

	<p style="text-align: center;"><b>Thornbury Kindergarten Inc.</b></p> <p style="text-align: center;"><b>Policies</b></p>
Policy Title	Complaints and Grievances
Quality Area	7 – Governance and Leadership
Category	Mandatory

## PURPOSE

This policy will provide guidelines for:

- receiving and dealing with complaints, grievances and reportable allegations at Thornbury Kindergarten
- procedures to be followed in investigating complaints, grievances and reportable allegations.

Note: This policy does not address complaints relating to staff grievances or employment matters. The relevant awards provide information on the management of such issues.

## POLICY STATEMENT

### 1. VALUES

Thornbury Kindergarten is committed to:

- providing an environment of mutual respect and open communication, where the expression of opinions is encouraged
- complying with all legislative and statutory requirements
- dealing with disputes, complaints and complainants with fairness and equity
- establishing mechanisms to promote prompt, efficient and satisfactory resolution of complaints and grievances
- maintaining confidentiality at all times.
- fulfilling its duty of care (refer to *Definitions*) obligations under the law by protecting children from any reasonable, foreseeable risk of injury or harm
- ensuring investigations are properly conducted and of a sufficiently high standard to achieve the purposes of the Reportable Conduct Scheme
- reporting suspected abuse, neglect or mistreatment promptly to the appropriate authorities
- sharing information appropriately and lawfully with other organisations where the safety and wellbeing of children is at risk.

### 2. SCOPE

This policy applies to the Approved Provider, Persons with Management and Control, Nominated Supervisor, Persons in Day to Day Charge, educators, staff, students on placement, volunteers, parents/guardians, children and others attending the programs and activities of Thornbury Kindergarten.

### 3. BACKGROUND AND LEGISLATION

Complaints or grievances may be received from anyone who comes in contact with Thornbury Kindergarten including parents/guardians, volunteers, students, members of the local community and other agencies.

In most cases, dealing with complaints and grievances will be the responsibility of the Approved Provider. All complaints and grievances, when lodged, need to be initially assessed to determine whether they are a general or a notifiable complaint, or a reportable allegation (refer to *Definitions*).

When a complaint or grievance has been assessed as 'notifiable', the Approved Provider must notify Department of Education and Training (DET) of the complaint or grievance. The Approved Provider will investigate the complaint or grievance and take any actions deemed necessary, in addition to responding to requests from and assisting with any investigation by DET.

There may be occasions when the complainant reports the complaint or grievance directly to DET. If DET then notifies the Approved Provider about a complaint they have received, the Approved Provider will still have responsibility for investigating and dealing with the complaint or grievance as outlined in this policy, in addition to co-operating with any investigation by DET.

DET will investigate all complaints and grievances it receives about a service, where it is alleged that the health, safety or wellbeing of any child within the service may have been compromised, or that there may have been a contravention of the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*.

The *Child Wellbeing and Safety Act 2005* is the legislative basis for the Reportable Conduct Scheme, which requires heads of organisations with a high degree of responsibility for children to have systems in place to prevent child abuse and to ensure allegations can be brought to the attention of appropriate persons for investigation and response.

When a complaint or allegation has been assessed as Reportable Conduct, the Approved Provider must notify the Commission for Children and Young People (the Commission) within three business days of becoming aware of a reportable allegation. The Approved Provider must investigate an allegation – subject to police clearance on criminal matters or matters involving family violence. Within 30 calendar days, the Approved Provider must provide the Commission with detailed information about the reportable allegation and any action taken within 30 calendar days. The Approved Provider must notify the Commission of the investigation findings and any disciplinary action the head of entity has taken (or the reasons no action was taken).

#### Legislation and standards

Relevant legislation and standards include but are not limited to:

- *Charter of Human Rights and Responsibilities Act 2006 (Vic)*
- *Children, Youth and Families Act 2005 (Vic)*
- *Child Wellbeing and Safety Act 2005 (Vic)*
- *Crimes Act 1958 (Vic)*
- *Education and Care Services National Law Act 2010: Section 174(2)(b)*
- *Education and Care Services National Regulations 2011: Regulations 168(2)(o) and 176(2)(b)*
- *Family Law Act 1975 (Cth)*
- *Information Privacy Act 2000 (Vic)*
- *National Quality Standard, Quality Area 7: Governance and Leadership*
- *Privacy Act 1988 (Cth)*
- *Privacy Regulations 2013(Cth)*
- *Occupational Health and Safety Act 2004 (Vic)*
- *Working with Children Act 2005 (Vic)*

- *Working with Children Regulations 2006 (Vic)*
- *The Child Safe Standards*
- *Reportable Conduct Scheme*

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: <http://www.legislation.vic.gov.au/>
- Commonwealth Legislation – ComLaw: <http://www.comlaw.gov.au/>

#### 4. DEFINITIONS

The terms defined in this section relate specifically to this policy. For commonly used terms e.g. Approved Provider, Nominated Supervisor, Regulatory Authority etc. refer to the *General Definitions* section of the PolicyWorks manual provided in each foyer.

