



EMPLOYMENT POLICY

PURPOSE

This policy will provide clear guidelines for:

- To provide guidelines and procedures to ensure compliance with the Equal Opportunity Act 2010
- To provide details of employment conditions that are in excess of agreements and awards
- To provide guidelines for the employment selection and appointment process
- To provide guidelines for the appraisal process
- To provide guidelines for performance management of staff

POLICY STATEMENT

1. VALUES

West Hawthorn Pre-school is committed to:

- Ensuring that all aspects of the workplace are free from unlawful discrimination
- Ensuring the selection of staff for employment, promotion or advancement, training and development will be on the basis of merit
- Ensuring the termination of employment will be carried out without unlawful discrimination and in accordance with requirements set out in relevant legislation, industrial awards or agreements
- Ensuring equality of opportunity for existing staff and in the appointment of new staff. The Committee welcomes the contributions of staff from diverse backgrounds
- Providing conditions that attract and retain quality educators and other staff
- Reducing educator turn over

2. SCOPE

This policy applies to the Approved Provider, Nominated Supervisor, Certified Supervisor, Educators, other staff, students on placement and volunteers at West Hawthorn Pre-School.

3. BACKGROUND AND LEGISLATION

Background

The Approved Provider has overall responsibility for all aspects of employment of educators at the service and should ensure that the Centre is an equal opportunity employer. All new staff are required to present a current Working with Children Check and Police check (less than 6 months old) or VIT Registration.

A current list of approved qualifications is available on the Australian Children's Education and Care Quality Authority (ACECQA) website (refer to Sources). The Approved Provider also requires educators to hold other qualifications such as Anaphylaxis management training, emergency asthma training, and Level 2 First Aid. A CPR refresher course is required to be done annually by the educators and other teaching staff.

Legislation and standards

- Equal Opportunity Act 2010
- Fair Work Act 2009
- Occupational Health & Safety Act 2004
- Occupational Health & Safety Regulations 2007
- www.workcover.vic.gov.au can also provide further information
- Superannuation Guarantee (Administration) Act 1992
Relevant Awards/Agreements
- Victorian Early Childhood Teachers and Educators Agreement 2016 (VECTEA 2016)
- Clerks Private Sector Award 2010

4. DEFINITIONS

Approved first aid qualification: A list of approved first aid qualifications, anaphylaxis management and emergency asthma management training is published on the ACECQA website.

Certified Supervisor: An educator with a Supervisor Certificate (in accordance with the National Regulations) who may consent to being placed in day-to-day charge of the education and care service. The designation must be made by the Approved Provider or the Nominated Supervisor and accepted in writing by the Certified Supervisor. A Certified Supervisor placed in day-to-day charge of a service does not have the same responsibilities under the National Law as the Nominated Supervisor.

Criminal history record check: A full-disclosure, Australia-wide criminal history record check issued by Victoria Police, or by a police force or other authority of a state or territory, or the Commonwealth. It may also be referred to as a National Police Certificate or Police Records Check.

Early childhood teacher: A person with an approved early childhood teaching qualification. Approved qualifications are listed on the ACECQA website.

Educator: An individual who provides education and care for children as part of an education and care service.

Fit and proper: In determining whether an applicant is fit and proper, the Regulatory Authority must take into account the applicant's history of involvement in education and care services, their compliance with current and prior law, criminal history record check, and any bankruptcy or insolvency issues. The Regulatory Authority may reassess fitness and propriety at any time. Applicants are required to complete the Declaration of Fitness and Propriety form on the ACECQA website and have this approved by the Regulatory Authority.

Nominated Supervisor: A person who is a Certified Supervisor and has been nominated by the Approved Provider of the service under Part 3 of the Act to be the Nominated Supervisor of that service, and who has consented to that nomination. The Nominated Supervisor has day-to-day responsibility for the service in accordance with the National Regulations. All services must have a Nominated Supervisor.

Responsible Person: The Approved Provider (if that person is an individual, and in any other case the person with management or control of the service operated by the Approved Provider) or a Nominated Supervisor or Certified Supervisor who has been placed in day-to-day charge of the Centre in accordance with the National Regulations.

