

PROFESSIONAL BOUNDARIES

for OSHC staff and providers
in their interactions with
children and young people in
Queensland



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This resource has been adapted from 'Protective practices for staff in their interactions with children and young people' developed by the Government of South Australia by the Queensland Children's Activities Network (QCAN) to align with the Queensland OSHC context.

This resource should be used in conjunction with your service's Code of Conduct and is supported by the QCAN Code of Ethics which can be found at the back of this resource.

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Relevant Convention, Laws and Frameworks

<p>Convention on the Rights of the Child</p>	<p>The convention enshrines the entitlement of all children and young people, regardless of race, colour, sex, language, religion, disability, wealth or nationality, to their rights including to be protected from all forms of child abuse, to receive special help if they are abused, to have their opinions heard about matters that affect them, to receive and share information, and to be treated with dignity if disciplined.</p>
<p>Laws</p>	<p>Relevant legislation includes:</p> <ul style="list-style-type: none"> • Age Discrimination Act 2004 (Qld) defines unlawful discrimination against a person on the grounds of age • Anti-Discrimination Act 1991 (Qld) defines unlawful discrimination, sexual harassment, vilification and victimisation • Child Protection Act 1999 (Qld) defines child abuse and mandates educators, Nominated Supervisors and Approved Providers in education and care services to report concerns of child abuse and neglect • Criminal Code Act 1899 (Qld) defines illegal criminal behaviour • Criminal Code (Child Sexual Offences Reform) and Other Legislation Amendment Act 2020 (Qld) implement recommendations from the Royal Commission and are part of an extensive package of reforms to improve the safety of children and protect them from sexual abuse • Disability Discrimination Act 1992 (Qld) which provide legal protection against disability discrimination in specified areas including education • Education and Care Services National Law Act (2010) and Regulation (2011) regulates the provision of quality education and care services including OSHC • Human Rights Act 2019 (Qld) protects the human rights of every person in Queensland when they interact with the government, police, public hospitals, public schools and other organisations doing work for the Queensland Government • Racial Discrimination Act 1975 (Qld) defines illegal racial discrimination • Sex Discrimination Act 1984 (Qld) defines illegal discrimination on the ground of sex, sexual orientation, gender identity, intersex status, marital or relationship status, pregnancy, potential pregnancy, breastfeeding or family responsibilities or involving sexual harassment • Work Health & Safety Act 2011 (Qld) • Working with Children (Risk Management and Screening) Act 2000 (Qld)
<p>National Frameworks</p>	<ul style="list-style-type: none"> • Safe & Supported - National Framework for Protecting Australia's Children 2021-2031 affirms that protecting Australia's children is everyone's business. All Australians need to work together across all jurisdictions and contexts to keep children and young people safe and to achieve the best outcomes for those who are especially vulnerable or disadvantaged. • National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030 focuses on child sexual abuse in all settings, including in organisations, online, within families, and by other people known and unknown to the child or young person. It is a whole-of-nation policy approach that provides the strategic framework for increasing our understanding of, better responses to, and prevention of child sexual abuse. • National Quality Framework (NQF) is the national agenda that describes and regulates the quality of early childhood education including school-age care through the National Quality Framework for Early Childhood, Education and Care. It operates under an applied law system, comprising the Education and Care Services National Law and Regulations, National Quality Standard (NQS), Approved Learning Frameworks (MTOP) and Assessment and Ratings. • National Principles for Child Safe Organisations focuses on what organisations can do consciously and systematically to create child safe communities including a <i>Code of Conduct</i>.
<p>Professional Standards</p>	<ul style="list-style-type: none"> • OSHC Professional Standards for Educators • OSHC Professional Standards for Management and Leadership • Australian Professional Standards for Teachers
<p>Queensland's Blue Card System (BC)</p>	<p>The blue card system:</p> <ul style="list-style-type: none"> ▪ is a key prevention and monitoring system of people working with children and young people in Queensland ▪ aims to minimise the risks of harm to children and young people by contributing to the creation of safe and supportive environments, and ▪ is founded on the principle that all children have a fundamental right to be protected from harm. ▪ The system requires OSHC services to have Child and Youth Risk Management Strategy which includes 8 organisational requirements to be met

Professional Boundaries for Working with Children & Young People

Boundaries are an integral part of the identity of every helping profession (Feeney, Freeman & Moravcik, 2020), and people who are employed or volunteer to work with children and young people, directly or in other roles (to be referred to as educators henceforth) in outside school hours care (OSHC) are no different. This resource supports educators to consider how they safeguard the emotional and physical wellbeing of the children and young people in Queensland services. It helps develop educators understanding of appropriate professional boundaries in relation to their important roles and all interactions with children and young people.

By following these guidelines, educators can feel confident about meeting their responsibilities to children and young people as well as their legal, ethical and professional conduct obligations.

Duty of Care

In the education and care context, duty of care is a common law concept that refers to the responsibility of educators to provide children and young people with an adequate level of protection against harm. It is usually expressed as a duty to take reasonable care to protect children and young people from all reasonably foreseeable risk of injury.

The question of what constitutes reasonable care in any given case will be determined objectively by a court and will depend on the individual circumstances of each case. The courts have found that the standard of care owed by education and care providers to children and young people is very high.

