

CODE OF CONDUCT

QUALITY AREA 4 | version 1.2



Working in partnership with Cancer Council Victoria, ELAA has aligned this policy to the key policies and guidelines of the Healthy Early Childhood Services Achievement Program



PURPOSE

This policy provides a clear set of guidelines and procedures for Leslie Moorhead Pre-School Centre to:

- establish the expected standards of behaviour for the approved provider, nominated supervisor, early childhood teachers, educators, other staff, contractors, volunteers, students on placement, parents/guardians and visitors
- create and maintain a child safe environment that reflects the philosophy, beliefs, objectives, and values of Leslie Moorhead Pre-School Centre
- articulate desirable and appropriate behaviour
- promote interactions at the service and online which are respectful, honest, courteous, sensitive, tactful, and considerate.



POLICY STATEMENT

VALUES

Leslie Moorhead Pre-School Centre:

- respects the rights of the child and values diversity
- values the contribution of Aboriginal children, children from a culturally and linguistically diverse background and children with a disability
- has zero tolerance of discrimination
- maintains a duty of care (*refer to Definitions*) towards all children at the service
- is committed to the safety and wellbeing of each child at the service
- is committed to the safety and wellbeing of all staff and the members of our service's community
- is committed to supporting staff to act cohesively and ethically as a team and provide an environment that is conducive to children's learning and development
- provides a safe and secure environment for all at the service
- provides an open, welcoming environment in which everyone's contribution is valued and respected
- is committed to communicating openly and honestly
- is committed to continually learning how to be inclusive and respectful of cultural needs
- encourages relationships that are based on the principles of mutual respect, equity and fairness.
- encourages both adults and children to identify and raise concerns through the appropriate channels to maintain a culture of reporting and pro-actively responding to concerns
- encourages volunteers, students, parents/guardians and visitors to support and participate in the program and activities of the service.

SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, other staff, students, volunteers, parents/guardians, children and others attending the programs and activities of Leslie Moorhead Pre-School Centre, 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 teachers, educators and all other staff	Parents/guardians	Contractors, volunteers and students
R indicates legislation requirement, and should not be deleted					
Ensuring that copies of the <i>Code of Conduct Policy</i> is readily accessible and available to all staff, volunteers and families	R	√			
Providing a safe environment for everyone attending the programs and activities of Leslie Moorhead Pre-School Centre	R	R	√		
Acting in accordance with Leslie Moorhead Pre-School Centre child safety and wellbeing policies and procedures at all times.	R	R	R		R
Behaving respectfully, courteously and ethically towards children and their families and towards other staff.	√	√	√		√
Promoting the human rights, safety and wellbeing of all children in Leslie Moorhead Pre-School Centre	√	√	√		√
Demonstrating appropriate personal and professional boundaries <i>refer to Attachment 5</i>	√	√	√		√
Providing a workplace that is free from unlawful discrimination, harassment, victimisation and bullying where all persons attending are treated with dignity, courtesy and respect	R	√	√		
Ensuring racism within the service is identified, confronted and not tolerated.	R	√	√	√	√
Ensuing all early childhood teachers/educators/other staff, volunteers, students and parents/guardians are aware of behaviours that are considered concerning, misconduct, or criminal conduct within the service (<i>refer to Attachment 5</i>)	R	R	√	√	√
Ensuring that the children educated and cared for at [Service Name] are protected from harm and from any hazard likely to cause injury (<i>National Law: Section 167</i>)	R	R	√		
Identifying and mitigating risks to children’s safety and wellbeing as required by Leslie Moorhead Pre-School Centre risk assessment and management processes	R	R	√		√
Responding to any concerns or complaints of child harm or abuse promptly and in line with <i>Compliments and Complaints policy</i>	R	R	R		R
Providing guidance through leadership and by being a positive role model; putting children first, prioritising training and education and having a culture of continuous improvement	R	√			

Developing, updating and reviewing Code of Conduct for [Service Name] in collaboration with all stakeholders within the service (<i>refer to Attachments 1 and 3</i>)	R	√	√	√	
Ensuring that early childhood teachers/educators/other staff, volunteers, students and parents/guardians are provided with a copy of this policy on employment, engagement or enrolment at the service and that the current codes of conduct are publicly displayed and promoted to everyone including contractors and visitors	R	√			
Ensuring that the codes of conduct are regularly discussed at staff meetings to reinforce expectations	R	√			
Developing a culture of accountability within the service for complying with the code of conduct and responding when behavioural expectations are not adhered to (<i>refer to Attachment 5</i>)	R	√	√	√	√
Ensuring that all children being educated and cared for at [Service Name] are protected from harm and any hazard likely to cause injury (<i>National Law: Section 167</i>)	R	R	√		√
Providing an environment that encourages positive interactions, supports constructive feedback and holds one another to the codes of conduct	√	√	√	√	√
Ensuring that parents/guardians of a child attending the service can enter the service premises at any time that the child is being educated and cared for (<i>Regulation 157</i>), except where this may pose a risk to the safety of children or staff, or conflict with any duty of care of the approved provider, nominated supervisor or early childhood teachers and educators under the <i>National Law: Section 167 & 171</i>	R	R			
Ensuring that contractors, volunteers, parent/guardians, students or visitors at the service are not placed in a situation where they are left alone with a child	R	R	√		
Ensuring all staff and volunteers receive relevant cultural training so they have an understanding of Aboriginal culture, and an appreciation for culturally sensitive issues	R	R			
Respecting individual abilities, needs, cultural practices and beliefs in all interactions, both verbal and non-verbal. Paying particular attention to the needs of Aboriginal and Torres strait Islander children, children with disability and children from CALD backgrounds	√	√	√	√	√
Engaging in open, two-way communication with families and communities about the service's child safety approach and providing relevant and accessible information	√	√	√		
Ensuring children are supported to express their culture and enjoy their cultural rights.	R	R	R		R
Listening and responding to the views and concerns of children, particularly if they communicate (verbally or non-verbally) that they do not feel safe or well.	√	√	√		√

