the boundaries of your work role, you are better able to work ethically and handle situations that may be 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. Service policies and procedures will also guide you in deciding what actions to take and what decisions you are trained and qualified to make.

When working with such a vast range of people, you are bound to come across ethical challenges. Some of these are common, while others may be more complex.

Example

Displaying ethical behaviour by showing respect

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

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



Ethical problem-solving

If you come across an ethical dilemma, you may need to seek guidance from 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 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.

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

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

- Read and consider the ECA Code of Ethics and the UN Declaration on the Rights of the Child.
- 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

Resolving an ethical issue

Michelle, an educator, consistently shows favouritism to her niece, who attends the service. 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 an ethical dilemma.

Kylie is unsure whether she should say something to Michelle and attempt to change things or should keep out of the situation altogether.

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.'
- A number of children are being affected by Michelle's favouritism as they are receiving limited interaction and care from her. Their welfare is not being put first.
- Favouritism is not fair to any child.
- The issue should be resolved privately using clear communication.

Kylie 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 attends. However, this should not occur to the detriment of other children.

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 2

1. Which of the following are appropriate actions to take when faced with an ethical dilemma? Select all that apply.

- Check the Regulations; if it isn't a legal issue it should be ignored.
- Refer to the UN Convention on the Rights of the Child and the ECA Code of Ethics to help you solve the issue or dilemma.
- Provide the information to a supervisor and tell them they are responsible for sorting it out.
- Discuss the situation with a supervisor or colleague and work out a solution together.
- Make a decision that puts the welfare of the child first and meets any legal obligations.

2. Draw a line to identify which ethical source of information each statement relates to.

- | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| * Provides a basis for critical reflection, a guide for professional behaviour and principles to inform individual and collective decision-making. | * UN Convention on the Rights of the Child |
| * Based on the fundamental and prized values of the profession, educators act to guide decision-making in relation to ethical responsibilities. | * UN Convention on the Rights of the Child |
| * Outlines minimum standards governments should meet to provide adequate services and support for children and their families in the areas of health, welfare and education. | * ECA Code of Ethics |
| * All children must be respected and provided rights, whatever the child's race, religion, abilities, whatever they think or say and whatever type of family they come from. | * ECA Code of Ethics |
| * Educators make a commitment to respect and maintain the rights and dignity of children, families, colleagues and communities. | * ECA Code of Ethics |

Summary

- Service policies and procedures are developed based on the legislation and guidelines that apply to the service.
- Laws are developed to create a consistent understanding of what is and is not appropriate.
- The National Quality Framework (NQF) has been implemented in accordance with the Education and Care Services National Law.
- You should be familiar with the Regulations and put them into practice as part of your daily work.
- 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.
- The UN Convention on the Rights of the Child signifies the international community's recognition that children, as human beings, are entitled to the full enjoyment of human dignity.
- The ECA Code of Ethics provides a basis for critical reflection, a guide for professional behaviour, and principles to inform individual and collective decision-making.
- If you come across an ethical dilemma, you should seek guidance from a supervisor and use your problem-solving skills to deal with ethical issues.

