

COMPLAINTS AND GRIEVANCES – EXTERNAL POLICY

Mandatory – Quality Area 7

PURPOSE

This policy will provide guidelines for:

- receiving and dealing with complaints and grievances at a Bethany Kindergarten Services (BKS) service
- procedures to be followed in investigating complaints and grievances.

Note: This policy does not address complaints relating to staff grievances or employment matters.

SCOPE

This policy applies to BKS as the Approved Provider, Nominated Supervisor, educators, other staff, students on placement, volunteers, parents/guardians, children and others attending the programs and activities of BKS services.

BACKGROUND AND LEGISLATION

Background

In most cases, dealing with complaints and grievances will be the responsibility of BKS as the Approved Provider. All complaints and grievances, when lodged, need to be initially assessed to determine whether they are a general or a notifiable complaint (refer to *Definitions*).

When a complaint or grievance has been assessed as 'notifiable', BKS as the Approved Provider must notify Department of Education and Training (DET) of the complaint or grievance within the legislated timelines. BKS as the Approved Provider will investigate the complaint or grievance and take any actions deemed necessary, in addition to responding to requests from and assisting with any investigation by DET.

There may be occasions when the complainant reports the complaint or grievance directly to DET. If DET then notifies BKS as the Approved Provider about a complaint they have received, BKS will still have responsibility for investigating and dealing with the complaint or grievance as outlined in this policy, in addition to co-operating with any investigation by DET.

DET may investigate complaints and grievances it receives about a service, where it is alleged that the health, safety or wellbeing of any child within the service may have been compromised, or that there may have been a contravention of the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*.

Legislation and standards

Relevant legislation and standards include but are not limited to:

- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*, as amended 2014
- *Children, Youth and Families Act 2005 (Vic)*, as amended 2016
- *Education and Care Services National Law Act 2010*: Section 174(2)(b)
- *Education and Care Services National Regulations 2011*: Regulations 168(2)(o) and 176(2)(b), as amended 2013

- *Health Records Act 2001 (Vic)*, as amended 2016
- *Information Privacy Act 2000 (Vic)*, as amended 2014
- *National Quality Standard*, Quality Area 7: Leadership and Service Management
 - Standard 7.3: Administrative systems enable the effective management of a quality service
 - Element 7.3.4: Processes are in place to ensure that all grievances and complaints are addressed, investigated fairly and documented in a timely manner
- *Privacy Act 1988 (Cth)*
- *Privacy Regulations 2006 (Cth)*

POLICY STATEMENT

BKS is committed to:

- providing an environment of mutual respect and open communication, where the expression of opinions is encouraged
- complying with all legislative and statutory requirements
- dealing with disputes, complaints and complainants with fairness and equity in a timely matter
- establishing mechanisms to promote prompt, efficient and satisfactory resolution of complaints and grievances
- maintaining confidentiality at all times.

DEFINITIONS

Complaint: (In relation to this policy) a complaint is defined as an issue of a minor nature that can be resolved promptly and does not require a detailed investigation. Complaints include an expression of displeasure, such as poor service, and any verbal or written complaint directly related to the service (including general and notifiable complaints).

Complaints do not include staff, industrial or employment matters, occupational health and safety matters (unless related to the safety of the children) and issues related to the legal business entity, such as the incorporated association or co-operative.

Complaints and Grievances Register: (In relation to this policy) records information about complaints and grievances received at the service, together with a record of the outcomes. This register must be kept in a secure file, accessible only to Responsible Persons of the organisation. The register can provide valuable information to BKS as the Approved Provider on meeting the needs of children and families at the service.

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

General complaint: A general complaint may address any aspect of the service e.g. a lost clothing item or the service's fees. Services do not have to inform DET, but the complaint must be dealt with as soon as is practicable to avoid escalation of the issue.

Grievance: A grievance is a formal statement of complaint that cannot be addressed immediately and involves matters of a more serious nature e.g. the service is in breach of a policy or the service did not meet the care expectations of a family.

Mediator: A person who mediates, especially one who reconciles differences between disputants.

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

Notifiable complaint: A complaint that alleges a breach of the Act or Regulation, or alleges that the health, safety or wellbeing of a child at the service may have been compromised. Any complaint of this nature must be reported by BKS as the Approved Provider to the secretary of DET within 24 hours of the complaint being made (Section 174(2) (b),¹ Regulation 176(2) (b)).² If BKS is unsure whether the matter is a notifiable complaint, it is good practice to contact DET for confirmation. Written reports to DET must include:

- details of the event or incident
- the name and contact details of the person who initially made the complaint
- if appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)
- contact details of the relevant Kindergarten Services Manager
- any other relevant information.