Ensuring all staff, contractors, volunteers and students do not consume or are under the influence of alcohol or be affected by drugs (<i>refer to Tobacco, Alcohol and other Drugs Policy</i>)	R	R			
Not consuming or being under the influence of alcohol or be affected by drugs (<i>refer to Tobacco, Alcohol and other Drugs Policy</i>)	R	R	R	√	R
Notifying DE within 24 hours of a serious incident (<i>refer to Definitions</i>) or of a notifiable complaint being made (<i>refer to Definitions</i>) at the service (<i>National Law: Sections 174(2)(b) and 174(4), National Regulations: Regulations 175(2)(c) and 176(2)(b)</i>) via the NQAITS	R	√			
Referring notifiable complaints (<i>refer to Definitions</i>), grievances or complaints that are unable to be resolved appropriately and in a timely manner to the Grievances Subcommittee/investigator (<i>refer to Compliments and Complaints Policy</i>)	R	√			
Notifying Worksafe of any reportable incidences (<i>refer to Definitions</i>) that have occurred in the workplace	R	√			
Activating the <i>Compliments and Complaints Policy</i> on notification of a breach of the <i>Code of Conduct Policy</i>	R	√			
Taking appropriate disciplinary or legal action, or reviewing the terms of employment in the event of misconduct or a serious breach of the <i>Code of Conduct Policy</i>	R				
Contacting police in an emergency situation where it is believed that there is an immediate risk, such as when violence has been threatened or perpetrated or where sexual abuse or grooming is suspected as outlined in the <i>Child Safe Environment and Wellbeing Policy</i> .	R	R	R	√	R
Reading the <i>Code of Conduct Policy</i> (<i>refer to Attachment 1</i>) and signing the Code of Conduct Acknowledgement for staff (<i>refer to Attachment 2</i>) and that these are filed with individual staff records upon engagement in the service		√	√		
Adhering to the Code of Conduct at all times	R	R	R	R	R
Informing the approved provider in the event of a serious incident (<i>refer to Definitions</i>), of a notifiable complaint (<i>refer to Definitions</i>) or of a breach of the <i>Code of Conduct Policy</i>		R	√		
Providing an environment that encourages positive interactions, supports constructive feedback and holds one another to the codes of conduct	√	√	√		
Ensuring that parents/guardians, students and volunteers sign the Code of Conduct Acknowledgement (<i>refer to Attachment 4</i>)	√	√		√	√
Ensuring children can access abuse prevention programs and information	R	√	√		
Understanding and accepting that serious breaches of this code will be deemed misconduct and may lead to disciplinary or legal action, or a review of their employment		√	√	√	√
Being attentive to signs of harm and facilitating child-friendly ways for children to communicate and raise their concerns	R	R	R		R

Reporting and acting on any concerns or observed breaches of this <i>Code of Conduct Policy</i> (refer to <i>Compliments and Complaints Policy</i>)		R	R	R	R
Ensuring duties are performed in a professional, safe and satisfactory manner at all times.	√	√	√		√
Reviewing and updating the <i>Code of Conduct</i> following any incidents, complaints, concerns or near misses	R	√			



BACKGROUND AND LEGISLATION

BACKGROUND

Codes of conduct establish standards of behaviour to be followed and define how individuals are expected to behave towards each other, towards the children in their care, and towards other organisations and individuals in the community.

The approved provider, nominated supervisor, early childhood teachers, educators and all other staff have a duty of care to the children attending the service and must ensure ‘that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury’ (*National Law: Section 167*).

Child Safe Standards requires services to ensure the Code of Conduct provides guidelines for staff and volunteers on expected behavioural standards and responsibilities, and breaches to the Code of Conduct are acted upon and reported.

Child Safe Standard 3 requires services to develop and review codes of conduct that establish clear expectations for appropriate behaviour with children including:

- how to respond to risks adults may pose to children or that children may pose to each other
- how to ensure the cultural safety of Aboriginal children and culturally and linguistically diverse children
- how to be inclusive of all children, including children with a disability.