Staff record: A record which the Approved Provider of a centre-based service must keep containing information about the Nominated Supervisor, the Educational Leader, staff, volunteers, students and the Responsible Person at a service. Details that must be recorded include qualifications, training and the Working with Children Check (Regulations 146–149). A sample staff record is available on the ACECQA website: <http://acecqa.gov.au/storage/Staff%20record.pdf>

Supervisor Certificate: Allows a person to consent to be the Nominated Supervisor or Certified Supervisor, and be placed in day-to-day charge of an approved service. Applicants must be 18 years or older, be assessed as a fit-and- proper person (refer to Definitions above) and meet the minimum requirements for qualifications, experience and management capability required under the Regulations (Regulations 46–49). Applicants for a Supervisor Certificate are assessed by the Regulatory Authority.

Victorian Institute of Teaching (VIT): The statutory authority for the regulation and promotion of the teaching profession in Victoria, established as part of the Victorian Institute of Teaching Act 2001. All teachers (including Early Childhood Teachers) in Victorian government schools, Catholic schools and independent schools and Kindergartens are required to be registered with the VIT in order to practise in their profession. See also Kindergarten Guide for funding requirements.

Working directly with children: For the purposes of the National Regulations, working directly with children is defined as being physically present with children and directly engaged in providing them with education and/or care.

Working with Children (WWC) Check: The check is a legal requirement for those undertaking paid or voluntary child-related work in Victoria and is a measure to help protect children from harm arising as a result of physical or sexual abuse.

5. PROCEDURES

Employment Selection and Appointment Process

Educator / Staff Selection

Educator and Staff selection is primarily the responsibility of the Staffing Sub-Committee or HR representatives. The Committee will ensure that Best Practice is followed in the recruitment processes.

The Approved Provider will:

- Apply the principles of equal employment opportunity in the selection of all staff, promotion or advancement, training and development opportunities.
- Ensure that the selection criteria for employment at the Centre do not exclude disadvantaged groups from equitable consideration for positions.
- Ensure selection panels will be sensitive to the needs of applicants from disadvantaged groups, particularly language difficulties and cultural differences.
- Ensure that applicants who have a disability will be assessed against the selection criteria. The panel will apply the principle of reasonable adjustment to any impact the applicant's disability may have on the operations of the Centre.
- Cover Child Safety questions within the interview process (refer to Child Safe Policy)
- Conduct at least 2 referee checks, including at least 1 referee check from a previous line manager of the short listed candidates

Employment conditions for staff

Position Descriptions

All educators and staff members are given a copy of the relevant position description.

Position descriptions include the key requirements, specific responsibilities and tasks, conditions of employment and pay and conditions.

All educators and staff members will review their position descriptions and entitlements with a designated member of the Committee of Management biennially, or more frequently as requested.

Remuneration

- Educators and Staff are paid in accordance with the terms and conditions of their relevant

Award or Agreement.

- Copies of the Awards and Agreements that employees are paid in accordance with are freely available to employees and can be found at the links below.
- Kindergarten Teachers and Kindergarten Assistants will be employed under the VECTEA 2016
- The Administrative Assistant will be employed under the Clerks Private Sector Award 2010 with a negotiated hourly rate to reflect experience and qualifications.

Professional Development

- All educators are required to participate in professional development.
- All educators are required to attend staff meetings.
- It is expected that educators will actively participate and contribute to all aspects of staff meeting procedures. Minutes of staff meetings will be taken and are available for the Committee of Management as requested.
- The Director has a responsibility to support, and extend the knowledge of educators in relation to the National Quality Standard, the Early Learning Years Framework, practices and principles.
- The Director is required to ensure ongoing professional development for all educators.
- The Committee will ensure that funds are set aside for Educators Training in each year's budget. That all staff will have equitable access to training and development. Allocation of the funds are equitable and appropriate and are based on identified service needs.
- The approval of attending professional development is at the discretion of the Approved Provider and the Nominated Supervisor.
- West Hawthorn Pre-school will reimburse educators for the cost of essential first aid courses.

Professional Development Process

Professional Development in relation to the Victorian Early Childhood Teachers and Assistants Award (VECTEA) 2016

45. PROFESSIONAL DEVELOPMENT

45.1 Each year services will allocate two child-free days as determined by the employer where teachers will be released from teaching and other normally rostered duties in order to undertake professional development.

45.2 In order to gain maximum benefit from such professional development activities they will be determined jointly by the employer and employees and may include formal and informal activities to facilitate the designated outcomes.

45.3 Where possible these days should be set well in advance each year so that parents can make suitable arrangements. Where possible, employers are encouraged to coordinate activities with other early childhood services to promote cooperative professional development and planning to maximise the use of available resources.