Learning Checkpoint 1

Identify legal and ethical obligations

1. List two sources of authoritative information.

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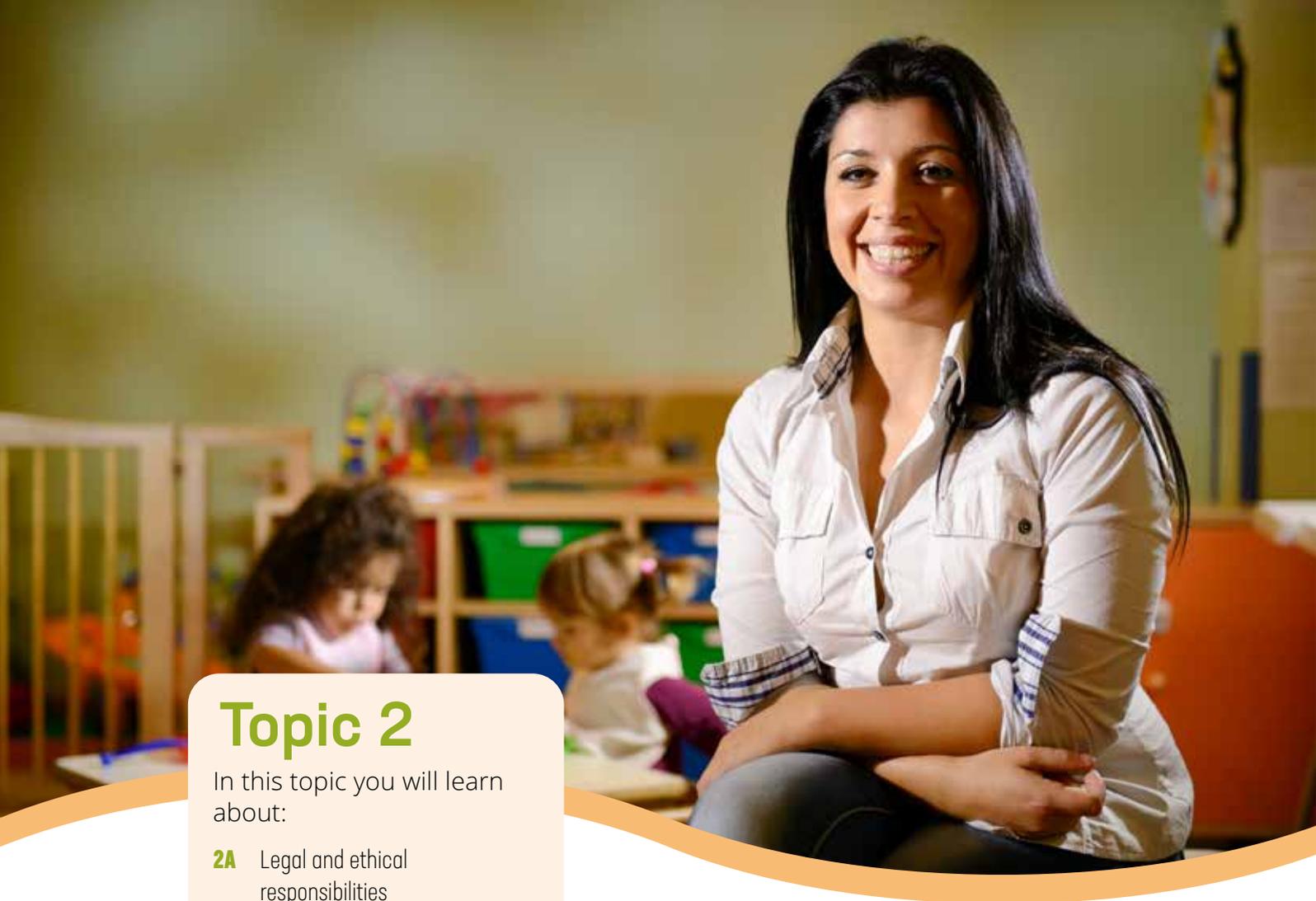
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2. A child has fallen off her chair and this has caused a shelf to topple over and break a window. The child is bleeding and there are shards of glass strewn around floor, near other children. Which of the following statements are correct? Select yes or no for each.

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------|
| a. There is no mention of how to deal with this emergency in the Regulations or the service response plan and policy. You need to call a supervisor before you can act. | * Yes | * No |
| b. Medical staff are not authorised to stay in the service. This means that if you call an ambulance, they will need to treat the child outside of the service. | * Yes | * No |
| c. Article 16 of the UN Declaration on the Rights of the Child and the ECA Code of Ethics make it clear that children’s information is private. This means that you cannot pass on the child’s details to ambulance staff. | * Yes | * No |
| d. NQS Element 2.1.2 provides information about the best quality work practices you should apply when faced with illness and injury in the service. | * Yes | * No |
| e. The regulatory authority may visit the service to check that the service meets laws, regulations and standards relating to the emergency. They will ensure all relevant policies and procedures were followed. | * Yes | * No |
| f. Regulations relating to the physical environment and staffing arrangement would not have been met if the shelf had been missing a wheel and one staff member was on lunch (and had not been replaced). | * Yes | * No |



Topic 2

In this topic you will learn about:

- 2A** Legal and ethical responsibilities
- 2B** Dealing with non-compliance
- 2C** Developing and reviewing policies

Recognising your rights and responsibilities

Each education and care service operates according to its own policies and procedures, which reflect the basic philosophy of the service and its legal obligations.

During your induction you are likely to receive a handbook that contains vital information about policies and procedures for all staff, particularly those who are new to the service.

As an educator, you will be required to 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. It is your right to have support.

2A Legal and ethical responsibilities

The NQF and service policies and procedures provide extensive information, which is vital to understand and follow to carry out your role as an educator in a safe, healthy and legal way.

The responsibilities of your role are made clear in documents such as position descriptions. There are also specific regulations you must be aware of in your day-to-day work. Each educator, supervisor, manager, client and family member has roles and responsibilities relevant to their participation and involvement in the environment.

Legal and ethical issues are interrelated. The following outlines examples that demonstrate this.



As an educator, you are likely to face a number of legal and ethical issues.

Legal issue

If a parent asks you to smack their child, this would be a legal issue. You know that legally you are unable to inflict any physical punishment on a child.

Ethical issue

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.