A Code of Conduct should be informed by the service’s philosophy, beliefs and values, and based on ethical principles of mutual respect, equity and fairness. Consideration should be given to the Victorian Teaching Profession *Code of Conduct and the Code of Ethics* and to the Early Childhood Australia’s *Code of Ethics* in developing the code of conduct.

The approved provider must ensure that the nominated supervisor, early childhood teachers, educators, other staff, contractors, volunteers, students on placement, parents/guardians, children and others attending the programs and activities of Leslie Moorhead Pre-School Centre adhere to the expectations outlined in the Code of Conduct when communicating to and interacting with:

- children at the service and their parents and family members
- each other
- others in the community.

LEGISLATION AND STANDARDS

Relevant legislation and standards include but are not limited to:

- Charter of Human Rights and Responsibilities Act 2006 (Vic)
- Child Safe Standards (Vic)
- Children, Youth and Families Act 2005 (Vic)
- Child Wellbeing and Safety Act 2005 (Vic)

- Disability Discrimination Act 1992 (Cth)
- Early Childhood Australia's Code of Ethics (2016)
- Education and Care Services National Law Act 2010: Sections 166, 167, 173, 174
- Education and Care Services National Regulations 2011: Regulations 83, 155, 156, 157, 168, 170, 171, 174, 175, 176
- Equal Opportunity Act 2010 (Vic)
- Fair Work Act 2009 (Cth)
- Fair Work Regulations 2009 (Cth)
- National Quality Standard, Quality Area 4: Staffing Arrangements
- Occupational Health and Safety Act 2004
- Occupational Health and Safety Regulations 2007
- Racial Discrimination Act 1975
- Racial and Religious Tolerance Act 2001 (Vic)
- Sex Discrimination Act 1984 (Cth)
- Victorian Institute of Teaching the Victorian Teaching Profession Code of Conduct
- Victorian Institute of Teaching the Victorian Teaching Profession Code of Ethics

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

- Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
- Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au



DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g. Approved provider, Nominated supervisor, Notifiable Complaints, Serious Incidents, Duty of Care, etc. refer to the Definitions file of the PolicyWorks catalogue.

Behaviour: the way in which one acts or conducts oneself, especially towards others.

Bullying: Repeated verbal, physical, social or psychological behaviour that is harmful and involves the misuse of power by an individual or group towards one or more persons. Bullying occurs when one or more people deliberately and repeatedly upset or hurt another person, damage their property, reputation or social acceptance.

Ethical conduct: Behaviour which reflects values or a code of conduct.

Harassment: When someone is demeaning, derogatory or intimidating towards another person. Harassment includes:

- racial taunts
- taunts about sexual orientation or gender identity
- sexual harassment: unwelcome physical, verbal or written behaviour of a sexual nature
- repeated insulting remarks.

Investigator: A person/staff member assigned or organisation engaged with the responsibility of investigating suspected breaches of the Code of Conduct by the Approved provider

Physical attack: the direct or indirect application of force by a person to the body of, or to clothing or equipment worn by another person, where that application creates a risk to health and safety.

Respect: Demonstrating regard for the rights of individuals, for different values and points of views.

Sexual harassment: includes offensive gestures, leering, staring or suggestive comments about a person's physical appearance, inappropriate physical contact, unwanted invitations of a sexual manner, sexually orientated jokes, sending of obscene letters, notes, telephone texts or emails.

Support: Work in a co-operative and positive manner.

Threat: a statement or behaviour that causes a person to believe they are in danger of being physically attacked.

Unreasonable behaviour: includes actions of individuals or a group and may involve using a system of work as a means of victimising, humiliating, undermining, or threatening.

Verbal harassment: includes name-calling, offensive language, putting people down.



SOURCES AND RELATED POLICIES

SOURCES

- Early Childhood Australia, *Code of Ethics*: www.earlychildhoodaustralia.org.au/our-publications/eca-code-ethics/
- United Nations, *The Universal Declaration of Human Rights*: www.un.org/en/universal-declaration-human-rights/
- United Nations, *Convention on The Rights of the Child*: www.unicef.org/crc/
- Victoria Legal Aid: www.legalaid.vic.gov.au
- Victorian Institute of Teaching – *The Victorian Teaching Profession Code of Conduct and Code of Ethics*: www.vit.vic.edu.au
- Commission for Children and Young People: www.cryp.vic.gov.au

RELATED POLICIES

- Child Safe Environment
- Complaints and Grievances
- Delivery and Collection of Children
- Inclusion and Equity
- Information Communication Technology
- Interactions with Children
- Occupational Health and Safety
- Privacy and Confidentiality
- Relaxation and Sleep
- Staffing
- Tobacco, Alcohol and other Drugs

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
- monitor the implementation, compliance, complaints and incidents in relation to this policy
- assess whether a satisfactory resolution has been achieved in relation to issues arising from this policy
- 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.