In their relationships with children and young people, educators are required to ensure that the physical and emotional welfare of the children and young people is safeguarded, and that their own behaviour is guided by this duty of care both within and beyond the education and care setting.

Within the area of protective practices, this duty of care particularly relates to educator's:

- expectations about their own conduct – which is determined also by their service's *Code of Conduct*
- intervening in the inappropriate conduct of other adults, children and young people and
- reporting unprofessional behaviour of other adults if they observe or are informed of such behaviour.

Professional Relationships

Professional and role boundaries are parameters that describe limits of a relationship where one person entrusts their welfare and safety to a professional; often in circumstances where there is a power imbalance. Families entrust OSHC educators with the education and care of their children. OSHC educators sustain that trust by developing secure, respectful and reciprocal relationships in partnerships with families and school communities (AGDE, 2022) and by honouring professional and role boundaries, including those expressed in their job description and *Code of Conduct*.

OSHC settings are often carefully designed to be more relaxed and informal than other professional settings, as an important conduit between home and school grounded in play and leisure. Without careful consideration the boundaries between these professional partnerships and personal friendships or relationships, can easily become distorted. It is critical to understand that educators' professional judgment can be affected when the lines between their personal and professional relationships are blurred. The following table marks some important distinctions:

<i>Professional Relationships</i>	<i>Social and Personal Relationships</i>
Take place during "paid" time	Take place during "non-paid" time
Involve meeting designed job related responsibilities	Not based on responsibilities
Service-oriented	Not intended to provide a service
Focused on serving the child and family	Focused on shared interests
Goal-directed	Not generally focused on a goal
Time limited – they exist for the length of time a service is provided	Time unlimited – they can go on for as much (or as little time) as the people involved choose

Education and care settings are places where all educators can have significant influence in the lives of children and young people and their families because the relationship involves regular contact, over relatively long periods of time – often 6 or 7 years. This feature of education and care professions makes it extremely important that educators understand how to foster secure and positive relationships in ways that do not compromise children and young people’s wellbeing, learning and development.

Zone of Helpfulness

Because identifying and maintaining professional boundaries is the responsibility of the educator, not the child, young person or their family, it is helpful to have a structure for thinking about them. The Zone of Helpfulness (Kemp, 2014 as cited by Feeney, Freeman & Moravcik, 2020) adapted from the field of nursing, provides a continuum that educators can use to ensure the best interest of the child (and family) is paramount at all times.

<i>Zone of Under-Involvement</i>	<i>Zone of Helpfulness</i>	<i>Zone of Over-Involvement</i>
Disinterested/uncaring not in the best interest of child, young person or family	Caring/helpful in the best interests of child, young person or family	Inappropriate engagement with family not in the best interest of child, young person or family

Feeney, Freeman & Moravcik (2020)

Acceptable Professional Boundaries for Working with Children and Young People

The following summary of expectations applies to all situations where educators are providing one-to-one interactions, learning assistance, feedback, behaviour guidance or support.

<i>Make it purposeful</i>	<ul style="list-style-type: none"> Consider whether it is essential to meet with the child or young person one-to-one
<i>Make it public</i>	<ul style="list-style-type: none"> Ensure it is visible and knowledge of the interaction is public e.g. known to Nominated Supervisor or Responsible Person in Charge (NS/RPIC) Use the organisations authorised IT systems Do not use personal email or websites to communicate with children and young people
<i>Make it authorised</i>	<ul style="list-style-type: none"> Families should be informed and give consent Activity must be authorised by the NS/RPIC and/or Approved Provider (AP)
<i>Make it timely</i>	<ul style="list-style-type: none"> As far as possible, provide support during normal work hours, and do not conduct excessively long sessions

Appropriate Physical Contact

At times, educators will be required to give practical, physical assistance to a child or young person who is hurt or needs particular self-help assistance or encouragement. Examples of appropriate physical contact are:

- giving first aid
- supporting children and young people who have hurt themselves
- assisting with the developing self-help needs of a child or young person e.g. sunscreen/brushing hair/jumpers
- assisting with the toileting and personal care needs of a child or young person living with disability - an individual plan for children and young people with these needs must have been negotiated with the child and family
- non-intrusive gestures to comfort a child or young person who is dysregulated, experiencing grief, loss or distress, such as a hand on the upper arm or upper back
- non-intrusive touch (e.g. congratulating a child or young person by shaking hands or a pat on the upper arm or back). Educators should remember the importance of accompanying such touch with positive and encouraging words and gestures.

Good Practice with School Age Children and Young People

- Seek children and young people’s permission to make physical contact (keeping in mind that a highly distressed child or young person may be incapable of expressing their wishes).
- Avoid being with a child or young person in a one-to-one, out of sight situation, and never touch a child or young person in such a situation.
- Do not presume that physical contact is acceptable to a particular child or young person. Even non-intrusive touch may be inappropriate if a child or young person indicates they do not wish to be touched.
- Respect and respond to signs that a child or young person is uncomfortable with touch.
- Use verbal and/or visual directions rather than touch (e.g. ask a child or young person to move in a particular way, rather than physically place the child or young person in the required position).