Legal and ethical issue

If a parent tells you their child is overweight. They want you to stop their child from having any snacks and reduce their lunch foods. This would be an ethical issue and potentially a legal issue.

Position descriptions

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

A position description should:

- explain the purpose of the role
- indicate the main responsibilities of the role
- identify the tasks that must be performed to fulfil each responsibility
- explain who the role is accountable to and the structure of the service
- indicate whether there are any specialised skills or knowledge required
- outline the key selection criteria used to determine the suitability of applicants
- indicate any formal qualifications required for the role
- describe the terms and conditions of employment.

Position descriptions also help to clarify roles and responsibilities of staff and the management body. Since they align with policies and procedures, they are also likely to reflect the NQF.

Duty of care to children

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

This means you are legally responsible for the child. If any of your actions or inactions (failure to act) caused the child to be injured or harmed while they are in your care, 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 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 duty 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 families with enough information about your service or program to enable them to make informed decisions prior to their child participating in any activity.

Information families must receive

- Any change to rooms or the main care providers of their children
- Details of any planned 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 that must be obtained from families

- Families must give permission for any of the following to occur:
 - observation records of the child taken
 - photos of the child taken
 - photos or other visual materials of the child displayed
 - their child to participate in excursions and incursions.

Negligent advice

You may also fail your duty of care as an educator if you provide negligent advice.

You must only give advice on topics you are qualified to provide information about. The advice must be suited to your level of responsibility.

Your organisation should have public liability insurance and/or professional indemnity insurance to protect you and other staff who are sued.

Guidelines for appropriate advice are provided below:

- Educators must be aware of the limitations of their role and responsibilities.
- Educators must provide advice according to the level of their qualifications.
- Never prescribe or suggest medications.
- Never diagnose illnesses.

Child custody

Educators must be aware of their legal and ethical responsibilities when dealing with child custody orders.

Child custody orders may be put into place when families separate or divorce. The purpose of a custody order is to meet the protection needs of children based on evidence that has been submitted to a court. These orders may support both parents to have contact with the child, or may limit or exclude a parent or family member.

Where a custody order is in place, educators must follow the directions explicitly. To do this, all educators must be aware of the requirements so they can act appropriately if someone attempts to have access to, or take the child from the service.

When a non-custodial parent attempts to remove a child from a service this is a police matter and full support will be given if police are called, particularly if there is a record of violence or disruption.

Information about custody orders is private. Manage this information respectfully, while keeping details confidential.

Child protection

You are legally obliged to report if you believe a child may be in danger of being harmed or is being abused.

When dealing with abuse or suspected abuse, you must monitor the child and provide a support base for the family. Your role is not one of accuser, counsellor or legal practitioner, but of active listener, knowledge holder and resource provider. This demands your commitment to a high level of confidentiality and respect for those involved.

During this time you will be the holder of very private information. The details of this information might influence the life of the child and family you are working with. At some point, these details might form part of legal proceedings.

The legislation of each state and territory declare that certain professionals must legally report situations where children may be at risk of harm.

The following is an educator’s guide for mandatory reporting.

Whether you are mandated to report or not, you have a duty of care toward children and are encouraged to report concerns.

For more information about mandatory reporting go to: aspirelr.link/state-child-abuse-authority

| State or territory | Educators are mandated to report: |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ACT | <ul style="list-style-type: none"> ➤ Physical abuse ➤ Sexual abuse or other exploitation of the child |
| NSW | <ul style="list-style-type: none"> ➤ Physical abuse ➤ Sexual abuse or other exploitation of the child ➤ Emotional/ psychological abuse ➤ Neglect ➤ Exposure to domestic violence |
| NT | <ul style="list-style-type: none"> ➤ Physical abuse ➤ Sexual abuse or other exploitation of the child ➤ Emotional/ psychological abuse ➤ Neglect ➤ Exposure to physical violence |
| QLD | <ul style="list-style-type: none"> ➤ Physical abuse ➤ Sexual abuse |
| SA | <ul style="list-style-type: none"> ➤ Physical abuse ➤ Sexual abuse or other exploitation of the child ➤ Mental or emotional abuse ➤ Neglect |
| Tas. | <ul style="list-style-type: none"> ➤ Physical abuse ➤ Sexual abuse (any) ➤ Emotional/ psychological abuse ➤ Neglect ➤ Exposure to family violence |
| Vic. | <ul style="list-style-type: none"> ➤ Physical injury ➤ Sexual abuse ➤ All adults are mandated to report sexual abuse. ➤ Educators must follow Child Safe Standards. <p>For full details of all reporting obligations go to: aspirelr.link/child-reporting-obligations-vic</p> |
| WA | <ul style="list-style-type: none"> ➤ Sexual abuse |

Responsible people

Laws and regulations refer to people who have additional responsibilities.

