



CHCECE055

Meet legal and ethical obligations in children's education and care

LEARNER GUIDE



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Table of Contents

| | |
|---|-----------|
| This Learner Guide..... | 5 |
| Introduction | 13 |
| I. Identify Legal and Ethical Obligations..... | 14 |
| 1.1. Identify and Access Authoritative Sources of Information | 15 |
| 1.1.1 The National Quality Framework | 17 |
| 1.1.2 UN Convention on the Rights of the Child | 23 |
| 1.1.3 Early Childhood Australia Code of Ethics | 26 |
| 1.2. Correctly Interpret Sources of Information About the Legal and Ethical Requirements That Apply to the Contemporary Work Role | 28 |
| 1.2.1 Interpreting the Early Years Learning Framework..... | 28 |
| 1.2.2 Interpreting the Early Childhood Australia Code of Ethics | 31 |
| 1.3. Identify the Scope and Nature of Own Rights and Responsibilities in the Job Role..... | 32 |
| II. Meet Legal and Ethical Obligations | 37 |
| 2.1 Adhere to Legal and Ethical Requirements in Work Practice According to Service Policies and Procedures and Scope of Role | 38 |
| 2.1.1 Staffing Arrangements and Qualifications..... | 41 |
| 2.1.2 Information Management in Early Childhood Education and Care Services | 44 |
| 2.1.3 Legal and Ethical Considerations When Dealing With Families | 48 |
| 2.2 Identify Potential Ethical Issues and Dilemmas Including Conflict of Interest and Discuss With an Appropriate Person | 51 |
| 2.2.1 Conflict of Interest in Education and Care Services..... | 53 |
| 2.3 Identify Potential or Actual Situations of Non-Compliance and Report According to Service Procedures | 55 |

| | |
|---|-----------|
| III. Contribute to Workplace Improvements | 57 |
| 3.1 Identify Situations Where Work Practices Could Be Improved to Meet Legal and Ethical Responsibilities | 58 |
| 3.2 Share Feedback Through Constructive Communication With Colleagues and Supervisors | 60 |
| 3.3 Identify and Take Opportunities to Contribute to the Review and Development of Policies and Procedures..... | 61 |
| References | 63 |

This Learner Guide

CHCECE055 - Meet legal and ethical obligations in children's education and care (Release 2)

This unit describes the performance outcomes, skills and knowledge required to identify and meet legal and ethical obligations. This includes the ability to recognise potential and actual examples of non-compliance with regulatory requirements and contribute to the continuous improvement of practice.

The unit applies to educators who work according to established policies and procedures in regulated children's education and care services in Australia.

The skills in this unit must be applied in accordance with Commonwealth and State/Territory legislation, Australian standards and industry codes of practice.

No occupational licensing, certification or specific legislative requirements apply to this unit at the time of publication.

A complete copy of the above unit of competency can be downloaded from the TGA website:

<https://training.gov.au/Training/Details/CHCECE055>

About this Unit of Study Introduction

As a worker, a trainee, or a future worker, you want to enjoy your work and become known as a valuable team member. This unit of competency will help you acquire the knowledge and skills to work effectively as an individual and in groups. It will give you the basis to contribute to the goals of the organisation which employs you.

It is essential that you begin your training by becoming familiar with the industry standards to which organisations must conform.

This Learner Guide Covers

Meet legal and ethical obligations in children's education and care

- I. Identify Legal and Ethical Obligations
- II. Meet Legal and Ethical Obligations
- III. Contribute to Workplace Improvements

Learning Program

As you progress through this unit of study, you will develop skills in locating and understanding an organisation's policies and procedures. You will build up a sound knowledge of the industry standards within which organisations must operate. You will become more aware of the effect that your own skills in dealing with people have on your success or otherwise in the workplace. Knowledge of your skills and capabilities will help you make informed choices about your further study and career options.

Additional Learning Support

To obtain additional support you may:

- Search for other resources. You may find books, journals, videos and other materials which provide additional information about topics in this unit.
- Search for other resources in your local library. Most libraries keep information about government departments and other organisations, services and programs. The librarian should be able to help you locate such resources.
- Contact information services such as Infolink, Equal Opportunity Commission, Commissioner of Workplace Agreements, Union organisations, and public relations and information services provided by various government departments. Many of these services are listed in the telephone directory.
- Contact your facilitator.

Facilitation

Your training organisation will provide you with a facilitator. Your facilitator will play an active role in supporting your learning. Your facilitator will help you at any time during working hours to assist with:

- How and when to make contact,
- what you need to do to complete this unit of study, and
- what support will be provided.

Here are some of the things your facilitator may do to make your study easier:

- Give you a clear visual timetable of events for the semester or term in which you are enrolled, including any deadlines for assessments.
- Provide you with online webinar times and availability.
- Use 'action sheets' to remind you about tasks you need to complete, and updates on websites.
- Make themselves available by telephone for support discussion and provide you with industry updates by email where applicable.
- Keep in touch with you during your studies.

Flexible Learning

Studying to become a competent worker is an interesting and exciting thing to do. You will learn about current issues in this area. You will establish relationships with other students, fellow workers, and clients. You will learn about your own ideas, attitudes, and values. You will also have fun. (Most of the time!)

At other times, studying can seem overwhelming and impossibly demanding, particularly when you have an assignment to do and you aren't sure how to tackle it, your family and friends want you to spend time with them, or a movie you want to see is on television.

Sometimes being a student can be hard.

Here are some ideas to help you through the hard times. To study effectively, you need space, resources, and time.

Space

Try to set up a place at home or at work where:

1. You can keep your study materials,
2. you can be reasonably quiet and free from interruptions, and
3. you can be reasonably comfortable, with good lighting, seating, and a flat surface for writing.

If it is impossible for you to set up a study space, perhaps you could use your local library. You will not be able to store your study materials there, but you will have quiet, a desk and chair, and easy access to the other facilities.

Study Resources

The most basic resources you will need are:

1. A chair
2. A desk or table
3. A computer with Internet access
4. A reading lamp or good light
5. A folder or file to keep your notes and study materials together
6. Materials to record information (pen and paper or notebooks, or a computer and printer)
7. Reference materials, including a dictionary

Do not forget that other people can be valuable study resources. Your fellow workers, work supervisor, other students, your facilitator, your local librarian, and workers in this area can also help you.

Time

It is important to plan your study time. Work out a time that suits you and plan around it. Most people find that studying, in short, concentrated blocks of time (an hour or two) at regular intervals (daily, every second day, once a week) is more effective than trying to cram a lot of learning into a whole day. You need time to 'digest' the information in one section before you move on to the next, and everyone needs regular breaks from study to avoid overload. Be realistic in allocating time for study. Look at what is required for the unit and look at your other commitments.

Make up a study timetable and stick to it. Build in 'deadlines' and set yourself goals for completing study tasks. Allow time for reading and completing activities. Remember that it is the quality of the time you spend studying rather than the quantity that is important.

Study Strategies

Different people have different learning 'styles'. Some people learn best by listening or repeating things out loud. Some learn best by 'doing', some by reading and making notes. Assess your own learning style and try to identify any barriers to learning which might affect you. Are you easily distracted? Are you afraid you will fail? Are you taking study too seriously? Not seriously enough? Do you have supportive friends and family? Here are some ideas for effective study strategies:

1. **Make notes.** This often helps you to remember new or unfamiliar information. Do not worry about spelling or neatness, as long as you can read your own notes. Keep your notes with the rest of your study materials and add to them as you go. Use pictures and diagrams if this helps.
2. **Underline keywords** when you are reading the materials in this Learner Guide. (Do not underline things in other people's books.) This also helps you to remember important points.
3. **Talk to other people** (fellow workers, fellow students, friends, family, or your facilitator) about what you are learning. As well as help you to clarify and understand new ideas, talking also gives you a chance to find out extra information and to get fresh ideas and different points of view.



Using this Learner Guide

A Learner Guide is just that, a guide to help you learn. A Learner Guide is not a textbook. Your Learner Guide will:

1. Describe the skills you need to demonstrate to achieve competency for this unit.
2. Provide information and knowledge to help you develop your skills.
3. Provide you with structured learning activities to help you absorb knowledge and information and practice your skills.
4. Direct you to other sources of additional knowledge and information about topics for this unit.

How to Get the Most Out of Your Learner Guide

Some sections are quite long and cover complex ideas and information. If you come across anything you do not understand:

1. Talk to your facilitator.
2. Research the area using the books and materials listed under Resources.
3. Discuss the issue with other people (your workplace supervisor, fellow workers, fellow students).
4. Try to relate the information presented in this Learner Guide to your own experience and to what you already know.
5. Ask yourself questions as you go. For example, 'Have I seen this happening anywhere?' 'Could this apply to me?' 'What if...' This will help you to 'make sense' of new material, and to build on your existing knowledge.
6. Talk to people about your study. Talking is a great way to reinforce what you are learning.
7. Make notes.
8. Work through the activities. Even if you are tempted to skip some activities, do them anyway. They are there for a reason, and even if you already have the knowledge or skills relating to a particular activity, doing them will help to reinforce what you already know. If you do not understand an activity, think carefully about the way the questions or instructions are phrased. Read the section again to see if you can make sense of it. If you are still confused, contact your facilitator or discuss the activity with other students, fellow workers or with your workplace supervisor.

