

POLICY: 8.5 Monitoring and Support of Educators Policy

Procedure: 8.13 Managing Non-Compliance or Breaches of Policy Procedure or Legislation

This procedure will guide staff if an Educator is deemed non-compliant with Service policies and procedures, the Education and Care Services National Law and Regulations or any other relevant legislation which may result in conditions of engagement, non-renewal of the certificate of registration, suspension of registration or de-registration of an Educator.

8.13.1 Linking to Policy

This procedural guidance should be read in conjunction with the service **8.5 Monitoring and Support of Educators Policy** and will assist the Approved Provider, Management, Staff (Nominated Supervisors, Coordinators, and Administrative Staff members) Educators, Educator Assistants and parents to implement the policy. The procedure covers:

[8.13.2 Role and Responsibility of the Service](#)

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8.13.2 Role and Responsibility of the Service

The Nominated Supervisor and Coordinators have the overall responsibility to ensure children are physically safe, protected from harm, and experience an environment conducive to supporting their learning and social and emotional development.

The Service achieves this by ensuring:

- The environment offered at the approved Educator's residence is fit for the purpose, safe and promotes children's learning and wellbeing.
- Monitoring and supporting Educators through training, home visits and the annual re-registration process
- When compliance concerns are identified, or there is a notification of a concern, they address this with Educators and apply appropriate reflections of the risk posed to children while considering the Educator's application of professional judgement. E.G. The Educator leaves children in a car alone. In this case, the Educator has not considered the risk of this action on the health and safety of children in their decision making. This is significant in that no professional judgement was used to ascertain if this was an appropriate practice. The likely

action would be deregistration of the Educator (meaning cancel the Educator certificate of registration) and inform that of this decision. see 8.13.5 Available Action to Non-Compliance.

8.13.3 Role and Responsibilities of Educators

The Educator is bound by the standard of quality care as outlined in the below documents and must familiarise themselves with their obligations to ensure they are compliant at all times:

- Education & Care Services National Law
- Education & Care Services National Regulations 2011
- Guide to the National Quality Framework Oct 2017
- The Service's Policies and Procedures Handbook
- The Educator Contract

8.13.4 Managing Concerns Raised

The management of concerns will vary depending on the type of non-compliance:

1. Level One

Identified area for quality improvement

Where the Educator fails to meet the required standards and a Coordinator, or a third party identifies inadequate care:

- The Coordinator will discuss the issue directly with the Educator and collaboratively develop a written corrective plan:
 - Define the specific agreed actions and steps required as a condition of continued approval; this may include targeted professional development, one on one mentoring and other specific additional support provided by the members of the coordination unit, and;
 - Document the agreed review date to improve the quality of care in the identified area of concern.
 - The Educator will be provided with the written plan.
 - The Coordinator will discuss and review the plan as part of the home visiting schedule and monitor the progress of improvement.
- Should the quality of care or practices show no improvement across the period allocated, in accordance with the steps and date noted in the plan, the Coordinator will proceed to the following process:

2. Level Two

Inadequate care &/or breach of conditions of approval

Where the Educator fails to commit to the agreed actions (in level 1) or is not able to continue to meet the required standards consistently, and a coordinator or third party identifies inadequate care; the following process will be utilised:

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- The Nominated Supervisor or Coordinator will put in writing the non-compliance outlining the breach of the conditions of engagement, identifying the specific condition/s
- The Coordinator and one other person (the Nominated Supervisor, where possible) will meet with the Educator to discuss the identified breach of the conditions of engagement
- The Educator will be given an opportunity to respond to the identified breach; and
- The response will be recorded in writing; and
 - o The original record is kept on the Educator's file, and
 - o A copy is given to the Educator
- The matter may be resolved at this point; or
- Another written plan may be formulated to address the area/s of concern and will include:
 - o Specific actions required
 - o The period of time negotiated for changes to occur
 - o The review date recorded
 - o A copy is provided to the Educator
- The matter may be resolved at this point, or:
 - o A further plan is implemented
 - o The Educator is suspended
 - o The Educator is terminated

