

# GRIEVANCES AND DISPUTE RESOLUTION

QUALITY AREA 7

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## PURPOSE

The purpose of this document is to provide an avenue through which educators, students and volunteers, and their managers can resolve grievances in relation to the provision of services, as they arise.



## POLICY STATEMENT

### VALUES

Family Day Care is committed to:

- providing an environment of mutual respect and open communication
- establishing mechanisms to promote fast and efficient resolution of issues
- complying with all legislative and statutory requirements
- dealing with grievances with fairness and equity
- treating information in relation to onsite grievances with sensitivity
- maintaining privacy and confidentiality at all times.

### SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, educators, students, and volunteers at Family Day Care, including during offsite excursions and activities.

RESPONSIBILITIES	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood educators	Contractors, volunteers, and students
Conducting oneself in a professional manner and observe appropriate onsite behaviours in line with the <i>Code of Conduct Policy</i>	√	√	√	√
Providing advice, assistance, and support to all parties to a grievance in line with this policy and procedure	√	√		
Being aware of their obligations and responsibilities in relation to handling grievances	√	√	√	√
Identifying, preventing, and addressing potential problems before they become formal grievances	√	√		
Developing a grievances and dispute resolution procedure	√	√		
Ensuring that grievances are fully documented, and considering educator wishes in determining the appropriate steps and actions	√	√		

Ensuring all decisions relating to educator practices are made with consideration given to the ramifications for the individual, as well as for Family Day Care in general.	√	√		
Ensuring any grievance is handled in the most appropriate manner at the earliest opportunity in accordance with this Policy..	√	√		
Informing DE in writing within 24 hours of any grievances alleging that a serious incident ( <i>refer to Definitions</i> ) has occurred at the service or that the Education and Care Services National Law has been breached ( <i>National Law: Section 174, Regulation 176(2)(b)</i> )	R	R		
Notifying the Commission for Children and Young People (CCYP) within 3 business days of becoming aware of a reportable allegation ( <i>refer to Definitions</i> ), under the Reportable Conduct Scheme ( <i>refer to Definitions</i> ) ( <i>refer to Child Safe Environment and Wellbeing Policy</i> )	R	√		
Following processes for responding to and reporting suspected child abuse ( <i>refer to Child Safe Environment and Wellbeing Policy</i> )	R	R		
Working co-operatively with the approved provider, DE, CCYP or onsite investigator ( <i>refer to Definitions</i> ) in any investigations related to educator grievances		√	√	√
Ensuring all educators and volunteers are treated fairly and without fear of intimidation	√	√		
Attempting to resolve any issues through the Coordination Unit at the earliest opportunity			√	√
Raising a grievance and engaging in the resolution process under this policy in good faith ( <i>refer to Definitions</i> )			√	√
Respecting the rights of the complainant, the respondent and any other persons involved, and must not victimise any person for raising a grievance or for their involvement in the resolution of a grievance	√	√	√	
Participating genuinely if an investigation is undertaken and provide truthful answers when required	√	√	√	√
Maintaining a dialogue with all parties to the grievance to ensure constructive, respectful, and proactive resolution of any grievances that arise	√	√		
Acting fairly and ensuring conclusions reached are based on a fair and due process that relate to relevant evidence involving all parties to the grievance	√	√		
Maintaining confidentiality throughout the process ( <i>refer to Privacy and Confidentiality Policy</i> )	√	√	√	√
Engaging independent internal or external investigators as required	√	√		
Analysing complaints, concerns, and safety incidents to identify causes and systemic failures to inform continuous improvement	√	√		
Maintaining professionalism and integrity at all times ( <i>refer to Code of Conduct policy</i> )	√	√	√	√



## BACKGROUND AND LEGISLATION

### BACKGROUND

Grievances refer to complaints or concerns raised by educators regarding their treatment or other related matters. These grievances may stem from conflicts with Whittlesea Family Day Care, perceived unfair treatment, instances of discrimination or harassment, and policy violations.

When educators feel aggrieved, they may choose to voice their concerns formally through the grievance process. The purpose of a grievance process is to provide a structured mechanism for educators to express their dissatisfaction, seek resolution, and address any perceived injustices or violations of their rights.