Additional Research, Reading, and Note-Taking

If you are using the additional references and resources suggested in the Learner Guide to take your knowledge a step further, there are a few simple things to keep in mind to make this kind of research easier.

Always make a note of the author's name, the title of the book or article, the edition, when it was published, where it was published, and the name of the publisher. This includes online articles. If you are taking notes about specific ideas or information, you will need to put the page number as well. This is called the reference information. You will need this for some assessment tasks, and it will help you to find the book again if you need to.

Keep your notes short and to the point. Relate your notes to the material in your Learner Guide. Put things into your own words. This will give you a better understanding of the material.

Start off with a question you want answered when you are exploring additional resource materials. This will structure your reading and save you time.

Introduction



As an educator, you are in a unique place of trust and influence over the children in your care. Children in their early years are impressionable, which is why legislation and regulations are put in place to protect their rights. Codes of ethics also exist to avoid situations where children in early childhood education and care are maltreated. These legislation, regulations, and codes inform your legal and ethical obligations as an early childhood educator.

These obligations include meeting legal and ethical requirements and identifying situations where there may be non-compliance in the centre you belong to. These also include the responsibility to contribute to the continuous improvement of the practice through practices, including identifying where work practices can be improved and sharing feedback with colleagues and supervisors.

Meeting legal and ethical obligations ensures that you provide adequate support to the children in your care. When children get the support they need, they are equipped with the ability to easily help themselves become outstanding members of society as they grow up.

In this learner guide, you will learn how to do the following:

- I. Identify legal and ethical obligations
- II. Meet legal and ethical obligations
- III. Contribute to workplace improvements

I. Identify Legal and Ethical Obligations



To meet your legal and ethical obligations, you must first identify what these obligations are. These include reading through legislation, regulations, and codes relevant to your role as an early childhood educator. Determining your legal and ethical obligations involves defining the scope and nature of your own rights and responsibilities as an educator.

Part of this chapter is determining where you will be gathering information about legal and ethical obligations from. The sources you use must be reliable and trusted in your practice. Otherwise, you may be misinformed, which may cause harm to your practice as an early childhood educator and the children in your care.

In this chapter, you will learn how to do the following:

- I. Identify and access authoritative sources of information
- II. Correctly interpret sources of information about the legal requirements that apply to the contemporary work role
- III. Identify the scope and nature of own rights and responsibilities in the job role

1.1. Identify and Access Authoritative Sources of Information



The first thing you need to do when gathering information about the legal and ethical obligations of education and care services is to identify where to collect these pieces of information from. You must confirm that your sources of information are authoritative; otherwise, you may get inaccurate information. An *authoritative source* is one that is known to be reliable because experts in the field

acknowledge its authenticity. Authoritative sources may include legislation, regulations, and codes.

Commonwealth laws relevant to education and care services are presented in the table below.

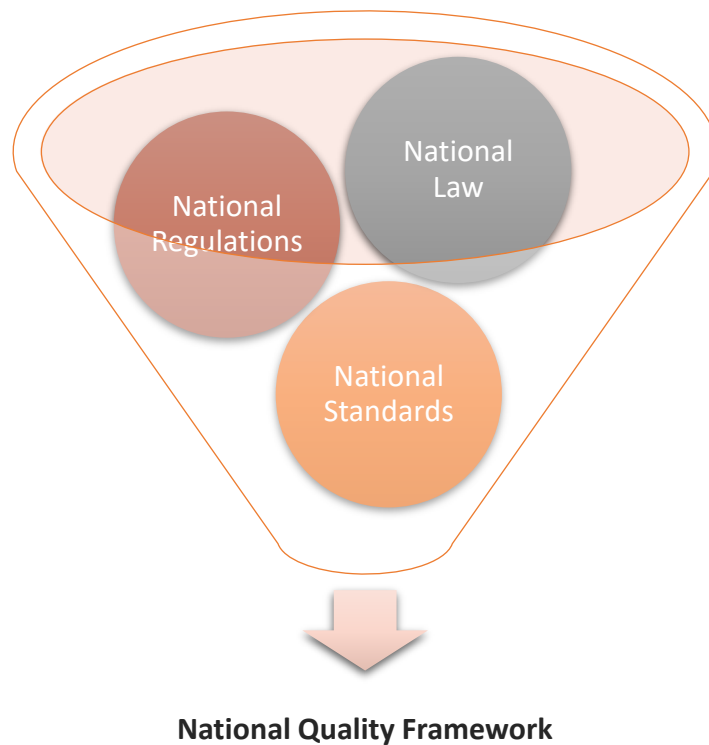
| Commonwealth Law | Description |
|--|--|
| Family Law Act 1975 | This law emphasises the rights of children and each parent's responsibilities towards them. |
| Age Discrimination Act 2004 | This law aims to eliminate discrimination against persons based on age in areas including education, access to premises, the provision of goods, services and facilities, accommodation, and requests for information. |
| Racial Discrimination Act 1975 | This law aims to eliminate discrimination against persons based on race in areas including education, access to premises, the provision of goods, services and facilities, accommodation, and requests for information. |
| Sex Discrimination Act 1984 | This law aims to eliminate discrimination against persons based on sex, gender identity, intersex status, marital or relationship status in areas including education, access to premises, the provision of goods, services and facilities, accommodation, and requests for information. |

| Commonwealth Law | Description |
|---|---|
| Disability Discrimination Act 1992 | This law aims to eliminate discrimination against persons based on disability in areas including education, access to premises, the provision of goods, services and facilities, accommodation, and requests for information. |
| Australian Human Rights Commission Act 1986 | This law established the Australian Human Rights Commission who has the power to investigate and attempt to conciliate unlawful discrimination complaints under Australia's anti-discrimination legislation. |
| Privacy Act 1988 | This law was introduced to promote and protect individuals' privacy and regulate how personal information is handled by organisations with an annual turnover of \$3 million. |
| Fair Work Act 2009 | This law protects workplace rights and other rights, including the right to engage in industrial activities and the right to be free from unlawful discrimination. |
| Work Health and Safety Act 2011 | This law outlines requirements and standards that must be adhered to for the protection of workers' health, safety, and welfare. |

There are local laws in each state/territory based on Commonwealth law but have been interpreted to consider obligations and responsibilities at the state/territory level. You must be aware of any state-specific laws and regulations and how they will impact your duties within the workplace.

Other main sources of information you can gather legal and ethical obligations from include the National Quality Framework (NQF), the United Nations Convention on the Rights of the Child, and the Early Childhood Australia (ECA) Code of Ethics.

1.1.1 The National Quality Framework



The National Quality Framework was established in 2012 and applies to most early years learning centres (EYLC) in Australia. In Western Australia, the National Quality Framework also extends to home-based care.

The aim of the National Quality Framework is to raise quality and drive continuous improvement and consistency in childhood care and education services through:



The Australian Children's Education and Care Quality Authority (ACECQA) oversees the National Quality Framework and ensures its consistent and effective implementation. Regulatory authorities administer the NQF in each state/territory. These authorities often act as part of the state/territory education department or agency. To determine which regulatory authority is responsible for administering the NQF in your state/territory, you may check [here](#).

The National Law defines an 'education and care service' as any service that provides or intends to provide regular education and care to children under 13 years old (with some exclusions).



Further Reading

For more information on services excluded from the National Law's definition of 'education and care service', you may refer to the exact definition of the term provided in Part 1 Division 5 of the National Law linked below.

[Education and Care Services National Law Act 2010](#)

National Legislative Framework

The national legislative framework consists of:

- the Education and Care Services National Law (known as the 'National Law')
- the Education and Care Services National Regulations

The national legislative framework creates a national approach to the regulation and quality assessment of education and care services. The National Law provides the objectives and guiding principles of the National Quality Framework. The objectives and guiding principles shape the provisions outlined in the NQF.



Further Reading

For further information on the objectives and guiding principles of the National Quality Framework, read the Introduction (pages 9–11) of the Guide to the NQF linked below.

[Guide to the National Quality Framework](#)

The NQF operates under an applied law system where there is a National Law, and each state/territory (except Victoria and Western Australia) has Application Acts. Essentially, the same law (Education and Care Services National Law Act) is applied in each state/territory with some provisions to satisfy the different needs of each state/territory. In the case of Victoria, the state passed the [Education and Care Services National Law Act 2010](#), from which the other jurisdiction's Application Acts are based. Western Australia passed its own Education and Care Services law ([Education and Care Services National Law \(WA\) Act 2012](#)) without basing it on Victoria's Education and Care Services National Law.

The legislation followed in the rest of each state/territory are presented in the table below. Links have been provided for you to access and review the applicable law in your state/territory.

| State/Territory | Application Acts |
|------------------------------|--|
| Australian Capital Territory | Education and Care Services National Law (ACT) Act 2011 |
| New South Wales | Children (Education and Care Services National Law Application) Act 2010 |
| Northern Territory | Education and Care Services (National Uniform Legislation) Act 2011 |
| Queensland | Education and Care Services National Law (Queensland) Act 2011 |
| South Australia | Education and Early Childhood Services (Registration and Standards) Act 2011 |
| Tasmania | Education and Care Services National Law (Application) Act 2011 |



National Quality Standard

The National Quality Standard (NQS) sets benchmarks for the quality of education and care services.

The National Quality Standard establishes seven quality areas where education and care services are assessed and given a rating to determine compliance. These quality areas are important outcomes for children, especially in their early years.