These include:

- Approved provider: Person legally responsible for compliance (meeting laws and regulations).
- Nominated supervisor: Person nominated by the approved provider to manage the service.
- Person in day-to-day charge: Person nominated by the approved provider and nominated supervisor to take charge in their absence.

Educators are responsible for their own actions and must follow policies and procedures. However, approved providers and nominated supervisors take full responsibility if any issues occur.

The following table outlines some laws and standards relating to these roles.

| Requirement | Section/Regulation |
|---------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Education and Care Services National Law | Section 161 – Offence to operate education and care service without nominated supervisor |
| | Section 161A – Offence for nominated supervisor not to meet prescribed minimum requirements |
| | Section 162 – Offence to operate education and care service unless responsible person is present |
| | Section 163 – Offence relating to appointment or engagement of family day care co-ordinators |
| | Section 164 – Offence relating to assistance to family day care |
| | Section 164A – Offence relating to the education and care of children by family day care service |
| Education and Care Services National Regulations | Regulation 117A Placing a person in day-to-day charge |
| | Regulation 117B Minimum requirement for a person in day-to-day charge |
| | Regulation 117C Minimum requirement for a nominated supervisor |

For more detailed information on the Act and Regulations, go to:

- aspirelr.link/education-and-care-national-law
- aspirelr.link/education-and-care-national-regulations

Supervision

Supervision regulations are in place to make sure services provide the best possible education and care to children.

These regulations range from the way a service structure of leadership is required to how individual staff are to be allocated. For example, Regulation 123 – Educators to child ratios – centre-based services states the minimum number of educators at a centre-based service:

- One educator to four children aged from birth to 24 months

- One educator to five children aged 24 to 36 months
- One educator to 11 children aged 36 months to preschool age
- One educator to 15 children over preschool age

Other relevant regulations for supervision requirements are:

- Regulation 119 – Family day care educator and family day care educator assistant to be at least 18 years old
- Regulation 120 – Educators who are under 18 to be supervised
- Regulation 122 – Educators must be working directly with children to be included in ratios
- Regulation 123A – Family day care coordinator to educator ratios – family day care
- Regulation 124 – Number of children who can be educated and cared for – family day care educator

For more detailed information on the Regulations, go to: aspirelr.link/education-and-care-national-regulations.

Educational qualifications

The NQF sets out minimum qualifications to work in children’s education and care.

Specific qualifications that are approved can be found on the ACECQA website: aspirelr.link/acecqa-qualifications-check.

Overseas qualifications need to be approved individually by ACECQA.

The following table outlines the education qualifications required.

| Regulation | Requirement |
|-------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulation 126 – Centre-based services—general educator qualifications | <p>The qualification requirements for educators at a centre-based service for children preschool age or under are as follows:</p> <ul style="list-style-type: none"> ➤ at least 50 per cent of educators must have, or be actively working towards, at least an approved diploma-level education and care qualification ➤ all other educators must have, or be actively working towards, at least an approved certificate III level education and care qualification. |
| Regulation 127 – Family day care educator qualifications | A family day care educator must have, or be actively working towards, at least an approved certificate III level education and care qualification. |
| Regulation 128 – Family day care coordinator qualifications | A family day care coordinator must have an approved diploma level education and care qualification. |

| Regulation | Requirement |
|---------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Regulation 136 – First-aid qualifications | <p>Centre-based services must have at least:</p> <ul style="list-style-type: none"> ➤ one staff member who holds a current approved first-aid qualification ➤ at least one staff member who has undertaken current approved anaphylaxis management training ➤ at least one staff member who has undertaken current approved emergency asthma management training. <p>Family day carers must each hold current approved:</p> <ul style="list-style-type: none"> ➤ first-aid qualifications ➤ anaphylaxis management training ➤ emergency asthma management training. |
| Regulation 151 – Record of educators working directly with children | <p>A record of educators working directly with children must be kept that includes:</p> <ul style="list-style-type: none"> ➤ the name of each educator who works directly with children ➤ the hours that each educator works directly with children. |
| Regulation 168(2) (a) – Education and care service must have policies and procedures | <p>The service has in place policies and procedures in relation to health and safety, including:</p> <ul style="list-style-type: none"> ➤ water safety, including safety during any water-based activities ➤ staffing, including a code of conduct for staff members ➤ determining the responsible person present at the service ➤ participation of volunteers and students on practicum placements. |

Staff records

Regulations also indicate the records required to be kept by educators and other staff based on the type of service.