**The Commission:** The Commission for Children and Young People (CCYP) is an independent statutory body that promotes improvement in policies and practices affecting the safety and wellbeing of Victorian children and young people.

**Complaint:** (In relation to this policy) a complaint is defined as an issue of a minor nature that can be resolved promptly or within 24 hours, and does not require a detailed investigation. Complaints include an expression of displeasure, such as poor service, and any verbal or written complaint directly related to the service (including general and notifiable complaints).

Complaints do not include staff, industrial or employment matters, occupational health and safety matters (unless related to the safety of the children) and issues related to the legal business entity, such as the incorporated association or co-operative.

**Complaints and Grievances Register:** (In relation to this policy) records information about complaints and grievances received at the service, together with a record of the outcomes. This register must be kept in a secure file, accessible only to educators and Responsible Persons at the service. The register can provide valuable information to the Approved Provider on meeting the needs of children and families at the service.

**Dispute resolution procedure:** The method used to resolve complaints, disputes or matters of concern through an agreed resolution process.

**General complaint:** A general complaint may address any aspect of the service e.g. a lost clothing item or the service's fees. Services do not have to inform DET, but the complaint must be dealt with as soon as is practicable to avoid escalation of the issue.

**Grievance:** A grievance is a formal statement of complaint that cannot be addressed immediately and involves matters of a more serious nature e.g. the service is in breach of a policy or the service did not meet the care expectations of a family.

**Grievances Subcommittee:** a committee, containing at least 1 Responsible Person (refer to *General Definitions*) established by the Approved Provider to investigate and resolve grievances lodged with Thornbury Kindergarten, as required. Where appropriate, this role can be undertaken by an independent investigator that has been engaged by the Approved Provider.

**Head of the Organisation:** the person who is primarily responsible for decision making in the organisation. The Commission considers the head of an organisation will generally be responsible for the strategic direction of the organisation, managing, engaging and terminating employees and conducting misconduct investigations,

**Investigation:** a process of inquiry that begins after an allegation or grievance has been made. In relation to reportable allegations, the Approved Provider must investigate the reportable allegation or notifiable complaint in a manner that is appropriate to the needs and function of the organisation. Investigations must be properly conducted and be of a sufficiently high standard to achieve the purposes of the *Child Wellbeing and Safety Act 2005*.

**Involved Adult:** includes the Committee of Management of Thornbury Kindergarten (the Committee), the Nominated Supervisor, teachers, educators, staff, students on placement, volunteers, parents/guardians and all adults involved in the programs and activities of the Kindergarten.

**Mediator:** A person (neutral party) who attempts to reconcile differences between disputants.

**Mediation:** An attempt to bring about a peaceful settlement or compromise between disputants through the objective intervention of a neutral party.

**Notifiable complaint:** A complaint that alleges a breach of the Act or Regulation, or alleges that the health, safety or wellbeing of a child at the service may have been compromised. Any complaint of this nature must be reported by the Approved Provider to the secretary of DET within 24 hours of the complaint being made (Section 174(2)(b), Regulation 176(2)(b)). If the Approved Provider is unsure whether the matter is a notifiable complaint, it is good practice to contact DET for confirmation. Written reports to DET must include:

- *details of the event or incident*
- *the name of the person who initially made the complaint*
- *if appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)*
- *contact details of a nominated member of the Grievances Subcommittee/investigator*
- *any other relevant information.*

Written notification of complaints must be submitted using the appropriate forms, which can be found on the ACECQA website: [www.acecqa.gov.au](http://www.acecqa.gov.au) or submitted via ACECQA's online portal NQA-ITS <https://www.acecqa.gov.au/resources/national-quality-agenda-it-system>.

**Reportable allegation:** any information that leads a person to form a 'reasonable belief' that a person has committed reportable conduct.

