



Family Law and Access Policy

National Quality Framework:

Area 2 - Children's health and safety

Standard 2.2 - Safety

Elements:

2.2.3 - Child protection

Management, educators and staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse or neglect.

Children (Education and Care Services) National Regulations (2011 SI 653):

Reg. 84	Awareness of child protection law
---------	-----------------------------------

Related Policies:

- Interactions with Children
- Child Protection

Policy Statement:

Both parents of each child have full responsibility for their children until they reach 18 years of age, unless a court order's otherwise. This is not changed in any way as a result of a change in the parents' relationship, for example, separation or re-marriage. If the relationship breaks down, parental responsibility may be documented to clarify responsibilities in relation to the child.

Purpose:

To ensure that the service is upholding any responsibilities or obligations in relation to family law, child protection, and access at the service.

Scope:

This Policy applies to children, families, Educators and staff, and management.



Definitions:

- **Parental Responsibility:** each parent/guardian shares equal responsibility of their children's welfare, either in the long-term or on a day-to-day basis. This includes matters such as where the children will live, and with whom they will have contact with. Parental Responsibility is not affected by any change in the parents' relationship, for example if they separate or re-marry.
- **Parenting Orders:** orders that the court will make when parents cannot decide on matters themselves. There are four types of Parenting Orders:
 - **Residence:** an order stating with whom the child lives, including any shared arrangements.
 - **Contact:** an order stating the times that a child may have contact with a parent with whom they are not living, or anyone else who plays an important part in their life, such as a grandparent (contact can be face to face, by phone, or letters).
 - **Child Maintenance:** an order that provides for financial support of a child.
 - **Specific Issues:** an order regarding any other aspect of parental responsibility (this may include to everyday care, welfare and development of a child, issues relating to religion, education, sport or any other specific issue).

Residency:

The parent with whom the child lives is responsible for everyday decisions such as:

- Discipline,
- Going out,
- Clothes,
- Accommodation,
- Pocket money.

Residency can be a shared arrangement. Parents/guardians, regardless of their marital status, have joint and equal legal responsibilities for their children unless there is a court order determining otherwise.

Implementation:

Staff members of this service and Educators must be knowledgeable regarding which parent/guardian has specific legal rights and responsibilities to the child. The Service will request access to any relevant court orders issued for this reason.

Educators and other staff members will not allow children to leave the service without permission from the custodial parent/guardian.

In the case where guardianship and custody are legally defined, the Service's policy must be followed. Where situations change, a copy of the Custody Order must be provided to the



Service. Where situations or confrontation arise over custody, the child will be kept at the Service and the custodial parent will be contacted without undue delay, and if necessary, the Police and/or relevant government departments will also be contacted.

Under no circumstance will educators place themselves, the other children and other educators, in any danger. The safety of the child taken by the non-custodial parent will become the responsibility of the local police, federal police, FaCS and the Court system.

Sources:

- Family Law Act 1975 (Cth)
- Education and Care Regulations 2011
- National Quality Standards

Version control created	12 March 2021
Reviewed	11 March 2022 - No changes
Reviewed	2 February 2023 - Minor changes (format, business name change)
Reviewed	11 September 2023 - Minor changes (formatting), related policies added
Reviewed	September 2024 - No change
Next review	September 2025