

Determining Responsible Person Procedure – Children’s Services

Date adopted	25 September 2025
Adopted by	Manager Child, Families and Youth
Review due	September 2028
Responsible officer	Manager Child, Families and Youth
Records reference	11630031

1. Purpose

Melton City Council 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 at all times

This procedure has been adapted from PolicyWorks Catalogue by the Early Learning Association Australia

2. Application And Scope

This procedure applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, educators, staff, students, volunteers, parents/guardians, children, and others attending the programs and activities of Melton City Council, including during offsite excursions and activities.

3. Responsibilities

RESPONSIBILITIES	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood teacher, educators and all other staff	Parents/guardians	Contractors, volunteers and students
R indicates legislation requirement, and should not be deleted					
Ensuring the approved provider notifies the regulatory authority of any appointment or removal of a PMC within 14 days of the event (or within 14 days of becoming aware of it)	R				
Submitting the PA08 Notification of change to information about approved provider form through the NQA IT System	R				
Ensuring each identified PMC completes a PA02 – declaration of fitness and propriety form	R				
Ensuring the PCM’s remain a fit and proper person to be involved with children’s education and care. If an existing PMC is no longer fit and proper for any reason, the regulatory authority must be notified within seven days	R				
At all times, approved providers must ensure their PMC information is kept current and accurate	R				
Ensuring the approved provider assesses if a person meets the minimum requirements before they nominate the person to be a nominated supervisor or places a person in day-to-day charge	R	√			
Ensuring there is a responsible person on the premises at all times the service is delivering education and care programs for children (<i>National Law: Section 162</i>)	R	√			
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 (<i>National Law: Section 161A</i>)	R				
Ensuring that a person nominated as a nominated supervisor or a person in day-to-day charge: <ul style="list-style-type: none">is at least 18 years of agehas adequate knowledge and understanding of the provision of education and care to childrenhas the ability to effectively supervise and manage an education and care service	R	R			

<ul style="list-style-type: none"> has not been subject to any decision under the <i>National Law</i>, 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 <p>has a history of compliance with the <i>National Law</i> and other relevant laws (<i>Regulations 117C and 117B</i>)</p>					
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 (<i>National Law: Section 161</i>) (<i>Regulation 117A (b)</i>)	R	√			
Ensuring that an early childhood teacher/educator gives written consent to being a person in day-to-day charge (<i>Regulation 117A (b)</i>)	R	√	√		
Ensuring that the name of the nominated supervisor is displayed prominently at the service (<i>National Law: Section 172</i>) (<i>Regulation 173</i>)	R	√			
Ensuring that information about the nominated supervisor, including name, address, date of birth, evidence of qualifications, approved training, a Working with Children Clearance or teaching registration, and other documentary evidence of fitness to be a nominated supervisor (<i>refer to Staffing Policy</i>) is kept on the staff record (<i>Regulation 146</i>)	R	√			
<p>Notifying the Regulatory Authority if:</p> <ul style="list-style-type: none"> there is a change to the name or contact details of the nominated supervisor (<i>National Law: Section 56, Regulation 35</i>) 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 if a nominated supervisor or person in day-to-day charge has their Working with Children Clearance or teacher registration suspended or cancelled, or if they are subject to any disciplinary proceedings under the law <p>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</p>	R	√			
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 Clearance or teacher registration, or if they are subject to disciplinary proceedings.	R	√			

Ensuring that, when the nominated supervisor is absent from the premises, an alternative responsible person is on site (<i>National Law: Section 162</i>)	R				
Ensuring that the nominated supervisor and person in day-to-day charge have a sound understanding of the role of responsible person	R				
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 (<i>Regulation 150</i>)	R	√			
Ensuring that the nominated supervisors and person in day-to-day charge have successfully completed their mandatory child protection training and this is updated annually (<i>refer to Child Safe Environment and Wellbeing Policy</i>) (<i>National Law: Section 162A</i>)	R	R	R		R
Ensuring that information used to assess a person's suitability to be a nominated supervisor and in day-to-day charge is kept as evidence on file. This may include records of reference checks, declarations, copies of qualifications or course completion certificates	R	R			
Developing rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children.	R				
Supporting the approved provider to develop rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children		√			