A list of regulations that outline the requirements for staff records in centre-based services is provided below:

- Regulation 145 – Staff record
- Regulation 146 – Nominated supervisor
- Regulation 147 – Staff members
- Regulation 148 – Educational leader
- Regulation 149 – Volunteers and students
- Regulation 150 – Responsible person
- Regulation 151 – Record of educators working directly with children
- Regulation 152 – Record of access to early childhood teachers

The list below details regulations that outline the requirements for staff records in family day care services:

- Regulation 153 – Register of family day care educators, coordinators and educator assistants
- Regulation 154 – Record of staff engaged or employed by family day care services

For more detailed information on the Regulations, go to: aspirelr.link/education-and-care-national-regulations.

Conflicts of interest

A real or perceived conflict of interest occurs if you have a relationship with someone or an interest in something that may influence your judgment.

You will be able to identify a conflict of interest by noticing that certain people may benefit from a situation. A decision that creates a conflict of interest may make the outcome better for those involved, but could make it unfair to others.

When you identify a possible conflict of interest, report your concerns to an appropriate person, such as your supervisor or manager. Provide appropriate details to this person, explaining the situation that has occurred, who was involved and how it made you feel. They may want to know what, how and when the conflict of interest occurred.

If the conflict of interest involves the supervisor or manager, follow the service policy regarding governance or grievances.

Remain open-minded to the views and thoughts of each person involved. Listen actively, use open-ended questioning and work together to reach an agreement.

Follow any relevant policies and procedures relating to the issue, such as your service grievance procedure.

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



It's important to report any conflicts of interest you notice.

| Situation | Possible conflicts of interest |
|----------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>An educator's child attends the service where you work</p> | <ul style="list-style-type: none"> ➤ The educator expects their child to be treated differently from other children. ➤ The educator provides their child with additional benefits while they are in the service. ➤ The educator confuses their role as an educator with their role as a parent. |

| | |
|------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| An educator dislikes a child whose parent they know | <ul style="list-style-type: none"> ➤ The educator treats the child with less respect or care than other children. ➤ The educator tells other educators about their feelings and convinces them to be biased. ➤ The educator shares private information about the child with others without the parents' consent. |
| An educator has a personal relationship with a family who uses your service | <ul style="list-style-type: none"> ➤ The educator treats this family differently from other families. ➤ The educator provides the children or parents with additional benefits. ➤ The educator confuses their role as a friend with their role as an educator. ➤ The child is moved up the waiting list and enrolled in the service ahead of others who have been waiting longer. |
| An educator is in a romantic relationship with a supervisor | <ul style="list-style-type: none"> ➤ The supervisor promotes and supports the educator unfairly over others. |
| An educator has shares or a financial interest in the service | <ul style="list-style-type: none"> ➤ The educator recommends the service to families even if it does not meet the family's needs as they will gain financially from any referrals made. |
| An educator is partly responsible for a breach of legislation | <ul style="list-style-type: none"> ➤ The educator fails to report the breach to avoid getting in trouble. |

Information management

Regardless of the type of information being recorded, you must follow service policies and procedures when completing each record.

Service records may include a range of legal documents that collect enrolment, fee and other information.

You will need to keep other types of records, including:

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

Ensure you include sufficient evidence and information, and store these confidentially and safely for record-keeping, reference, evidence and as part of meeting your auditing requirements. All records must be kept in order, up-to-date and must be readily available upon request.

Privacy and confidentiality

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, computers with passwords or other technology-based secure storage 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.

The following is a summary of Regulations 181–182:

Information kept in any records required by the Regulations must not be shared with or communicated, either directly or indirectly, to another person unless they are:

- ▶ providing medical treatment and the information is related to this treatment
- ▶ a parent of the child and the information is about the child
- ▶ a regulatory authority or authorised officer
- ▶ expressly authorised, permitted or required to be given information under a law or Act
- ▶ given with written consent by the person providing the information.

Storage requirements

Records must be stored based on their purpose.

Confidential records such as enrolment forms and staff records must be kept in password-protected computers or in locked filing cabinets. Some records need to be available to staff, such as information about rosters and staff meetings. Other records need to be accessible by all people in the service. Records include information about policies and procedures, laws, regulations and standards.

Regulation 183 includes the following requirements relating to storage of information:

Records and documents must be stored in a safe and secure place and for the relevant amount of time set out in the Regulations.

Records must be kept for the following periods:

- ▶ Incident, illness, injury and trauma records must be kept until the child is aged 25 years.
- ▶ Records relating to the death of a child in care must be kept for seven years after the death.
- ▶ Other records must be kept for three years after the last date on which the child attended the service.

You can find an easy-to-read A4 poster showing the record-keeping durations at: aspirelr.link/record-keeping-chart.