Use the above approach for demonstrations in dance, sport, music and drama. Where touch is essential for safety reasons (e.g. with aquatic or gymnastic instruction), always tell the child or young person that you need to hold them in a particular way and seek their permission to do so.

In some circumstances, educators may need to discourage younger children from inappropriate expectations of hugs or cuddles. This should be done gently and without embarrassment or offence to the child and offer a replacement gesture (e.g. high five or fist bump).

Physical contact between individuals must therefore be:

- | | |
|--|---|
| <ul style="list-style-type: none">• Discretionary• Careful• Consensual | <ul style="list-style-type: none">• Respectful• Age appropriate• Gender appropriate |
|--|---|

Unacceptable Professional Boundaries for Working with Children and Young People

Boundary crossings are brief excursions across professional lines of behavior that may be inadvertent, thoughtless, or even a purposeful attempt to meet the needs of a child or family (Feeney, Freeman & Moravcik, 2020). They are typically non-exploitative, but are a breach and should be avoided none-the-less. Examples can fall into the following themes:

- **socializing** (e.g., attending a party hosted by a family)
- **rescuing** (e.g., driving a child home when the mother needs to take an emergency trip)
- **seeking favours** (e.g., asking a parent for professional advice)
- **proselytizing** (e.g., advocating for religious or political beliefs)
- **disclosing information** (e.g., extensive sharing of a personal problem with a parent)
- **giving advice beyond the scope of one’s role or expertise** (e.g., offering marital advice unrelated to the child)
- **breaching confidentiality** (e.g., sharing pictures of an enrolled child on personal social media)

Boundary violations, on the other hand, are exploitative or potentially harmful to children and families. They may not be recognized or felt until harmful consequences occur (Feeney, Freeman & Moravcik, 2020). Examples can fall into the following themes:

- **showing favouritisms or bias** (e.g., consistently greeting one group of children and families with more warmth and enthusiasm than others)
- **accepting large gifts or favours** (e.g., accepting an all-expenses paid trip from the family of a child)
- **engaging in an intimate relationship** (e.g., dating the father of an enrolled child)
- **seeking personal gain** (e.g., asking a family member to purchase something sold by an educator)

The professional boundaries outlined in these guidelines apply beyond specific education or care sites and beyond specific cohorts of children and young people. For example, where educators are participating or have participated in interschool sport events or combined school trips or camps, they are expected to respect professional boundaries with all the children and young people involved in those activities.

Professional boundary violations by an educator represent a breach of trust, a failure to meet a duty of care to children and young people, and a failure to follow conduct requirements of the employer. When educators violate boundaries, they risk:

- serious and harmful consequences for the child or young person
- seriously undermining the learning process
- seriously undermining their professional reputation and the confidence of the education or care community in their suitability to work with children and young people
- formal directions or other disciplinary action from their employer or the regulating authority
- termination of employment
- criminal charges.

Failure to report a boundary violation may also be subject to disciplinary action.

The following examples will assist staff in establishing and maintaining expected boundaries. This list is not exhaustive.

Professional Conduct	Boundary Concerns, Crossings and Violations
Communication	<ul style="list-style-type: none"> • <i>Inappropriate comments about a child/young person’s appearance, including excessive flattering comments</i> • <i>Inappropriate conversation or enquiries of a sexual nature (e.g. questions about a child or young person’s sexuality or his/her sexual relationship with others)</i> • <i>Disrespectful or discriminatory treatment of, or manner towards, young people based on their perceived or actual sexual orientation</i> • <i>Use of inappropriate nick names</i> • <i>Vilification or humiliation</i> • <i>Jokes or innuendo of a sexual nature</i> • <i>Obscene gestures and language</i> • <i>Facilitating/permitting access to pornographic material</i> • <i>Facilitating/permitting access to sexually explicit material that is not part of an endorsed curriculum</i> • <i>Failing to intervene in sexual harassment of children and young people</i> • <i>Correspondence of a personal nature via any medium (e.g. phone, text message, letters, email, internet postings) that is unrelated to the staff member’s role. This does not include class cards/bereavement cards etc</i> • <i>Introducing ‘secrets’</i> • <i>Communication related to the role but carried out via private personal devices, e.g. communication to taxi drivers of student personal details, with parent or outside agencies and services</i>
Personal Disclosure	<ul style="list-style-type: none"> • <i>Discussing personal lifestyle details or opinions of self, other staff or children and young people unless directly relevant to the learning outcome/topic and with the individual’s consent</i>
Physical Contact	<ul style="list-style-type: none"> • <i>Unwarranted or unwanted touching of a child or young person personally or with objects (e.g. pencil or ruler)</i> • <i>Corporal punishment (physical discipline, smacking etc)</i> • <i>Initiating, permitting or requesting inappropriate or unnecessary physical contact with a child or young person (e.g. massage, kisses, tickling games) or facilitating situations which unnecessarily result in close physical contact with a child or young person</i> • <i>Inappropriate use of physical restraint/restrictive practices – may constitute assault</i>
Place	<ul style="list-style-type: none"> • <i>Inviting/allowing/encouraging children and young people to attend the staff member’s home</i> • <i>Attending children and young people’s homes or their social gatherings</i> • <i>Being alone with a child or young person outside of a staff member’s responsibilities</i> • <i>Entering change rooms or toilets occupied by children or young people when supervision is not required or appropriate</i> • <i>Transporting a child or young person unaccompanied</i> • <i>Using toilet facilities allocated to children and young people</i> • <i>Undressing using facilities set aside for children and young people, or in their presence (*without the Nominated Supervisor’s authority)</i>

