

POLICY & PROCEDURAL STATEMENTS

Topic: Early Learning – Determining the Responsible Person Present

Policy: The wellbeing of each child is the highest priority in the Early Learning Centre. Avenue Neighbourhood House @ Eley (ANH@E) Early Learning Centre will follow the below guidelines to assist in determining the Responsible Person present.

Background: Under the *Education and Care Services National Law Act 2010*, it is an offence to operate an approved child centre-based education and care service unless a Responsible Person is present. Legislation requires that a Responsible Person is physically in attendance at all times whilst the service is educating and caring for children. The Responsible Person is either the Approved Provider (or the person in management or control of the service), the Nominated Supervisor of the service, or a Certified Supervisor who has been placed in day-to-day charge of the service. For more information regarding these terms, refer to Definitions.

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 attend the service at all times, but in their absence, a Certified Supervisor is to be placed in charge, ensuring there is always someone on the centre premises who has been assessed as fit and proper by ANH@E. It is important to note that a Certified Supervisor placed in day-to-day charge of a service **does not** have the same responsibilities under the National Law as the Nominated Supervisor.

Definitions:

Approved Provider: An individual or organisation that has completed an application form and been approved by the Regulatory Authority as fit and proper (in accordance with Sections 12, 13 and 14 of the National Law) to operate one or more education and care services.

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.

Certified Supervisor: An educator who has been deemed fit and proper and gives written consent to being placed in day-to-day charge of the education and care service. The designation must be made by the Approved Provider or the Nominated Supervisor and accepted in writing by the Certified Supervisor. A Certified Supervisor placed in day-to-day charge of a service **does not** have the same responsibilities under the National Law as the Nominated Supervisor.

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 reasonably foreseeable risks of injury.

Fit-and-Proper Person: In determining whether an applicant is fit and proper, the Approved Provider or the Nominated Supervisor must consider the

applicant's history of involvement in education and care services, their compliance with current and prior law, criminal history record check and any bankruptcy or insolvency issues. Registered teachers and those who hold a current Working with Children Check card are considered to be fit-and-proper persons.

Nominated Supervisor: A person who is a Certified Supervisor and has been nominated by the Approved Provider of the service under Part 3 of the Act to be the Nominated Supervisor of that service, and who has consented to that nomination. The Nominated Supervisor has day-to-day responsibility for the service in accordance with the National Regulations. All services must have a Nominated Supervisor.

Persons with management or control of a service (PMC): are the persons within or outside the approved provider who are responsible for managing the delivery of the provider's service(s) or who have significant influence over the activities or delivery of the service. This includes any person who has

- authority, responsibility or significant influence over
- the planning, direction, or control of:
 - the activities of the service, or
 - the delivery of the service.

PMCs could include persons both within and outside the approved provider entity. In addition to persons who hold executive or management roles, PMCs will also include:

- persons without a formal role in the approved provider entity,
- volunteers, and
- persons employed by third-party management companies.

Responsible Person: The Approved Provider (if that person is an individual, and in any other case the person with management or control of the service operated by the Approved Provider) or a Nominated Supervisor or Certified Supervisor who has been placed in day-to-day charge of the service in accordance with the National Regulations.

Relevant Legislation and Standards:

Relevant legislation and standards include but are not limited to:

- *Education and Care Services National Law Act 2010* (Vic)
- Education and Care Services National Regulations
- National Quality Standard, Quality Area 4
- National Quality Standard, Quality Area 7

Roles:

Approved Provider/Responsible Person: House Manager

Certified/Nominated Supervisor: Director of Early Learning

Certified/Early Learning Educators: Refer to House Manager for names

This list is only staff who hold a supervisor's certificate other staff may be deemed fit and proper to be in charge day to day.