**Reportable conduct:** There are five types of 'reportable conduct' listed in the Child Wellbeing and Safety Act 2005 (the Act):

- sexual offences (against, with or in the presence of, a child)
- sexual misconduct (against, with or in the presence of, a child)
- physical violence (against, with or in the presence of, a child)
- behaviour that causes significant emotional or psychological harm
- significant neglect.

**Serious incident:**

- A serious incident (regulation 12) is defined as any of the following:
- the death of a child while being educated and cared for by the service or following an incident while being educated and cared for by the service
- any incident involving a serious injury or trauma to a child while that child is being educated and cared for, which:
  - a reasonable person would consider required urgent medical attention from a registered medical practitioner; or
  - the child attended or ought reasonably to have attended a hospital e.g. broken limb\*

- any incident involving serious illness of a child while that child is being educated and cared for by a service for which the child attended, or ought reasonably to have attended, a hospital e.g. severe asthma attack, seizure or anaphylaxis\*

NOTE: In some cases (for example rural and remote locations) a General Practitioner conducts consultations from the hospital site. Only treatment related to serious injury, illness or trauma is required to be notified, not other health matters.

- any emergency for which emergency services attended

NOTE: This means an incident, situation or event where there is an imminent or severe risk to the health, safety or wellbeing of a person at an education and care service. It does not mean an incident where emergency services attended as a precaution.

- a child appears to be missing or cannot be accounted for at the service
- a child appears to have been taken or removed from the service in a manner that contravenes the National Regulations
- a child is mistakenly locked in or locked out of the service premises or any part of the premises.
- Notify the regulatory authority of serious incidents online through the NQA IT System: <https://www.acecqa.gov.au/resources/national-quality-agenda-it-system>.
- Download the incident, injury, trauma and illness record template to record any supporting evidence or other (non-serious) incidents from: <https://www.acecqa.gov.au/media/22726>

A children's service is required to notify the regulatory authority, DET, within 24 hours of becoming aware of a serious incident (Section 174(2)(a) and Regulation 176(2)(a).

[https://www.acecqa.gov.au/sites/default/files/acecqa/files/NQF/KeyChangesNotificationComplaints\\_2.pdf](https://www.acecqa.gov.au/sites/default/files/acecqa/files/NQF/KeyChangesNotificationComplaints_2.pdf)

**Terms of Reference:** a document that is agreed upon by the head of the organisation in relation to conducting an investigation and ensures the investigation is going to meet the needs of the organisation.

## 5. SOURCES AND RELATED POLICES

### Sources

- ACECQA: [www.acecqa.gov.au](http://www.acecqa.gov.au)
- Department of Education and Training (DET) – Regional Office details are available under 'Contact Us' on the DET website: [www.education.vic.gov.au](http://www.education.vic.gov.au)
- ELAA *Early Childhood Management Manual*: [www.elaa.org.au](http://www.elaa.org.au)
- *The Kindergarten Guide* (Department of Education and Early Childhood Development) is available under *early childhood / service providers on the DET website*: [www.education.vic.gov.au](http://www.education.vic.gov.au)
- *Guidance for Organisations Investigating a Reportable Conduct Allegation* (Commission for Children and Young People) available from <https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/>
- *Reportable Conduct Scheme information sheets: Guidance for organisations about their obligations under the scheme* (Commission for Children and Young People) available from <https://ccyp.vic.gov.au/child-safety/resources/reportable-conduct-scheme-information-sheets/>

### Service policies

- *Child Safe Environment Policy*
- *Code of Conduct Policy*
- *Incident, Injury, Trauma and Illness Policy*
- *Inclusion and Equity Policy*
- *Interactions with Children Policy*
- *Privacy and Confidentiality Policy*

