



Non-Compliance Policy and Procedures

Policy Number:	2008/05
Approved by:	Heritage Management Committee – November 2008, 12 February 2013; 9 October 2018; 11 October 2022
Last reviewed:	October 2008, December 2012, September 2018; September 2022
Next review due:	2025
National Law and Regulations	National Law Sections 172, 174 National Regulations 168, 170-173, 176.
National Quality Standard	Quality Area 7: Governance and Leadership. Related Areas: 2, 4, 5, 6

Policy Statement

All members of the Heritage community, including families, educators, students, volunteers, visitors, management and the Management Committee, aim to work in partnership to ensure the best outcomes for the children in their education and care. Families and staff agree at the time of enrolment or employment to familiarise themselves with and comply with Heritage Philosophy, Code of Conduct/Ethics, and all policies and procedures.¹

Despite the best efforts of all, inevitably there will be times when conflict or simply differences of opinion arise regarding a particular policy or procedure. The Non-Compliance Policy and Procedure is to be used as appropriate, in conjunction with the Heritage Complaints and Grievance Management Policy and Procedures (Staff or Non-Staff).

This policy uses the term ‘family’ generically to encompass enrolled children’s parents and/or guardians and includes extended members involved in the care of the child at Heritage.

Scope

This policy and related procedures apply to all persons who access the Heritage service including children, families, educators, students, regular volunteers, management, members of the Management Committee and visitors.

Policy Aims

- The Heritage Non-compliance Policy and Procedure has been created to formally recognise, promote, and protect the rights of all persons in the Heritage community and to support the Heritage Code of Conduct/Ethics.
- If, after due process in relation to the Complaints and Grievance Management Policy (Staff/Non-Staff), the Director or Management Committee or other nominated party deems that a person in the Heritage community has not complied with Heritage policies or procedures, the Non-Compliance Policy & Procedure will be applied as appropriate.

Rationale and Legislative Background

Heritage recognises it has a legal responsibility and duty of care to take all reasonably practicable steps to provide a safe and healthy work environment for the Heritage community that supports the emotional and physical wellbeing of employees and children (*Work Health and Safety Act, 2011*).

¹ Refer to: Employment and Staffing Policy; Enrolment and Graduating Rooms Policy; Service Handbooks

In addition, this policy has been developed to comply with the:

- [Education and Care Services National Law Act \(ACT\), 2010](#)
- [Education and Care Services National Regulations \(ACT\), 2011](#)
- [National Quality Standard for Early Childhood Education and Care](#)
- The Heritage Constitution, Philosophy Statement and Code of Conduct/Ethics
- The United Voice and Heritage Big Steps Enterprise Agreement 2013

Related Education and Care National Law	
Section 172	Offence to fail to display prescribed information
Section 174	<p>(2) The service must notify the Regulatory Authority of the following information:</p> <p>(a) any serious incident at the approved education and care service.</p> <p>(b) any complaints alleging:</p> <p style="margin-left: 20px;">(i) that a serious incident has occurred or is occurring while a child was or is being educated and cared for by the approved education and care service.</p> <p style="margin-left: 20px;">(ii) that this Law has been contravened.</p>
Related Education and Care National Regulations	
R 168	<p>(2) Policies and procedures are required in relation to the following:</p> <p>(o) dealing with complaints.</p>
R 170	<p>Policies and procedures to be followed</p> <p>(1) The approved provider of the service must take reasonable steps to ensure that nominated supervisors and staff members of, and volunteers at, the service follow the policies and procedures required under regulation 168.</p>
R 171	Policies and procedures to be kept available
R 172	Notification of change to policies or procedures
R 173	<p>Prescribed Information to be displayed</p> <p>(2) For the purposes of section 172(f) of the Law, the following matters and information are prescribed:</p> <p>(b) the name and telephone number of the person at the education and care service to whom complaints may be addressed.</p> <p>(e) the contact details of the Regulatory Authority.</p>
R 176	<p>Time to notify certain information to Regulatory Authority</p> <p>(b) in case of a notice under section 174(2)(b) or a notice of a matter referred to in regulation 175(2)(b), within 24 hours of the complaint or incident.</p>
Related National Quality Standards	
QA 2	Standard 2.2 Safety: Each child is protected. Element 2.2.3 Management, educators/staff are aware of their roles and responsibilities to identify and respond to every child at risk of abuse/neglect.
QA 4	Standard 4.2 Professionalism: Management, educators, and staff are collaborative, respectful, and ethical. Element 4.2.2 Professional standards guide practice, interactions, and relationships.
QA 5	Standard 5.1. Relationships between educators and children: Respectful and equitable relationships are maintained with each child.
QA 6	Standard 6.1. Supportive relationships with families: Respectful relationships with families are developed and maintained and families are supported in their parenting role.
QA 7	<p>Standard 7.1 Governance. Element 7.1.2 Management Systems: Systems are in place to manage risk and enable the effective management and operation of a quality service.</p> <p>Standard 7.2 Leadership. Element 7.2.1 There is an effective self-assessment and quality improvement process in place.</p>

Strategies and Procedures

All persons who access the Heritage service must abide by the Heritage Code of Conduct/Ethics and all Heritage policies and procedures at all times.

Procedure for Dealing with a Complaint/Grievance in Relation to a Policy and Procedures

Step 1: Informal Discussion

- Should a complaint/grievance arise relating to a particular policy and/or procedure, the relevant Complaints and Grievance Management Policy and Procedures (Staff or Non-Staff) will be followed, with Step 1 being an informal discussion between the parties involved, if appropriate.

