



2.13 CUSTODY AND INTERVENTION ORDERS

Purpose Statement

It is important for all children to be safe within an education and care environment.

Collaborative and transparent relationships with families are fundamental to keeping children safe. Parents and/or guardians are required to keep the FDC service informed of any issues relating to access and custody of their child and the status of current court orders (where relevant).

Working together and sharing information ensures that children can continue to access care in a stress-free, safe and supportive environment.

Scope

This policy applies to educators, contractors, children and families.

Definitions

Court Order: an order that has been written by the judge of the court and needs to be obeyed.

Custody: the care, control and maintenance of a child, which a court may award to one of the parents following a Divorce or separation proceeding.

Intervention Order: an order issued by the judge of the court (that must be obeyed) to protect people who have experienced violent, threatening or abusive behaviour.

Authorised Person: a person who has been given permission by a parent or family member to collect the child from the education and care service.

Policy Statement

TO PROTECT THE HEALTH AND SAFETY OF CHILDREN BY RECORDING ALL COMMUNICATIONS AND/OR COURT ORDERS RELATING TO CUSTODY ARRANGEMENTS AND SHARING THIS INFORMATION WITH ALL RELEVANT PARTIES.

TO ENSURE THAT EVERY CHILD IS SAFELY HANDED OVER TO A CLEARLY IDENTIFIED PERSON OF AUTHORITY WHEN LEAVING THE FDC PREMISES.

Procedures

General Access

Parents or guardians are allowed access to their child at any time whilst they are receiving care. If educators are away from their home they must carry a mobile phone with them (of which parents have the number), in case a parent needs to contact them or access their child.

Educators may obtain verbal permission by phone from a parent/guardian to release a child to a person not listed on the enrolment form (eg an unauthorised person). The identity of the unlisted person needs to be confirmed before handing a child over. This can be done by sighting photo identification such as a driver's licence.



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Custody or Court Orders

1. On enrolment of a child, parents/guardians are required to identify authorised persons. Only authorised persons (as noted on the enrolment form) are permitted to collect a child from Family Day Care.
2. On enrolment of a child, parents/guardians are responsible for providing a copy of any Family Court Order or Injunctive Orders related to the Custody of that child to the Coordination Unit. This document must include court signatures and proceeding number.
3. Where Family Court Orders are issued whilst the child/ren are already engaged in care (i.e. post enrolment), parents/guardians are responsible for keeping the service informed. A copy of any Custody or Intervention Order issued must be provided to the Coordination Unit. This document must include court signatures and proceeding number.
4. The Coordination Unit is responsible for providing educators with a copy of any custody or intervention papers relating to a child in care.
5. All relevant documents relating to custody or court orders will be stored in a safe and secure manner respecting the individual's privacy (refer to *Confidentiality and Privacy* procedure).
6. The confidentiality for all matters relating to custody, access and court orders will be maintained at all times
7. If at any time a person who has been prohibited by a court order from having contact with a child approaches an educator, the educator will:
 - a. Not give that person any information concerning the child
 - b. Discourage the person from having access to the child.
 - c. Inform the custodial family of the situation ASAP
 - d. Contact the police if necessary.
 - e. Contact the Nominated Supervisor or representative for help and support (*Office Number: 9705 3200; After Hours Number: 0408 591 457*)
 - f. Take all reasonable precautions to ensure the safety of all the children in care and the safety of oneself. Under no circumstances should the educator put themselves or the children in care at risk of being injured, whilst negotiations are taking place.

NOTE: If negotiations fail (i.e. a person prohibited by a court demands access to a child and is unwilling to reason with an educator) then the child must be released. **This step will only occur if the situation has turned dangerous.**

If a Child is taken away by an Unauthorised Person or a Non-Custodial Adult

1. The educator should immediately contact:
 - a. The police on 000 advising them of the situation



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- b. The child's parents/guardian or the emergency contact if the parents/guardian cannot be contacted
 - c. The Coordination Unit
2. An incident report is required to be completed within 12 hrs and submitted to the Coordination Unit (refer to *Incident Reporting* procedure).

No Court Order

In relation to a parent/guardian where there is **no court order** forbidding that parent/guardian contact with a child, the Education and Care Services National Regulations 2011 states that a Family Day Care Educator must not prevent a parent of a child being educated and cared for as part of a Family Day Care service from entering the venue at any time that the child is being educated and cared for by the Educator.

Relevant Standards/Legislation

- National Quality Framework for Early Childhood Education and Care Services including:
 - Education and Care Services National Law 2011
 - Education and Care Services National Regulations 2011
- Occupational Health & Safety Act 2004

Related Policies & Links

- *Privacy and Confidentiality Procedure*
- *Enrolment Procedure*
- *Incident Reporting and Management Procedure*