The seven quality areas of the National Quality Standards are presented in the table below. You may review and access the specific elements and standard outcomes for each Quality Area by clicking the provided link.

| | | |
|--|---|--|
| Quality Area 1: Educational program and practice | Quality Area 2: Children's health and safety | Quality Area 3: Physical environment |
| Quality Area 4: Staffing arrangements | Quality Area 5: Relationships with children | Quality Area 6: Collaborative partnerships with families and communities |
| Quality Area 7: Governance and leadership | | |

The National Quality Standard aims to promote children's safety, health, and wellbeing, focuses on achieving outcomes for children through high-quality educational programs, and develops families' understanding of what distinguishes a quality service. Each quality area of the NQS is underpinned by regulations specified under the Education and Care Services National Regulations. These regulations support the applicable laws by providing operational requirements for an education and care service. You can access the Education and Care Services National Regulations [here](#).

National Quality Rating and Assessment Process

Education and care services will be assessed and rated against each of the seven quality areas of the NQS and the National Regulations. An overall rating will then be given to them. This rating and assessment process is done to drive continuous improvement of services and provide families with the necessary information for making decisions about the education and care of their children.



The National Law determines two interrelated approval processes for entities and individuals:

Provider approval

- This is the approval that a person or entity must apply for first. It is ongoing and recognised nationally. An approved provider is legally responsible for ensuring any service they operate complies with the requirements of the NQF.

Service approval

- An approved provider must apply for a service approval before they can operate a centre-based or family day care education and care service under the NQF. It relates to the individual site/premises and the nature of care provided.

*Sourced from [Approvals for National Quality Framework services](#), used under CC BY 4.0
© State of Queensland, (Department of Education)*

The Early Years Learning Framework

The national approved learning framework for early childhood is the Early Years Learning Framework (EYLF). The objective of the EYLF is to extend and enrich the learning of children in their early childhood (from birth to 5 years) and through the transition to school. It provides services with assistance to maximise children's potential and develop a foundation for success in learning as they grow up.

The EYLF guides educators to develop quality programs for children. It describes the early childhood principles, practices, and outcomes that are needed to promote and improve the learning of children from birth to 5 years of age, including their transition to school.

As you use the EYLF more and more in everyday practice, you will recognise that 'fundamental to the Framework is a view of children's lives as characterised by belonging, being and becoming.'

Belonging acknowledges children's natural interdependence with other people and the basis of relationships in the definition of their personal identities. Relationships are vital to a sense of belonging in early childhood and throughout life. Belonging shapes who children are and can become, making it the centre of *being* and *becoming*.



Being recognises the importance of the present moment in the lives of children. It is about them understanding themselves, forming and maintaining relationships with others, engaging with life's joys and complexities, and overcoming obstacles in daily life. The early years of childhood are not only about preparing for the future but also about living in the present.

Becoming reflects the rapid and significant change of children's identities, knowledge, understandings, capacities, skills, and relationships throughout early childhood. Several different events and circumstances play a part in shaping children as they grow up. *Becoming* emphasises learning to fully and actively participate in society.

Sourced from *Belonging, Being & Becoming - The Early Years Learning Framework for Australia*, used under CC BY 4.0. © Commonwealth of Australia

1.1.2 UN Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (UNCRC) is a legally binding international instrument that specifies the full range of human rights—civil, cultural, economic, political, and social rights—for children. This Convention was established to provide people under 18 years old with the special care and protection they need for proper development. World leaders wanted to make sure that the world recognised that children have human rights too.

The Convention is very detailed and consists of 54 articles. It is guided by four fundamental principles:

- *Non-discrimination of the child* – Children must not be unjustly treated because of their race, colour, gender, language, religion, cultural, social or ethnic origin, or disability.
- *The best interests of the child* – All decisions regarding children are made with the goal of fostering and supporting their happiness, security, psychological, and emotional development.
- *Survival, development, and protection* – Governments must protect children and ensure their optimal development.
- *Participation* – Children have the right to participate, have a say in decisions that affect them and have their opinions taken into account.

The United Nations Convention on the Rights of the Child underpins all legislation and policies affecting children in Australia. Some articles relevant to children's education and care include Article 16 (children's right to privacy) and Article 28 (children's right to education). You may access the full CRC text [here](#). Articles of the UNCRC relevant to childhood education and care are presented in a table on the following page. The National Quality Framework aligns with the UNCRC to guarantee that children have the right to be heard, be free from violence, abuse, and neglect, and have the opportunity to thrive. Education and care delivery should be rights-based, which means as an early childhood educator, you must understand these rights and implement practices that reflect them.



Articles of the UNCRC Relevant to Early Childhood Education and Care (Simplified)

| | | | | | |
|-------------------|---|-------------------|---|-------------------|--|
| Article 1 | Everyone under 18 years of age has all the rights in this Convention. | Article 13 | Children have the right to get and to share information, as long as the information is not damaging to them or others | Article 17 | Children have the right to reliable information from the media. |
| Article 2 | The Convention applies to everyone whatever their race, religion, abilities, whatever they think or say, whatever type of family they come from. | Article 14 | Children have the right to think and believe what they want and to practise their religion, as long as they are not stopping other people from enjoying their rights. | Article 20 | Children who cannot be looked after by their own family must be looked after properly by people who respect their religion, culture, and language. |
| Article 3 | All organisations concerned with children should work towards what is best for each child | Article 15 | Children have the right to meet with other children and young people and to join groups and organisations, as long as this does not stop other people from enjoying their rights. | Article 22 | Children who come into a country as refugees should have the same rights as children who are born in that country |
| Article 12 | Children have the right to say what they think should happen when adults are making decisions that affect them and to have their opinions taken into account. | Article 16 | Children have the right to privacy. The law should protect them from attacks against their way of life, their good name, their family, and their home. | Article 23 | Children who have any kind of disability should receive special care and support so that they can live a full and independent life. |

| | | | | | |
|-----------------------|---|-----------------------|---|-----------------------|---|
| Article 27 | Children have the right to a standard of living that is good enough to meet their physical and mental needs | Article 30 | Children have the right to learn and use the language and customs of their families, whether or not these are shared by the majority of the people in the country where they live, as long as this does not harm others | Article 39 | Children who have been neglected or abused should receive special help to restore their self-respect. |
| Article 28 | Children have the right to an education. Discipline in schools should respect children's human dignity. Primary education should be free. | Article 31 | Children have the right to relax, play, and join in a wide range of leisure activities. | | |
| Article 29 | Education should develop each child's personality and talents to the full. It should encourage children to respect their parents, their cultures, and other cultures. | Article 36 | Children should be protected from any activities that could harm their development. | | |

Sourced from [Simplified Version of the United Nations Convention on the Rights of the Child](#). Copyright 2021 UNICEF Australia

1.1.3 Early Childhood Australia Code of Ethics



The Early Childhood Australia (ECA) Code of Ethics provides a set of behavioural expectations for professionals working in early childhood education and care environments based on the principles of the UNCRC and the Declaration on the Rights of Indigenous Peoples (2007). Since childhood professionals are in a unique place of trust and influence in their relationships with children, families, colleagues, and the community, the Code of Ethics recognises the importance of professional accountability. It provides a basis for critical reflection and ethical principles to inform individual and collective decision making in early childhood education and care environments.

The ECA Code of Ethics provides definitions for some key terms that it uses to facilitate its proper interpretation. It includes the following:

- **A Code of Ethics** defines the core aspirational values of the profession and provides guidance for professional decision-making, especially when there are conflicting obligations or responsibilities.
- **Core principles** are fundamental and prized values of the profession.
- **Families** are the people who have care responsibilities for and/or kinship with a child.
- **Childhood professionals** are people who work with or on behalf of children and families in education and care settings.

- **Communities** are groups of people living in the same place and/or possess a characteristic in common.
- **Colleagues** include employers and those with whom you work directly or broadly.
- **Students** are people undertaking study at either a secondary or tertiary institution.

The ECA Code of Ethics is built on eight core principles, which is as follows:

- Each child has unique interests and strengths and the capacity to contribute to their communities.
- Children are citizens from birth with civil, cultural, linguistic, social and economic rights.
- Effective learning and teaching are characterised by professional decisions that draw on specialised knowledge and multiple perspectives.
- Partnerships with families and communities support shared responsibility for children's learning, development and wellbeing.
- Democratic, fair and inclusive practices promote equity and a strong sense of belonging.
- Respectful, responsive and reciprocal relationships are central to children's education and care.
- Play and leisure are essential for children's learning, development and wellbeing.
- Research, inquiry and practice-based evidence inform quality education and care.

Sourced from [Early Childhood Australia Code of Ethics](#). © Copyright [Early Childhood Australia Inc.](#) 2021

Subchapter 1.2.2 will further discuss specific ethical requirements or steps to perform your *commitments to action* in relation to children, colleagues, families, the profession and the community and society, which will help you in making ethical decisions in the service.

1.2. Correctly Interpret Sources of Information About the Legal and Ethical Requirements That Apply to the Contemporary Work Role

After identifying authoritative sources of information, you need to navigate these sources to interpret the legal requirements you must adhere to as an early childhood educator correctly. There are specific legal requirements relating to all aspects of early childhood education and care, including requirements concerned with confidentiality and privacy, duty of care, and child protection.