4. Procedure

4.1. Responsibilities of a person in day-to-day charge

As the person responsible for the day-to-day management of an approved service, nominated supervisors have a range of responsibilities under the National Law and National Regulations including:

Note: If the nominated supervisor is not present, the allocated responsible person should be aware and enact these responsibilities

Educational programs

- ensuring educational programs are:
 - based on and delivered in accordance with an approved learning framework
 - based on the developmental needs, interests and experiences of each child
 - designed to take into account the individual differences of each child (*National Law: Section 168*)

Supervision and safety of children

- ensuring children are adequately supervised, are not subject to inappropriate discipline, and are protected from harms and hazards (*National Law: Sections 165-167*)

Entry to and exit from the premises

- ensuring children do not leave the education and care service premises except in accordance with the National Regulations (for example, with a parent, on an authorised excursion, or for emergency medical treatment)
- ensuring that a parent of a child being educated and cared for by the service may enter the service premises at any
- time when the child is being educated and cared for by the service—except when:
 - permitting entry would pose a risk to the safety of the children and staff or conflict with the duty of the supervisor under the National Regulations, or
 - the supervisor is aware the parent is prohibited by a court order from having contact with the child (Regulation 99)
- ensuring an unauthorised person (as defined in the National Law) is not at the service while children are present unless the person is under direct supervision (National Law: Section 170)

Food and beverages

- ensuring adequate health and hygiene practices and safe practices for handling, preparing and storing food are implemented at the service to minimise risks to children (Regulation 77)
- ensuring children being cared for by the service have access to safe drinking water at all times and are offered food and beverages on a regular basis throughout the day (Regulation 78)
- ensuring that, where food and beverages are supplied by the service, they are:
 - nutritious and adequate in quantity
 - chosen with regard to the dietary requirements of individual children (Regulation 79)
- ensuring that, where food and beverages are provided by the service, a weekly menu that accurately describes the food and beverages to be provided is displayed at the premises in a location accessible to parents (Regulation 80)

Administration of medication

- ensuring that medication is not administered to a child being cared for by the service unless the administration is authorised (except in the case of anaphylaxis or asthma emergency) and is administered in accordance with the National Regulations (Regulations 93-96)
- where medication is administered to a child without authorisation in a case of an anaphylaxis or asthma emergency, ensuring that a parent of the child and emergency services are notified as soon as practicable (Regulation 94)

Prescription and non-prescription drugs and alcohol

While educating and caring for children at the service, all staff must not consume alcohol or be affected by alcohol or drugs (including prescription medication) so as to impair their capacity to supervise or provide education and care to children (Regulation 83)

Sleep and rest

- taking reasonable steps to ensure that the needs for sleep and rest of children are met, having regard to the ages, development stages and individual needs of children (Regulation 81)

Excursions

- ensuring that a risk assessment is conducted before an excursion in accordance with

the National Regulations (Regulations 100-101), and specifically that the risk assessment is conducted before authorisation is sought to take a child on the excursion (Regulation 102)

Transportation of children other than part of an excursion (if applicable)

- ensuring that a risk assessment is carried out in accordance with Regulation 102C before an authorisation referred to in Regulation 102D(4) is sought to transport a child (Regulation 102B)

Staffing

- ensuring the prescribed educator to child ratios are met and each educator at the service meets the qualification requirements relevant to the educator's role (Regulations 123 - 128)

4.2. Guidance for approved providers in nomination a nominated supervisor and nominated supervisor for placing a person in day-to-day charge

An approved provider must evaluate whether a person meets the minimum requirements before nominating them as a nominated supervisor and/or person in day-to-day charge. The approved provider should also consider if the individual possesses sufficient knowledge and understanding of education and care provisions, and the ability to effectively supervise and manage a service.