ATTACHMENTS



- Attachment 1: Code of Conduct for approved provider, nominated supervisor and all staff
 - Attachment 2: Code of Conduct Acknowledgement for staff
 - Attachment 3: Code of Conduct for parents/guardians, students, contractors and volunteers
 - Attachment 4: Code of Conduct Acknowledgement for parents/guardians, students, contractors and volunteers
 - Attachment 5: Defining concerning behaviour, misconduct and criminal conduct in a Code of Conduct
 - Attachment 6: Legislation and standards relevant to this Policy
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AUTHORISATION

This policy was adopted by the approved provider of Leslie Moorhead Pre-School Centre on 11th August 2021.

Update Review by: Sallie McCarthy

Ratified date: 5th December 2024

NEXT REVIEW DATE: November 2027

ATTACHMENT 1. CODE OF CONDUCT FOR THE APPROVED PROVIDER, PERSONS WITH MANAGEMENT AND CONTROL, NOMINATED SUPERVISOR, PERSON IN DAY-TO-DAY CHARGE AND ALL STAFF

This attachment was informed by the Victorian Institute of Teaching's *the Victorian Teaching Profession Code of Conduct* and *A Guide for Creating A Child Safe Organisation*, available from the Commission for Children and Young People (*refer to Sources*).

The approved provider, persons with management and control, nominated supervisor and all staff at Leslie Moorhead Pre-School Centre are responsible for promoting the safety and wellbeing of children and their families by:

- welcoming all children and their families and being inclusive
- treating everyone with respect, including listening to and valuing their ideas and opinions
- contributing to a culture of child safety
- adhering to the *Child Safe Environment policy* and all other policies
- taking all reasonable steps to protect children from abuse
- respecting the privacy of children and their families, and only disclosing information to people who have a need to know as required under the *Privacy and Confidentiality policy*
- reporting and acting on any breaches of this *Code of Conduct*, complaints or concerns.
- acknowledging the vulnerability of Aboriginal children, children from a culturally and linguistically diverse background and children with a disability and having zero tolerance of discrimination

Professional responsibilities

The approved provider, persons with management and control, nominated supervisor and all staff demonstrate our commitment to our professional responsibilities by:

- undertaking duties in a competent, timely and responsible way
- ensuring our knowledge and expertise is up to date and relevant to our roles
- being aware of the role of other professionals and agencies and working collaboratively and within the limits of our professional expertise
- understanding and complying with legal obligations in relation to:
 - discrimination, harassment and vilification
 - negligence
 - grooming
 - disclosure of child sexual abuse
 - protection of a child from child sexual abuse
 - mandatory reporting
 - privacy and confidentiality
 - occupational health and safety, including emergency evaluation procedures
 - raising any complaints or grievances in accordance with the *Complaints and Grievances policy*
 - maintaining teacher registration and Working with Children checks as applicable.
- raising any complaints or grievances in accordance with the *Complaints and Grievances policy*.

Relationships with children

The approved provider, persons with management and control, nominated supervisor and all staff at Leslie Moorhead Pre-School Centre demonstrate our commitment to high-quality education and care for children by:

- encouraging children to express themselves and their opinions
- allowing children to undertake experiences that develop self-reliance and self-esteem
- maintaining a safe environment for children
- being a positive role model at all times
- speaking to children in an encouraging and positive manner
- giving each child positive guidance and encouraging appropriate behaviour
- providing opportunities for children to interact and develop respectful and positive relationships with each other, and with other staff members and volunteers at the service

- regarding all children equally, and with respect and dignity
- having regard to their cultural values and supporting them to express their culture
- respecting individual difference including age, physical and intellectual development, and catering for the abilities of each child at the service
- working with children in an open and transparent way by informing other staff about the work being done with children
- encouraging and assisting children to undertake activities of a personal nature for themselves e.g. toileting and changing clothes
- informing children if physical contact is required for any purpose, asking them if they are comfortable with this interaction and complying with the *Interactions with Children policy*.

Relationships with parents/guardians and families

In our relationships with parents/guardians and families, the approved provider, nominated supervisor and all staff demonstrate our commitment to collaboration by:

- maintain professional and ethical relationships with families attending the service
- respecting the role of parents/guardians as the child's first educator
- working collaboratively with parents/guardians and families
- considering the perspective of parents/guardians and families when making decisions that impact on the education and care of their child
- communicating with parents/guardians and families in a timely and sensitive manner
- responding to concerns expressed by parents/guardians and families in a timely and appropriate manner.

Relationships with employer and between colleagues

In relationships with the approved provider, persons with management and control, nominated supervisor and staff and between colleagues demonstrate collegiality by:

- encouraging others to act in accordance with this *Code of Conduct* and taking action when they observe behaviours which are outside of the *Code of Conduct*
- developing relationships based on mutual respect, equity and fairness
- working in partnership in a courteous, respectful and encouraging manner
- valuing the input of others
- sharing expertise and knowledge in appropriate forums, and in a considered manner
- respecting the rights of others as individuals
- giving encouraging and constructive feedback, and respecting the value of different professional approaches
- being prepared to have difficult conversations and use constructive processes to address differences of opinion.

