

A key objective of the National Quality Framework (NQF) is to ensure the safety, health and wellbeing of children attending education and care services.

Corporal punishment and inappropriate, or unreasonable, discipline are contrary to this objective, and are offences under the National Law.

An important aspect of children's 'belonging, being and becoming' involves them learning how their behaviours and actions affect themselves and others. A positive, strengths-based approach to guiding children's behaviour can empower children to regulate their own behaviour and develop the skills needed to interact and negotiate complex social situations and relationships.

INAPPROPRIATE DISCIPLINE



LINKS TO THE NATIONAL QUALITY STANDARD

Issues of inappropriate discipline are relevant to Quality Area 5 of the National Quality Standard (NQS), including each of the two standards and four elements. Additionally, issues of inappropriate discipline have direct links to Quality Area 2 and Quality Area 7, in particular:

Standard 2.1: Each child's health and physical activity is supported and promoted.

Element 2.1.1 Each child's wellbeing and comfort is provided for, including appropriate opportunities to meet each child's need for sleep, rest and relaxation.

Standard 2.2: Each child is protected.

Element 2.2.1: At all times, reasonable precautions and adequate supervision ensure children are protected from harm and hazard.

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

Element 7.1.2: Systems are in place to manage risk and enable the effective management and operation of a quality service.

LEGISLATIVE REQUIREMENTS

National Law

Section 166: Offence to use inappropriate discipline.

Section 162A: Persons in day-to-day charge and nominated supervisors to have child protection training.¹

Section 167: Offence relating to protection of children from harm and hazards.

Section 174: Offence to fail to notify certain information to Regulatory Authority.

National Regulations

Regulation 12: Meaning of serious incident.

Regulation 84: Awareness of child protection law.

Regulation 147: Staff members [records].

Regulation 155: Interactions with children.

Regulation 156: Relationships in groups.

Regulation 168: Education and care services must have policies and procedures.

Regulation 175: Prescribed information to be notified to the Regulatory Authority.

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RECOGNISING AND MANAGING INAPPROPRIATE DISCIPLINE

Discipline

The term 'discipline' is often associated with punishment and may suggest inappropriate, unacceptable and damaging methods of attempting to control children's behaviour.

'Discipline' is not defined in the Education and Care Services National Law Act 2010 (National Law) or Education and Care Services National Regulations 2011 (National Regulations). However, it can be understood as action taken by adults towards children to stop or change behaviour that is inappropriate or not desired.

Inappropriate discipline

Approved providers, nominated supervisors, staff members, volunteers and family day care educators must ensure that no child being educated and cared for by the education and care service is subject to any form of corporal punishment, or any discipline that is unreasonable or inappropriate.

During an assessment and rating visit authorised officers may discuss what measures are in place to ensure children at the service are not subject to any form of corporal punishment, or discipline that is inappropriate. Staff awareness procedures and practices, a clear reporting structure for concerns and a clear and comprehensive policy about staff interactions with children are examples of how compliance may be demonstrated.

Examples of inappropriate discipline

The following are some examples of inappropriate discipline which may constitute a serious breach of the National Law and/or National Regulations and could potentially be considered criminal matters:

- hitting, pushing, slapping, pinching or biting a child
- force-feeding a child
- yelling at or belittling a child
- humiliating a child
- physically dragging a child
- locking children away (or isolating them)
- depriving a child of food or drink
- unreasonable restraining of a child (this may include restraint in a high chair)
- excluding children from events
- consistently moving children to the office or other space away from the play areas
- moving children to another room as punishment
- verbally or physically threatening a child.

Other examples of inappropriate practice are:

- negative labelling of child or family
- criticising a child's actions or behaviours
- discouraging a child from taking part in activities
- blaming or shaming a child
- making fun of or laughing at or about a child
- using sarcastic or cruel humour with or to a child
- excessive use of negative language to a child, such as, "no" "stop that!" "don't..." "you never..."

APPROPRIATE DISCIPLINE OR BEHAVIOUR GUIDANCE

Behaviour guidance

The term 'behaviour guidance' is used to indicate positive and effective ways to help children gain understanding and learn skills that will help them to manage their own behaviour.

Using appropriate discipline, or behaviour guidance, aims to support each child to regulate their own behaviour, respond appropriately to the behaviour of others and communicate effectively to resolve conflicts (NQS Element 5.2.2).

Cool down

A cooling down period is a time when a child that is having a difficult moment is encouraged to find a space, near an educator, to 'cool down' and regain self-control. This strategy can be used as an opportunity for educators to support children to regulate their own behaviour, and can be an example of appropriate discipline or behaviour guidance.

The difference between 'cool-down time' and 'time out' is that an educator stays with the child and reassures and supports them to regulate their emotions during cool-down time. It is viewed as a learning opportunity, not as punishment.

Restraint

Occasionally, there may be circumstances where a child becomes a risk to themselves or others and may need to be removed from the situation or physically restrained to prevent harm to themselves or others. Children should be physically restrained only in emergency situations.

Examples of emergency situations include when a child is:

- in a clearly unsafe situation, for example, attempting to scale a fence or run onto a road;
- physically threatening other children or adults;
- behaving in ways that are destructive to themselves, other people or the environment.

These situations may require the supportive holding of children. This means that children are only held long enough to be removed from the situation, and the emergency situation has been addressed or subsided. This approach should only be used when there is an immediate danger of the child being hurt or hurting others and when other strategies to guide the child's behaviour have not worked.