When navigating regulatory documents, pay attention to the Parts, Divisions, and Sections of the regulation. These will give you a general idea of where to look for particular legal requirements. For example, suppose you are looking for information on incident, trauma, and illness policies and procedures in the Education and Care Services National Regulations. By looking at the regulation's table of contents, you can safely assume that this information can be found in Part 4.2 with the heading 'Children's health and safety.' Under Part 4.2 is Division 2 'Incidents, injury, trauma, and illness' and finally, under that is Section 85 'Incident, injury, trauma, and illness policies and procedures.'



1.2.1 Interpreting the Early Years Learning Framework

It is a legal requirement for education and care services in Australia to use an approved learning framework. As first discussed in Section 1.1.1, the national approved learning framework for early childhood is the Early Years Learning Framework.

The EYLF outlines five learning outcomes for children from birth to 5 years old. Key components of learning further expand on each learning outcome. These components provide examples of evidence that educators may observe in children as they learn. The key components of learning for each outcome are presented in the table below.

| Learning Outcome | Key Component |
|---|---|
| Outcome 1: Children have a strong sense of identity | Children feel safe, secure, and supported |
| | Children develop their emerging autonomy, inter-dependence, resilience, and sense of agency |
| | Children develop knowledgeable and confident self-identities |
| | Children learn to interact in relation to others with care, empathy, and respect |

| Learning Outcome | Key Component |
|--|---|
| Outcome 2: Children are connected with and contribute to their world | Children develop a sense of belonging to groups and communities and an understanding of the reciprocal rights and responsibilities necessary for active community participation |
| | Children respond to diversity with respect |
| | Children become aware of fairness |
| | Children become socially responsible and show respect for the environment |
| Outcome 3: Children have a strong sense of wellbeing | Children become strong in their social and emotional wellbeing |
| | Children take increasing responsibility for their own health and physical wellbeing |
| Outcome 4: Children are confident and involved learners | Children develop dispositions for learning such as curiosity, cooperation, confidence, creativity, commitment, enthusiasm, persistence, imagination, and reflexivity |
| | Children develop a range of skills and processes such as problem solving, inquiry, experimentation, hypothesising, researching, and investigating |
| | Children transfer and adapt what they have learned from one context to another |
| | Children resource their own learning through connecting with people, place, technologies, and natural and processed materials |

| Learning Outcome | Key Component |
|---|--|
| Outcome 5: Children are effective communicators | Children interact verbally and non-verbally with others for a range of purposes |
| | Children engage with a range of texts and gain meaning from these texts |
| | Children express ideas and make meaning using a range of media |
| | Children begin to understand how symbols and pattern systems work |
| | Children use information and communication technologies to access information, investigate ideas, and represent their thinking |

Sourced from *Belonging, Being & Becoming - The Early Years Learning Framework for Australia*, used under CC BY 4.0. © Commonwealth of Australia

An Educator's Guide to the Early Years Learning Framework has been developed by the Australian Government Department of Education, Employment and Workplace Relations to support the professional practice of the people responsible for the interactions, experiences, routines, and events that occur in early childhood education and care environments. The guide was designed to foster children's wellbeing, development, and learning, and focus on aspects of pedagogy. *Pedagogy* refers to an early childhood educator's professional practice, especially those that involve building and nurturing relationships, program decision making, teaching, and learning.



Further Reading

The Educator's Guide to the EYLF is publicly available on the Australian Government Department of Education, Skills, and Employment website. You may access the guide by clicking on the link provided below.

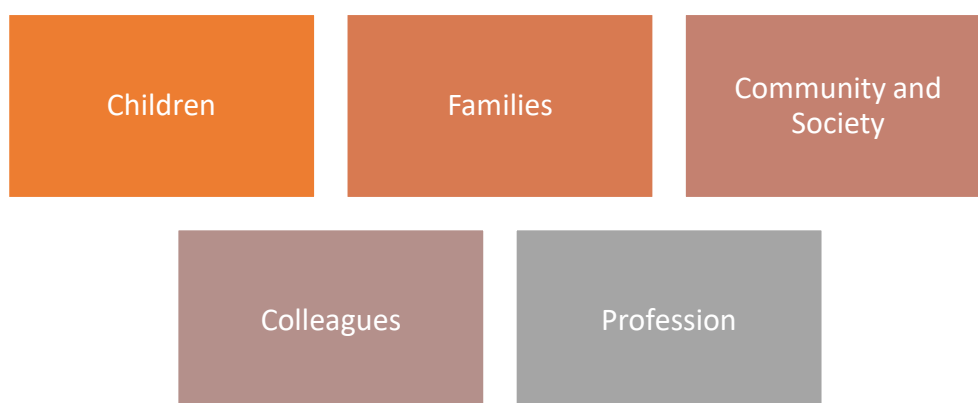
[Educator's Guide to the Early Years Learning Framework for Australia](#)

You must also access and review the applicable Education and Care Services National Law in your jurisdiction and the Education and Care Services National Regulations to determine the operational requirements you must follow to meet the National Quality Standard. For example, both National Law and Regulations require all services to have Child Protection policies and procedures.

1.2.2 Interpreting the Early Childhood Australia Code of Ethics

Remember, first and foremost, that your compliance and execution of ethical requirements depend on your interpretation of the *Code of Ethics*. Thus, you need to review ECA's Code of Ethics, particularly your *commitments to action* as an early childhood educator.

Commitments to action are specific actions that are based on the eight core principles mentioned earlier in Section 1.1.3. As an early childhood educator, you have commitments to action in relation to the following:



Sourced from [Early Childhood Australia Code of Ethics](#). © Copyright [Early Childhood Australia Inc.](#) 2021

Your commitments to action as an early childhood educator are all broken down and laid out in the Code of Ethics. You can access and review the document to guide you in your own reflection of the ethical requirements.



Further Reading

Linked below is the ECA Code of Ethics containing all of the commitments to action in relation to children, families, colleagues, the profession and community and society. Read the electronic brochure below to help you interpret these commitments to action and the eight core principles correctly.

[ECA Code of Ethics](#)

Apart from conducting your own reflection of these commitments to action, you may seek and discuss insights from your colleagues and supervisors. Their unique knowledge and experiences can greatly help you interpret the Code of Ethics, including the commitments to action, whenever you have any questions or clarifications about a specific requirement.

1.3. Identify the Scope and Nature of Own Rights and Responsibilities in the Job Role

The *scope of the rights* of an early childhood educator is defined by what an early childhood educator may legally expect in return for offering their skills to a service, while the *scope of the responsibilities* of an early childhood educator is defined by the tasks that a service may legally assign to the early childhood educator.

The nature of the rights of an early childhood educator is defined by how their service classifies their employment (e.g. full-time, part-time, casual, fixed-term), while the nature of the responsibilities of an early childhood educator is defined by the people they interact with and their expected contribution to their service.

As an early childhood educator, you will need to identify and follow specific roles and responsibilities to work efficiently and effectively. There is an expectation that there will be many roles to fulfil at work, and with each comes different degrees of responsibility. Other staff members have various roles and responsibilities, each of which complements each other and ensures the smooth running of the service.

As a professional practitioner, your employee rights are protected by the Fair Work Act 2009. The rights established by this Act relevant to early childhood educators include the following:

- **Eleven Minimum National Employment Standards** – These are the eleven minimum entitlements that must be granted to all employees in Australia. These entitlements include:
 - Maximum weekly hours
 - Requests for flexible working arrangements
 - Offers and requests to convert from casual to permanent employment
 - Parental leave and related entitlements
 - Annual leave
 - Personal/carer's leave, compassionate leave and unpaid family and domestic violence leave
 - Community service leave
 - Long service leave
 - Public holidays
 - Notice of termination and redundancy pay

- **Modern Awards** – These are legal documents that outline minimum pay rates and employment conditions in Australia. There are three modern awards that cover employees in the early childhood education and care industry, namely the following:
 - [Children’s Services Award 2010 \[MA000120\]](#)
 - [Educational Services \(Schools\) General Staff Award 2020 \[MA000076\]](#)
 - [Educational Services \(Teachers\) Award 2020 \[MA000077\]](#)
- The **National Minimum Wage** – This is your base rate of pay for ordinary hours worked. It generally depends on industrial instruments that apply to your employment, such as a modern award (Children’s Services Award 2010) or a registered agreement. You cannot be paid less than your applicable minimum wage.
- **Protection from Unfair Dismissal** – Your right against being dismissed from your job in a harsh, unjust, or unreasonable manner is stipulated in the Fair Work Act 2009.

Your centre may afford you additional rights. These rights can usually be found in your contract of employment, or if you are a Vocational Placement (VP) student, in the letter of agreement that outlines your rights as a VP student.

Most education and care centres have position descriptions that describe the key responsibilities and duties of a job role. All staff must work within these guidelines as they outline any laws, regulations, and centre policies and procedures which govern staff actions and behaviour. Access and review this document to determine the scope and nature of your responsibility as an early childhood educator.



Sparkling Stars Early Years Learning Centre

Sparkling Stars is the simulated early years learning centre environment referenced in the learning resources.

Access and review Sparkling Stars’ position description for the early childhood assistant role through the link below.