ATTACHMENT 2. CODE OF CONDUCT POLICY ACKNOWLEDGEMENT FOR STAFF

I hereby acknowledge that on [Date], I received a copy of the *Code of Conduct policy* for Leslie Moorhead Pre-School Centre. I have read the policy and I understand its contents.

I commit to abiding by the *Code of Conduct* and fulfilling my responsibilities as outlined in this policy whilst working at Leslie Moorhead Pre-School Centre.

I understand that the approved provider will address any breach of this policy, and that any serious breach could lead to disciplinary or legal action.

Signature

Name (please print)

Date

Witness signature

Name (please print)

Date

Thank you for your contribution to making Leslie Moorhead Pre-School Centre an open, safe, welcoming, and friendly environment.

ATTACHMENT 3. CODE OF CONDUCT FOR PARENTS/GUARDIANS, STUDENTS, VOLUNTEERS, CONTRACTORS AND VISITORS

I commit to contributing to creating an environment at Leslie Moorhead Pre-School Centre that:

- respects the rights of the child and values diversity
- acknowledges the vulnerability of Aboriginal children, children from a culturally and linguistically diverse background and children with a disability and has zero tolerance of discrimination
- maintains a duty of care (*refer to Definitions*) towards all children at the service
- is committed to the safety and wellbeing of each child at the service
- is committed to the safety and wellbeing of all staff at the service
- provides a safe and secure environment for all at the service
- provides an open, welcoming environment in which everyone's contribution is valued and respected
- is committed to communicating openly and honestly
- is committed to continually learning how to be inclusive and respectful of cultural needs
- encourages parents/guardians, volunteers, students and community members to support and participate in the program and activities of the service.

Relationships with children

In my relationships with children, I commit to:

- being a positive role model at all times
- encouraging children to express themselves and their opinions
- allowing children to undertake experiences that develop self-reliance and self-esteem
- maintaining a safe environment for children
- speaking to children in an encouraging and positive manner
- giving each child positive guidance and encouraging appropriate behaviour
- regarding all children equally, and with respect and dignity
- having regard to each child's cultural values
- respecting individual difference including age, physical and intellectual development, and catering for the abilities of each child at the service.

Relationships with the approved provider, persons with management and control, nominated supervisor, staff and others

In my relationships with the approved provider, nominated supervisor, staff, other parents/guardians, volunteers and visitors I commit to:

- reading and abiding by the *Code of Conduct policy*
- developing relationships based on mutual respect
- working in partnership in a courteous, respectful and encouraging manner
- valuing the input of others
- sharing our expertise and knowledge in a considered manner
- respecting the rights of others as individuals
- giving encouraging and constructive feedback, and respecting the value of different professional approaches
- respecting the privacy of children and their families and only disclosing information to people who have a need to know as required under the *Privacy and Confidentiality policy*
- following the directions of staff at all times
- treating the early childhood environment with respect
- raising any concerns, including concerns about safety, as soon as possible with staff to ensure that they can be resolved efficiently
- raising any complaints or grievances in accordance with the *Complaints and Grievances Policy*.

ATTACHMENT 4. CODE OF CONDUCT POLICY ACKNOWLEDGEMENT FOR PARENTS/GUARDIANS, STUDENTS, CONTRACTORS AND VOLUNTEERS

I hereby acknowledge that on[Date], I received a copy of the *Code of Conduct policy* for Leslie Moorhead Pre-School Centre.

I have read this policy and understand its contents. I commit to abiding by the *Code of Conduct* and fulfilling my responsibilities as outlined in this policy whilst my child is attending Leslie Moorhead Pre-School Centre.

I agree to abide by the values, principles and practices set out within.

I understand that a breach of the *Code of Conduct* may lead to limitations being placed on my attendance at the service.

Signature

Name (please print)

Date

Witness signature

Name (please print)

Date

Thank you for your contribution to making Leslie Moorhead Pre-School Centre an open, safe, welcoming and friendly environment.

ATTACHMENT 5: DEFINING CONCERNING BEHAVIOUR, MISCONDUCT AND CRIMINAL CONDUCT IN A CODE OF CONDUCT

Concerning behaviours includes, but is not limited to:

- disciplining or correcting a child or young person in an unreasonable manner
- making excessive and/or degrading demands of a child or young person
- taking photos of a child or young person who is in the care of the organisation outside of official duties
- creating situations to be alone with a child or young person
- repeatedly visiting a child/young person and/or their family at their home for no professional reason
- providing gifts or favours to a child/young person or their family
- wearing inappropriate clothing around children or young people (for example, clothing with sexually explicit images or messages or clothes that expose or accentuate the genitals or breasts).

