

2.3 Types of Care and Limits on Number of Children Policy

1. Purpose

To ensure My Place Family Day Care is compliant with the Education and Care Services National Law and Education and Care Services National Regulations with regards to prescribed number of children being provided with education and care and the Family Assistance Legislation pertaining to the Service obligation to administer Child Care Subsidy to eligible individuals.

2. Scope

This policy applies to all Parents/Guardians, Educators and staff of ICH.

3. Definition

Approved Provider: Inala Community House (ICH) has approval from the Federal Government to operate an approved FDC service.

Service: My Place Family Day Care, whose Approved Provider is Inala Community House.

Parent/Guardian: the person responsible for the payment of fees and who is paid the Child Care Subsidy. Herein after referred to as Parents.

** PLEASE NOTE: this does not include a parent who is prohibited by a court order from having contact with the child.

Children: In this policy, children refers to those who are under 13 years of age (who have not yet turned 13 years of age) who are being cared for by the Educator, including the Educator's own children.

School-Age Children: A child is deemed to be 'school-age' if the child is enrolled to attend School/Prep in that year.

Under School-Aged Children: A child not yet enrolled to attend formal schooling.

Educators own children: A child under 13 years of age-related to the Educator or their partner who is not being cared for by another adult while other children are being provided with education and care must be counted in the limit on numbers of children.

Child Swapping: Child swapping is a practice where an Educator, or their partner, receives childcare subsidy for a session of family day care that is provided to their child on the same day that they themselves provide family day care.

Relative care: where the child being educated and cared for is a niece or nephew; or a cousin; or a grandchild or great-grandchild of the family day care Educator, including relatives of Educator's partner (either de facto or marriage).

Session of care: Is the period of time that an Educator charges a fee to a parent for providing childcare. A session of care (in CCS terms) may be of any length up to but cannot exceed 12 hours (sessions of care can be sequential up to the individual parent's eligible hours). To avoid doubt, a genuine legal liability must arise under an arrangement which requires an individual to pay the fee.

An Educators Partner: A 'partner' refers to a person with whom an Educator is married, in a registered relationship (whether of the same sex or a different sex) or in a de facto relationship (whether of the same sex or a different sex). People are not considered partners if they are living separately and apart on a permanent or indefinite basis.

4. Policy

My Place Family Day Care aims to meet the education and care needs of families and their children with regards to providing flexible care arrangements across the Service.

4.1 Types of Care Arrangements

The Service will, to the best of its ability and within its capacity, provide a flexible service of full-time, part-time, before and after-school and school holiday care. Casual and on-call care is available where possible and emergency care may also be available for short periods.

All care arrangements will adhere to the requirements of the Education and Care Services National Law and Regulations and Family Assistance Law.

4.1.1 Relative Care

The Service will have processes in place to ensure that less than 50% of the children to whom any FDC Educator is providing care within any CCS fortnight at the service are related to the FDC Educator as:

- a) a niece or nephew; or
- b) a cousin; or
- c) a grandchild (including a great-grandchild).

It is important to note that the ratio is applied across all of the children cared for across the Child Care Subsidy fortnight and not one particular session of care.

For complying with the Family Assistance Law, a great-niece or a great-nephew is not considered a relative of the Family Day Care Educator when ensuring that a

Family Day Care Educator is complying with the legal requirements to make sure that less than 50 percent of children in care are relatives.

4.1.2 Child Swapping (Care of Educators or their partners own children or sibling)

The Service will have processes in place to ensure Educators and their partners do not receive Child Care Subsidy for their own child's session of care if, on that same day, the FDC Educator provides FDC for an approved FDC service, unless a specified circumstance applies.

This policy applies where the child is one (or more) of the following with respect to the FDC Educator or the partner (de facto or marriage) of the FDC Educator:

- a) FTB child;
- b) regular care child;
- c) foster care child;
- d) biological or adopted;
- e) brother, sister, half-brother, half-sister, stepbrother or stepsister;
- f) a child (not mentioned in paragraphs (a) to (e)) for whom the FDC Educator or partner has legal responsibility, as described in paragraph 22(5)(a) or (b) of the Family Assistance Act.

4.2. Number of children being educated and cared for by a Family Day Care Educator

The Service will ensure any Educators registered with the Service doesn't exceed the number of children outlined in Regulation 124.

The maximum number of children an Educator can provide education and care for at any one time must not exceed seven (7) children. This total includes no more than four (4) children under school age (including the Educator's own children who have not started school) and no more than three (3) children who have started school.

5. Review

This policy remains in effect unless otherwise determined by resolution of the Board of Directors.

This policy will be reviewed every two years or sooner as required.

	Date	Details
V1.0	07/2015	Original Policy Issued
V2.0	12/2016	Policy Amended – submitted to board for ratification
V3.0	08/2017	Policy Amended – submitted to board for ratification
V4.0	11/2019	Policy Amended – submitted to board for ratification
V5.0	01/2021	Policy Amended – submitted to board for ratification <ul style="list-style-type: none">• External consultant engaged and significant amendments made
V6.0	20/02/2023	Policy Amended – submitted to board for ratification

6. Related Documents

Policies

8.3 Roles and Responsibilities

9.1 Enrolment and Orientation Policy

10.4 Fee Policy

Procedure

2.8 Type of Care Arrangement Procedure

2.9 Limits on Numbers Children Procedure

8.12 Role of Educator and Educator Assistants

9.1 Access to Child Care Places Procedures

9.2 Enrolment and Orientation Procedures

10.8 Fee Procedures 2.1 Interactions with Children Procedure

Forms

Child Enrolment Form

References

[Family Assistance Guide: 1.1.S.40 Sessions of care \(CCS\)](#)

[Child Care Subsidy \(What Constitutes a Session of Care\) Determination 2018](#)

[Child Care Provider Handbook 2023](#)

Australian Government, Frequently Asked Questions – [Family Day Care Legislative Changes – Child Swapping](#), retrieved 1 October 2019

[Child Care Subsidy Minister's Rules 2017](#) s.8: Prescribed circumstances were no eligibility for a session of care

Education and Care Services National Law 2010, s.168: Offence relating to the protection of children from harm or hazard

Education and Care Services National Regulations (July 2018) R.124 Number of children who can be educated and cared for – family day care educator

Family Assistance Legislation Amendment (Jobs for Families Child Care Package) Act 2017: S.9

A New Tax System (Family Assistance) Act 1999 (the Family Assistance Act)

A New Tax System (Family Assistance) (Administration) Act 1999 (the Family Assistance Administration Act)) – S.4, S.5, S.7, S.10A (1) S.219F and Subparagraph 85BA(1)(c)(iii) prescribed in the Child Care Subsidy Minister's Rules 2017 (Minister's Rules)

ACECQA. Guide to National Quality Framework: Quality Area 7 - Governance and Leadership

- Standard 7.1 Governance: Governance supports the operation of a quality service.

Family Law Act 1975 (S61B-Cth)