3. Level Three

Reporting of Suspected Child Abuse

- Where there is an allegation of child abuse while the child is being educated and cared for by the service, for example, a child, parent, colleague, or a member of the public. The Service must make notification to the Regulatory Authority via the online National Quality Agenda IT System within 24 hours, and
- If the alleged abuse was reported to be committed by an Educator, Educator assistant, or an adult occupant the individual (and in some cases the Educator) will be suspended and care will not occur in the residence until the relevant authority has undertaken a thorough investigation.
- Families will be informed that the Educator is unable to care for their child and will be offered alternative an Educator if one is available.

8.13.5 Available Action to Non-Compliance

The Service has available the following actions in the event of an Educator breaching service policies or procedures, being non-compliant with any relevant legislation.

Interim/Conditions Imposed

The Educator will be notified in writing that an Interim Certificate of Registration is being issued, or that there are conditions to be imposed on their current Certificate of Registration. An Educator may decide to accept the conditions imposed or relinquish entirely the Certificate of Registration. If the Certificate of Registration is being relinquished, Educators are required to return the Certificate of Registration to the service and all other legal documentation pertaining to the children in care and the service.

Suspension

The Educator will be notified in writing of any suspension to their Certificate of Registration. The Educator is required to return the Certificate of Registration to the service for the duration of the suspension.

Non-Renewal

The Educator will be notified in writing of the decision not to renew their Certificate of Registration. The Educator is required to return the Certificate of Registration to the service including all other legal documentation.

Deregistration

The Educator will be notified in writing that their Certificate of Registration is cancelled.

Educators are required to return the Certificate of Registration to the service and all other legal documentation pertaining to the children in care and the service.

8.13.6 Process for Managing Breaches to Policy and or Legislation

1. Unless there is a risk to a child, an appropriate warning/breach will be given to an Educator when any failure on the part of the Educator to comply with the Education and Care Services National Regulations or with service policy. The warning/breach process will include:
 - A written plan: including time frames, formulated to resolve the issues raised and give the Educator the opportunity to comply with the required standards. This plan will be developed in consultation and with the agreement/commitment of the Educator.
2. The Service may decide for reasons deemed to be sufficient (significant breach or where a change in practice has not occurred after support has been provided) to impose conditions on the Certificate of Registration for the Educator for a specified period or/and until the Educator has demonstrated they have changed their practice to comply with Service Policies, Procedures or relevant legislation.
3. The Service may advise parents of children in care when there has been a breach of regulations by the Educator (see also 10.3 Confidentiality and Storage of Records Policy).
4. The Service, on behalf of the Approved Provider, may decide, for reasons deemed to be sufficient, either to take action to suspend, deregister, or not to renew an Educator's Contract. If this occurs, the Approved Provider will:
 - provide the Educator with written reasons for the suspension or non-renewal of the

Contract

- inform the Educator of their right to make oral and written submissions to the Approved Provider within fourteen (14) days of the suspension or non-renewal of the Contract
 - duly consider any submission made by the Educator
 - notify the Educator of the outcome of the Approved Provider's decision:
 - o *verbally* if the decision is to unconditionally remove the suspension or issue a new unconditional Contract
 - o *in writing* within thirty (30) days from the date of receipt of the Educator's submission if the decision is to:
 - remove the suspension and impose conditions on the Contract
 - continue the suspension for a specified period [not longer than the period for which the contract remains in force]
 - cancel the Contract
5. Once the Educator's contract has been cancelled, the Educator must return the Certificate of Registration immediately.

Review

	Date	Details
Revision 00	07/2015	Original Policy Issued
Revision 01	12/2016	Reviewed
Revision 02	08/2017	Reviewed
Revision 03	10/2020	Reviewed and separated from Policy

Related Documents

Policies

8.5 Monitoring and Support of Educators Policy

Reference

Refer to 8.5 Monitoring and Support of Educators Policy