


Policy Title:	Early Years Policy - Determining the Responsible Person at the Early Years' Service		
Date of Adoption:	10 April 2013		
Adoption Method:	<input type="checkbox"/> Council	<input type="checkbox"/> CEO	<input checked="" type="checkbox"/> Other - Executive
Acting CEO Signature:			Date: 6 October 2020
Responsible Officer and Unit:	Coordinator Early Years Services, Early Years Unit		
Nominated Review Period:	<input type="checkbox"/> Annually	<input checked="" type="checkbox"/> Other - 3 years	
Last Review Date:	October 2020		
Next Review Date:	September 2023		
Purpose/Objective:	This policy will provide guidelines to assist in determining the Responsible Person at the Macedon Ranges Shire Council Early Years Services.		
Background/Reasons for Policy:	<p>Under the <i>Education and Care Services National Law Act 2010</i>, 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.</p> <p>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.</p>		
Definitions:	<p>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.</p> <p>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.</p> <p>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</p>		

DOCUMENT HISTORY	Version	Date	Author
Initial Draft	1	February 2016	D.Earp
Second Draft	3	June 2020	A.O'Sullivan
Final Draft	3	10/2020	J Laurent Goeman
Approval		10/2020	Executive Meeting

	<p>Nominated Supervisor, and who has consented to the placement in writing (<i>Regulation 117A</i>)</p> <p>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.</p> <p>Fit-and-proper person: in determining whether an applicant is fit and proper, the Regulatory Authority must take into account 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.</p> <p>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. All services must have a Nominated Supervisor(s) with responsibility for the service in accordance with the <i>National Regulations (Section 5 and 161)</i>.</p> <p>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:</p> <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 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. (<i>National Law, Section 162</i>)
<p>References:</p>	<p>Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets: www.acecqa.gov.au/national-quality-framework/information-sheets/</p> <p><i>Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011:</i> www.acecqa.gov.au</p> <p><i>Guide to the National Quality Standard:</i> www.acecqa.gov.au</p>
<p>Related Policies:</p>	<p><i>Early Years Policy - Child Safe environment</i> <i>Early Years Policy - Participation of volunteers and students</i> <i>Early Years Policy - Staffing</i> <i>Early Years Policy - Supervision of children</i> <i>Privacy Policy</i> <i>Staff Code of Conduct</i></p>
<p>Related Legislation:</p>	<p>Child Safe Standards <i>Education and Care Services National Law Act 2010:</i> Sections 5, 44, 56, 106–109, 114, 115, 118, 161, 162, 172, 291(5) <i>Education and Care Services National Regulations 2011:</i> Regulations 35, 46–49, 146, 168(2)(i)(ii), 173, 176(2)(c) <i>National Quality Standard, Quality Area 4: Staffing Arrangements</i> Standard 4.1: Staffing arrangements enhance children's learning and development and ensure their safety and wellbeing <i>National Quality Standard, Quality Area 7: Leadership and Service Management</i> Standard 7.1: Effective leadership promotes a positive organisational culture and builds a professional learning community Element 7.1.5: Adults working with children and those engaged in management of the service or residing on the premises are fit and proper <i>Working with Children Act 2005 (Vic)</i></p>

DETERMINING THE RESPONSIBLE PERSON AT THE EARLY YEARS SERVICE POLICY

Mandatory – Quality Area 4

SCOPE

This policy applies to staff, volunteers, students on placement at kindergartens and parents/guardians of Macedon Ranges Shire Council's Early Years Services.

RESPONSIBILITIES

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

- ensuring there is a Responsible Person (refer to Background and Definitions) 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 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 (refer to Attachment 2 - Compliance History Statement)
 - has a history of compliance with the National Law and other relevant laws (*Regulations 117C and 117B*)
- 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 service¹ (*National Law: Section 172*)
- ensuring 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 information about the Nominated Supervisor, including name, address, date of birth, evidence of qualifications and approved training, and a Working with Children Check (refer to *Early Years Policy – Staffing*) or teaching registration and other documentary evidence of fitness to be a Nominated Supervisor (refer to *Early Years Policy – Staffing*) is kept on the staff record (*Regulation 146*)
- ensuring in the absence from the Service premises of a Nominated Supervisor, an alternative Responsible Person is on site (refer to *Definitions*)
- ensuring the Nominated Supervisor and Person in day-to-day Charge have a sound understanding of the role of Responsible Person, ensuring the staff record includes the name of the Responsible Person each occasion children are being educated and cared for by the Service (*Regulation 150*)
- ensuring the Nominated Supervisors and Person in day-to-day Charge have successfully completed child protection training (see *Early Years Policy - Child Safe environment*)

¹ The guidelines to the National Regulations state that, given the Responsible Person in charge may change throughout the day (for example, at a changeover of shifts), this requirement might be met on a whiteboard or interchangeable name plate at the entrance of the service premises.

- developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children
- ensuring the teacher/educator gives written consent to being a Person in day-to-day Charge (refer to Attachment 3 - Acceptance of Responsible Person)
- notifying the Regulatory Authority in writing 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
 - has been removed from the role
 - the Nominated Supervisor withdraws their consent to the nomination
 - a Nominated Supervisor or person in day to day 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:

- providing written consent to accept the role of Nominated Supervisor (refer to ACECQA ITS portal form)
- ensuring they have a sound understanding of the role of Responsible Person (*refer to Definitions*)
- ensuring in their absence from the service premises, a Responsible Person is present
- ensuring they have a sound understanding of the role of Responsible Person
- 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, 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 (*Regulation 117B*)
- 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
- 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 VIT teacher registration, or if they are subject to disciplinary proceedings
- supporting the Approved Provider to develop rosters in accordance with the availability of Responsible Persons, hours of operation and attendance patterns of children

All staff are responsible for:

- meeting the qualifications, experience and other requirements if they wish to be nominated as 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.

EVALUATION

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

- regularly seek feedback regarding this policy and 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.

ATTACHEMENTS

Attachment 1: Responsible Person Letter

Attachment 2: Compliance History Statement

Attachment 3: Acceptance of Responsible Person

ATTACHMENT 1
Responsible Person Letter

Date

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Dear

Re: Consent to be responsible person in charge

I hereby acknowledge and support the recommendation of you as a responsible person in day-to-day charge when required. You will be advised when you are required to work in this role in a Macedon Ranges Shire Council Education and Care service as per the requirements stated in the revised National Quality Framework and National Law. Being in day-to-day charge does not place any additional legal responsibilities on you as a person under the National Law. The responsibilities relevant to educators under the National Law continue to apply.

A person in day-to-day charge must:

- be 18 years or older
- Have adequate knowledge and understanding of the provision of education and care to children
- Have an ability to effectively supervise and manage an education and care service
- Have completed child protection training and understand the obligations in relation to child protection laws
- Hold a current and valid Working With Children Check or VIT card and comply with working with children laws
- And NOT currently subject to a prohibition notice under the Education and Care Services National Law

To ensure compliance is met and validated please complete the attached compliance history statement form, as recommended through the Australian Children's Education and Care Quality Authority (ACECQA), and sign the Agreement below and return to me, to be copied and retained in your personal file and service staff record.

If you have any questions in relation to the above matter please do not hesitate to contact me on 5422 0251.

Yours sincerely



Alycia O'Sullivan
Approved Provider
Coordinator, Early Years Services
Community Services Department

ATTACHMENT 2
Compliance history statement – (Refer D19-44074)



COMPLIANCE HISTORY STATEMENT

2020

Details:

Full name

Question:

Response:

1. Have you ever had any compliance action or disciplinary proceedings to which you have been subject under:

No
 Yes, provide further details in comments section below

- the *Education and Care Services National Law*, including the Education and Care Services National Regulations, and
- any of the laws listed at Table 1 below, in any Australian state or territory.

2. Have you ever had a supervisor certificate that was subject to any conditions or suspended or cancelled by the regulatory authority?

No
 Yes, provide further details in comments section below

3. Are you or have you ever been subject to a prohibition notice under the *Education and Care Services National Law*?

No
 Yes, provide further details in comments section below

4. Have you ever held or applied for a licence, approval, registration, certification or other authorisation under the National Law which the regulatory authority refused, refused to renew, suspended or cancelled?

No
 Yes, provide further details in comments section below

Declaration/Signature

I, [insert full name]
.....of

[insert address]
.....

Additional Comments if response to any questions in Declaration were answered - Yes:

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ATTACHMENT 3
Acceptance of Responsible Person

AGREEMENT

I **Educator Name** accept the responsibility as the responsible person in day-to-day charge within my current role for Macedon Ranges Shire Council's kindergartens during the absence of the Nominated Supervisor or rostered responsible person (refer to form 8).

I understand and accept my responsibility under the Education and Care Services National Law and National Regulations.

I will ensure that I write my name on the Responsible Person in Charge information displayed (form 8) near the main entrance to the service when I am required in this role.

I commit to being:

- Aware of and able to apply the above Law and Regulations
- Able to apply Macedon Ranges Shire Council's Procedures and Policies
- Able to manage challenging situations
- Able to support other educators, all children and their families
- Able to respond efficiently and effectively in emergency situations

I have completed and signed the compliance history statement to be retained in my personal file/staff record.

SIGNED _____

DATE _____