- *Staffing Policy*

## PROCEDURES

### The Approved Provider or Persons with Management and Control is responsible for:

- being familiar with the *Education and Care Services National Law Act 2010* and the *Education and Care Services National Regulations 2011*, service policies and constitution, and complaints and grievances policy and procedures
- identifying, preventing and addressing potential concerns before they become formal complaints/grievances
- ensuring that the name and telephone number of the Responsible Person (refer to *Staffing Policy*) to whom complaints and grievances may be addressed are displayed prominently at the main entrance of the service (Regulation 173(2)(b))
- ensuring that the address and telephone number of the Authorised Officer at the DET regional office are displayed prominently at the main entrance of the service (Regulation 173(2)(e))
- advising parents/guardians and any other new members of Thornbury Kindergarten of the complaints and grievances policy and procedures upon enrolment
- ensuring that this policy is available for inspection at the service at all times (Regulation 171)
- being aware of, and committed to, the principles of communicating and sharing information with service employees, members and volunteers
- assessing and responding to all complaints, grievances and allegations in the most appropriate manner and at the earliest opportunity, taking into consideration the requirements of statutory timeframes
- treating all complainants fairly and equitably
- providing a *Complaints and Grievances Register* (refer to *Definitions*) and ensuring that staff record complaints and grievances along with outcomes
- complying with the service's *Privacy and Confidentiality Policy* and maintaining confidentiality at all times (Regulations 181, 183)
- establishing a Grievances Subcommittee or appointing an investigator to investigate and resolve grievances (refer to Attachment 1 – Sample terms of reference for a Grievances Subcommittee/investigator)
- referring notifiable complaints (refer to *Definitions*), grievances (refer to *Definitions*) or complaints that are unable to be resolved appropriately and in a timely manner to the Grievances Subcommittee/investigator
- informing DET in writing within 24 hours of receiving a notifiable complaint (refer to *Definitions*) (Act 174(4), Regulation 176(2)(b))
- notifying the Commission within three business days of becoming aware of a reportable allegation
- investigating an allegation – subject to police clearance on criminal matters or matters involving family violence. Investigations must be properly conducted and be of a sufficiently high standard to achieve the purposes of the Child Wellbeing and Safety Act 2005
- Within 30 calendar days providing the Commission detailed information about the reportable allegation and any action you have taken within 30 calendar days
- notifying the Commission of the investigation findings and any disciplinary action the head of entity has taken (or the reasons no action was taken), as soon as practicable
- receiving recommendations from the Grievances Subcommittee/investigator and taking appropriate action.

### The Nominated Supervisor, Persons in Day to Day Charge, educators and other staff are responsible for:

- responding to and resolving issues as they arise where practicable

- maintaining professionalism and integrity at all times
- discussing minor complaints directly with the party involved as a first step towards resolution (the parties are encouraged to discuss the matter professionally and openly work together to achieve a desired outcome)
- informing complainants of the service's *Complaints and Grievances Policy*
- recording all complaints and grievances in the *Complaints and Grievances Register* (refer to *Definitions*)
- notifying the Approved Provider if the complaint escalates and becomes a grievance (refer to *Definitions*), is a notifiable complaint (refer to *Definitions*), is a reportable allegation (refer to *Definitions*), or is unable to be resolved appropriately in a timely manner
- in consultation with the Approved Provider, assessing complaints, grievances and allegations to determine their nature
- providing information as requested by the Approved Provider e.g. written reports relating to the grievance
- complying with the service's *Privacy and Confidentiality Policy* and maintaining confidentiality at all times (Regulations 181, 183)
- working co-operatively with the Approved Provider and DET in any investigations related to grievances about Thornbury Kindergarten, it's programs or staff.

**Parents/guardians are responsible for:**

- raising a complaint directly with the person involved, in an attempt to resolve the matter without recourse to the complaints and grievances procedures
- communicating (preferably in writing) any concerns relating to the management or operation of the service as soon as is practicable
- raising any unresolved issues or serious concerns directly with the Approved Provider, via the Nominated Supervisor/educator or through the Grievances Subcommittee/investigator
- maintaining complete confidentiality at all times
- co-operating with requests to meet with the Grievances Subcommittee and/or provide relevant information when requested in relation to complaints and grievances.

**Volunteers and students, while at the service, are responsible for following this policy and its procedures.**

## EVALUATION

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

- regularly seek feedback from everyone affected by the policy regarding its effectiveness
- monitor complaints and grievances as recorded in the *Complaints and Grievances Register* to assess
- whether satisfactory resolutions have been achieved
- review the effectiveness of the policy and procedures to ensure that all complaints have been dealt with in a fair and timely manner
- 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 parents/guardians at least 14 days before making any changes to this policy or its procedures.