45.4 An employer may reimburse or meet part or all of the costs of approved professional development activities.

The Committee of Management of West Hawthorn Pre-school recognises the importance of professional development for all staff. We value our staff tremendously and view Professional Development as an important way to support our staff. We offer the same allocation of two child free days to the Educators, as well as the Teachers. This is above the requirements of VECTEA 2016.

The Committee intends to fund two days of professional development training/course each year, for each staff member. This is dependent on budget, and will be granted on a case by case basis.

West Hawthorn Pre-school will have one child-free day per year, when all staff will participate in a joint Professional Development day, as organised by the Director. On this day, all staff will be paid their usual hourly rate for the hours of the course. For staff that usually work on that day, they will be paid the course hours or their usual hours of work - whichever is greater. The costs of the day training course will be met by the Committee.

An optional second professional development day is to be chosen by each staff member, in consultation with the Director. An application for professional development leave then needs to be submitted to the

Committee. As much prior notice as possible is appreciated.

If the chosen course falls on a usual work day, then the staff member will be paid their usual hours for that day. If the course falls on a day that the staff member does not usually work at WHPS, then the staff member will not be paid for the day.

An application to cover the cost of the training day/course needs to be submitted with the leave request.

Probationary Period

During the probationary period an employer can terminate an employee's employment for any reason without any unfair dismissal implications arising.

Under the Fair Work Act 2009, an employee cannot make an unfair dismissal claim if your business employs:

- Less than 15 employees – the employee cannot make a claim if they have worked for less than 12 months for the employer: or
- 15 or more employees – the employee cannot make a claim if they have worked for less than 6 months for the employer.

West Hawthorn Pre-school currently employs less than 15 employees.

Additional Benefits

Lunch break

Staff are offered a paid lunch break and are given the opportunity to leave the premises, when an appropriate nominated person has responsibility for the service. This is above the award in VECTEA 2016.

Work Cover

The Centre will abide by the current legislation concerning Work Cover.

Superannuation

Will be paid according to Government regulations.

Leave

Leave will be in accordance with employment agreements.

Employees will take leave during term breaks unless otherwise agreed between the employer and employee. Any agreed deviation from the relevant award for the employee will be documented in the employee's Letter of Employment.

Approved unpaid leave or 'leave without pay'

An employee may apply for a period of approved unpaid leave which will be considered by the Committee on a case by case basis with approval to be at the sole discretion of the Committee.

In determining the matter, the employer may have regard to the following:

1. any benefit to the service resulting from granting the application;
2. whether the employee has access to any form of paid leave;
3. operational requirements of the position;
4. impact on other employees;
5. impact on children attending the kindergarten;
6. additional costs to the employer (excluding any costs directly associated with the employment of a replacement employee for the period of leave);

7. ability to cover within WHPS staffing team;
8. ability to source appropriately qualified staff;
9. any other staff on leave during the same period;
10. previous leave requests from the employee;
11. reason for leave, with preference being given for leave requested in relation to professional development.

The employee must submit his/her application in writing with 8 weeks' notice strongly preferred prior to the proposed commencement of leave.

Employee benefits during a period of unpaid leave will be treated as follows:

- Whilst you are on unpaid leave you will not receive superannuation contributions.
- Accrual of leave: annual leave, and personal leave entitlements will not accrue during any of the period of absence on unpaid leave.
- The employee must continue to abide by their letter of employment.
- Should the employee decide not to return to employment with the service, normal notice conditions, as per their agreements must be met.
- The employee may not take up paid employment with another employer during the leave without pay period without first resigning from WHPS.

Employees will be notified in writing of the outcome of any request for leave without pay.

Long service leave

- Entitlements and conditions will be in accordance with the Long Service Leave Act 1992 (Vic) as per employment agreements.
- For all employees employed under the VECTEA 2016, a request for long service leave is to be placed in writing with a minimum of one terms notice required, for consideration by the Approved Provider.

Resignation

- Employees resigning from the service are required to give notice in accordance with their relevant agreements.
- The notice period may vary from employee to employee depending on their length of service and the agreement that they are employed under.
- The notice period must be during the service's operational hours

Staff Performance and Termination

Performance Appraisal

- The aim of the Performance Appraisal is to provide an opportunity for educators to evaluate their own work performance and to receive feedback from their supervisor and to identify and plan future training.
- Performance appraisal for all educators will be conducted annually by the Director.
- The Director's performance appraisal will be conducted by the President or a member of the Committee of Management, and can include another Educator at the service.
- Educators can provide information to the Director for inclusion in the appraisal process.
- All employees are required to participate in the Appraisal Process.