### LEGISLATION AND STANDARDS

Relevant legislation and standards include but are not limited to:

- Age Discrimination Act 2004
- Australian Human Rights Commission Act 1986
- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Disability Discrimination Act 1992
- Sex Discrimination Act 1984 (Cwlth)
- Education and Care Services National Law Act 2010
- Education and Care Services National Regulations 2011
- Equal Opportunity Act 2010 (Vic)
- Fair Work Act 2009
- Gender Equality Act 2020 (Vic)
- National Quality Standards
- Occupational Health & Safety Act 2004 (Vic)
- Privacy and Data Protection Act 2014 (Vic)
- Racial and Religious Tolerance Act 2001 (Vic)
- Racial Discrimination Act 1975
- Reportable Conduct Scheme

The most current amendments to listed legislation can be found at:

Victorian Legislation – Victorian Law Today: [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

Commonwealth Legislation – Federal Register of Legislation: [www.legislation.gov.au](http://www.legislation.gov.au)

[Agreements/awards - Find an enterprise agreement](#) | [Fair Work Commission \(fwc.gov.au\)](#)



### DEFINITIONS

The terms defined in this section relate specifically to this policy.

**Complainant:** Person who brings the grievance to the attention of Family Day Care under this policy

**Good faith** Includes acting truthfully and confidentially throughout the resolution process, not attempting to submit an anonymous grievance, and not making frivolous or vexatious grievances.

**Grievance:** A formal complaint raised by an educator against Whittlesea Family Day Care. Educators usually file grievances for harassment, bullying, discrimination, nepotism, concerns regarding contractor management or regarding terms of contract (*Refer to Prevention of Harassment and Bullying Policy*).

**Dispute:** A state of disagreement over an issue or group of issues between two parties.

**Dispute resolution procedure:** The method used to resolve complaints, disputes, or matters of concern through an agreed resolution process.

**Mediator:** A person (neutral party) who attempts to reconcile differences between disputants.

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

**Reportable allegation:** any allegation that an educator, supervisor, volunteer or student has committed child abuse (*refer to Child Safe Environment and Wellbeing Policy*)

**Reportable Conduct Scheme:** aims to improve oversight of how organisations respond to allegations of child abuse and child-related misconduct by their workers and volunteers and contracted service providers. There are five types of 'reportable conduct':

- sexual offences committed against, with or in the presence of a child
- sexual misconduct committed against, with or in the presence of a child
- physical violence against, with or in the presence of a child
- any behaviour that causes significant emotional or psychological harm to a child
- significant neglect of a child.

**Resolution:** Person or entity whose behaviours, actions or decisions are the subject of the grievance.

**Respondent:** Person or entity whose behaviours, actions or decisions are the subject of the grievance.

**Educators:** Educators contracted to Whittlesea Family Day Care

**Investigator:** An external individual who is responsible for conducting impartial and objective investigations into incidents, complaints, or alleged misconduct. They are typically appointed by an approved provider or assigned by a designated authority within the organisation to gather relevant information, interview witnesses, review evidence, and make findings and recommendations based on their investigation.

**Onsite investigation:** The purpose of an onsite investigation is to thoroughly examine the allegations, determine the truth, and make informed decisions regarding appropriate actions, including disciplinary measures or corrective actions. The investigation process involves gathering evidence, interviewing relevant individuals, reviewing documents or records, and assessing the credibility of the information provided. The investigator remains impartial and objective throughout the process, ensuring a fair and unbiased examination of the situation.



## SOURCES AND RELATED POLICIES

### SOURCES

- NIL

### RELATED POLICIES

- Child Safe Environment and Wellbeing
- Code of Conduct
- Compliments and Complaints
- Inclusion and Equity
- Mental Health and Wellbeing
- Occupational Health and Safety
- Occupational Violence and Aggression
- Prevention of Harassment and Bullying
- Privacy and Confidentiality
- Selection and Registration of Educators

## EVALUATION



In order to assess whether the values and purposes of the policy have been achieved, the approved provider will:

- regularly seek feedback from everyone affected by the policy regarding its effectiveness
- review the effectiveness of the policy and procedures to ensure that all complaints have been dealt with in a fair and timely manner
- keep the policy up to date with current legislation, research, policy, and best practice
- revise the policy and procedures as part of the service's policy review cycle, or as required

- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures unless a lesser period is necessary due to risk ([Regulation 172 \(2\)](#)).



## ATTACHMENTS

- Attachment 1: Grievance Dispute Resolution Guidelines



## AUTHORISATION

This policy was adopted by the approved provider of Family Day Care on 30 October 2024.

**REVIEW DATE:** 30 October 2025

## ATTACHMENT 1. – GRIEVANCE DISPUTE RESOLUTION GUIDELINES

This guideline aims to assist educators and Whittlesea Family Day Care to resolve grievances effectively and to the satisfaction of all concerned.