Practice Task 3

1. Read the following statements about legal requirements for staffing arrangements. Select yes or no for each one.

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------|------|
| a. A nominated supervisor must have attained the age of 18 years. | * Yes | * No |
| b. Educators cannot be included in calculating the educator-child ratio of a centre-based service unless the educator is working directly with children. | * Yes | * No |
| c. Your duty of care means you are legally responsible for the child and for your own actions or inaction while caring for the child. | * Yes | * No |
| d. At least 50 per cent of educators must have an approved certificate level education and care qualification to meet minimum requirements. | * Yes | * No |
| e. Every staff member working in a centre-based service must hold an approved first-aid qualification. | * Yes | * No |

2. Draw a line to match each scenario with the correct issue type.

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| * You think an educator has done something that is against regulations. You are not sure whether to report it to your supervisor as you don't want to see your friend getting in trouble. | * Legal issue |
| * An educator has told a friend about a family's child custody and protection orders. | * Legal issue |
| * You notice a situation that could be a conflict of interest. It involves an educator you don't get along with. You are not sure whether it is just your feeling that there is an issue, or if there is something concerning that needs to be reported. | * Ethical issue |
| * An educator is feeling really tired. She tells you she will have a rest for 10 minutes in the staff room. You are left to care for seven babies on your own. | * Legal and ethical issue |
| * An educator wants all children to make Christmas decorations. Some of the families at the service are Jewish and Muslim, but the educator won't acknowledge any religion other than Christianity. | * Legal and ethical issue |

3. Which of the following are correct about information management? Select all that apply.

- Information managed by a service might include enrolment forms, fee information and incident records.
- Incident, illness, injury and trauma records must be kept until the child is 25 years or older.
- Incident, illness, injury and trauma records must be kept for 25 years.
- Information kept in any records required by the regulations must not be shared with another person unless they are a parent of the child and the information is about the child.
- Regulations 181–183 provide legal requirements for storage and confidentiality of records.

2B Dealing with non-compliance

When you are aware of the NQF and your service policies and procedures, you should be able to recognise possible non-compliance.

Throughout the day, you are required to communicate and act in line with policies and procedures. At times you will notice things that do not meet regulations, meaning they are not compliant. Non-compliance is usually unintentional and often occurs due to human error. Other times it occurs due to issues or errors in policies and procedures. Unfortunately, some non-compliance issues happen when a staff member knows that they are clearly breaching legal requirements.



You may need to discuss issues of non-compliance with your supervisor.

Breaches of laws or regulations have consequences that may include serious outcomes. They are also linked to financial penalties as described in the laws and regulations.

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

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

The outcome of non-compliance depends on the severity of the breach, service policies and the intention of the staff member. Non-compliance may result in immediate dismissal from employment.

Examples of non-compliance

- 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 are posted online without prior informed consent from parents or guardians.
- Food with nuts are found in the kitchen when the centre is advertised as nut-free.
- Children's nappies are not being changed regularly.
- Educators tell parents their children have slept when they haven't.
- Eating areas are not being cleaned after snack and mealtimes, 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 met at all times.
- Children and educators are not wearing hats or sunscreen when going outdoors during summer months.
- Children are participating in experiences that are against their cultural beliefs and practices.
- Children leave the service unsupervised.
- Educators are not supervising children to the level required for their activities.

