

Responsible Persons Policy and Procedure

Quality Area 4

Purpose

Our Service is committed to meeting our duty of care obligations under the Education and Care Services National Law and National Regulations to ensure a Responsible Person is physically on the premises at all times to ensure the health, safety, wellbeing, learning, and development of all children at the service is maintained at all times. This policy outlines how we will meet this requirement.

Scope

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students, volunteers and parents/guardians.

Background

Under the *Education and Care Services National Law Act 2010*, it is an offence to operate an approved centre-based education and care service unless a responsible person (refer to *Definitions*) is physically in attendance at all times the service is educating and caring for children.

An approved provider must not operate a service unless there is a nominated supervisor appointed for that service. The nominated supervisor does not have to be in attendance at the service at all times, but in their absence, a responsible person, such as a person in day-to-day charge must be present.

Principles

The Service is committed to:

- meeting its duty of care obligations under the law
- ensuring staffing arrangements contribute to the safety, health, wellbeing, learning and development of all children at the service
- meeting legislative requirements for a responsible person (refer to *Background* and *Definitions*) to be on the service premises at all times.

Roles and responsibilities

The approved provider and persons with management or control are responsible for:

- ensuring there is a Nominated Supervisor or responsible person on the premises at all times the service is operating including during periods of leave or illness.
- nominating a suitably qualified and experienced nominated supervisor and persons in day to day charge for the service
- ensuring that a person nominated as a nominated supervisor or a person in day-to-day charge:
 - is at least 18 years of age
 - has adequate knowledge and understanding of the provision of education and care to children
 - has the ability to effectively supervise and manage an education and care service
 - has not been subject to any decision under the National Law, or any other children's services or education law, to refuse, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person
 - has a history of compliance with the National Law and other relevant laws

- ensuring that the name and position of the responsible person in charge of the service is displayed and easily visible from the main entrance of the service
- ensuring that the service does not operate without a nominated supervisor(s), and that the nominated supervisor(s) has given written consent to be in the role
- ensuring that the name of the nominated supervisor is displayed prominently at the service
- ensuring that information about the nominated supervisor, including name, address, date of birth, evidence of qualifications, approved training, a Working with Children Clearance or teaching registration, and other documentary evidence of fitness to be a nominated supervisor is kept on the staff record
- notifying the Regulatory Authority if:
 - there is a change to the name or contact details of the nominated supervisor
 - the Nominated supervisor is no longer employed or engaged by the service
 - has been removed from the role
 - the nominated supervisor withdraws their consent to the nomination
 - if a nominated supervisor or person in day-to-day charge has their Working with Children Clearance or teacher registration suspended or cancelled, or if they are subject to any disciplinary proceedings under the law
 - there is any other matter or incident which affects the ability of the nominated supervisor to meet minimum requirements and re-assessing the nominated supervisor's suitability for the role
- ensuring that, when the nominated supervisor is absent from the premises, an alternative responsible person is on site
- Ensuring the roster of shifts clearly indicates who the person in day to charge is for all times the service is in operation.
- ensuring that the nominated supervisor and person in day-to-day charge have a sound understanding of the role of responsible person
- ensuring that the staff record includes the name of the responsible person at the centre-based service for each time that children are being educated and cared for by the service
- ensuring that the nominated supervisors and person in day-to-day charge have successfully completed child protection training
- developing rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children.

The nominated supervisor is responsible for:

- providing written consent to accept the role of nominated supervisor
- ensuring they have a sound understanding of the role of responsible person (refer to *Definitions*)
- ensuring that, in their absence from the service premises, a responsible person is present
- ensuring that a person in day-to-day charge:
 - is at least 18 years of age
 - has adequate knowledge and understanding of the provision of education and care to children,
 - has the ability to effectively supervise and manage an education and care service
 - has not been subject to any decision under the National Law, or any other children's services or education law, to refuse, refuse to renew, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person
 - has a history of compliance with the National Law and other relevant laws
- ensuring that an educator gives written consent to being a person in day-to-day charge
- Ensuring any person identified as a person in management and control receives adequate training and understanding of the role and responsibilities in the absence of the nominated Supervisor
- ensuring that the name and position of the responsible person in charge of the service is displayed and easily visible from the main entrance of the service
- develop rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children
- notifying the approved provider and the Regulatory Authority within 7 days of any changes to their personal situation, including a change in mailing address, circumstances that affect their status as fit and proper, such as the suspension or cancellation of a Working with Children Clearance or teacher registration, or if they are subject to disciplinary proceedings.