## **ATTACHMENTS**

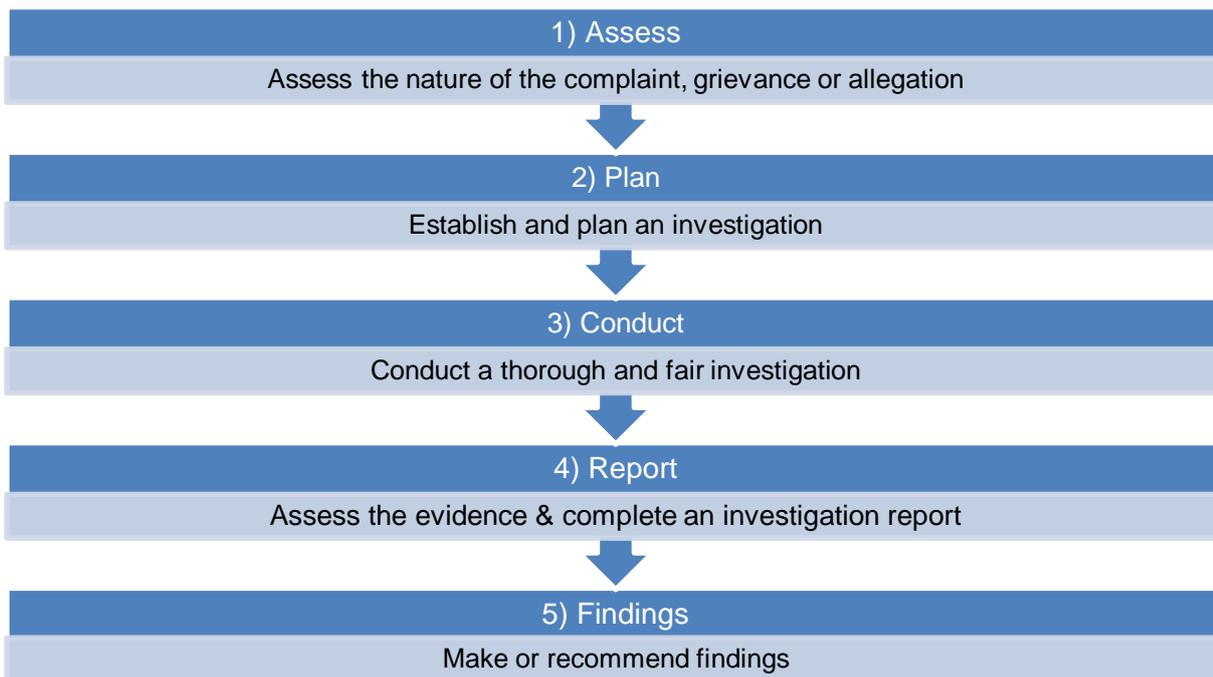
- Attachment 1: Process of an Investigation
- Attachment 2: Managing complaints, grievances and reportable allegations
- Attachment 3: Terms of Reference
  - Attachment 4: Sample Investigation Plan template.

## **AUTHORISATION**

This policy was adopted by the Approved Provider of Thornbury Kindergarten on 18 June 2019.

**REVIEW DATE: JUNE 2022**

## Attachment 1: Process of an Investigation



### 1) Assessing the allegation, complaint or grievance

It is important for investigators to separate allegations of reportable conduct (refer to Definitions) from complaints or worker / volunteer misconduct as worker or volunteer misconduct that are investigated for workplace disciplinary reasons do not have to involve reportable conduct.

If the Approved Provider determines that the complaint is a reportable allegation or a notifiable complaint the appropriate statutory timeframes must be adhered to. If the Approved Provider is unsure if the complaint is a notifiable complaint or a reportable allegation, it is good practice to contact DET or the Commission for confirmation.

If an allegation is criminal in nature, the Approved Provider **MUST** obtain clearance from Victoria Police prior to commencing the investigation.

### 2) Establishing an Investigation

. It is important to establish a focus and a clear purpose of an investigation in order to achieve the best results. The purpose must be relevant, realistic, achievable and within the investigator's power. The Terms of Reference for an investigation should set out the proposed scope of the investigation while taking into consideration any matters that will limit the ability of the investigator to achieve those objectives. The Commission requires that an independent investigator is to be used for investigations into reportable allegations. An independent investigator means an independent body or person (who can come from the organisation) with the appropriate qualifications, training or experience to investigate

reportable allegations. Whilst not mandatory a Certificate IV in Government Investigations is an appropriate level of qualification to undertake an investigation

To determine the most appropriate investigative approach it is important to consider:

- the powers and authorisations necessary to investigate the allegation
- the resources and skills required
- who will undertake the investigation and conflicts of interest

### **3) Conducting a thorough investigation**

Develop an investigation plan and ensure that the procedures undertaken in the investigation are fair and reasonable. When investigating an allegation and determining outcomes, the investigation should comply with the requirements of 'procedural fairness'. By observing 'procedural fairness', an organisation manages risk properly, ensures that it responds in a manner that is fair to everyone involved and minimises the chance that its decisions might be challenged. The investigation period must adhere to the appropriate statutory timeframes.