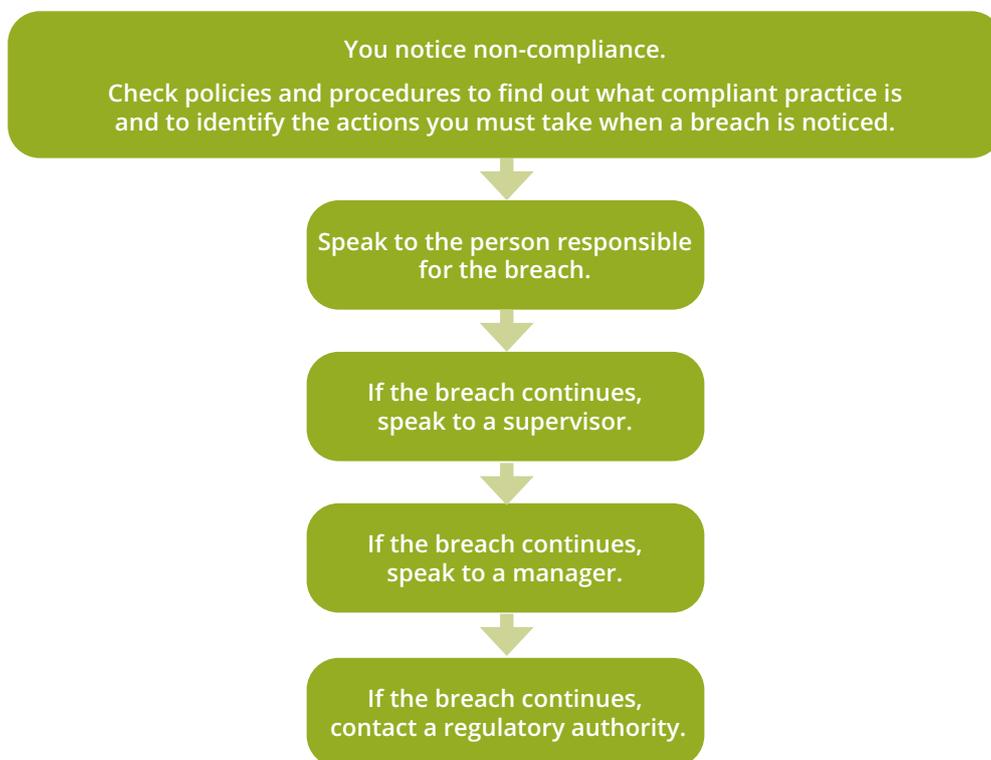
Educator responsibilities

If you are aware of a non-compliance, you are responsible for reporting and/or resolving the issue.

Some of your responsibilities include:

- checking the NQF and policies and procedures to clearly understand what is compliant and non-compliant
- fixing what happened by communicating, acting, altering the outcome or completing the task yourself
- reporting the issue to a supervisor or manager
- communicating about the issue to others so it can be avoided in future.

If your supervisor is responsible for the non-compliance, follow the advice of your service discipline policy. The following guides your actions and communication. If at any stage you feel threatened or uncomfortable carrying out a step, move to the next step.



If you are unsure if non-compliance has occurred or wish to clarify any information, you can contact ACECQA and asking them for their opinion. ACECQA's contact details can be found at: aspirelr.link/acecqa-contact-us.

Communicating about non-compliance

One common feature of a successful workplace is the ability of team members to discuss issues and share feedback.

Feedback and discussion help all staff members be part of any improvement or change processes, and gives each person the opportunity to understand how and why things are done.

When you want to gain information or seek ideas, communicate with your colleagues and supervisor. Communicating with others can help you to:

- find out what is happening in the service and more broadly in the education and care industry
- identify new ways of dealing with issues
- continue improving your work practices
- avoid non-compliance and serious issues.

It is your responsibility to contribute to discussions. This may occur informally as you work and chat with co-workers, or in a more formal manner, such as during:

- staff or team meetings
- family meetings
- committee meetings
- professional development or training
- performance appraisals
- feedback sessions.

Example **Noticing a breach**

Jeremy noticed that Freda has not washed her hands after cleaning the bathroom. He knows that he is responsible for taking action. He approaches Freda and mentions that after cleaning the bathroom she should wash her hands well due to the high risk of infection.





Practice Task 4

1. Draw a line to match the action you should take on the left with the non-compliance that has occurred on the right.

- | | |
|----------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> * Fixing the problem immediately | <ul style="list-style-type: none"> * An educator asks you what the approved first-aid qualification is called. They have booked in for a course but are not sure if it is the right one. |
| <ul style="list-style-type: none"> * Communicating so this is avoided in the future | <ul style="list-style-type: none"> * An educator has served a snack to the children. You notice a child with lactose intolerance is about to take a sip of milk. |
| <ul style="list-style-type: none"> * Checking the NQF policies and procedures | <ul style="list-style-type: none"> * You hear an educator tell a child to mind their own business. She warns the child that if he tells anyone what happened she will give him a whack. |
| <ul style="list-style-type: none"> * Reporting the issue | <ul style="list-style-type: none"> * An educator has left the area without telling you. There are enough educators supervising; however, you need to move so you can see the whole yard. |

2. Which of the following constructive feedback solutions would be best suited to a situation where an educator has left an area without telling you? Select all that apply.

- Discuss supervision and communication at a staff meeting.
- Talk about supervision with families and ask for their opinion.
- Have a team meeting and discuss the supervision strategies that could be used to improve supervision.
- Chat with the educator and let them know that you need to hear that they are leaving the area so you can move to a safe place.
- Ask the supervisor to tell all the other staff what to do so you are not left in the situation again.

2C Developing and reviewing policies

When policies and protocols are being developed, a consultation process helps everyone to find out about what is being proposed.

This should involve a clear explanation of why a change is being made. When people are involved and provided with the knowledge they need to understand the benefits of a change, they are more likely to support the change and implement it with a positive attitude.

When you participate in the development or review of policies and protocols, you are constructively contributing to workplace improvements.



A consultation process is useful during policy development and review.

Developing policies and protocols

Policies document protocols, which are the rules that the service must abide by.

Most service policies are developed to accommodate the NQF and its requirements.

The following list shows some reasons that policy development might occur.