Other staff are responsible for:

- Knowing who the person in management and control is in the absence of the Nominated Supervisor
- ensuring they have a sound understanding of the role of responsible person.

- Follow the directions and advice of the person in management and control in the absence of the Nominated Supervisor

Parents/guardians are responsible for:

- reading and understanding this policy
- being aware of the responsible person at the service on a daily basis.

Induction and ongoing training

This policy will be accessible by service staff via the intranet and by families via the website. A hard copy of the policy will be available through the Service. Nominated supervisors are responsible for ensuring staff access to the policy and any supporting documents and undertake induction training prior to the policy being implemented. All service staff are responsible for understanding and complying with this policy and ongoing training will be provided using a range of learning platforms.

Monitoring, evaluation and review

Monitoring of compliance with this policy and the related procedure will be overseen by the policy owner. The review process for this policy will begin eight (8) weeks prior to the scheduled review date and include a consultation period with families, educators, compliance team and any other relevant stakeholders and will be facilitated by the Policy Officer.

All service staff will receive communication about any changes in or review of the policy or procedure. Training will be provided where required to ensure an understanding of the changes. Families will be notified of any changes 14 days prior to the implementation. Breaches of this policy will be dealt with in line with the MACSEYE Code of Conduct.

Related policies

- Child Safety and Wellbeing Policy
- Code of Conduct Policy
- Participation of Volunteers and Students Policy
- Supervision Policy

Legislative requirements

NATIONAL QUALITY STANDARDS (NQS)	
Quality Area 4	Staffing arrangements
Quality Area 7	Governance and leadership

EDUCATION AND CARE SERVICES NATIONAL LAW ACT	
Section 162	Offence to operate education and care service unless responsible person is present
Section 169	Offence relating to staffing arrangements

EDUCATION AND CARE SERVICES NATIONAL LAW REGULATIONS	
117A	Placing a person in day-to-day charge
117B	Minimum requirements for a person in day-to-day charge

EDUCATION AND CARE SERVICES NATIONAL LAW REGULATIONS

117C	Minimum requirements for a nominated supervisor
150	Responsible Person
168	Policies and Procedures
173	Prescribed information to be displayed
177	Prescribed enrolment and other documents to be kept by approved provider

RELATED LEGISLATIONS

Worker Screening Act 2020

Child Wellbeing and Safety Act 2005

Definitions

Term	Meaning
Duty of care	A common law concept that refers to the responsibilities of organisations to provide people with an adequate level of protection against harm and all reasonable foreseeable risk of injury.
Person in day-to-day charge	A person who is placed in day-to-day charge of an education and care service by an approved provider or a nominated supervisor; and who has consented to the placement in writing (Regulation 117A).
Person with management or control	Where the approved provider of a service is an eligible association, each member of the association's executive committee is a person with management or control and has the responsibility, alone or with others, for managing the delivery of the education and care service (National Law: Definitions (b)).
Responsible person	Centre-based services must have a responsible person present at all times that the service is delivering education and care. The responsible Person is the person in day-to-day charge at the service and can be one of the following: <ul style="list-style-type: none"> the approved provider, if the approved provider is an individual, or in any other case, a person with management or control (refer to <i>Definitions</i>) of an education and care service operated by the approved provider the nominated supervisor of the service a person placed in day-to-day charge of the service. (National Law, Section 162)
Nominated supervisor	A person who has been nominated by the approved provider of the service under Part 3 of the Act and who has consented to that nomination in writing can be the nominated supervisor. All services must have a nominated supervisor(s) with responsibility for the service in accordance with the National Regulations (Section 5 and 161)
Working with Children (WWC) Check	The check is a legal requirement under the Worker Screening Act 2020 for those undertaking paid or voluntary child-related work in Victoria. The Department of Justice assesses a person's suitability to work with children by examining relevant serious sexual, physical and drug offences in a person's national criminal history and, where appropriate, their professional history.
Working with Children (WWC) Clearance	A WWC Clearance is granted to a person under Worker Screening legislation if: <ul style="list-style-type: none"> they have been assessed as suitable to work with children there has been no information that, if the person worked with children, they would pose a risk to those children they are not prohibited from attempting to obtain, undertake or remain in child-related employment.

Policy information

Policy information			
Policy title:	Responsible Persons Policy	Version:	1.0
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Approving authority:	Managing Director	Approval date:	6/9/2024
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Version control		
Version	Date	Changes
1.0	6/9/2024	Policy developed