

Determining Responsible Person Policy

1. Policy Statement

Values

NERPSA is committed to:

- meeting its duty of care obligations under the law
- ensuring staffing arrangements contribute to the health, safety, wellbeing, learning and development of all children at the service
- meeting legislative requirements for a Responsible Person to be on the service premises at all times.

Purpose

This policy will provide guidelines to assist in determining the Responsible Person at all NERPSA Kindergartens.

2. Scope

This policy applies to NERPSA, individual kindergartens within the NERPSA cluster and their staff.

3. Background and Legislation

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 present.

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 in charge.

Relevant legislation includes but is not limited to:

- *Education and Care Services National Law Act 2010*
- *Education and Care Services National Regulations 2011*
- *Working with Children Act 2005* (Vic)
- *Working with Children Regulations 2006* (Vic)

4. 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.

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.

Nominated Supervisor: A person who 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 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).

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.

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 and 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

5. Sources and Related NERPSA Policies

- Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets: www.acecqa.gov.au/national-quality-framework/information-sheets/
- *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 Standard:* www.acecqa.gov.au
- *Child Safe Environment Policy*
- *Code of Conduct Policy*
- *Participation of Volunteers and Students Policy*
- *Privacy Policy*
- *Staffing Policy*

6. Procedures

NERPSA is responsible for:

- 6.1. Ensuring there is a Responsible Person (refer to *Definitions*) on the premises at all times the service is delivering education and care programs for children
- 6.2. 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 (Regulations 117C and 117B)
- 6.3. 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 (National Law: Section 172)
- 6.4. Ensuring that the service does not operate without a Nominated Supervisor(s), and that this person has given written consent (refer to *Definitions*)
- 6.5. Ensuring that the name of the Nominated Supervisor(s) is displayed and easily visible from the main entrance of the service (National Law: Section 172)
- 6.6. Ensuring that the Nominated Supervisor(s) have successfully completed child protection training
- 6.7. Ensuring that information about the Nominated Supervisor(s), including name, address, date of birth, evidence of qualifications and approved training, and a Working with Children Check or teaching registration is kept on the staff record (Regulation 146)

- 6.8. Notifying the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor (Section 56, Regulation 35)
- 6.9. Ensuring that, in the absence from the service premises of a Nominated Supervisor, an alternative Responsible Person is on site
- 6.10. Ensuring that the Nominated Supervisor and Person in day-to-day Charge have a sound understanding of the role of Responsible Person
- 6.11. Notifying the Regulatory Authority if:
 - there is a change to the name or contact details of the Nominated Supervisor (Section 56, Regulation 35)
 - the Nominated Supervisor is no longer employed or engaged by the service or 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

The Nominated Supervisor is responsible for:

- 6.12. Providing written consent to accept the role of Nominated Supervisor
- 6.13. Ensuring they have a sound understanding of the role of Responsible Person
- 6.14. 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
- 6.15. 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 card or teacher registration, or if they are subject to disciplinary proceedings

Educators are responsible for:

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

7. Evaluation

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

- Seek feedback regarding the effectiveness of the policy
- 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.

8. Authorisation

The policy was adopted by NERPSA on 19th March 2013.

9. Review date

The policy will be reviewed every three years from date of adoption.