Step 2: Formal Grievance Meeting

- If the complaint/grievance is unable to be settled through informal discussions, the Director, Chair of the Management Committee or other nominated party, will investigate and mediate formal grievance meetings according to the guidelines in the relevant Complaints and Grievance Management Policy (Staff or Non-Staff).

Step 3: Disciplinary Action or Non-Compliance Procedure Applied

- Where the Mediator decides there has been an infringement of a policy and/or procedure by a staff member, they may instigate disciplinary action. **Refer to:** Staff Underperformance and Misconduct Policy.
- Where the Mediator decides there has been an infringement of a policy and/or procedure by a family member, student, volunteer or visitor, the Committee may instigate disciplinary action. **Refer to:** Non-Compliance Procedure below.

Refer to: Complaints and Grievance Management Policy (staff/non-staff)

Procedure for Non-Compliance by a Family Member, Student or Volunteer

Step 1: Verbal Warning

The Director, in consultation with the Heritage Management Committee will issue a verbal warning.

Step 2: First and Final Written Warning

If the infringement continues, the Director, in consultation with the Management Committee will issue a first and final written warning which will:

- Outline the infringing behaviour.
- Request immediate cessation of this behaviour.
- Warn of termination of the person's access to the Heritage service should the infringement continue (eg, termination of the non-compliant family member's child/ren's place at Heritage).

Step 3: Termination of the person's access to the Heritage Service

If the infringement continues, the Director, in consultation with the Management Committee may, at their discretion, pass a resolution to:

- Terminate the person's access to the Heritage service. This includes immediate termination of the non-compliant family member's child/ren's place at Heritage and the family's membership of the Heritage Association (as per their enrolment form).

Following the Passing of a Resolution to Terminate a Family's Membership of the Association:**Step 1: The Committee must, as soon as practicable, serve a written notice to the family:**

- Setting out the resolution of the Committee and the grounds on which it is based.
- Stating that the member has a right to appeal the decision and may address the Committee at a meeting to be held **within 28 days** of the notice being served.
- Stating the date, place and time of that meeting.
- Informing the family members that they may:
 - Attend and speak at that meeting; and/or
 - Submit to the Committee at or before the date of that meeting written representations relating to that resolution.

Step 2: Where the family chooses to address the Committee meeting:

The Committee must:

- Give to the member an opportunity to make oral representations
- Inform them they have the right to be assisted by a representative)
- Give due regard to such oral representations
- Give due consideration to any written representations submitted to the Committee by that member at or before the meeting
- By resolution decide whether to confirm or to revoke the resolution of the Committee.

Step 3: Where the Committee confirms the resolution to terminate the family's membership:

The Chairperson or Secretary must:

- **Within 7 days**, inform the member by written notice of the confirmation and of their right to appeal under Section 19 of the Heritage Constitution.

Note: A resolution confirmed by the Committee does not take effect:

- Until the end of the period within which the member is entitled to appeal against the resolution, if the member does not exercise the right of appeal within that period; or
- If, within that period, the family exercises the right of appeal – unless and until the Association confirms the resolution in accordance with section 19.

The Right of Appeal of a Disciplined Member of the Association

A member may appeal within **7 days** after notice of the resolution that is confirmed and is served to the member, by lodging with the Chairperson/Secretary a notice to that effect.

- **Step 1:** On receipt of an appeal notice, the Chairperson/Secretary must notify the Committee which must call a General Meeting of the Association to be held within **21 days** after the date when the Committee received the notice or as soon as possible after that date, at which:
 - No business other than the question of the appeal may be transacted; and
 - The Committee and the member must be given the opportunity to make representations in relation to the appeal orally or in writing, or both; and
 - The members present must vote by secret ballot on the question of whether the resolution should be confirmed or revoked.
- **Step 2:** If the meeting passes a Special Resolution in favour of the confirmation of the resolution made under section 18(g), the resolution is confirmed.

Refer to:

Section 18 of the Heritage Constitution: Disciplining Members.

Section 19 of the Heritage Constitution: Right of Appeal of Disciplined Member.

Related Policies and Documents

Name	Location
Enrolment and Graduating Rooms Policy and Procedures	Policy and Procedures Manuals in Entrance Foyer, Main Office, and Staff Programming Room.
Complaints and Grievance Management Policy (non-Staff)	
Heritage Code of Conduct/Ethics	
Heritage Constitution	Policies and Procedures documents and Handbooks in Members Area of website.
Heritage Philosophy Statement	
Staff Underperformance and Misconduct Policy and Procedures	

Version Control

Version Number	Approval Date	Approved by	Author and Amendments
1	October 2008	Management Committee	New policy and procedure.
2	October 2012	Management Committee	Author: Julia Charters <ul style="list-style-type: none"> Added Policy Aim and Rationale including National Quality Standard. Added verbal warning to Non-Compliance Procedure as per General Grievance Policy. Minor language edits, including replacing the term 'parents' with 'families' and 'staff' with 'educators and management'. Added references in text to Employment of Education and Care Professionals Policy; Enrolment Policy; Heritage Handbook; Policy Handbook; Educator Handbook; Relief Educator Handbook; Heritage Philosophy; Heritage Code of Conduct (Ethics); Communication and Family Involvement Policy.
3	October 2018	Management Committee	Author: Julia Charters <ul style="list-style-type: none"> Added section on the Right to Appeal of families where, after due process, their membership of the Association is terminated by the Committee under the Non-Compliance procedure. This reflects the Heritage Constitution update, 2017. Added Relevant National Law, Regulations and Quality Standards as an Appendix.
4	October 2022	Management Committee	Author: Julia Charters <ul style="list-style-type: none"> Added Table to Rationale and Legislative Requirements. Added hyperlinks to legislation and Members Area of website to access policy and procedures documents and Handbooks. Minor layout edits. No changes to procedures.