Family Day Care is committed to addressing grievances in a prompt and effective manner. Both the Whittlesea Family Day Care and the educator will abide by their obligations under any relevant agreement.

**These guidelines should be read in conjunction with the grievance procedure in your relevant your agreement.**

To avoid any perceived conflict of interest, if the approved provider (including nominated supervisors/directors/management teams or committee members) (if applicable) are personally involved in issues as a complainant, or in allegations of discrimination, they will stand aside from participation in Complaint subcommittees or procedures related to the investigation or management of complaints. The service or organisation will ensure that all complaints/grievances, regardless of whether they are of a major or minor nature, will be treated seriously and an investigation carried out fairly, efficiently, and expeditiously.

The following guidelines are to ensure that grievances are resolved by discussion between the parties. The approved Provider recognises that, from time-to-time, individual educators may have grievances that need to be resolved in the interest of good relationships.

- Listen to the complainant. Obtain a chronology of events (who, what, why, when, how etc).
- Offer the complainant assistance or a way to get home safely if they are visibly upset.
- Confidentiality is to be respected all times. Information about a grievance will not be disclosed or discussed outside of the grievance procedures, except as required by law.
- An educator who has commenced a grievance process may withdraw and stop the process at any time without penalty.
- Educators may elect to have a support person of their choice present as a witness at any meetings or interviews.
- Until the grievance is resolved, the service shall continue as normal unless there is a clear threat to any educators health or safety.

### Direct Resolution

Educators who wish to raise a grievance should, in the first instance (feel comfortable and safe to do so), attempt to resolve the issue directly with the person/s involved. The aggrieved person is encouraged to make the person or persons aware that their actions are unwelcome/offensive/intimidating.

### Coordination Unit

If matters are not resolved, or the educators are unwilling to raise it with the person/s involved or with the Coordination Unit, the educator should raise their grievance with the Approved Provider. The educator will move through each level only if they consider that their grievance has not been resolved.

### Approved Provider

The Approved Provider has responsibility to:

- be aware of their obligations and responsibilities in relation to handling grievances.

- appoint a grievance sub-committee (if applicable) to manage the grievance investigation process and ensure it is conducted in a fair and transparent manner and without undue delay
- appoint an external and/or independent investigator to conduct the investigation as required
- facilitate satisfactory resolution of the matter between parties and/or engage mediators as required
- review the findings and resolutions for compliance with this policy and/or any actions to be deemed necessary
- maintain a dialogue with all parties to the grievance to ensure constructive, respectful, and proactive resolution of any grievances that arise.

### Investigating a Grievance

If it is not possible to resolve the grievance through discussions with relevant parties expeditiously, conduct a formal investigation into the grievance.

Procedural fairness and transparency are critical in an investigation (*refer to Definitions*). Maintaining procedural fairness means that you can:

- protect the interests of the participants in the investigation
- enhance the credibility of the investigation process
- rely on the investigation (and your findings) when making decisions
- defend your agreement decisions in a court or tribunal.

The following list includes recommendations to ensure that an onsite investigation is procedurally fair. The investigator should ensure that:

- the respondent is aware of all the allegations made against them in sufficient detail
- the respondent is allowed a reasonable opportunity, including adequate time, to respond to each of the allegations
- the investigation is carried out in a reasonable time frame
- all participants are given the opportunity to have a support person in the interviews pertaining to the investigation
- all participants are required to maintain confidentiality and sign a confidentiality agreement
- the investigator has no personal interest or bias in the matter being investigated
- all participants are given the opportunity to respond to any contradictory evidence
- the investigator makes reasonable and diligent enquiries to ensure that there is sufficient evidence before making findings on the balance of probabilities.

### Dispute Resolution

Should a grievance not be resolved in a manner which is satisfactory to the Complainant or Respondent, then either party may enact their relevant dispute resolution provision..

### The Importance of Impartiality

It is critical to ensure that the person responsible for carrying out an investigation is impartial. The investigator must not have a vested interest in the outcome of the matter. It's important to consider:

- whether the use of an external investigator is necessary to ensure impartiality
- whether any conflicts of interest need to be disclosed (e.g. if any individuals are friends outside the home environment);
- whether the investigator has handled any previous disciplinary matters.
- If there is the possibility that a person's contract will be terminated if the allegations are proven as part of an investigation, then you should seriously consider the use of an external investigator to ensure that your investigation and the process followed will stand up in any potential court proceeding.

### Resolution and Documentation

When a grievance is resolved, the relevant parties will be notified accordingly. Where it is considered appropriate to document outcomes of a grievance procedure, it will be placed on the educators file and a copy given to the educator.