Code of Practice:

ANH@E will

- Ensure there is a Responsible Person on the premises at all times the service is delivering education and care programs for children.
- Ensure that a person eligible to be nominated as a Responsible Person has appropriate skill level, experience, qualifications, and approval to work with children, as required under the National Law and National Regulations.
- Ensure 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.
- Ensure that the service does not operate without a Nominated Supervisor, and that this person has given written consent and has been deemed fit and proper.
- Ensure 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, and approved training, and a Working with Children Check is kept on the staff record.
- Ensure that Certified Supervisors provide written consent to being placed in day-to-day charge when designated by either the Nominated Supervisor or Approved Provider Responsible Person.
- Notify the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor for more than a week's duration.
- Ensure that, in the absence from the service premises of a Nominated Supervisor, another person who has been deemed fit and proper and consents in writing is placed in day-to-day charge of the service.
- Ensure that the Nominated Supervisor and Certified Supervisors have a sound understanding of the roles.
- Ensure there are sufficient Certified Supervisors to meet the legislative requirement at the service during periods of leave or illness.
- Ensure details of the Certified Supervisor are placed in the staff file notifying the Regulatory Authority in writing if there any changes to:
 - The name of the Approved Provider.
 - The appointment or removal of a person with management or control of the service (PMC) operated by the Approved Provider.
 - The status of the Approved Provider as fit and proper.
 - Notifying the Regulatory Authority if a Nominated Supervisor or Certified Supervisor has their Working with Children Check card or teacher registration suspended or cancelled, or if they are subject to any disciplinary proceedings under the law.

Responsibilities:

The Approved Provider and/or Responsible person is responsible for:

- Notifying the Regulatory Authority within seven (7) days of any changes to the Nominated Supervisor and or Certified Supervisors 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 card or teacher registration, or if they are subject to disciplinary proceedings.
- Ensuring that evidence of qualifications, personal details, approved training, current Working with Children Check and signed consent forms are kept for all Certified Supervisors and Nominated Supervisor on staff records.

The Nominated Supervisor is responsible for:

- Holding a Supervisor Certificate or has been deemed a fit and proper person, providing written consent to accept the role of Nominated Supervisor.
- Ensuring that, in their absence from the service premises, another person who has been deemed fit and proper as a Certified Supervisor is placed in day-to-day charge of the service.
- Ensuring they have a sound understanding of the role of Nominated Supervisor.
- Ensuring that the name and position of the Nominated Supervisor in charge of the service is displayed and easily visible from the main entrance of the service.
- Developing rosters in accordance with the availability of Certified Supervisor, hours of operations and the attendance patterns of children.
- Notifying the Approved Provider and/or Responsible Person within seven (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 card or teacher registration, or if they are subject to disciplinary proceedings.
- Notifying the Approved Provider and/or Responsible Person if the Regulatory Authority cancels their Supervisor Certificate (if applicable) or any reason.

Certified Supervisors are responsible for:

- Holding a Supervisor Certificate if applicable or being deemed a fit and proper person by the Approved Provider or Nominated Supervisor.
- Providing written consent to accept the role of Certified Supervisor.
- Displaying their name when acting in the position of Nominated Supervisor ensuring it is easily visible from the main entrance of the service.
- Informing the Approved Provider and/or Nominated Supervisor in the event of absence from the service due to leave or illness so they can be replaced by another Certified Supervisor.
- Ensuring they have a sound understanding of the role of Certified Supervisor.
- Abiding by any conditions placed on the Certified Supervisor.
- Understanding that a Certified Supervisor placed in day-to-day charge of an approved service **does not** have the same responsibilities under the National Law as the Nominated Supervisor.
- Notifying the Approved Provider and/or Responsible Person within seven (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 card or teacher registration, or if they are subject to disciplinary proceedings
- Notifying the Approved Provider and/or Responsible Person if the Regulatory Authority cancels their Supervisor Certificate for any reason.

Status		Current
Effective Date		12 July 2023
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Approval Authority		Committee of Management
Enquiries		9808 2000