If a service has taken a child away from other children to help them cool down or physically restrained the child in any way, the service should inform the child's parent or guardian of the circumstances of the event and record accordingly.

BEHAVIOUR GUIDANCE PLANS AND POLICIES

Regulation 168(2)(j) of the National Regulations requires a service to have policies and procedures in relation to interactions with children, including the obligations in regulations 155 and 156. Service policies should outline a clear process for guiding children's behaviour, based on current recognised approaches and with a focus on maintaining the dignity and rights of each child.

The National Law and National Regulations do not currently stipulate any requirements for behaviour guidance plans. However, many services use behaviour plans as a 'reasonable step' to prevent harm and hazard for children who have additional needs. Consultation with families and, if appropriate, input and suggestions from other professionals and support agencies should be sought when developing individual behaviour guidance plans for children. Advice may also need to be sought from an appropriate medical professional as to the appropriateness of the guidance.

INTERACTIONS WITH CHILDREN

Regulation 155 of the National Regulations requires approved providers to take reasonable steps to ensure that their education and care service encourages children to express themselves and their opinions, allows them to

undertake experiences that develop self-reliance and self-esteem, maintains their dignity and rights, gives each child positive guidance and encouragement towards acceptable behaviour, and has regard to children's family and cultural values, age, physical and intellectual development and abilities.

Regulation 156 requires approved providers to take reasonable steps to ensure that their service provides children with opportunities to interact and develop respectful and positive relationships with each other, staff members and volunteers at the service. Examples of appropriate interactions might include providing children with an opportunity to express how they are feeling and then assisting them in regulating their own behaviour, supporting children with responding appropriately to the behaviour of others, and role modelling and assisting children in communicating effectively with each other to resolve conflicts.

HARM AND HAZARD

The National Law (Section 167) requires approved providers, nominated supervisors and family day care educators to ensure every reasonable precaution is taken to protect children from harm and from any hazard likely to cause injury.

It may be the case that an act of an educator will constitute both inappropriate discipline and harm and/or hazard, or an act that does not constitute inappropriate discipline may constitute harm or hazard. For example, if a child with additional needs has diagnosed autism spectrum disorder on their enrolment form and is known to abscond, but the approved provider has not initiated any kind of behaviour plan or support for staff in how to manage these behaviours, then that may be considered not taking reasonable steps to prevent harm or hazard to that child (or other children in instances where a child is known to have violent outbursts).

THINGS TO REFLECT ON:

- How do you reflect on your own experiences, upbringing, beliefs and attitudes that may influence how you guide children's behaviour?
- What opportunities do children have to make (or contribute to) decisions about guidelines, rules, expectations and/or consequences in relation to their own and others' behaviour?
- How do you support colleagues when they are feeling overwhelmed by, or are having difficulty coping with, a child's behaviour?
- How do you work with families, other professionals and support agencies to ensure that behaviour guidance strategies uphold the rights of each child to be included and have opportunities to fully participate in the service environment and program?
- For school age children, how do you build partnerships (between their school and the service) that:
 - » promote a consistent approach to guiding children's behaviour
 - » recognise the importance of providing engaging and educational leisure and recreational opportunities for these children and
 - » maintain children's dignity and rights?

OTHER CONSIDERATIONS

Notification of serious incidents and risk to children

Under the National Law an incident of inappropriate discipline needs to be reported to the regulatory authority. It is an offence to fail to notify the regulatory authority of serious incidents, complaints of serious incidents and circumstances posing risk to the health, safety or wellbeing of a child at an education and care service.

In addition to reporting to the regulatory authority, it may be appropriate for approved providers or educators to report an incident of inappropriate discipline to the children's commissioner (or children's guardian if this is a separate role in your state or territory), child protection agencies or the Police. Reporting requirements vary between jurisdictions, and educators and other individuals can consult with their commissioner or children's guardian and the child protection legislation as a starting point to determine their obligations.

Training requirements

Approved providers are required to ensure that each nominated supervisor and person in day-to-day charge of the service has successfully completed the child protection training (if any) required in that jurisdiction, whether under the law of the jurisdiction or by other means (Section 162A of the National Law).

From 1 October 2023, this will include each family day care coordinator to have successfully completed child protection training (if any) required in their state or territory. Please check the legislation for commencement date in Western Australia.

The approved provider of a service must also ensure that nominated supervisors and staff members at the service who work with children are advised of the current child protection laws, and any obligations that they have under those laws (regulation 84).

From 1 October 2023, approved providers must ensure that nominated supervisors, staff members, **volunteers** and **students** at the service who work with children are advised of the existence and application of the current child protection law in the relevant jurisdiction and understand their obligations under that law.

Staff records must also include evidence of the approved training completed by that staff member (regulation 147).

REFERENCES AND RESOURCES

For additional information please refer to the [Guide to the National Quality Framework](#).

Visit the [ACECQA website](#) for additional references and resources:

- ACECQA information sheets:
 - » [Relationships with children](#)
 - » [QA5 Supporting Children to Regulate Their Own Behaviour](#)
- [National Law and Regulations](#)

Other resources:

- [Early Childhood Australia Code of Ethics](#)
- [United Nations Convention on the Rights of the Child](#) (UNCRC)

Acknowledgment: The information in this publication is accurate pending the Australian, state and territory education ministers' agreement of the amended law and regulations.