Targeting Individual Children and Young People	<ul style="list-style-type: none"> • Tutoring (outside sector standard or NS and/or AP's knowledge) • Giving personal gifts or special favours • Singling the same children and young people out for special duties or responsibilities • Offering overnight/weekend/holiday care of children and young people as respite to parents (unless employed by a respite organisation and with the NS and/or AP's knowledge) • Privately giving money and/or gifts to individual children or young people • Babysitting by the OSHC educator or member of their household
Role	<ul style="list-style-type: none"> • Adopting an ongoing welfare role that is beyond the scope of their position or that is the responsibility of another staff member (e.g. a counsellor) or an external professional, and that occurs without the NS and/or AP • Photographing, audio recording or filming children or young people via any medium when not authorised by the NS and/or AP to do so and without required family consent • Using personal rather than service equipment for approved activities (e.g. camera on a mobile phone), unless authorised by the NS and/or AP to do so
Possessions	<ul style="list-style-type: none"> • Correspondence or communication (via any medium) to or from children and young people where a concern about professional boundaries is indicated and where the correspondence has not been provided/disclosed to the NS and/or AP by the educator • Still/moving images or audio recordings of children and young people on personal equipment or kept in personal locations such as car or home that have not been authorised by the Nominated Supervisor • Uploading or publishing still/moving images or audio recording of children and young people to any location, without parental and the NS and/or AP's consent
Digital/Electronic	<ul style="list-style-type: none"> • Email, social media, internet postings that is unrelated to the educator's role • Allowing children and young people access to an educator's personal internet locations (e.g. social networking sites) • Uploading or publishing still/moving images or audio recordings of children and young people to any location, without family and NS/RPIC and AP's consent • Correspondence of a personal nature via social media, internet postings • Creating/using private online chat rooms • Filming/recording for the use of behaviour training/modification

Any concern an educator has about whether a situation may compromise or breach a professional relationship should be discussed with the Nominated Supervisor and/or Approved Provider and an approved plan of action developed and followed.

Grooming Behaviour

Positive adult-child/young person relationships are essential to learning, however it is critical that educators understand how to foster these relationships without compromising the child or young person's welfare.

The term 'grooming' refers to actions deliberately undertaken with the aim of befriending and influencing a child or young person, and in some circumstances members of the child or young person's family or colleagues within an OSHC community, for the purpose of sexual activity with the child or young person.

These actions are designed to establish an emotional connection in order to lower the child or young person's inhibitions and gain access to the intended victim. In this respect grooming involves psychological manipulation that is usually very subtle, drawn out, calculated, controlling and premeditated' (Victorian Parliamentary Inquiry into the Handling of Child Sexual Abuse by Religious and Other Non-Government Organisations, 2013).

Grooming can be conducted in person or online e.g. via interaction through social networking sites, chat rooms, digital forums or emails. Perpetrators gain trust by watching and gathering information about a child or young person, getting to know their needs and how to exploit them. They may also mix effortlessly with families, carers and OSHC educators because they seem warm, understanding and caring.

Vulnerable children or young people are most often targeted as they are seen as easy victims to manipulate. For example:

- age (too young to tell)
- disability (unable to tell, or to 'stand up' as a witness)
- emotional deprivation (already neglected or abused, low self-confidence, emotional neediness)
- isolation and disadvantage (children in care, kinship care refugees, new arrivals, non-English speaking, in a remote community, international exchange students).

Opportunistic or situational grooming may occur:

- when there are ambiguities over boundaries and roles
- where there is a lack of supervision which allows opportunities for inappropriate touch or conversations e.g. online, camps
- where the seriousness of the activity, or potential harm is discounted
- where the personal traits or actions of a person are tolerated or dismissed.

If a suspicion on reasonable grounds is formed regarding inappropriate adult behaviour, then educators are obliged to take action and report the inappropriate behaviour. Refer to the section 'Educator Responsibilities in Responding to Behaviour' for additional information p 12.

Additional Guidance for Staff in Managing Professional Boundaries

Working in Country and Local Communities

Educators working in country or local communities face additional challenges in managing professional boundaries. They are more likely to have social relationships with the families and parents of the children and young people with whom they work and are, therefore, more likely to share social and sporting events or membership at various community clubs or associations.

This means they will have legitimate reasons, on occasions, to attend social and cultural events with the children and young people with whom they work, to visit their homes or to be visited by them in the company of their families.

These social and cultural engagements are an important part of community life and a positive contribution to the wellbeing of educators working in country and local communities.

Aboriginal employees across remote, regional and metropolitan settings may have family and social connections to the children and families that they are working with. They may also have cultural or family obligations that may present additional challenges and require support from Nominated Supervisors and/or Approved Providers to establish professional boundaries when working with some children or young people and their families.