A reportable conduct investigation can be stressful and demanding on all people involved. The role of the investigator is to facilitate an inclusive and culturally safe environment for all witnesses during the course of the investigation. Vital to the intent of keeping children safe is the need to ensure appropriate support to an alleged victim. Steps must be taken during the investigation to mitigate risks that the alleged victim is no re-traumatised by the investigation process.

### **4) Assessing the Evidence**

An investigation should be assessed on the weight of evidence and not on suspicion or rumours. The investigation should apply a 'balance of probabilities' as the standard of proof.

### **5) Finalising an Investigation**

At the conclusion of the investigation, a finding(s) must be made about whether or not the allegation occurred. The finding should then be used to make a decision about:

- what, if any, action should be taken in relation to the Involved Adult who was the subject of the complaint or allegation to make sure that children are kept safe both now and in the future
- possible findings include 'substantiated', 'unsubstantiated – insufficient evidence', 'unsubstantiated – lack of evidence weight', 'unfounded' and conduct outside of the scheme
- whether the organisation needs to do anything else to manage risks to children
- reporting any findings to relevant professional regulators

- The Commission will operate an online form for heads of organisations to notify of a reportable allegation, which will guide them through the notification process. Supporting documentation can be submitted through the online form. The Commission requires that heads of organisations use the online form.  
<https://ccyp.vic.gov.au/reportable-conduct-scheme/notify-and-update/>

## Attachment 2: Guide to managing complaints, grievances and reportable allegations

### Managing a complaint

When a complaint is received, the person to whom the complaint is addressed will:

- inform the complainant of the service's *Complaints and Grievances Policy*
- encourage the complainant to resolve the complaint with the person directly, or to submit their complaint in writing
- enter the complaint in the *Complaints and Grievances Register* (refer to *Definitions*) together with the outcome
- comply with the service's *Privacy and Confidentiality Policy* with regard to all meetings/discussions in relation to a complaint

Consult with the Approved Provider and/or Nominated Supervisor to assess and determine the nature of the complaint

- inform the Approved Provider if the complaint escalates and becomes a grievance (refer to *Definitions*), a notifiable complaint (refer to *Definitions*), a reportable allegation (refer to *Definitions*) or is unable to be resolved appropriately in a timely manner.

### Managing a grievance

When a formal complaint or grievance is lodged with the service:

- the staff member receiving the formal complaint or grievance will record all relevant details regarding the grievance in the *Complaints and Grievances Register* (refer to *Definitions*) and immediately inform the Approved Provider

The Approved Provider must assess the grievance to determine if it is a notifiable complaint (refer to *Definitions*) or a reportable allegation (refer to *Definitions*). If the Approved Provider is unsure if the complaint is a notifiable complaint or a reportable allegation, it is good practice to contact DET or the Commission for confirmation.

- the Approved Provider must inform the service's Grievances Subcommittee, if there is one, or appoint an investigator(s) to investigate the grievance / allegation
- the Approved Provider will establish the Terms of Reference for an investigation
- the Grievances Subcommittee/investigator in consultation with the Approved Provider will develop an Investigation Plan to identify what questions need to be answered, what evidence is needed to answer those questions, and the best way to obtain that evidence
- if the grievance is notifiable, the Approved Provider will be responsible for notifying DET. This must be in writing within 24 hours of receiving the complaint (Regulation 176(2)(b))
- the written report to DET needs to be submitted using the appropriate forms from ACECQA and will include:
  - details of the event or incident
  - the name of the person who initially made the complaint
  - if appropriate, the name of the child concerned and the condition of the child, including a medical or incident report (where relevant)
  - contact details of a nominated member of the Grievances Subcommittee/investigator
  - any other relevant information

If the grievance or allegation is a reportable allegation, the Approved Provider is responsible for notifying the Commission for Children and Young People (the Commission) within three business days of becoming aware of the reportable allegation.