[Sparkling Stars Staff Records and Job Descriptions](#)

(username: newusername password: new password)

As an Early Childhood Educator, your main areas of responsibility are to:

- your employer
- the children and families
- your co-workers

You also must be aware of your position's requirements for customer service. Your 'customers' include children and their families or carers. The quality of the service you provide to your customers is fundamental to your role and is the primary function of your organisation. The requirements for service to your clients are detailed in Commonwealth and State legislation and associated service standards:



- [National Regulations](#)
- [Education and Care Services National Law Act 2010](#) or [Application Act](#) that applies to your state/territory
- [National Quality Standard](#)

Organisations may have their own set of standards for job quality and customer service for all staff. However, there may also be an extra range of indicators specific to individual job responsibilities. Customer service requirements include, but are not limited to:

- the quality of the relationship between early childhood educator/assistant and clients
- the timeliness of the support provided
- the responsiveness of early childhood educator/assistant to the changing needs of their clients
- the flexibility of early childhood educator/assistant
- the quality of communications between early childhood educator/assistant and others
- adherence to the organisation's code of conduct
- early childhood educator's/assistant's ability to work effectively as part of a team

You must understand the quality requirements of your job to ensure good job quality. Gain a clear comprehension of your job description and talk with your supervisor or manager if you have any questions. Quality requirements may include, but are not limited to, the following:

- being aware of workplace policies and procedures and actively following them
- being aware of your own job role and responsibilities
- monitoring your own work effectiveness
- reporting and discussing with your supervisor any inability to meet work requirements or any changes needed
- working cooperatively with others
- contributing to the development of your team and organisation



Take note of your duty of care. *Duty of care* refers to your responsibility to take reasonable care of the children in your care and adequately protect them from harm. Remember that your duty of care cannot be assigned to another party. You must personally take adequate steps to make certain the children in your care are safe from reasonably foreseeable injury. This may include 'babyproofing' the centre to

eliminate or minimise potential hazards or, in more extreme cases such as suspected child abuse, acting on concerns and suspicions of abuse promptly and in the best interests of the child.

*Based on [Understand your obligations](#), used under CC BY 4.0.
© State of Victoria (Department of Education and Training)*



Checkpoint! Let's Review

1. Sources of information are authoritative when they are known to be reliable, and experts in the field acknowledge their authenticity.
2. To correctly interpret regulatory documents, their Parts, Divisions, and Sections must be taken note of. These give a general idea of where to look for particular legal requirements.
3. The Children's Services Award 2010 is the modern award that covers employees in the children's services and early childhood education industry.



Learning Activity for Chapter 1

Well done completing this chapter. You may now proceed to your **Learning Activity Booklet** (provided along with this Learner Guide) and complete the classroom learning activities associated with this chapter.

Please coordinate with your trainer/training organisation for additional instructions and guidance in completing these practical activities.

II. Meet Legal and Ethical Obligations



In the previous chapter, you identified your legal and ethical obligations as an early childhood educator from authoritative sources. For this chapter, you will be performing the obligations you identified in the previous chapter in the day-to-day operations in your education and care service.

Meeting legal and ethical obligations is more than just adhering to legal and ethical requirements. It is part of your obligation to identify where ethical and legal issues may occur before they do and take the necessary steps to ensure that they are addressed before they escalate.

As an early childhood educator, you may sometimes face dilemmas concerning your legal and ethical obligations. During these situations, it is crucial to keep in mind that what you do must be in the best interests of all children in your care.

In this chapter, you will learn how to do the following:

- I. Adhere to legal and ethical requirements in work practice according to service policies and procedures and scope of role
- II. Identify potential ethical issues and dilemmas including conflict of interest and discuss with an appropriate person
- III. Identify potential or actual situations of non-compliance and report according to service procedures

2.1 Adhere to Legal and Ethical Requirements in Work Practice According to Service Policies and Procedures and Scope of Role

Policies and procedures are essential to ensuring childcare services provide consistent quality care to children and families. *Policies* are an organisation's guiding principles in decision making. They act as guidelines for how work should be carried out. On the other hand, *procedures* are step-by-step instructions for achieving a particular outcome based on organisational policies. They provide guidance and direction for educators, parents, and management to communicate the expectations and daily practices within the service clearly.

For example, a centre may have a policy that clearly outlines exclusion procedures for parents and educators if a child displays signs and symptoms of a contagious disease, such as conjunctivitis. The policy would stipulate for the educators to contact the parents to collect the child. Policies support decisions as best practice.



Sparkling Stars Early Years Learning Centre

Access and review Sparkling Stars' policy for immunisation medication and illness management through the link below.

[Sparkling Stars Policies & Procedures](#)

(username: newusername password: new password)

Education and care services typically have established policies and procedures to make sure that the service provided by its staff are aligned with their legal and ethical requirements. Requirements are legal when they are enforced by legislation. Non-conformance with these requirements is punishable by law. Requirements are ethical when a code of ethics enforces them. While some legislation refers to a code of ethics, non-conformance with ethical requirements is not necessarily punishable by law, but it is frowned upon in practice. Access and review service policies and procedures to ensure that you adhere to their legal and ethical requirements while performing your duties as an early childhood educator.

Not all of the policies and procedures may apply to your work role. Review the scope of responsibilities you identified for yourself in Section 1.3 against the policies and procedures of your centre. Take note of the policies and procedures relevant to your responsibilities as an early childhood educator in the centre.

Examples of work activities in different areas of practice and the legal and ethical obligations relevant to these areas of practice are presented in a table on the following page.

| Area of Practice | Work Activity | Legal Requirement | Ethical Obligation |
|--|---|---|---|
| Health | Following service procedures for safe storage and heating of food and drink | Regulation 77(1)(b) of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Create and maintain healthy, safe, and inclusive environments that support children's agency |
| Safety | Ensuring that the service is free from tobacco use, illicit drugs, and alcohol | Regulations 82 and 83 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Create and maintain healthy, safe, and inclusive environments that support children's agency |
| Wellbeing | Setting up spaces where children can engage in rest and quiet and relaxing experiences | Regulation 81 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Create and maintain healthy, safe, and inclusive environments that support children's agency |
| Incidents, injury, trauma, and illness | Following service procedures in events when a child becomes a victim of an incident that leads to injury, trauma, and illness | Regulations 85 and 86 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Create and maintain healthy, safe, and inclusive environments that support children's agency |

| Area of Practice | Work Activity | Legal Requirement | Ethical Obligation |
|---------------------------------|--|--|---|
| Response to a medical condition | Following the medical management plan of a child with peanut allergies | Regulation 90 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Create and maintain healthy, safe, and inclusive environments that support children's agency |
| Emergency response | Quarterly emergency and evacuation rehearsals | Regulation 97 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Create and maintain healthy, safe, and inclusive environments that support children's agency |
| Governance and leadership | Following policies and procedures enforced by the service | Regulation 170 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Work within the scope of professional role and avoid misrepresentation of professional competence and qualifications |
| Physical environment | Ensuring that each child in the service has access to sufficient furniture, materials, and equipment | Regulation 105 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Ensure that children are not discriminated against on the basis of gender, sexuality, age, ability, economic status, family structure, lifestyle, ethnicity, religion, language, culture, or national origin |
| Staffing arrangements | Supervising educators who are under the age of 18 years | Regulation 120 of the Education and Care Services National Regulations | <ul style="list-style-type: none"> Act in the best interests of children Mentor new graduates by supporting their induction into the profession |

2.1.1 Staffing Arrangements and Qualifications

It is essential to make certain that all children are educated and cared for by educators that have the experience, judgement, and maturity to deal with situations that may arise at a service.

NQS Quality Area 4 seeks to ensure the availability of trained and experienced educators, coordinators, and nominated supervisors who can establish warm, respectful relationships with children. It aims to provide children in education and care services with educators who can create healthy and predictable environments and promote children's active involvement in the educational process.

A centre-based service is required to have a responsible person present at all times while the service is educating and caring for children. Approved providers are responsible for selecting who the responsible person in their service is. When appointed, a written consent must be signed by the nominated supervisor. The provider and the nominated supervisor may additionally appoint a person in day-to-day charge. The names of each nominated supervisor must be displayed so that it is visible from the service's main entrance.



Further Reading

For further information on the minimum requirements of an appointed responsible person and person in day-to-day charge, you may access the information sheet from ACECQA provided below.

[Responsible Person Requirements for Approved Providers](#)

The Education and Care Services National Regulation establishes several staffing arrangement requirements for education and care services. For example, Division 3 of the National Regulations specifies education to child ratios that must be present in centre-based and family day care services in Australia. Part 4.4 Division 3 Section 123(1) specifies that for centre-based services, the ratio should be as follows:

| | |
|------------------|--|
| One educator per | Four children from birth to 24 months of age |
| | Five children over 24 months and less than 36 months of age |
| | 11 children aged 36 months of age or over (excluding those over preschool age) |
| | 15 children over preschool age |

Sourced from the New South Wales Legislation website at 26th March, 2021. For the latest information on New South Wales Government legislation, please go to <https://www.legislation.nsw.gov.au>.



Further Reading

For further information on the educator to child ratios stipulated in the National Regulations, access and review the link provided below.

[Part 4.4 Division 3 of the Education and Care Services National Regulations](#)

It should be noted that Division 3 Section 122 of the National Regulations specifies that only educators working directly with children at the service are to be counted for the calculation of educator to child ratios.



Further Reading

An educator to child ratio calculator for centre-based services is available on the ACECQA website. You may access this tool by clicking on the link below.

[Educator to child ratio calculator for centre-based services](#)

The National Regulations also set out different educational qualifications for educators in centre-based and family day care services. For example, Part 4.4 Division 4 Section 126(1)(a) stipulates that at least 50 per cent of educators at a centre-based service required to meet the relevant educator to child ratios for the service must have (or be actively working towards) at least an approved diploma level education and care qualification. Section 126(1)(b) further stipulates that the rest of the educators required to meet the educator to child ratio must have, or be actively working towards, at least an approved certificate III level education and care qualification.