Following the advice below will help educators to enjoy these social engagements without compromising their professional responsibilities. The guiding principles in managing these situations are that:

- *social contact should be generated via the relationship the educators have with the parents of children and young people or by an event (such as a sporting event)*
- *educators should avoid being alone with children and young people in these situations*
- *educators should conduct themselves in a way that will not give others reason to question their suitability to work with children and young people and that will not create discomfort for children and young people in their learning relationship with them. Consuming alcohol in these situations may lessen an educator's capacity to judge when a professional boundary is at risk*
- *educators should politely refuse to discuss matters relating to the workplace and should not discuss children and young people's learning or social progress other than at times specifically set aside for that purpose*
- *any concern an educator has about whether or not a situation may be compromising or breaching a professional relationship should be discussed with their Nominated Supervisor and/or Approved Provider and an approved plan of action followed. For example, an educator may want advice about transporting a friend's child to and from the site or how to manage their own child's enrolment at the site.*

Using Digital Forums and Social Networking Sites

There are many legitimate social media spaces that can be used effectively as part of teaching and learning programs to facilitate children and young people's learning. These digital forums need to be completely separate from educator's personal virtual spaces and educators should consider the following questions before using them:

- *how can I use these social media tools appropriately?*
- *what are the risks?*
- *what will be the benefits?*
- *what protocols or permission need to be considered?*
- *are these approved tools?*
- *have parents been informed?*

Educators in OSHC settings are expected to model responsible and respectful conduct to the children and young people with whom they work. Educators need to consider the electronic social environments they utilise as part of this community and employer expectation.

The internet does not provide the privacy or control assumed by many users. Educators must appreciate that no matter what protections they place around access to their personal sites, their digital postings are still at risk of reaching an unintended audience and being used in ways that could complicate or threaten their employment.

Educators should be aware of the following expectations in considering their use of social networking sites:

- *they have considered the information and images of them available on their sites and are confident that these represent them in a light acceptable to their role in working with children and young people*
- *they do not have children or young people in their OSHC community as 'friends' on their personal/private sites*
- *comments on their site about their workplace, work colleagues or children or young people, if published, would not cause hurt or embarrassment to others, risk claims of libel, or harm the reputation of the workplace, their colleagues or children and young people.*

Managing Privacy Expectations

Education and care service providers and their educators rely in different ways on being able to provide a degree of privacy for children and young people. This may be to protect the child or young person's dignity, to provide an environment conducive to the service/program being provided or to respect the child or young person's desire for confidentiality.

Children and young people will often assume a high level of confidentiality when disclosing serious issues of a personal nature or reporting harassment or bullying. For these reasons, OSHC services need to find a careful balance between, on the one hand, respecting the sensitive and private nature of counselling or service provision and, on the other hand, the professional's duty of care obligations for the safety and wellbeing of the child or young person.

Good practice in managing these circumstances is the following:

- health/physical care should be provided with respect for the child or young person's dignity and in a manner approved by the child or young person, their families and Nominated Supervisor and/or Approved Provider
- counselling* should be provided in unlocked rooms with part-glass doors (where possible) that are located near staff traffic areas during service operation times
- avoid out of hours contact
- while family consent is often not applicable in many counselling* situations, best practice for services is to provide all families with written information about the services counselling* and support services which outlines confidentiality and privacy issues
- ensure meetings with children and counselling* notes are documented appropriately.

**Counselling pertains to conversational times when children may seek the advice, support or guidance from an educator including conversations when personal information is disclosed – not therapy which is outside the role of OSHC educator.*

Conducting Home Visits

Educators must ensure they follow the specific home visiting protocols that apply to their service. The key principle is that a home visit should place no one at unreasonable risk and that identified minor risks are consciously managed. A Summary of general expectations is provided below.

<i>Inform</i>	<ul style="list-style-type: none">• Home visits or transport arrangements must be authorised and documented by the site leadership and the site must have information about when and where visits are being undertaken, the expected outcomes and return times
<i>Prepare</i>	<ul style="list-style-type: none">• All available information about the safety of the proposed visit must be considered and risks managed• Mobile phones must be taken, ID should be visible• Inform parents of intended visit, where appropriate
<i>Protect</i>	<ul style="list-style-type: none">• A colleague should accompany a staff member carrying out a home visit• Do not enter the house if parents are not at home• Speak with the student where the parent is present or clearly visible• Document the visit

Educator Responsibilities in Responding to Behaviour

Behaviour of Others Towards Children and Young People

Suspected Child Abuse

Paid educators over 18 years of age in education and care settings are mandatory reporters and are, therefore, required under the Child Protection Act 1999 (Qld) to report suspected child abuse to [Child Safety Services](#).

A report of suspected abuse must be made to Child Safety Services irrespective of who is implicated: a colleague, friend, senior staff member, volunteer, parent, visitor or other child or young person. The report should be made in consultation with the Nominated Supervisor and/or Approved Provider who is responsible for the mandatory notification record and its secure storage. Working with the Nominated Supervisor ensures that appropriate procedures can be followed within the service. Such procedures are designed to ensure that children and young people's wellbeing is safeguarded and that educators rights are respected.

If the Nominated Supervisor is the subject of the suspicion, observation or allegation, staff must report to the Nominated Supervisor's line manager, Approved Provider or appropriate personnel. The complexities of these situations are acknowledged. Nevertheless, educators must manage their sensitivities or discomforts because their duty of care to the child or young person remains their paramount legal, professional and moral responsibility.

