

BALLARAT YMCA CHILDREN'S SERVICES COMPLAINTS AND GRIEVANCES POLICY

Mandatory – Quality Area 7

05/02/2015

PURPOSE

This policy will provide guidelines for:

- receiving and dealing with complaints and grievances by Ballarat YMCA Children's Services (YMCA)
- procedures to be followed in investigating complaints and grievances.

Note: This policy does not address complaints relating to staff grievances or employment matters. The relevant awards provide information on the management of such issues.

POLICY STATEMENT

1. VALUES

YMCA 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
- establishing mechanisms to promote prompt, efficient and satisfactory resolution of complaints and grievances
- maintaining confidentiality at all times.

2. BACKGROUND AND LEGISLATION

Background

Complaints or grievances may be received from anyone who comes in contact with YMCA Kindergartens including parents/guardians, volunteers, students, members of the local community and other agencies.

In most cases, dealing with complaints and grievances will be the responsibility of YMCA. 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', the Approved Provider must notify Department of Education and Early Childhood Development (DET) of the complaint or grievance. 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 YMCA about a complaint they have received, YMCA 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 will investigate all 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 2011
- *Children, Youth and Families Act 2005 (Vic)*, as amended 2011
- *Children, Youth and Families Act 2005 (Vic)*, as amended 2012
- *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)*
- *Health Records Act 2001 (Vic), as amended 2011*
- *Information Privacy Act 2000 (Vic), as amended 2011*
- *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)*

3. DEFINITIONS

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

Complaint: (In relation to this policy) a complaint is defined as an issue of a minor nature that can be resolved promptly or within 24 hours, 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.

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 the Approved Provider to the secretary of DET within 24 hours of the complaint being made (Section 174(2)(b), Regulation 176(2)(b)). If the Approved Provider 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 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 a nominated member of the Grievances Subcommittee/investigator
- any other relevant information.

Written notification of complaints must be submitted using the appropriate forms, which can be found on the ACECQA website: www.acecqa.gov.au

Serious incident: An incident resulting in the death of a child, or an injury, trauma or illness for which a reasonable person would consider required urgent medical attention from registered medical practitioner or emergency services or for which the child attended or ought reasonably to have attended a hospital. E.g. whooping cough, broken limb, anaphylaxis reaction. 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). A serious incident should be documented in an *Incident, Injury, Trauma and Illness Record* (sample form available on the ACECQA website) as soon as possible and within 24 hours of the incident. The Regulatory Authority (DET) must be notified within 24 hours of a serious incident occurring at the service (Regulation 176(2)(a)). Records are required to be retained for the periods specified in Regulation 183.

PROCEDURES

YMCA 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
- being aware of, and committed to, the principles of communicating and sharing information with service employees and volunteers
- responding to all complaints and grievances in the most appropriate manner and at the earliest opportunity
- treating all complainants fairly and equitably
- complying with the service's *Privacy and Confidentiality Policy* and maintaining confidentiality at all times (Regulations 181, 183)
- investigating and resolving grievances (refer to *Attachment 1 – Dealing with complaints and grievances*)
- informing DET in writing within 24 hours of receiving a notifiable complaint (refer to Definitions) (Act 174(4), Regulation 176(2)(b))
- Taking appropriate action as a result of grievances .

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

- ensuring that the name and telephone number of the Responsible Person to whom complaints and grievances may be addressed are displayed prominently at the main entrance of the service (Regulation 173(2)(b))
- ensuring that the address and telephone number of the Authorised Officer at the DET regional office are displayed prominently at the main entrance of the service (Regulation 173(2)(e))
- advising parents/guardians and any other new members of YMCA Kindergartens of the complaints and grievances policy and procedures upon enrolment
- ensuring that this policy is available for inspection at the service at all times (Regulation 171)
- 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)
- dealing with situations in which an issue is unable to be resolved by:
 - notifying YMCA 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 the complainant with the contact number of the YMCA if they wish to speak with someone immediately
 - Informing the YMCA as soon as practicable if a complaint has been referred to them

- working with the YMCA as required and providing information requested by the YMCA; for example, written reports related to the complaint/grievance
- complying with the centre's Privacy policy and maintaining confidentiality at all times (CSR r105[b])
- working cooperatively with YMCA and DET in any investigations related to complaints or grievances about the kindergarten, programs or staff
- informing complainants of the service's Complaints and Grievances Policy
- providing information as requested by the YMCA 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)

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
- raising any unresolved issues or serious concerns directly with the YMCA.
- maintaining complete confidentiality at all times
- co-operating with requests to meet with the YMCA and/or provide relevant information when requested in relation to complaints and grievances.

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

ATTACHMENTS

Attachment 1: Dealing with complaints and grievances

Attachment 2: Complaints flow chart

AUTHORISATION

This policy was adopted by YMCA on **05/02/2015**

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 the service's *Complaints and Grievances Policy*
- encourage the complainant to resolve the complaint with the person directly, or to submit their complaint in writing
- comply with the service's *Privacy and Confidentiality Policy* with regard to all meetings/discussions in relation to a complaint
- inform the YMCA if the complaint escalates and becomes a grievance (refer to *Definitions*), a notifiable complaint (refer to *Definitions*) or is unable to be resolved appropriately in a timely manner.

DEALING WITH A GRIEVANCE

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

- 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*) and immediately inform YMCA
- the YMCA will assess the grievance to determine if it is a notifiable grievance (refer to *Definitions*)
- if the grievance is notifiable, YMCA will be responsible for notifying DET. This must be in writing within 24 hours of receiving the complaint (Regulation 176(2)(b))
- the written report to DET needs to be submitted using the appropriate forms from ACECQA or via the portal 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)
 - any other relevant information
- if the YMCA is unsure if the complaint is a notifiable complaint, it is good practice to contact DET for confirmation.

YMCA RESPONSIBILITIES AND PROCEDURES

In the event of a grievance being lodged, the YMCA:

- convene as soon as possible to deal with the grievance in a timely manner
- disclose any conflict of interest. Such members must stand aside from the investigation and subsequent processes
- 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
- 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. The YMCA 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, the investigator 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
- offer the complainant the opportunity of meeting with the investigator to discuss the complaint and provide additional information where relevant
- 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 the Approved Provider).

FOLLOWING THE INVESTIGATION

Once the investigation of the grievance is complete, YMCA will:

- endeavour to resolve the grievance by mutual agreement of the parties involved
- where appropriate, 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 and, where required, provide any recommendations for consideration by the YMCA
- review the report and any recommendations and be responsible for making decisions on the action to be taken (if any), including relevant review mechanisms
- advise the complainant and other relevant parties of any decisions made by the YMCA in relation to the grievance
- follow up to ensure the parties involved are satisfied with the outcome and monitor progress on any actions taken by the YMCA

COMPLAINTS POLICY FLOW CHART

