



Determining the Responsible Person Present Procedure

Purpose and Scope

Maribyrnong Primary School is guided by the Education and Care Services National Law when determining the responsible person present. A responsible person will be on the premises at all times and the details of the responsible person will be documented and clearly displayed for educators, staff and families. The process for determining the responsible person will be clear to all educators and staff and followed at all times.

Under the *Education and Care Services National Law Act 2010*, it is an offence to operate an approved education and care service unless a Responsible Person is present.

Legislation requires that a Responsible Person is physically in attendance at all times the service is educating and caring for children. The Responsible Person is either the Approved Provider (or the person in management 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 be in attendance at the service at all times, but in their absence, a person with a Supervisor Certificate (a Certified Supervisor) is to be placed in charge, ensuring there is always someone on the service premises who has been assessed as fit and proper by the Regulatory Authority.

Definitions

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

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 consents 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 reasonable foreseeable risk of injury.

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 Vulnerable People 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.

Supervisor Certificate: Allows a person to consent to be the Nominated Supervisor or Certified Supervisor, and be placed in day-to-day charge of an approved service. Applicants must be 18 years or older, be assessed as a fit-and-proper person (refer to Definitions above) and meet the minimum requirements for qualifications, experience and management capability required under the Regulations (Regulations 46–49). Applicants for a Supervisor Certificate are assessed by the Regulatory Authority.

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.

The *Determining the Responsible Procedure* details the process for ensuring all regulations are adhered to and responsibilities are appropriately delegated.

Procedure

Responsible Person

A service must have a responsible person on the premises at all times. They will be identifiable by a red dot on their name badge and recorded for all families to see on the shared information board in the preschool.

Consent to being the Certified Supervisor placed in day-to-day charge

In all ETD preschools, the principal is the Certified Supervisor. The arrangement for these leaders as nominated supervisors continues to operate as normal. The 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. Only one staff member can be appointed to the position of nominated supervisor – the nominated supervisors role must be accepted in writing. The role of Certified Supervisor can be designated when the Principal is out of the school. In this instance it is then passed to the Deputy Principal, Executive Teacher and Teachers as required.

Duty of Approved Provider

- Ensure Nominated Supervisors and Certified Supervisors have a clear understanding of the role of the Responsible person.
- Ensure the responsible person is appropriately skilled and qualified.
- Ensure a responsible person is physically present at the centre. A substitute for the responsible person will be present where a waiver is in place.

Duty of Nominated Supervisor

- Arrange for the keeping of a 'responsible person record'. This record will document the current responsible person.
- Develop rosters engaging responsible persons in both contact and non-contact teaching times (educator release time and lunch breaks) ensuring that a responsible person is physically present at the preschool at all times and this is documented and displayed.
- Ensure that a responsible person is on the school premises at all times the preschool is delivering education and care programs for children.

- Ensuring that a person eligible to be nominated as a Responsible Person provides written consent to be the Certified Supervisor in Day-To-Day Charge and has appropriate skill level, experience, qualifications and approval to work with children, as required under the National Law and National Regulations.
- Ensuring that the name and position of the Responsible Person in charge of the preschool is displayed and easily visible on the shared information board (National Law: Section 172).
- Ensuring that the name of the Nominated Supervisor is displayed prominently at the service.
- Ensuring that information about the Nominated Supervisor, Responsible People, Educational Leader and staff members including volunteers, preservice teachers and work experience students including name, date of birth, evidence of qualifications and approved training and a Working with Vulnerable People Check is kept on the staff record (Regulation 146).
- Notifying the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor (Section 56, Regulation 35).
- Ensuring that, in the absence from the school premises of the Nominated Supervisor, another Certified Supervisor is placed in day-to-day charge of the service.
- Ensuring that the Nominated Supervisor and Certified Supervisor have a sound understanding of the role of Responsible Person.
- Notifying the Regulatory Authority in writing if there are any changes to:
 - the name of the Approved Provider
 - the appointment or removal of a person with management or control of the service 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 Vulnerable People card or teacher registration suspended or cancelled, or if they are subject to any disciplinary proceedings under the law.

Duty of Certified Supervisor

- Agreeing in writing to be the Certified Supervisor in Day-To-Day Charge.
- Checking that the name and position of the Responsible Person in charge of the service is displayed and easily visible on the shared information board at preschool.
- Informing the Nominated Supervisor in the event of absence from the service due to leave or illness so they can be replaced by another Responsible Person.
- Ensuring they have a sound understanding of the role of Responsible Person.
- 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 the Regulatory Authority within seven 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 Vulnerable People card or teacher registration, or if they are subject to disciplinary proceedings.

Procedure of determining responsible service

- The name of the responsible person will be displayed on the shared information board between the two preschool rooms.
- Only one educator can be appointed to the position of responsible person at any one time per co-located preschool group. This supports our processes with covering non-contact time for our educators (such as lunch breaks) or when there is a relief teacher providing the break.

Educators are responsible for:

- Meeting the qualifications, experience and management requirements if they wish to be a Certified Supervisor with Day-To-Day charge
- Ensuring they have a sound understanding of the role of Responsible Person
- Providing written consent if accepting the nomination to be a Certified Supervisor.

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 if purposes of the policy have been achieved, the Nominated Supervisor 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 after making any changes to this policy or its procedures.