Inappropriate Behaviour

Educators may also observe behaviours in other adults or young people that they view to be inappropriate rather than abusive or that sit on the border of crossing a professional boundary, rather than violating it.

Educators must ensure, through their Nominated Supervisor, that the person concerned is made aware of the potential of their actions to impact negatively on children and young people, and on themselves. Professional advice of this kind may be particularly valuable to young or newly appointed persons.

The Nominated Supervisor and/or Approved Provider should document what is discussed.

All educators must take action if children and young people disclose information about inappropriate behaviours of other people at the service. It is not acceptable to minimise, ignore or delay responding to such information. For the wellbeing of all members of the education or care community, the Nominated Supervisor must be informed as a matter of urgency and a report made to the Child Safety Services and/or the Regulatory Authority, if appropriate.

Behaviour of Children and Young People

Responding to Sexual Behaviours Towards Educators or Others

If a child or young person engages in sexual behaviours toward educators, immediate steps must be taken to address this behaviour. The matter should be reported to the Nominated Supervisor, documented promptly and a plan of action developed to support the child or young person and relevant educator.

Depending on the age/developmental capacity of the child or young person and contextual information (developmentally appropriate, concerning or harmful behaviour), this plan of support may involve:

- communication with child or young person's family
- referral to and liaison with specialist counselling
- formalised support within the service, which may include closer monitoring or supervision of the child or young person in their interactions with other children and young people
- referral to and liaison with an appropriate agency with disability-specific expertise.

Sometimes, the inappropriate sexual behaviour of a child or young person towards educators can elicit a suspicion that the child or young person in question has been sexually abused. In these situations, educators must:

- make a mandatory notification to Child Safety Services
- consider the safety of other children and young people with whom the child has contact
- develop and document a plan of action and communication with all relevant parties (including other agencies).

Some children and young people may actively seek a relationship with an educator that would constitute an inappropriate relationship. In such circumstances, educators are advised to immediately report the information to the Nominated Supervisor and/or Approved Provider and seek assistance to actively manage the situation in a way that respects the emotional wellbeing of the child or young person and provides support to the educator.

Examples of child or young person's behaviours that should be reported and addressed are:

- receiving gifts of an inappropriate nature or at inappropriate times (e.g. not as part of end of the year gift giving that some children and families follow)
- flirtatious gestures and comments
- inappropriate social invitations
- inappropriate touching or invasions of personal space
- inappropriate postings using any medium
- correspondence or communication that suggests or invites an inappropriate relationship.

The educator and Nominated Supervisor should document the incident that initially prompted the concern and the plan of action that has been established. Contact with the family is recommended unless there are reasonable grounds to believe that this will create serious risks for the child or young person.

Sexual harassment—via any medium (including postings on websites, whether 'private' or not) at any time or place—or assault of an educator by a child or young person should be dealt with following normal behaviour guidance protocols, with the involvement of the family and, where appropriate, police. Along with this response, consideration must also be given to the most appropriate counselling and support that can be provided to the child or young person and family.

It is important to use these incidents as opportunities to organise meaningful interventions that address early sexual and other offending behaviours.

Supporting Complex Behaviours

It is highly recommended that an *Individual Support Plan* is developed for a child or young person with challenging behaviours that outlines the appropriate support and intervention to meet their needs. This plan should be completed in consultation with the child or young person, their family, OSHC educators and other appropriate support professionals. The National Outside School Hours Services Alliance (NOSHSA) [Inclusion Project](#) resources should be considered in developing this plan to ensure a trauma informed, neurodiversity affirming approach that is grounded in contemporary understandings of behaviour and OSHC.

The filming of children/young people for the purpose of behaviour assessment or modification is not permitted unless authorised, as a single circumstance, by the Nominated Supervisor and/or Approved Provider and with the informed consent of the child or young person and their family.

Non-physical Behaviour Support Intervention

Non-physical behaviour support interventions are the accepted way of guiding and supporting the behaviour of children and young people in OSHC, as they seek to protect their rights and dignity.

Non-physical interventions include:

- active supervision of the OSHC environment to pre-emptively support children and young people's needs e.g. social, emotional, physical/physiological/sensory, leisure/play/creative
- prompting a child or young person with calming strategies or to follow the strategies developed in their *Individual Support Plan* **before** they escalate
- de-escalating the OSHC environment when a situation is triggered by:
 - remaining calm; being aware of what you are communicating verbally and nonverbally
 - working to restore a sense of safety for the child or young person by drawing on knowledge of them and their needs/interests/participation in the OSHC program
 - working with the dysregulated child or young person to help them regulate or co-regulate using Dr Perry's 3 R's – regulate, relate, reason
 - directing the dysregulated child or young person to a safe place
 - directing others to move away to uphold dignity of a dysregulated child or young person
 - sending for assistance from another educator with more knowledge of the child or young person's needs including the NS or RPIC
- directing other children and young people to a safe place including evacuation or lockdown
- following the emergency plan in '1 and 2-staff' centres
- sending for assistance from the NS or RPIC, the child's family or in extreme cases, the police.

Use of the 3R's is always preferred to physical intervention.