### Grievances Subcommittee/investigator responsibilities and procedures

In the event of a grievance or allegation being lodged, the Grievances Subcommittee/investigator will:

- convene as soon as possible to deal with the grievance in a timely manner that meets statutory requirements

Agree to and abide by the Terms of Reference of the investigation

- disclose any conflict of interest relating to any member of the subcommittee/panel of investigators.

Such members must stand aside from the investigation and subsequent processes

- consider the nature and the details of the grievance
- identify which service policies (if any) the grievance involves
- inform the Approved Provider if their involvement is required under any other service policies
- if the grievance is a notifiable complaint (refer to *Definitions*), inform the complainant of the requirements to notify DET of the grievance and explain the role that DET may take in investigating the complaint

If the grievance is a reportable allegation, inform the complainant of the requirements to notify the Commission and explain the role of the Commission

- maintain appropriate records of the information and data collected, including minutes of meetings, incident reports and copies of relevant documentation relating to the grievance
- respect the confidential nature of information relating to the grievance. The Approved Provider and the subcommittee/investigator must handle any grievance in a discreet and professional manner
- store all written information relating to grievances securely and in compliance with the service's *Privacy and Confidentiality Policy*.

### **Investigating the grievance and gathering relevant information**

When investigating the grievance or allegation and gathering relevant information, the Grievances Subcommittee/investigator will:

- facilitate an inclusive, respectful and safe environment for all witnesses taking into consideration the age of the victim and witnesses and any relevant cultural factors
- conduct meetings with all individual witnesses, and give right of reply to the person against whom the allegations are made in relation to any accusation or information relating to an alleged incident
- provide a letter of allegation to the subject of a reportable allegation so that there is a record of the information that has been provided. Careful consideration should be given to the best timing of the letter to ensure procedural fairness is accorded but the investigation is not hindered by evidence being destroyed or witnesses coerced
- offer the complainant the opportunity of meeting with the subcommittee/investigator to discuss the complaint and provide additional information where relevant
- nominate a subcommittee member to inform the complainant of the procedures for dealing with the grievance if the complainant does not take up the opportunity to attend a meeting
- document the time, date and detail of meetings/discussions, and follow this up with a letter to the complainant outlining the information discussed
  - be available to meet with DET or Commission staff, if required, and provide additional information as requested
- review relevant information and documents
- document all information about the investigation including every task undertaken and the reason.
- Make records of all evidence collected. All records should be stored securely.
- obtain any other relevant information or documentation or undertake site visits that will assist in resolving the grievance
- seek advice, where appropriate, from individuals and organisations that may be able to assist in resolving the grievance (any cost in seeking advice will require prior approval by the Approved Provider).

### **Following the investigation**

Once the investigation of the grievance, complaint or allegation is complete, the Grievances Subcommittee/investigator will:

- endeavour to resolve the grievance by mutual agreement of the parties involved
- meet to discuss the information gathered and determine further action, including generating recommendations to be presented to the Approved Provider
- ensure that any recommendations or actions are in accordance with relevant legislation and funding requirements including, but not limited to:
  - Education and Care Services National Law Act 2010*
  - Education and Care Services National Regulations 2018*
  - The Kindergarten Guide* (refer to Sources) report outcomes that may include relevant information gained in investigations and consultations to the Approved Provider and, where required, provide any recommendations for consideration by the Approved Provider
- inform the Approved Provider on the involvement of DET or the Commission and the outcomes of any investigation by DET or the Commission
- advise the complainant and other relevant parties of any decisions made by the Approved Provider in relation to the grievance
- follow up to ensure the parties involved are satisfied with the outcome and monitor progress on any actions taken by the Approved Provider.

The Approved Provider will review the report and any subcommittee/investigator recommendations and will be responsible for making decisions on the action to be taken (if any), including relevant review mechanisms. The Approved Provider will notify the required regulatory bodies of the findings of the investigation, action taken or not taken and the reasons for the action.

### Attachment 3: Terms of Reference

Suggested items for the Terms of Reference include (but not limited to):

- Scope
- Allegation
- Further allegations
- Terms of Engagement
- Roles and Responsibilities
- Meetings / communication of updates
- Confidentiality
- Decision making authority
- Investigation plan
- Timing
- Amendments, modification

A Sample terms of reference for a Grievances Subcommittee/investigator is provided below.

DATE ESTABLISHED:

#### 1) Purpose (select a or b)

- a) A Grievances Subcommittee has been established by the Approved Provider of Thornbury Kindergarten to investigate and resolve grievances lodged with Thornbury Kindergarten.
- b) An investigator/panel of investigators has been appointed by the Approved Provider of Thornbury Kindergarten to investigate and resolve grievances lodged with Thornbury Kindergarten.