Policies may be developed in relation to:

- > the service's philosophy
- > issues that arise concerning the program, management or clients
- > service goals
- > a need to overcome a problem
- > past issues of non-compliance
- > current practices relating to childcare and education, financial management, etc.
- > family and/or community feedback
- > management needs
- > general discussion.

Review processes

Part of the policy development process is a regular review which involves as many stakeholders as possible.

Stakeholders may include:

- colleagues
- families and children
- other service organisations
- funding bodies
- community groups
- government agencies.

People from different groups can provide feedback from their own perspective, thus providing a wide range of information, ideas and suggestions.



Involve as many stakeholders as possible in the policy development process.

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.

Your understanding of the service you work in, allows you to provide a valuable contribution to policy and protocol development.

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 ambiguous or unclear
- place discussion items in a comments or suggestions box.



Practice Task 5

1. Number each step from 1 to 4 in the order you should follow to develop a policy.

Raise any issues that you notice and provide this information so that changes can be made.

Check your understanding and put the policy into action.

Reflect on whether the existing policy works or if it needs to change.

Help to make improvements by offering suggestions.

Summary

- As you build your skills and knowledge, you begin to better understand the expectations placed on educators 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 service each time you are faced with a difficult situation or challenged to think of a different way to do things.
- 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.
- You can contribute to policy review by using your communication and problem-solving skills.
- 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.
- The purpose of a position description is to provide a clear explanation of the boundaries of your 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 and try to rectify the situation.

Learning Checkpoint 2

Recognising your rights and responsibilities

Part A

The children in the image below are all four years old. Both educators are diploma-qualified and both hold current approved first-aid qualifications. Use the information and image to answer the questions that follow.



1. Select true or false in relation to the following statement.

The number of educators in the image is adequate for the number of children. * True * False

2. One of the educators must leave the room. Which of the following are correct? Select all that apply.

- This is a legal issue. The ratios of educators to children will not be correct and this will not meet duty of care requirements.
- This is an ethical dilemma. The educator shouldn't leave the room for any reason.
- The ratio of educators to children will still be correct if the educator leaves the room.
- The children's health, safety and wellbeing can still be maintained with one educator in the room.
- The regulatory authority may be called and they will impose a fine.

Part B

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

Case study

Sahara is a parent who asks her child's educator, Alexie, if she can have some phone numbers so she can invite people to her house-warming party. She writes a note for Alexie that includes the following information.

Could I please have the numbers for:

Marcelina – parent

Lachlan – educator

My number (Sahara) is 0451002004

Sahara mentions that Lachlan has agreed to store some alcohol at the service until the party, she doesn't have a lot of room in her house with all the boxes that need unpacking.

1. Which of the following are correct about the information shared between Sahara and Alexie? Select all that apply.

- Storing alcohol in the service might result in an actual or potential non-compliance, especially if the supervisor is not aware.
- Lachlan's phone number can be found in the staff records. Regulations state this information can be given to families who request it.
- There may be a conflict of interest between Sahara and Lachlan. Lachlan has established a personal relationship with Sahara and it seems that he doesn't want to disappoint her.
- Alexie should mention the situation to her supervisor and give the supervisor the note.
- Alexie should rewrite the note in neat print. This would show how she is able to keep clear records.
- If Alexie was busy, she could pin the note to the noticeboard so she remembers to deal with the situation later.

2. Which of the following statements are correct about Alexie’s situation? Select yes or no for each one.

- a. Alexie could pass on Lachlan’s phone number to Sahara. She obviously knows him well if he has agreed to store alcohol for her. * Yes * No
- b. Sahara’s note must be kept for 25 years. This is part of the legislated storage requirements. * Yes * No
- c. Marcelina’s phone number is private information, which should be stored securely, such as in a locked filing cabinet or password-protected computer. * Yes * No
- d. If Sahara had moved house due to a separation where there are now child protection and custody orders in place, Alexia should let Marcelina know before she accepts an invitation. * Yes * No

3. Alexie contacts Lachlan, who says he doesn’t want his phone number to be given to Sahara. He says when Sahara asked him to store the alcohol and come to the housewarming party, he didn’t know what to say or do, so he agreed. Which of the following should happen next? Select all that apply.

- Alexie and Lachlan should realise that work practices must be improved so they can confidently meet legal and ethical requirements.
- Alexie should cover for Lachlan in case he gets into trouble.
- Alexie and Lachlan should speak to their supervisor and ask what to do next.
- Lachlan might suggest that a policy should include some information about situations such as this so that if it were to happen again, he could refer directly to this policy.
- Alexie should still give Sahara Lachlan’s phone number. Sahara might think that Alexie caused issues, but it really is Lachlan who needs to sort things out.