Complaints must be submitted to ACECQA using NQAITS

Serious incident: An incident resulting in the death of a child, or an injury, trauma or illness for which the attention of a registered medical practitioner, emergency services or hospital is sought or should have been sought. This also includes an incident in which a child appears to be missing, cannot be accounted for, is removed from the service in contravention of the regulations or is mistakenly locked in/out of the service premises (Regulation 12).³ A serious incident should be documented in an *Incident, Injury, Trauma Record or an Illness Record* (sample form available on the ACECQA website) as soon as possible and within 24 hours of the incident. The incident should also be reported to the relevant Kindergarten Services Manager as soon as practicable but within 24 hours of the incident. The Kindergarten Services Manager will notify The Regulatory Authority (DET) within 24 hours of a serious incident occurring at the service and conduct an investigation if applicable (Regulation 176(2) (a)).⁴ Records are required to be retained for the periods specified in Regulation 183.⁵

PROCEDURES

BKS as the Approved Provider is responsible for:

- being familiar with the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*, service policies and constitution, and complaints and grievances policy and procedures
- identifying, preventing and addressing potential concerns before they become formal complaints/grievances
- ensuring that the name and telephone number of the Responsible Person (refer to *Staffing Policy*) to whom complaints and grievances may be addressed are displayed prominently at the main entrance of the service (Regulation 173(2)(b))⁶
- ensuring that the address and telephone number of the Quality Assessment and Regulation Division at the DET regional office are displayed prominently at the main entrance of the service (Regulation 173(2)(e))⁷
- advising parents/guardians and any other new members of BKS of the complaints and grievances policy and procedures upon enrolment

¹ *Education and Care Services National Law Act 2010*, Section 174(2) (b).

² *Education and Care Services National Regulations 2011*, Regulation 176(2) (b).

³ *Education and Care Services National Regulations 2011*, Regulation 12.

⁴ *Education and Care Services National Regulations 2011*, Regulation 176(2) (a).

⁵ *Education and Care Services National Regulations 2011*, Regulation 183.

⁶ *Education and Care Services National Regulations 2011*, Regulation 173(2) (b).

⁷ *Education and Care Services National Regulations 2011*, Regulation 173(2) (e).

- ensuring that this policy is available for inspection at all times (Regulation 171)⁸
- being aware of, and committed to, the principles of communicating and sharing information with service employees, members and volunteers
- responding to all complaints and grievances in the most appropriate manner and at the earliest opportunity
- treating all complainants fairly and equitably
- providing a *Complaints and Grievances Register* (refer to *Definitions*) and ensuring that staff record complaints and grievances along with outcomes
- complying with the service's *Privacy and Confidentiality Policy* and maintaining confidentiality at all times (Regulations 181, 183)⁹
- referring notifiable complaints (refer to *Definitions*), grievances (refer to *Definitions*) or complaints that are unable to be resolved appropriately and in a timely manner to the Board
- informing DET in writing within 24 hours of receiving a notifiable complaint (refer to *Definitions*) (Act 174(4),¹⁰ Regulation 176(2)(b))¹¹
- following up on any recommendations from DET and taking appropriate action.

The Nominated Supervisor, educators and other staff are responsible for:

- responding to and resolving issues as they arise where practicable
- maintaining professionalism and integrity at all times
- discussing minor complaints directly with the party involved as a first step towards resolution (the parties are encouraged to discuss the matter professionally and openly work together to achieve a desired outcome)
- informing complainants of the service's *Complaints and Grievances Policy*
- recording all complaints and grievances in the *Complaints and Grievances Register* (refer to *Definitions*)
- notifying BKS as the Approved Provider if the complaint escalates and becomes a grievance (refer to *Definitions*), is a notifiable complaint (refer to *Definitions*) or is unable to be resolved appropriately in a timely manner
- providing information as requested by BKS as the Approved Provider e.g. written reports relating to the grievance
- complying with the service's *Privacy and Confidentiality Policy* and maintaining confidentiality at all times (Regulations 181, 183)¹²
- working co-operatively with BKS as the Approved Provider and DET in any investigations related to grievances about a BKS service, its programs or staff.

Parents/guardians are responsible for:

- raising a complaint directly with the person involved, in an attempt to resolve the matter without recourse to the complaints and grievances procedures
- communicating (preferably in writing) any concerns relating to the management or operation of the service as soon as is practicable

⁸ *Education and Care Services National Regulations 2011, Regulation 171.*

⁹ *Education and Care Services National Regulations 2011, Regulation 181, 183.*

¹⁰ *Education and Care Services National Law Act 2010, Section 174(4).*

¹¹ *Education and Care Services National Regulations 2011, Regulation 176 (2) (b).*

¹² *Education and Care Services National Regulations 2011, Regulation 181, 183.*

- raising any unresolved issues or serious concerns directly with BKS as the Approved Provider, via the Nominated Supervisor/educator
- maintaining complete confidentiality at all times

Volunteers and students, while at the service, are responsible for following this policy and its procedures.

EVALUATION

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

- monitor complaints and grievances as recorded in the *Complaints and Grievances Register* to assess whether satisfactory resolutions have been achieved
- 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
- notify parents/guardians at least 14 days before making any changes to this policy or its procedures.