Based on content from the New South Wales Legislation website at 26th March, 2021. For the latest information on New South Wales Government legislation, please go to <https://www.legislation.nsw.gov.au>.



Further Reading

For further information on the educator qualifications stipulated in the National Regulations, access and review the link provided below.

[Part 4.4 Division 4 of the Education and Care Services National Regulations](#)



Part 4.4 Division 6 of the National Regulations establishes the first aid qualifications for early childhood education and care services. Section 136(1) stipulates that centre-based services must guarantee the following persons to be present at all times where children are being educated and cared for by the service:

at least one staff member or nominated supervisor of the service with a current approved first aid qualification

at least one staff member or one nominated supervisor of the service who has undertaken current approved anaphylaxis management training

at least one staff member or one nominated supervisor of the service who has undertaken current approved emergency asthma management training

Sourced from the New South Wales Legislation website at 26th March, 2021. For the latest information on New South Wales Government legislation, please go to <https://www.legislation.nsw.gov.au>.

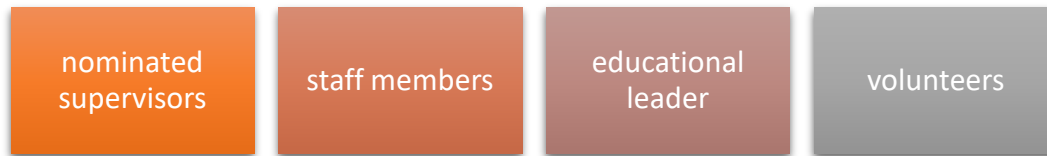


Further Reading

For further information on the first aid qualifications stipulated in the National Regulations, access and review the link provided below.

[Part 4.4 Division 6 of the Education and Care Services National Regulations](#)

Part 4.4 Division 9 of the National Regulations also established requirements for staff and educator records of early childhood education and care services. Section 145(2) of the Regulations states that staff records kept for the service must include information about the following:



Staff records must include the full name, address, and date of birth of nominated supervisors, staff members, and volunteers. Additionally, evidence of relevant qualifications (or that qualification training is undergoing) and any approved training is required for nominated supervisors and staff members.

Sourced from the New South Wales Legislation website at 26th March, 2021. For the latest information on New South Wales Government legislation, please go to <https://www.legislation.nsw.gov.au>.



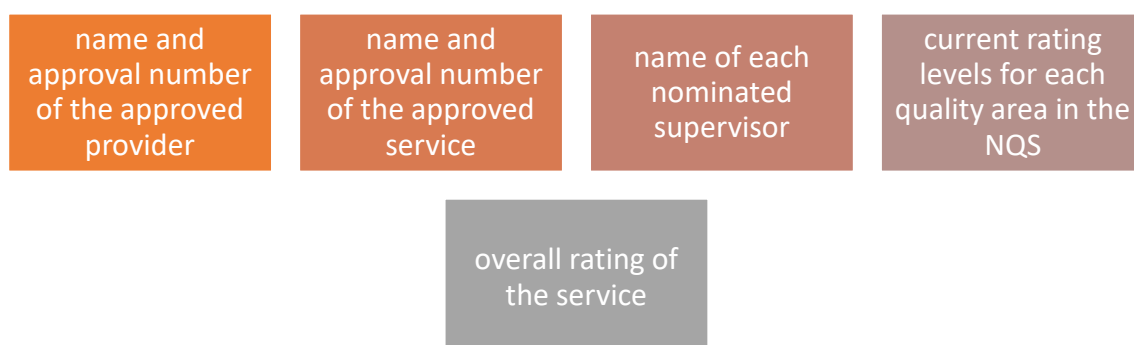
Further Reading

For further information on staff and educator record requirements stipulated in the National Regulations, access and review the link provided below.

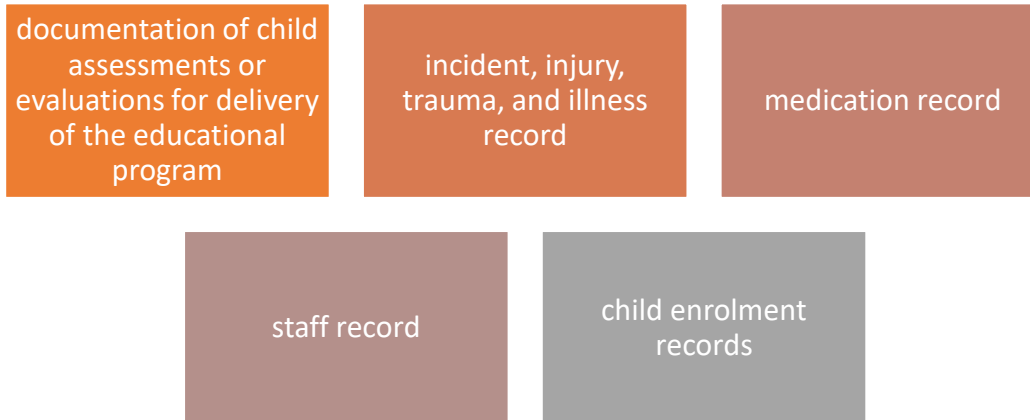
[Part 4.4 Division 9 of the Education and Care Services National Regulations](#)

2.1.2 Information Management in Early Childhood Education and Care Services

As an educator, you may hold privileged information about the children in your care. Information is privileged when it is legally protected so that it does not have to be given to the public. Part 4.7 Division 3 of the National Regulations specifies information and record-keeping requirements for education and care services. It outlines which information kept by the service should be prescribed and which ones should be privileged. Information is prescribed when there is a legal obligation to make them known to another party. For example, Part 4.7 Division 3 Subdivision 1 Section 173 specifies the following as prescribed information to be displayed at a venue where education and care services are provided:



Other prescribed information includes those that need to be notified to respective state/territory regulatory authorities. The National Regulations also specifies prescribed records that must be kept by the approved provider in an education and care service. These records include the following:



Sourced from the New South Wales Legislation website at 26th March, 2021. For the latest information on New South Wales Government legislation, please go to <https://www.legislation.nsw.gov.au>.



Further Reading

For further information on the display and reporting of prescribed information and records for education and care services in Australia, access and review the link provided below.

[Part 4.7 Division 3 Subdivisions 1 and 2 of the Education and Care Services National Regulations](#)

Regulation 75 further specifies that approved providers of education and care services must ensure that the following are kept available:

- Information about the contents and operation of the educational program for the service
- A copy of the educational program
 - In the case of a centre-based service, at the education and care service premises;
 - In the case of a family day care service, at each family day care residence or family day care venue.

Sourced from the New South Wales Legislation website at 26th March, 2021. For the latest information on New South Wales Government legislation, please go to <https://www.legislation.nsw.gov.au>.

The National Regulations also stipulate that information kept in prescribed records should be kept confidential from all people other than the following:

a parent of the child to whom the information relates (except in the case of information kept in a staff record)

the approved provider or a nominated supervisor of the family day care service

the Regulatory Authority or an authorised officer

to the extent necessary for the education and care or medical treatment of the child to whom the information relates

Policies and procedures currently followed by the service must also be made readily available to nominated supervisors, staff members, volunteers, and family day care educators engaged by or registered with the service according to Regulation 171. The regulation also specifies that these policies and procedures be available for inspection at all times that the service is educating and caring for children or on request.



Confidential information may be divulged when written consent is presented from the person who provided the information. Additionally, when it is expressly authorised, permitted, or required to be given by or under any Act or law, confidential information must be divulged. To ensure the confidentiality of prescribed records, the National Regulations specifies that they must

be stored in a safe and secure place and for a particular period. How long the records are kept depends on the nature of the information on them. The period specified by the National Regulations are as follows:

| Type of Record | Period It Must be Kept for |
|--|----------------------------------|
| Records that relate to an incident, injury, or trauma suffered by a child while being educated and cared for by the education and care service | Until the child is aged 25 years |
| Records that relate to an incident, injury, or trauma suffered by a child that may have occurred following an incident while being educated and cared for by the education and care service. | Until the child is aged 25 years |

| Type of Record | Period It Must be Kept for |
|---|---|
| Records that relate to the death of a child while being educated and cared for by the education and care service or that may have occurred as a result of an incident while being educated and cared for. | Until the end of 7 years after the death |
| Any other record relating to a child enrolled at the education and care service | Until the end of 3 years after the last date on which the child was educated and cared for by the service |
| Records that relate to the approved provider | Until the end of 3 years after the last date on which the approved provider operated the education and care service |
| Records that relate to a nominated supervisor or staff member of an education and care service | Until the end of 3 years after the last date on which relevant personnel provided education and care on behalf of the service |
| Any other record | Until the end of 3 years after the date on which the record was made |

Sourced from the New South Wales Legislation website at 26th March, 2021. For the latest information on New South Wales Government legislation, please go to <https://www.legislation.nsw.gov.au>.

Most education and care services follow data security and sharing procedures to control who has access to particular information and better preserve the confidentiality of records kept. Proper information management is enforced by both the National Law and the National Regulations. Access and review the procedures followed by your centre to make sure that you adhere to this requirement.



Sparkling Stars Early Years Learning Centre

Access and review Sparkling Stars' data security protocols through the link below.

