

Child Care Insights

Family Day Care – Compliance and Policies and Procedures

Approved providers of family day care services will be aware that their State Regulatory Authority is responsible for regulating early childhood education and care services and for enforcing compliance with the Education and Care Services National Law (**National Law**) and the Education and Care Services National Regulations (**National Regulations**) applicable in each State.

It is not unusual for the Regulatory Authority to make unannounced visits to both the principal office of the service and several family day care residences at the same time in order to check for compliance with the National Law and the National Regulations.

Sometimes, the Regulatory Authority is sufficiently concerned about what it observes during spot checks to issue compliance directions to the approved provider requiring evidence that non-compliances have been rectified.

Occasionally, the concerns are so serious that the Regulatory Authority may issue a Show Cause Notice before deciding whether to suspend or cancel the provider approval. Show Cause Notices provide the approved provider with 30 days within which to provide a written response to the proposed suspension or cancellation.

In cases which are considered to be very serious, the Regulatory Authority may immediately suspend the provider approval without giving the approved provider a Show Cause Notice. It may do this under section 28 of the National Law on the basis that there is an immediate risk to the safety, health or wellbeing of a child or children being educated and cared for by the service.

The kinds of issues which can arise include chemicals or medicines being found to be accessible to children (for example in unlocked cupboards), children having access to plastic bags, children having access to uncovered electrical sockets, televisions not being secured to a wall (posing a threat of crushing injury to a child), outdoor spaces used by children not being enclosed by a fence or barrier that is of a height and design that young children preschool age or under cannot go through, over or under it. Other examples include the presence of a water or choking hazard, or premises, furniture and equipment not being safe, clean and in good repair.

The Regulatory Authority will also take a dim view of any residence where emergency and evacuation procedures are not displayed or where meaningful risk assessments for routine excursions cannot be found.

Regulatory Authorities are also increasingly concerned to see meaningful evidence of the educational program and practice and the documenting of child assessments or evaluations.

It is essential that family day care providers are able to demonstrate that they have carried out regular home visits during which such issues were either not found, or required to be immediately rectified. It is also essential that providers have a comprehensive set of policies and procedures which provide educators with meaningful information and guidance about how to comply with the requirements of the provider and the National Law and National Regulations, together with useful checklists for educators to complete such as a daily cleaning checklist and a daily safety checklist.

We recommend that as well as providing new educators with a copy of the service's policies and procedures, a comprehensive face to face induction process is carried out during which the policies and procedures and forms and checklists used by the service are fully explained to the educator. We recommend that providers utilise a written signed and dated record of the induction process, documents handed over during induction, and any other training provided to the educator. These are the kind of documents, together with monthly home visit records which can be produced in response to a Show Cause Notice.

We recommend that co-ordination staff and educators are provided with regular training and updates on the requirements of the policies and procedures and the National Law and National Regulations in order to help prevent issues arising in the first place, and that written evidence and records of the training provided are kept in order that they can be shown to the Regulatory Authority by way of evidence of a pro-active approach towards compliance on the part of the provider.

Meridian Lawyers is able to review policies and procedures for compliance with the National Law and National Regulations, and is able to prepare or review educator agreements and other key documents of governance of a service. We are also able to provide training on your own policies and procedures and the National Law and National Regulations either at your service or in our offices.

Please contact [Georgina Odell](#), Special Counsel for further information or assistance with your education and care service.



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