SOURCES

- Early Learning Association Australia *Early Childhood Management Manual*
- ACECQA: www.cecqa.gov.au

Service policies

- *Child Safe Policy*
- *Code of Conduct*
- *Inclusion and Equity Policy*
- *Interactions with Children Policy*
- *Privacy and Confidentiality Policy*
- *Staffing Policy*

ATTACHMENTS

Attachment 1: Dealing with complaints and grievances

AUTHORISATION

This policy was adopted by BKS, as the Approved Provider on 1 January 2017 and last updated 1 July 2018.

REVIEW DATE: 1 JULY 2019

ATTACHMENT 1

Dealing with complaints and grievances

Dealing with a complaint

When a complaint is received, the person to whom the complaint is addressed will:

- inform the complainant of BKS's *Complaints and Grievances Policy*
- encourage the complainant to resolve the complaint with the person directly, or to submit their complaint in writing
- staff to report complaint to the Kindergarten Services Manager
- Kindergarten Services Manager to enter the complaint in the *Complaints and Grievances Register* (refer to *Definitions*) together with the outcome
- Kindergarten Services Manager to report complaint to the Executive Manager and then the CEO
- comply with BKS's *Privacy and Confidentiality Policy* with regard to all meetings/discussions in relation to a complaint.

Dealing with a Grievance and or Complaint

When a formal complaint or grievance is lodged with the service:

- inform BKS as the Approved Provider
- the staff member receiving the formal complaint or grievance will record all relevant details regarding the grievance in the *Complaints and Grievances Register* (refer to *Definitions*)
- BKS as the Approved Provider will assess the grievance to *determine* if it is a notifiable grievance (refer to *Definitions*)
- if the grievance is notifiable, BKS as the Approved Provider will be responsible for notifying DET. This must be in writing within 24 hours of receiving the complaint (Regulation 176(2)(b))¹³
- the written report to DET needs to be submitted using the appropriate forms from ACECQA and will include:
 - details of the event or incident
 - the name of the person who initially made the complaint
 - if appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)
 - contact details of the Kindergarten Services Manager
 - any other relevant information
- if BKS as the Approved Provider is unsure if the complaint is a notifiable complaint, it is good practice to contact DET for confirmation.

In the event of a grievance being lodged, BKS as the Approved Provider will:

- deal with the grievance in a timely manner
- consider the nature and the details of the grievance
- identify which service policies (if any) the grievance involves
- if the grievance is a notifiable complaint (refer to *Definitions*), inform the complainant of the requirements to notify DET of the grievance and explain the role that DET may take in investigating the complaint

¹³ *Education and Care Services National Regulations 2011, Regulation 176 (2) (b).*

- maintain appropriate records of the information and data collected, including minutes of meetings, incident reports and copies of relevant documentation relating to the grievance
- respect the confidential nature of information relating to the grievance. BKS as the Approved Provider must handle any grievance in a discreet and professional manner
- store all written information relating to grievances securely and in compliance with the service's *Privacy and Confidentiality Policy*.

INVESTIGATING THE GRIEVANCE AND GATHERING RELEVANT INFORMATION

When investigating the grievance and gathering relevant information, BKS as the Approved Provider will:

- meet with individual witnesses, and give right of reply to the person against whom the allegations are made in relation to any accusation or information relating to an alleged incident
- inform the complainant of the procedures for dealing with the grievance if the complainant does not take up the opportunity to attend a meeting
- document the time, date and detail of meetings/discussions, and follow this up with a letter to the complainant outlining the information discussed
- be available to meet with DET staff, if required, and provide additional information as requested
- review relevant information and documents
- obtain any other relevant information or documentation that will assist in resolving the grievance
- seek advice, where appropriate, from individuals and organisations that may be able to assist in resolving the grievance (any cost in seeking advice will require prior approval by BKS as the Approved Provider).

FOLLOWING THE INVESTIGATION

Once the investigation of the grievance is complete, BKS as the Approved Provider will:

- endeavour to resolve the grievance by mutual agreement of the parties involved
- meet to discuss the information gathered and determine further action, including generating recommendations
- ensure that any recommendations or actions are in accordance with relevant legislation and funding requirements including, but not limited to:
 - *Education and Care Services National Law Act 2010*
 - *Education and Care Services National Regulations 2011*
 - *Victorian kindergarten policy, procedures and funding criteria*
- report outcomes that may include relevant information gained in investigations and consultations, where required, provide any recommendations for consideration by the Approved Provider
- inform the BKS Board on the involvement of DET and the outcomes of any investigation by DET
- be responsible for making decisions on the action to be taken (if any), including relevant review mechanisms
- respond to the complainant in writing and other relevant parties of any decisions made by BKS as the Approved Provider in relation to the grievance
- follow up to ensure the parties involved are satisfied with the outcome and monitor progress on any actions taken.