[Sparkling Stars Policies & Procedures](#)

(username: newusername password: new password)

2.1.3 Legal and Ethical Considerations When Dealing With Families

As an early childhood educator, you will need to cooperate with the families of the children in your care to provide the most appropriate support for their development. As such, you will have to keep in mind legal and ethical considerations when dealing with families. This includes child custody, child protection, and confidentiality and privacy. Confidentiality and privacy protect children and their families from unwanted and unnecessary attention. Information going to the wrong people could cause harm to them. Maintaining confidentiality and privacy has been discussed in Section 2.1.2, so for this section, child custody and protection will be discussed.

The children's families, as well as education and care services, have rights and responsibilities to uphold in the lives of the children in their care. Some rights and responsibilities are shared by the families and service while others are not. Service rights and responsibilities are usually communicated through policies. Access and review your centre's policies to determine their rights and responsibilities. Family rights and responsibilities, however, are determined through legislation. Legislation relevant to family rights and responsibilities is discussed in the following sections.



Sparkling Stars Early Years Learning Centre

Access and review Sparkling Stars' rights and responsibilities through the policies and procedures listed in the link below.

[Sparkling Stars Policies & Procedures](#)

(username: newusername password: new password)

Child Custody

Child custody is the legal term for the practical relationship between a child and their parent or guardian. Each of the parents of a child under 18 years of age has parental responsibility for that child under the Family Law Act 1975. Parental responsibility includes the following:

to protect the child from harm

to provide the child with food, clothing, and a place to live

to financially support the child

to provide safety, supervision, and control

to provide medical care

to provide an education

Sourced from [Your duties and right as a parent](#), used under CC BY 4.0. © State of New South Wales (Department of Communities and Justice)

A court may issue a parenting order to transfer parental responsibility for a child (or part of it) to another person. This is done when situations call for parental responsibilities to be changed. For example, if one parent dies or has abandoned the child, arrangements can be made for the child to be cared for by other relatives such as grandparents or foster parents.

A parenting order can cover:

- who the children will live with
- who the children can communicate and spend time with
- other issues relevant to the children's care, including schooling and medical treatment

Sourced from [Parenting orders](#), used under CC BY 4.0. © Victoria Legal Aid

As an early childhood educator, you must determine who has parental responsibilities for the children in your care. Knowing who is responsible for a child's upbringing will help you coordinate support to address potential issues that may come up for the child while enrolled at your centre.

Child Protection

When a child has suffered, is suffering, or is at risk of suffering significant harm, and they do not have an apparent carer willing and able to protect them from the harm, they are in need of protection. Child protection is enforced by legislation across all state/territory in Australia under these three principles:

Best interest of the child

Early intervention

Participation of children and young people in decision-making processes

The principal child protection act enforced in each state/territory is presented in the table below.

| State/Territory | Principal Child Protection Act |
|------------------------------|---|
| Australian Capital Territory | Children and Young People Act 2008 |
| New South Wales | Children and Young Persons (Care and Protection) Act 1998 |
| Northern Territory | Care and Protection of Children Act 2007 |
| Queensland | Child Protection Act 1999 |
| South Australia | Children and Young People (Safety) Act 2017 |
| Tasmania | Children, Young Persons, and their Families Act 1997 |
| Victoria | Children, Youth and Families Act 2005 |
| Western Australia | Children and Community Services Act 2004 |

As an early childhood educator, you have a duty of care to minimise the risk of physical or psychological harm befalling the children in your care, whether as a direct result of their experience or from adults relevant to their lives. Some ethical considerations relevant to child protection for early childhood educators may include the following:

- Availability of procedures for supporting children experiencing distress
- Suitability of adults who will have direct contact with children
- Suitability of location for children
- Methods for protecting the privacy, anonymity, and confidentiality of children
- Risk of harm to children

2.2 Identify Potential Ethical Issues and Dilemmas Including Conflict of Interest and Discuss With an Appropriate Person



As you work as an educator, there may be instances when you become faced with situations where there is a conflict between your needs or behaviours and your professional and personal values. These situations are called *ethical dilemmas*. Issues are ethical when their presence indicates a possible violation of an ethical code.

While not true for all, an ethical issue may signify a legal issue as well. For example, corporal punishment is against both legislation and the ECA Code of Ethics. Corporal punishment violates Regulations 166 of the Education and Care Services National Regulations and carries the risk of serious psychological harm to children. Not all things that are unethical are illegal. In the same vein, something that is legal can still be unethical. For example, there is nothing wrong with allowing a child to eat meat from a legal standpoint; however, ethical issues may arise if the child's parents are vegan.

As an early childhood educator, you must be able to respond to these issues and dilemmas with the best interest of the children in your care in mind. Discussing ethical issues and dilemmas with appropriate persons, such as a supervisor or the parents to whom the issue or dilemma relates, will help you develop action plans to address them adequately while adhering to your ethical obligations as an early childhood educator.

Below are some examples of ethical issues and dilemmas you may encounter as an early childhood educator.

Ethical issues

Educators engaging in discussions that breach the privacy and confidentiality of children and their families

Parents being discriminatory against a staff member because of their gender, sexual orientation, or sexual identity

Ethical dilemmas

A parent who asks an educator not to let their child take a nap at school because they have a hard time falling asleep at night when they have afternoon naps

Parents of a child specifically instructed the centre to serve their child strictly vegan foods but the child wants to try non-vegan foods served to other children

In the first scenario, since the educators are colleagues, you may respond to the situation by objectively discussing the ethical issue with them in the form of sharing feedback. Sharing feedback to colleagues will be discussed in Subchapter 3.2. For situations involving persons outside of the centre, it is best to discuss the situation



with a supervisor and seek advice on addressing the issue or dilemma. Your centre may have established a set of procedures to address ethical issues and dilemmas you encounter as you perform your duties as an educator. If there are established procedures in your centre, access, review, and follow them.

2.2.1 Conflict of Interest in Education and Care Services

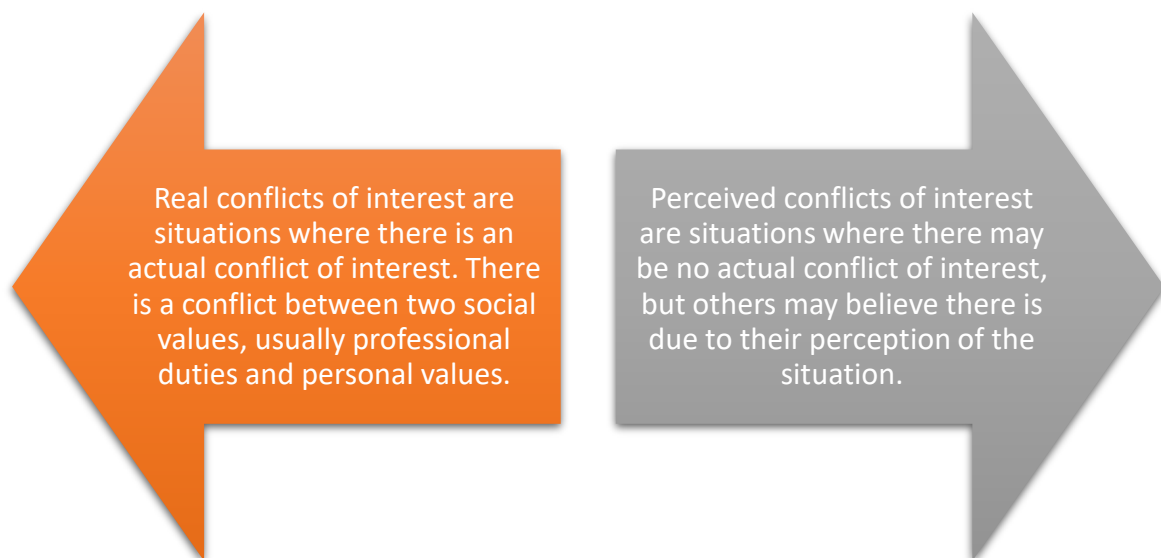
Conflicts of interest are situations when a person is involved in several interests, and serving one could work against the others. You may be faced with these situations while working as an early childhood educator. It is your responsibility to ensure that you put aside personal feelings, beliefs, and values and be open to resolving the conflict.

An example of a scenario that shows a conflict of interest is presented in the following passage.

One of the educators in a centre receives free products from Company A, an educational product supplier. Subsequently, they recommend purchasing products from Company A without looking into similar products from other suppliers.

In the situation presented above, while it may seem like the educator is only recommending the products of Company A because they receive free products from them, it may still be possible that the products are of good quality. The conflict of interest makes it harder to determine the true reason behind their recommendation.

Conflict of interest can be real or perceived. The difference between the two is presented in the figure below.



The earlier situation is an example of a perceived conflict of interest. An example of a real conflict of interest is when one of the children in the centre is the niece of an educator. The educator is faced with the dilemma of fulfilling their duty as an educator and their duty to family. Compared to perceived conflicts of interest, real conflicts of interest are simpler to resolve because of their straightforwardness. An educator must fulfil their professional duties in the centre first. Perceived conflicts of interest are more complicated because of their perceived nature, and they typically involve more people.

You may have conflicts of interest of your own, whether real or perceived by others. Be aware of your relationships with the families of the children in your care. Have you been receiving favours from them? If so, has this affected how you interact with the children during service hours? Reflecting on personal interests that may affect your professional duties is an excellent way of identifying where there are potential conflicts of interest.