Misconduct that may be, but is not limited to:

- using sexual language or gestures
- making written or verbal sexual advances
- sharing sexual photos or videos or other photos of the child or young person
- sharing details of one's own sexual experiences with a child or young person
- taking a child or young person to one's house to be alone with them
- sharing phone numbers with a child or young person except as allowed by the organisation's policies and procedures
- engaging with a child or young person via social media except as provided by the organisation's policies and procedures
- asking children or young people to keep a relationship secret
- showering or dressing or undressing with the door open (for example, on excursions and in residential situations)
- not respecting the privacy of children/young people when they are using the bathroom or changing (for example, on excursions and in residential situations).

Examples of conduct, which if proven, would be criminal includes, but is not limited to:

- intentionally or recklessly applying physical force against a child or young person
- obscene exposure
- having, attempting to have or facilitating any kind of sexual contact with a child or young person
- possessing, creating or exposing children to pornography
- giving goods, money, attention or affection in exchange for sexual activities or images
- sexting
- grooming offences (as defined by law in most jurisdictions)
- trafficking, possession, supply, or use of a prohibited drug
- manufacture or cultivation of a prohibited drug.

ATTACHMENT 6: LEGISLATION AND STANDARDS RELEVANT TO THIS POLICY

Standard 4	Staffing arrangements	
	Element 4.2	Management, Educators and Staff are collaborative, respectful and ethical
	Element 4.2.2	Professional Standards guide practice, interaction and relationships.

NATIONAL ACT

166	<p>Offence to use inappropriate discipline</p> <ol style="list-style-type: none"> 1) The approved provider of an education and care service must ensure that no child being educated and cared for by the service is subjected to: <ol style="list-style-type: none"> (a) any form of corporal punishment; or (b) any discipline that is unreasonable in the circumstances. 2) The nominated supervisor of an education and care service must ensure that no child being educated and cared for by the service is subjected to: <ol style="list-style-type: none"> (a) any form of corporal punishment; or (b) any discipline that is unreasonable in the circumstances. 3) A staff member of, or a volunteer at, an education and care service must not subject any child being educated and cared for by the service to: <ol style="list-style-type: none"> (a) any form of corporal punishment; or (b) any discipline that is unreasonable in the circumstances. 4) A family day care educator must not subject any child being educated and cared for by the educator as part of a family day care service to: <ol style="list-style-type: none"> (a) any form of corporal punishment; or (b) any discipline that is unreasonable in the circumstances
167	<p>Offence relating to protection of children from harm and hazards</p> <ol style="list-style-type: none"> 1) The approved provider of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury. 2) A nominated supervisor of an education and care service must ensure that every reasonable precaution is taken to protect children being educated and cared for by the service from harm and from any hazard likely to cause injury. 3) A family day care educator must ensure that every reasonable precaution is taken to protect a child being educated and cared for as part of a family day care service from harm and from any hazard likely to cause injury.
171	<p>Offence relating to direction to exclude inappropriate persons from education and care service premises</p> <p>(1) The Regulatory Authority may direct an approved provider, a nominated supervisor or a family day care educator to exclude a person whom the Authority is satisfied is an inappropriate person from the education and care service premises while children are being educated and cared for at the premises for such time as the Authority considers appropriate.</p> <p>(2) A person to whom a direction is given under subsection (1) must comply with the direction.</p> <p>In this section—</p> <p>inappropriate person means a person—</p> <ol style="list-style-type: none"> (a) who may pose a risk to the safety, health or wellbeing of any child or children being educated and cared for by the education and care service; or (b) whose behaviour or state of mind or whose pattern of behaviour or common state of mind is such that it would be inappropriate for him or her to be on the education and care service premises while children are being educated and cared for by the education and care service. <p>Example A person who is under the influence of drugs or alcohol.</p>
173	<p>Offence to fail to notify certain circumstances to Regulatory Authority</p>