The Grievances Subcommittee / *(insert name of investigator)* is instructed by Thornbury Kindergarten to conduct an investigation and gather evidence in relation to *(insert allegation/grievance)*. The Grievances Subcommittee / *(insert name of investigator)* is asked to find whether the facts, as found, amount to reportable conduct as defined in the Child Wellbeing and Safety Act 2005.

#### 2) Membership

- a) Three people are nominated by the Approved Provider, and membership must include a minimum of one Responsible Person (refer to *Definitions*).
- b) *(insert name of investigator)*

#### 3) Terms of Engagement

The Grievances Subcommittee / investigator shall be appointed from *(insert date)* until the final Investigation Report is delivered or unless terminated by agreement of the parties.

#### 4) Grievance / Allegation

- *(list grievances / allegations individually)*

#### 5) Further allegations

If further allegations arise during the investigation, the Grievances Subcommittee / *(insert name of investigator)* will inform the Approved Provider. *(insert course of action)*

If the Grievances Subcommittee / *(insert name of investigator)* suspects further allegations potentially involve criminal conduct, those matters will be reported to the Approved Provider to Victoria Police. The investigation will cease immediately, until and unless Victoria Police advise the Approved Provider that its investigation may continue.

**6) Meeting requirements**

The subcommittee convener/investigator is responsible for organising meetings as soon as is practicable after receiving a complaint or grievance.

**7) Decision-making authority**

The subcommittee/investigator is required to fulfil only those tasks and functions as outlined in these terms of reference.

The Approved Provider will be the decision-maker in this matter. The Approved Provider will consider the final Investigation Report and determine what, if any, action is required.

**8) Budget allocation**

All expenditure to be incurred by the subcommittee/investigator must be approved by the Approved Provider. A request in writing must be submitted by the subcommittee/investigator.

**Reporting requirements of the committee**

The subcommittee/investigator is required to keep minutes of all meetings held. These are to be kept in a secure file.

The convener is required to present a written report to the Approved Provider about the grievance, ensuring that privacy and confidentiality are maintained according to the service's *Privacy and Confidentiality Policy*.

**9) Roles and responsibilities of the Grievances Subcommittee/investigator**

*(select applicable)*

- Responding to complaints in a timely manner
- Investigating all complaints received in a discreet, sensitive and responsible manner
- Implementing the procedures outlined in Attachment 2 – Managing complaints, grievances and allegations

- Acting fairly and equitably, and maintaining confidentiality at all times

Gathering evidence by appropriate means such as: Visiting the organisation and taking photos; conducting interviews with all witnesses and the subject of the allegation; Obtaining signed statements from witnesses; Obtaining information about policies, procedures and practices; Accessing relevant records;

Collecting and storing evidence

Providing a letter of allegation

Assessing all evidence on the balance of probabilities

- Informing the Approved Provider if a complaint is assessed as notifiable or reportable
- Keeping the Approved Provider informed about complaints that have been received and the outcomes of investigations

Preparing a final report that will make findings as outlined in the above scope of investigation

- Providing the Approved Provider with recommendations for action
- Ensuring decisions are based on the evidence that has been gathered
- Reviewing the terms of reference of the Grievances Subcommittee/investigator at commencement and on completion of their term. Suggestions for alterations are to be presented to and approved by the Approved Provider.

**10) Investigation Plan**

- The Investigation Plan is annexed to these Terms of Reference

**11) Timing**

The investigation will be completed as expeditiously as possible. Assuming witness availability and cooperation, it is anticipated that the Grievances Subcommittee / *(insert name of investigator)* will provide the final Investigation Report to the Approved Provider by *(insert date)*.

**12) Confidentiality**

All participants in the investigation must maintain confidentiality in relation to the allegations investigation and sign a confidentiality acknowledgement provided by the Grievances Subcommittee / *(insert name of investigator)*

**13) Amendment, modification or variation**

These Terms of Reference may be amended, varied or modified in writing after consultation and agreement by both parties.

Executed as an AGREEMENT:

*(insert Head of Organisation)* for and on behalf of, Thornbury Kindergarten Inc.  
*(insert date)*

*(investigator)*, for and on behalf of, *(insert investigation company)*  
*(insert date)*

## **Attachment 4: Sample Investigation Plan template**