Consider the following when responding to conflicts of interest in an early childhood education and care service:

Raise matters of potential conflicts of interest to a supervisor so they can be addressed properly

Review your centre's policies and procedures for dealing with situations where conflicts of interest may be present

Ensure that you are working within the roles and responsibilities of your work role in the centre

Politely decline favours from families of the children in your care and explain to them why the favours must be declined



2.3 Identify Potential or Actual Situations of Non-Compliance and Report According to Service Procedures

Early childhood education and care services have a legal obligation to confirm compliance with federal, state/territory, and local government legislation at all times in their day-to-day operations. Legal issues may arise when there is non-compliance in the service. As an early childhood educator, you have a responsibility to ensure that your and your co-educator's behaviours are compliant with all relevant legislation and regulations.

Your centre likely has a set of policies and procedures for all staff to follow. These were established by your centre to make sure that everyone in the centre complies with legal requirements. Access and review these policies and procedures to familiarise yourself with how your centre should be performing when legal requirements are adhered to. This will allow you to identify situations that may involve non-compliance easier.



Sparkling Stars Early Years Learning Centre

Access and review Sparkling Stars' policies and procedures through the link below.

[Sparkling Stars Policies & Procedures](#)

(username: newusername password: new password)

Early childhood education and care service compliance obligations include specific requirements under each of the seven Quality Areas in the National Quality Standards (as discussed in Section 1.1.1). There are also strict measures related to the employment of suitable staff, the storage and sharing of information, and child protection.

Below are some examples of legal issues due to non-compliance you may encounter as an early childhood educator.

Legal issues

Non-compliance with mandatory reporting requirements stipulated in state/territory child protection legislation

False representation of a centre's overall rating or a rating in respect of a quality area stated in the National Quality Standards given to the service

Be aware of how you and other staff members perform your duties in the service. Take note of potential and actual situations of non-compliance. Potential situations of non-compliance mean the situation is not yet non-compliant. However, it may become non-compliant if the situation is not appropriately addressed. Report these situations according to the procedures established by your service. This allows for consistency in the reporting process and fairness in dealing with the situation. Remember that you should be reporting situations of non-compliance not for personal gain but in the best interests of the children in your care.

If you observe another staff member acting in a manner that concerns you, reporting this can feel like a tricky situation—especially in a small team or where the staff member concerned is more experienced or your friend. However, it is part of your ‘duty of care’ to do so. An example of reporting non-compliance according to service procedures is presented in the passage below.

Educator A suspects that Educator B may not have been observing safe storage procedures for food being served to children. This is because there were times when Educator B would serve food to children that Educator A has not seen in the area where they store food. According to their service’s procedures for reporting potential instances of non-compliance, the situation must first be brought up to their immediate supervisor in writing so that a formal discussion can be arranged between the concerned parties. Educator A files a formal report regarding the situation and submits it to their supervisor.



Checkpoint! Let’s Review

1. The Education and Care Services National Regulations specify operational requirements relevant to staffing arrangements in early childhood education and care services. This includes minimum requirements for persons in charge, educator to child ratios, educational and first qualifications, and staff and educator records requirements.
2. The unethicity of something does not necessarily signify illegality. For example, there is nothing wrong with allowing a child to eat meat from a legal standpoint, but it becomes an ethical issue if the child’s parents are vegan and gave specific instructions regarding the child’s diet.



Learning Activity for Chapter 2

Well done completing this chapter. You may now proceed to your **Learning Activity Booklet** (provided along with this Learner Guide) and complete the classroom learning activities associated with this chapter.

Please coordinate with your trainer/training organisation for additional instructions and guidance in completing these practical activities.

III. Contribute to Workplace Improvements



In the first two chapters, you worked on meeting your legal and ethical obligations as an early childhood educator. However, the process of meeting legal and ethical obligations does not end with adhering to requirements and addressing issues. You also have an obligation to contribute to your education and care service's continuous improvement of work practices.

Continuous improvement in the context of early childhood education and care means ensuring the best outcomes for children. All stakeholders, including educators and parents, benefit as processes are reviewed and refined, and current best practices are applied. This is why as an early childhood educator, it is essential to participate in opportunities to help improve work practices when they arise.

In this chapter, you will learn how to do the following:

- I. Identify situations where work practices could be improved to meet legal and ethical responsibilities
- II. Share feedback through constructive communication with colleagues and supervisors
- III. Identify and take opportunities to contribute to the review and development of policies and procedures

3.1 Identify Situations Where Work Practices Could Be Improved to Meet Legal and Ethical Responsibilities



Some work practices in your service could be improved to meet legal and ethical responsibilities. *Work practices* refer to the established procedure for performing duties in the service. In Subchapters 2.2 and 2.3, you identified legal and ethical issues that may occur in your service. These are examples of situations where work practice improvements may be necessary. As an early childhood educator, you should endeavour towards improving work practices to remove or mitigate legal and ethical issues.

The National Quality Standards require educators to engage in critical reflection. It describes the intent of reflection as information gathering with the purpose of gaining insights that support, inform, and enrich the decision-making process in relation to children's learning.

Through regular reflective practice of examining 'what happened' and 'what could be changed or improved', you might notice work practices that could be improved. As part of your reflection, pay attention to 'why' things happen and not just 'how'. Look at the situation from other points of view and in the context of the community.

Some changes that can be made may relate to your own individual work practices and lead to improvements in how you personally meet your legal and ethical responsibilities. For example, changes to how you clean up after a learning session can improve how you fulfil your obligation to keep the children in your care from hazards and keep their environment safe.

Individual educator reflections and insights should also feed into the team and become the basis for discussions and goal setting regarding overall improvements in work practices.

Encourage and participate in a culture of professional exploration by finding and sharing relevant information with your team. Talk about things you learn and discover with your colleagues. Ask for their input on areas for improvement in work practices.

Do not forget to ask for input from children and their families, as well as your colleagues, supervisor, the wider community, and other professionals. New staff members can be an excellent opportunity to get a fresh perspective. Be open to new ideas and learn from others.

Be willing to try new things and not simply accept things at face value as being the way things have always been done. Remember that change takes time and cannot be rushed but must be planned for. Not everything needs to be changed completely. Many work practices may be successful and can be used as a basis for building on what works.



3.2 Share Feedback Through Constructive Communication With Colleagues and Supervisors

You may have identified legal and ethical issues concerning colleagues in Subchapters 2.2 and 2.3. Likewise, your colleagues may have identified potential issues concerning your duties in the service. As early childhood educators, you must help each other meet the best interests of the children in your care, which is why sharing feedback is important in your practice.

Feedback may be shared and sought from others through both formal channels (e.g. meetings, interviews, and workshops) and informal conversations. When you share feedback with your colleagues, it must be done through constructive communication. When constructive communication is utilised in feedback sharing, positive relationships can be preserved while addressing problems. On the other hand, a poor approach to communication can make problems worse instead of solving them.

Feedback can evaluate how effective you are as an educator, what needs to be changed, what skills or work practices need to be developed, and how performance meets standards. Consider the following when sharing feedback through constructive communication:

Communication should be focused on a problem that can be solved, not the person responsible for the problem.

What you say must be consistent with what you are thinking and feeling. A common example of inconsistent communication is saying 'it is no big deal' when discussing important matters.

Give objective feedback, not evaluative feedback. Feedback is objective when it is not influenced by personal feelings or opinions. It becomes evaluative when it expresses judgement of the receiver or their actions.

Issues are not the only things you can share feedback on with your colleagues and supervisors. Feedback can also be used to acknowledge your and your colleague's strengths. When feedback is used this way, it supports a workplace culture that is positive. This kind of positive feedback can also help you grow and develop as early childhood educators.

3.3 Identify and Take Opportunities to Contribute to the Review and Development of Policies and Procedures

Legal and ethical obligations of early childhood education and care services may change over time. The constant shift of these obligations necessitates the periodical review of policies and procedures to address changed or new requirements. As mentioned in Subchapter 2.1, policies and procedures dictate how particular actions should be done while in the service. Essentially, they are the mandatory set of actions employees of the service must take to accomplish a given task.

Policies, procedures, and protocols are typically reviewed in the following conditions:

As part of an annual review and planning procedure

For accreditation purposes

When a new legislation is passed that changes legal requirements

When new information regarding best practice is discovered

A review may also be done when particular policies or procedures have been found to contradict legal or ethical requirements or incidents in the workplace point to policies that are not working as intended.



As an early childhood educator, you are responsible for giving feedback and input when opportunities to contribute to these periodic reviews come about. You can also share feedback with your supervisor informally when you see an opportunity for improvement. When you contribute to the improvement of procedures and protocols in your centre, you are

also contributing to the proper development of current and future enrollees.



Checkpoint! Let's Review

1. Instances where legal and ethical issues may occur are examples of situations where work practices can be improved to meet legal and ethical responsibilities.
2. Constructive communication preserves positive relationships between a speaker and listener while addressing problems.
3. Policies, procedures, and protocols are typically reviewed as part of an annual review and planning procedure; for accreditation purposes; when a new legislation is passed; or when new information regarding best practice is discovered.



Learning Activity for Chapter 3

Well done completing this chapter. You may now proceed to your **Learning Activity Booklet** (provided along with this Learner Guide) and complete the classroom learning activities associated with this chapter.

Please coordinate with your trainer/training organisation for additional instructions and guidance in completing these practical activities.

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