

Determining Responsible Person Policy



This policy applies to the Approved Provider, Persons with Management or Control, Nominated Supervisor, Persons in day-to-day Charge, staff, students on placement, volunteers and parents/guardians of the Early Years Services.

Responsible Person

Director of Community Services

Statement

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.

Objectives

This policy will provide guidelines to assist in determining the Responsible Person at the Early Years Services.

The Early Years Services are committed to:

- Meeting its duty of care (refer to Definitions) 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.

Responsibilities

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

- Ensuring there is a Responsible Person on the premises at all times the service is delivering education and care programs for children.
- Nominating sufficient Nominated Supervisors to meet legislative requirements for a Responsible Person at the service at all times, including during periods of leave or illness.
- 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, suspect, 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.

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- Ensuring that information about the Nominated Supervisor, including name, address, date of birth, evidence of qualifications, approved training, a Working with Children Check or teaching registration, and other documentary evidence of fitness to be a Nominated Supervisor (refer to [Staffing Policy](#)) 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 Check 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 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 (see [Child Safe Environment Policy](#)).
 - Developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children.

The Nominated Supervisor/Person in Day to Day charge is responsible for:

- Providing written consent to accept the role of Nominated Supervisor/Person in day to Day charge.
- Undertaking child protection training as per staff education plan
- Ensure adequate supervision of children at all times that children are in their care
- Ensure no child is subjected to corporal punishment or discipline that is unreasonable in the circumstances
- Must ensure every reasonable precaution is taken to protect children being educated for by the service from harm and from any hazard likely to cause injury
- 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.

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- 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, suspect, 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.
- Supporting the Approved Provider to 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 Check or teacher registration, or if they are subject to disciplinary proceedings.

Other staff are responsible for:

- Meeting the qualifications, experience and other requirements if they wish to be nominated as a Person in day-to day Charge.
- Providing written consent to be the Person in day-to-day Charge.
- Ensuring they have a sound understanding of the role of Responsible Person.

Parents/guardians are responsible for:

- Reading and understanding this policy.
- Being aware of the Responsible Person at the service on a daily basis.

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

Definitions

The terms defined in this section relate specifically to this policy. For commonly used terms e.g. Approved Provider, Responsible Person, National Law, National Regulations, Regulatory Authority etc. refer to the [Glossary of Terms – Early Years](#).

Approved service: An education and care service for which a service approval exists. A request for service approval must be made in writing to the Regulatory Authority and include prescribed information including details of the Nominated Supervisor and their written consent to be nominated as such.

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

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

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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:

- The Approved Provider, if the Approved Provider is an individual, or in any other case, a Person with Management or Control (refer to *Definitions*) 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 by the approved provider.

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 regulations.

Prior to appointing a responsible person the Approved provider will:

- **Complete compliance history statement with the staff member.**
- Discuss level of responsibility with the staff member as outlined in this procedure and ensure they are willing to accept the responsibility.
- Inform the staff member of rostering system that supports approved provider to document person in day to day charge and that they are to notify managers of changes to the person in charge from what is on the roster to ensure accurate records are kept.
- Staff member to sign day to day in charge consent form indicating which services they are the nominated supervisor for or person in charge as per the roster.
- Keep a copy of the compliance record and consent form within the staff members electronic and in staff records file with the approved provider.

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 the implementation, compliance, complaints and incidents in relation to this policy.
- 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 unless a lesser period is necessary because of a risk.

Forms and records

Staff Record Spreadsheet

MTHCS Early Years Nominated Supervisor Consent Form [saved in Fdrive-MalleeMinors-FORMS]

MTHCS Early Years Person in Day to Day Charge Consent Form (replacing the one that is linked) [saved in Fdrive-MalleeMinors-FORMS]

Compliance History Statement for Nominated Supervisor and PIDTDC [saved in Fdrive-MalleeMinors-FORMS]

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[AS12-nominated-supervisor-consent-form.pdf](#)
[NS01_NominatedSupervisorConsentForm.pdf](#)

Related MTHCS Policy / Procedure:

[Child Safe Environment Policy](#)
[Code of Conduct – Early Years](#)
[Participation of Volunteers and Students Policy](#)
[Privacy and Confidentiality Policy](#)
[Staffing Policy](#)
[Supervision of Children Policy](#)

References

Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets:
[www.acecqa.gov.au](#)

Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011: [www.acecqa.gov.au](#)

Guide to the National Quality Framework: [www.acecqa.gov.au](#)

Legislation

Relevant legislation and standards include but are not limited to:

Child Safe Standards
Education and Care Services National Law Act 2010
Education and Care Services National Regulations 2011
National Quality Standard, Quality Area 4: Staffing Arrangements
National Quality Standard, Quality Area 7: Leadership and Service Management
Working with Children Act 2005 (Vic)
Working with Children Regulations 2006 (Vic)
Children's Services Regulations 2020
Children's Services Act 1996

Standards

National Quality Standard – QA4

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