	<p>(1) An approved provider must notify the Regulatory Authority of the following in relation to the approved provider or each approved education and care service operated by the approved provider—</p> <ul style="list-style-type: none"> (a) a change in the name of the approved provider; (b) any appointment or removal of a person with management or control of an education and care service operated by the approved provider; (c) a failure to commence operating an education and care service within 6 months (or within the time agreed with the Regulatory Authority) after being granted a service approval for the service. <p>(2) An approved provider must notify the Regulatory Authority of the following in relation to an approved education and care service operated by the approved provider—</p> <ul style="list-style-type: none"> (a) if the approved provider is notified of the suspension or cancellation of a working with children card or teacher registration of, or disciplinary proceedings under an education law of a participating jurisdiction in respect of, a nominated supervisor engaged by the service; (b) if a nominated supervisor of an approved education and care service— <ul style="list-style-type: none"> (i) ceases to be employed or engaged by the service; or (ii) is removed from the role of nominated supervisor; or (iii) withdraws consent to the nomination; (c) any proposed change to the education and care service premises of an approved education and care service (other than a family day care residence); (d) if the approved provider ceases to operate the education and care service; (e) in the case of an approved family day care service, a change in the location of the principal office of the service; (f) an intention to transfer a service approval, as required under section 59. <p>(3) A notice under subsection (1) or (2) must—</p> <ul style="list-style-type: none"> (a) be in writing; and (b) include any prescribed information. <p>(4) A notice under subsection (1) must be provided within the relevant prescribed time to the Regulatory Authority that granted the provider approval to which the notice relates.</p> <p>(5) A notice under subsection (2) must be provided within the relevant prescribed time to the Regulatory Authority that granted the service approval for the education and care service to which the notice relates.</p>
174	<p>Offence to fail to notify certain information to Regulatory Authority</p> <p>(1) An approved provider must notify the Regulatory Authority of the following information in relation to the approved provider or each approved education and care service operated by the approved provider—</p> <ul style="list-style-type: none"> (a) any change relevant to whether the approved provider is a fit and proper person to be involved in the provision of an education and care service; (b) information in respect of any other prescribed matters. <p>(2) An approved provider must notify the Regulatory Authority of the following information in relation to an approved education and care service operated by the approved provider—</p> <ul style="list-style-type: none"> (a) any serious incident at the approved education and care service; (b) any complaints alleging— <ul style="list-style-type: none"> (i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service; or (ii) that this Law has been contravened; (c) information in respect of any other prescribed matters. <p>(3) A notice under subsection (1) must be in writing and be provided within the relevant prescribed time to the Regulatory Authority that granted the provider approval.</p> <p>(4) A notice under subsection (2) must be in writing and be provided within the relevant prescribed time to—</p> <ul style="list-style-type: none"> (a) the Regulatory Authority that granted the service approval for the education and care service to which the notice relates; and

(b) in the case of a family day care service, the Regulatory Authority in each participating jurisdiction in which the family day care service operates.

NATIONAL REGULATIONS

83	<p>Staff members and family day care educators not to be affected by alcohol or drugs</p> <p>(1) The approved provider of an education and care service must ensure that a nominated supervisor or a staff member of, or volunteer at, the service is not affected by alcohol or drugs (including prescription medication) so as to impair the person's capacity to supervise or provide education and care to children being educated and cared for by the service.</p> <p>(2) A nominated supervisor of an education and care service must not, while educating and caring for children for the service—</p> <ul style="list-style-type: none"> (a) consume alcohol; or (b) be affected by alcohol or drugs (including prescription medication) so as to impair the supervisor's capacity to supervise or provide education and care to the children. <p>(3) A family day care educator must not, while providing education and care for children as part of a family day care service—</p> <ul style="list-style-type: none"> (a) consume alcohol; or (b) be affected by alcohol or drugs (including prescription medication) so as to impair the educator's capacity to provide education and care to the children. <p>Note. A compliance direction may be issued for failure to comply with subregulation (1).</p>
155	<p>Interactions with children</p> <p>An approved provider must take reasonable steps to ensure that the education and care service provides education and care to children in a way that—</p> <ul style="list-style-type: none"> (a) encourages the children to express themselves and their opinions; and (b) allows the children to undertake experiences that develop self-reliance and self-esteem; and (c) maintains at all times the dignity and rights of each child; and (d) gives each child positive guidance and encouragement toward acceptable behaviour; and (e) has regard to the family and cultural values, age, and physical and intellectual development and abilities of each child being educated and cared for by the service.
156	<p>Relationships in groups</p> <p>(1) The approved provider of an education and care service must take reasonable steps to ensure that the service provides children being educated and cared for by the service with opportunities to interact and develop respectful and positive relationships with each other and with staff members of, and volunteers at, the service.</p> <p>(2) For the purposes of subregulation (1), the approved provider must have regard to the size and the composition of the groups in which children are being educated and cared for by the service.</p> <p>Note. A compliance direction may be issued for failure to comply with subregulation (1).</p>
168	<p>Education and care service must have policies and procedures</p> <p>(1) The approved provider of an education and care service must ensure that the service has in place policies and procedures in relation to the matters set out in subregulation (2). Penalty: \$1000.</p> <p>Note. These may include policies and procedures prepared by the approved provider in accordance with an education law of the participating jurisdiction.</p> <p>(2) Policies and procedures are required in relation to the following—</p> <ul style="list-style-type: none"> (a) health and safety, including matters relating to— <ul style="list-style-type: none"> (i) nutrition, food and beverages, dietary requirements; and (ii) sun protection; and (iii) water safety, including safety during any water-based activities; and (iv) the administration of first aid; and (v) sleep and rest for children;

