

## 6.17 DETERMINING OF RESPONSIBLE PERSONS.

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 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 must be present.

### **Definitions.**

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 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.

- The Approved Provider, if the Approved Provider is an individual or in any other case a Person with Management or Control 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.

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 the Nominated Supervisor(s) with responsibility for the service in accordance with the National Regulations (Section 5 and 161)

### **Procedures**

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
- (Regulation 146).
- 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 Nominating sufficient Nominated Supervisors to meet legislative requirement 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 service 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 (National Law: Section 172)
- 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 Check or teaching registration and other documentary evidence of fitness to be Nominated Supervisor is kept on the staff record 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 they are subject to any disciplinary proceeding under the law.
  - There is any other matter or incident which affect the ability of the Nominated Supervisor to meet Minimum requirements and re-assessing the Nominated Supervisor's suitability for the role

- Ensure 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 (Regulation 150)
- 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
- 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 the 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 (Regulation 117B)
- Ensuring an educator gives written consent to being a Person in day to day Charge.
- Ensuring 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 the Responsible Persons, hours of operations and the attendance patterns of children
- Notify 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.



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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 Person in day to day charge
- Ensuring they have a sound understanding of the role of Responsible Person.

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

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