It is not appropriate to make physical contact with a child or young person (e.g. pushing, grabbing, poking, pulling, blocking) in order to ensure they comply with directions. Staff working with preschool-age children must not hold children against their will (e.g. on their laps, between their legs or on the floor) to ensure attention at group time.

Under no circumstances should OSHC staff engage in any form of conduct which might cause physical, emotional or psychological harm to children and young people.

This includes hitting, pushing, dragging, slapping, pinching, biting, force-feeding, yelling, belittling, humiliating, locking them away, isolating, depriving of food or drink, unreasonable restraining, excluding from events, consistently moving them away, punishing, verbally or physically threatening, negatively labelling, criticising actions or behaviours, discouraging from participating in an activity, blaming or shaming, making fun of or laughing at or about, excessive use of negative language.

[Refer to the ACECQA Inappropriate Discipline resource for additional information](#)

Physical Restraint Where Personal Safety is at Immediate Risk

OSHC educators must only use physical restraint as a last resort and not as a response to:

- property destruction
- disruption to the education or care activity
- refusal to comply
- verbal threats
- leaving an education care setting
- a need to maintain good order

Educators may make legitimate use of physical restraint based on best practice that they have been training in (e.g. Non-Violent Crisis Intervention – NVCI) if all non-physical interventions have been exhausted or are impossible in the circumstances and a child or young person is:

- posing an immediate danger to themselves
- posing an immediate danger to others e.g. attacking another child or young person or adult

Use of appropriate physical contact may be permitted to ensure that the educator's duty of care to protect children and young people and educators from foreseeable risks of injury is met. Common law and statutory defences such as self-defence and defence of others remain legitimate reasons for the use of physical restraint. All people have the right to defend themselves against an attack provided they do not use a disproportionate degree of force to do so.

It may be a valid decision for educators not to use physical restraint in a situation involving several children and young people, or a physically larger child or young person, where educators believe that doing so would increase the likelihood of injury to themselves. In such cases, the educator should guide other children and young people away from danger and seek immediate help from the Nominated Supervisor or Responsible Person in Charge or police.

Educators are not expected to place their own safety at risk when responding to violence or aggression in others and are supported by workplace health and safety legislation in making this judgment.

Safe Practice When Using Physical Restraint

The use of restrictive practices with a child or young person must only be used as a last resort in above imminent danger situations. Section 9 of the [NDIS Act 2013](#) defines a restrictive practice as 'any practice or intervention that has the effect of restricting the rights or freedom of movement of a person with disability' (NDIS Quality and Safeguards Commission, 2020).

The use of restrictive practices for people with disability can present serious human rights breaches. The decision to use a restrictive practice needs careful clinical and ethical consideration, taking into account a person's human rights and the right to self-determination. Restrictive practices should be used within a positive behaviour support framework that includes proactive, person-centred and evidence-informed interventions. There are some circumstances when restrictive practices are necessary as a last resort to protect a person with disability and or others from harm. Whilst there are five types of regulated restrictive practices (chemical, environmental, mechanical, physical and seclusion) this guide only endorses the use of physical restraint in OSHC, and only under the strict above conditions – i.e. posing an immediate danger to themselves or others and all non-physical interventions have been exhausted.

The physical restraint must be reasonable in the particular circumstances and must be in proportion to the circumstances of the incident. It must always be the minimum force needed to achieve the desired result, and take into account the age, stature, disability, understanding and gender of the child or young person. For example, if restraining a female, care should be taken to avoid contact with breasts.

Families should be informed at enrolment of the site's policy on physical restraint/restrictive practices with children and young people and staff who may be expected to use physical restraint should access appropriate training.

Working with Children and Young People with Additional and Complex Needs

The category of 'additional and complex needs' includes children and young people living with disabilities and can be analysed as those whose behavioural presentation arises from:

- disabilities including intergenerational disabilities
- trauma and adverse childhood experiences
- mental health
- neglect and deprivation (emotional and physical)
- learning difficulties or differences
- different cultural expectations or practices.

Children or young people living with disability is defined in MTOP V2.0 as:

Disability is part of human diversity. There are many different kinds of disability and they can result from accidents, illness or genetic disorders. Disability may affect mobility, ability to learn, ability to communicate, or ability to engage with others and with experiences. Some children may have more than one type of disability. A disability may be visible or hidden, may be permanent or temporary and may have minimal or substantial impact on a child's abilities. (AGDE, 2022:64)

All sections of this document require careful interpretation when applied to children and young people with additional needs and complex needs. For example, children and young people with intellectual disabilities may engage in a much wider range of physical and overtly sexual behaviours towards educators and other children and young people as a result of their disability. Similarly, educators will need to engage more often in physical contact and touch with these children and young people as a means of meeting their duty of care to them.

In fact, touch itself may be an agreed form of communication between a child or young person, their families and educators where the child or young person has a communication disability or difference.

Children and young people with a diagnosis that can cause violent and unpredictable behaviours are likely to have formalised support procedures agreed to by all stakeholders. Toileting assistance or processes for changing clothes will be necessities for some children and young people.

Because of these differences, educators need to be more vigilant and thoughtful in their physical interactions with children and young people with additional needs and complex needs.