		<p>(b) incident, injury, trauma and illness procedures complying with regulation 85;</p> <p>(c) dealing with infectious diseases, including procedures complying with regulation 88;</p> <p>(d) dealing with medical conditions in children, including the matters set out in regulation 90;</p> <p>(e) emergency and evacuation, including the matters set out in regulation 97;</p> <p>(f) delivery of children to, and collection of children from, education and care service premises, including procedures complying with regulation 99;</p> <p>(g) excursions, including procedures complying with regulations 100 to 102;</p> <p>(ga) if the service transports or arranges transportation of children other than as part of excursions, transportation including procedures complying with Division 7 of Part 4.2 of Chapter 4;</p> <p>(h) providing a child safe environment;</p> <p style="padding-left: 40px;">(i) staffing, including—</p> <p style="padding-left: 80px;">(i) a code of conduct for staff members; and</p> <p style="padding-left: 80px;">(ii) determining the responsible person present at the service; and</p> <p style="padding-left: 80px;">(iii) the participation of volunteers and students on practicum placements;</p> <p style="padding-left: 40px;">(j) interactions with children, including the matters set out in regulations 155 and 156;</p> <p>(k) enrolment and orientation;</p> <p>(l) governance and management of the service, including confidentiality of records;</p> <p>(m) the acceptance and refusal of authorisations;</p> <p>(n) payment of fees and provision of a statement of fees charged by the education and care service;</p> <p>(o) dealing with complaints.</p> <p>Note. A compliance direction may be issued for failure to comply with subregulation (1).</p>
	170	<p>Policies and procedures to be followed</p> <p>(1) The approved provider of a centre-based service must take reasonable steps to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168.</p> <p>(2) The approved provider of a family day care service must take reasonable steps to ensure that nominated supervisors and staff members of, and family day care educators engaged by or registered with, the service follow the policies and procedures required under regulations 168 and 169.</p>
	171	<p>Policies and procedures to be kept available</p> <p>(1) The approved provider of an education and care service must ensure that copies of the current policies and procedures required under regulation 168 and, in the case of a family day care service, regulation 169 are readily accessible to nominated supervisors and staff members of, volunteers at, and family day care educators engaged by or registered with, the service.</p> <p>(2) The approved provider of an education and care service must ensure that copies of the current policies and procedures required under regulation 168 and, in the case of a family day care service, regulation 169 are available for inspection at the education and care service premises at all times that the service is educating and caring for children or otherwise on request.</p>
	174	<p>Time to notify certain circumstances to Regulatory Authority</p> <p>(1) For the purposes of section 173(4) of the Law, a notice must be provided within 14 days of the relevant event or within 14 days of the approved provider becoming aware of the relevant event.</p> <p>(2) For the purposes of section 173(5) of the Law, a notice must be provided—</p> <p style="padding-left: 40px;">(aa) in the case of a notice under section 173(2)(e), at least 14 days before the change in the location of the principal office takes place; or</p> <p style="padding-left: 40px;">(a) in the case of a notice under section 173(2)(f), within the period referred to in section 59 of the Law;</p> <p style="padding-left: 40px;">(b) in any other case, within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant event.</p>

175	<p>Prescribed information to be notified to Regulatory Authority</p> <p>(1) For the purposes of section 174(1)(b) of the Law, the following matters are prescribed—</p> <ul style="list-style-type: none"> (a) any change to the address of the approved provider or the principal office of the approved provider, or the contact details of the approved provider; (b) the appointment of receivers or liquidators or administrators to the approved provider or any other matters that affect the financial viability and ongoing operation of the education and care service. <p>(2) For the purposes of section 174(2)(c) of the Law, the following matters are prescribed—</p> <ul style="list-style-type: none"> (a) any change to the hours and days of operation of the education and care service; (b) any incident that requires the approved provider to close, or reduce the number of children attending, the education and care service for a period; <p>Example. A flood or a fire that requires an approved provider to close the education and care service premises (or part of those premises) while repairs are undertaken.</p> <ul style="list-style-type: none"> (c) any circumstance arising at the service that poses a risk to the health, safety or wellbeing of a child or children attending the service; (ca) the attendance at the approved education and care service of any additional child or children being educated and cared for in an emergency in the circumstances set out in regulation 123(5), including— <ul style="list-style-type: none"> (i) a description of the emergency; and (ii) a statement by the approved provider that the approved provider had taken into account the safety, health and wellbeing of all the children attending the education and care service when deciding to provide education and care to the additional child or children. (d) any incident where the approved provider reasonably believes that physical abuse or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for by the education and care service; (e) allegations that physical or sexual abuse of a child or children has occurred or is occurring while the child is or the children are being educated and cared for by the education and care service (other than an allegation that has been notified under section 174(2)(b) of the Law).
176	<p>Time to notify certain information to Regulatory Authority</p> <p>(1) For the purposes of section 174(3) of the Law, a notice must be provided within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant information.</p> <p>(2) For the purposes of section 174(4) of the Law, a notice must be provided—</p> <ul style="list-style-type: none"> (a) in the case of a notice under section 174(2)(a)— <ul style="list-style-type: none"> (i) in the case of the death of a child, as soon as practicable but within 24 hours of the death, or the time that the person becomes aware of the death; and (ii) in the case of any other serious incident, within 24 hours of the incident or the time that the person becomes aware of the incident; in case of a notice under section 174(2)(b) or a notice of a matter referred to in regulation 175(2)(b), within 24 hours of the complaint or incident; (b) in the case of a notice under regulation 175(2)(ca), within 24 hours of the commencement of the attendance of the child or children at the education and care service; (c) in any other case, within 7 days of the relevant event or within 7 days of the approved provider becoming aware of the relevant information.