Performance Management

Expected standards of conduct and performance are outlined for employees in their position descriptions, staff handbook and various service policies. These expectations are clearly articulated during the induction and orientation process. It is in the employer and employee's best interest to address issues of underperformance promptly and appropriately.

- The Approved Provider will be notified of all employees that are being performance managed by the Nominated Supervisor.
- Performance management may involve informal discussions as well as more formal performance counselling.
- The Nominated Supervisor will be responsible for developing a performance management plan with the employee that addresses the deficit. The performance plan will include required actions, deadlines, feedback and documentation.
- The Approved Provider may be involved in performance management meetings as needed.
- Performance management may result in written warnings being issued by the employer.
- Performance management may result in an employee being terminated from the service.

Disciplinary Action

Disciplinary Action is taken where performance management and counselling have been unsuccessful or where the situation is more serious such as in the instance of serious misconduct, breach of regulations or incidents that must be reported to DET, Police or other authorities. Disciplinary action as a consequence of misconduct must only be considered after a thorough investigation has been completed.

- The Approved Provider will be involved in any disciplinary action.
- The Approved Provider will ensure that processes are compliant with the recommendations of Fair Work Australia and relevant employment agreements.
- Conduct, which falls within the scope of unacceptable behaviour that justifies disciplinary action, may also result in termination of employment.

Termination

At any time, the employer may terminate the employment of the employee without notice for any cause warranting summary dismissal by common law or by statute.

- An employer may dismiss an employee in this manner if that employee:
 - Engages in any act of omission constitutes serious or wilful misconduct in respect of his/her duties.
 - Breaches the confidentiality of the service and/or children in his/her care.
 - Is convicted of a criminal offence that has significance with respect to the nature and operation of the workplace.
 - Is at work under the influence of illicit drugs, alcohol or any other substances that may impair his/her performance.
 - Refuses or wilfully neglects to comply with any lawful and reasonable order given to them by the employer.
 - Acts in a manner that brings the employer into disrepute.
 - Acts in a manner that is a serious breach of the Education and Care Services Law Act 2010 and/or the Education and Care Services National Regulations 2011, or other regulation/legislation applicable to the Centre.
- Within the probationary period in accordance with Fair Work Australia.

Employee Complaints

Any employee who wishes to lodge a complaint (e.g. harassment, bullying, discrimination) against another staff member or a parent is required to notify the Approved Provider in writing.

The Approved Provider will:

- Ensure all complaints/grievances, regardless of whether they are of a major or minor nature, will be treated seriously and an investigation carried out fairly and efficiently.
- Give the complainant an opportunity to respond.
- All parties to a grievance have the right to:
 - Have grievances conducted in a fair, objective and unbiased manner,
 - Be treated with respect,
 - Be kept informed, about the progress of their grievance,

- Only have relevant factors taken into account in resolving a grievance,
- Not be subjected to any form of retribution, either stated or implied,
- Have a support person present at all stages of the process, but not a legal representative. A support person may be a work colleague or union representative. A support person may offer support only, and they are not there to act as an advocate or to disrupt proceedings.
- Be kept informed, orally and in writing of the outcome of the grievance and the reasons for it, and
- To Confidentiality.

All parties to the grievance are expected to:

- Respect and consider alternative views and opinions,
- Fully participate in the grievance process, and
- Not personalise issues.

6. EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, the Approved Provider will:

- Regularly check staff records to ensure Working with Children Checks and qualifications are current and complete.
- Regularly seek feedback from everyone affected by the policy regarding its effectiveness.
- Monitor the implementation, compliance, complaints and incidents in relation to this policy.
- Keep the policy up to date with current legislation, research, policy and best practice.
- Revise the policy and procedures as part of the Service's policy review cycle, or as required
- Notify employees at least 14 days before making any changes to this policy or its procedures.

7. RESOURCES AND DOCUMENTS

- ELAA Resources include guidelines and example letters for recruiting educators
- Department of Education and Training
- Australian Education Union
- United Voice Related Policies
- Code of Conduct Policy
- Complaints and Grievances Policy
- Privacy and Confidentiality Policy
- Staffing Policy

ATTACHMENTS

Nil

AUTHORISATION

This policy was adopted by the Registered Care Provider of West Hawthorn Pre-school on **16/10/2019**

This policy was endorsed through communication to Stakeholders on **07/11/2019**

REVIEW DATE: 16/10/2024