Children and young people with disabilities are over-represented in the child protection system. Their vulnerabilities mean they have an increased reliance on the adults providing their care to protect them from harm.

Immediately reporting any inappropriate behaviour towards children and young people from other adults is a critical obligation of educators and one that must not be delayed, minimised or delegated (see 'Educator responsibilities in responding to behaviour' on p 12).

Educators support children and young people with additional needs and complex needs through various forms of *Individual Support Plans*. The common features of these plans are that they involve all people who care for and support the child or young person on a regular basis, including other service providers, and they document the agreed strategies that are to be used in supporting the child or young person.

These plans are particularly important when challenging behaviours, personal care and hygiene and special physical considerations are an issue at the service (e.g. toileting, transport within and beyond the site environment, situations where physical restraint is occasionally required).

The possibility of physical restraint and the nature of the restraint practices for children and young people should be addressed in the *Individual Support Plan*, as should alternative strategies for preventing harm to themselves and others. The planning process should involve the child or young person as far as possible.

Educators likely to need to use physical restraint should access training specific to that requirement.

It is appropriate that different approaches are likely to be needed from educators in their interactions with children and young people with additional and complex needs. For this reason, behaviour codes and policies need regular reviewing to ensure they reflect the needs of the children and young people accessing the service at any one time.

Nevertheless, the basic principles outlined elsewhere in this document remain applicable to all children and young people. Educators have a duty of care to protect children and young people from physical, emotional and psychological harm and, while the ways of meeting the duty may differ for different groups, the duty itself remains unqualified. Educators are expected to meet this duty in a manner that respects the dignity of all children and young people as well as their vulnerabilities and needs.

Cultural Considerations

Different cultures have different attitudes and traditions surrounding the concept of appropriate touch. Educators have a responsibility to be culturally safe and responsive (Australian Government, 2022) and this includes becoming familiar with the values of the various cultural groups enrolled in an education and care service.

Many culturally based community organisations are very keen to address educators about the values of their culture so as to establish optimum understanding and respect between families, their children and young people and the OSHC educators at the service. It is critical that educators appreciate culturally specific expectations about touch so that embarrassment or offence can be avoided for everyone, and particularly for children and young people.

Many children and young people attending education and care sites are recently arrived in Australia or are under guardianship/kinship care. Some have backgrounds of severe trauma, ranging from the observation of war, or extreme physical violence and abuse, to being victims of such violence and abuse themselves. The needs of these children and young people and their families are acute and the issue of establishing what will be received as appropriate, helpful touch is, therefore, all the more essential.

Educators need to employ considerable diplomacy, care and effort in their interactions with the children and young people and families that are known or suspected to have escaped traumatic circumstances.

Managing Educator Health and Safety

There are inherent risks that educators face on a daily basis working with children and young people. The Work Health and Safety Act 2011 requires the employer, as the person conducting business or undertakings to ensure that risks are identified and adequately controlled so far as is reasonably practicable.

Legal Action Against Children or Young People Enrolled in OSHC

An educator who undertakes criminal proceedings of any nature against children and young people (enrolled at a service) must:

- report the action to their Nominated Supervisor and/or Approved Provider
- record the action as per their sector requirements without identifying the child or young person.

Nominated Supervisors and/or Approved Providers are responsible for managing these circumstances in a way that respects their duty of care to children, young people and educators, and should seek advice if these responsibilities appear to be in conflict.

<i>Do</i>	<i>Don't</i>
<ul style="list-style-type: none"> • Seek a colleague's or leader's support. • Have a differentiated risk management plan for students. • Use conversation/negotiation to minimise or de-escalate aggression (e.g. take-up time, provision of a calm spot). • Continue talking with the child or young person throughout the incident. Make clear that physical 	<ul style="list-style-type: none"> • Don't use restraint/restrictive practices that involves: <ul style="list-style-type: none"> ○ force applied to the head, neck, chest or genital area ○ restrictions to breathing ○ punching or kicking ○ holding by the hair or ear

<p>restraint will stop when it ceases to be necessary to protect the child or young person or others.</p> <ul style="list-style-type: none"> • Grip clothing rather than the body, whenever possible. • Document incidents promptly and keep these records with the site leader. The record should include: <ul style="list-style-type: none"> ○ the name of involved children and young people ○ the location of incident ○ the name of witnesses (staff and/or children and young people) ○ an incident outline (including the child or young person’s behaviour, what was said, steps taken, degree of force applied and how applied, reasoning for actions taken) ○ the child or young person’s response and the outcome ○ details of any injury or damage to property. • Inform parents promptly (within 24 hours) and fully of any incident involving the physical restraint of their child and provide them with the opportunity to discuss the matter at the time they are informed. • Ensure sector specific guidelines regarding other forms of documentation are followed, for example critical incident forms. • Provide/offer confidential debriefing, counselling support and Workplace Health and Safety documentation to all staff involved in incidents of restraint/restrictive practices. 	<ul style="list-style-type: none"> ○ confining a child or young person in a locked room or limited space ○ placing children under school age in ‘time out’ or ‘time away’.
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Additional References

ACECQA (2023) Inappropriate Discipline [Information sheet]. <https://www.acecqa.gov.au/sites/default/files/2020-06/inappropriate-discipline.pdf>

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