Adequate knowledge and understanding

The approved provider should consider the person's qualifications, skills and work experience in determining if the person has adequate knowledge and understanding of the provision of education and care of children this can include but not limited to:

- a supervisor certificate previously issued to the person under the *National Law*, including any conditions which were imposed on the supervisor certificate
- a resumé detailing the person's position, duties, duration of employment and their employer's details
- a written reference from an employer that addresses the person's knowledge and understanding of the provision of education and care to children
- transcripts demonstrating completion of an education and care qualification. For example, evidence of completing an approved diploma level education and care qualification may indicate that the person has adequate knowledge and understanding of the provision of education and care to children.

Approved providers may also consider any other type of evidence that satisfies them of the person's adequate knowledge and understanding of the provision of education and care to children.

Ability to effectively supervise and manage an education and care service

Under the *National Regulations* a nominated supervisor must have the ability to effectively supervise and manage a service. A person may meet the requirement even if they do not have experience managing a service. For example, the approved provider may determine the person has the required ability if they have management experience at other service types, or in related sectors.

The approved provider should consider how a person's skills and experience contribute to

their ability to manage a service in accordance with the *National Law and Regulations*.

This may include consideration of a person's:

- knowledge of, and ability to apply, practices that help ensure the education and care needs of children are met
- knowledge of, and ability to apply, practices that help ensure a service complies with the *National Law and Regulations*
- skills in managing relationships with staff and families at the service.

Approved providers may consider the following types of evidence for this requirement, as well as any other type of evidence of a person's management ability:

- a supervisor certificate previously issued to the person under the *National Law* and any conditions which were imposed on the certificate
- a resumé detailing their position, duties, duration of employment and their employer's details
- a written reference from an employer that addresses the person's management ability
- transcripts or a certificate of attainment, demonstrating completion of units of study or professional development that are relevant to supervising or managing an education and care service. For example, courses or units that relate to staff management or managing an education and care service in accordance with the *National Law and Regulations*.

4.3. Responsible Person at the Family Day Care service

- Manager Child, Families and Youth (Approved Provider)
- Early Childhood Coordinator (Nominated Supervisor)
- Early Years Team Leader (Nominated Supervisor / Responsible Person)
- Family Day Care Fieldworker staff as per the educator agreement (Responsible Person / Person in day-to-day charge)

4.4. Responsible Person at the Vacation Care service

- Manager Child, Families and Youth (Approved Provider)
- Early Childhood Coordinator (Nominated Supervisor)
- Early Years Team Leader (Nominated Supervisor / Responsible Person)
- Vacation Care Program Supervisor (Responsible Person / Person in day-to-day charge)
- Qualified and experienced educators, agreed to in writing or as per their contract of employment (Responsible Person / Person in day-to-day Charge)

5. Definitions

Term	Definition
Approved Provider	The approved provider is the legal entity that is approved to operate an education and care service and is legally responsible for managing the service and holds a provider approval (National Law). A provider approval authorises a person or organisation to apply for one or more service approvals and is valid in all jurisdictions.
Approved Service	An education and care service for which 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	<p>To be covered by the service supervisor certificate a person needs to be:</p> <ul style="list-style-type: none"> • a family day care coordinator • responsible for the day-to-day management of the service • exercising supervisory and leadership responsibilities for part of the service. <p>If a person meets one of the above criteria the approved provider may nominate that person to be a certified supervisor. If the person accepts the nomination they must give their written consent. They are then a certified supervisor and may be a responsible person if they are placed in day-to-day charge of the service.</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.
Fit and Proper	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. The Regulatory Authority may reassess fitness and propriety at any time. Applicants are required to complete the Declaration of Fitness and Propriety form on the Australian Children's Education and Care Quality Authority (ACECQA) website and have this approved by the Regulatory Authority. This form must be completed by an individual provider applicant or in the case of an entity provider applicant, each person with management or control of a service.

Term	Definition
Nominated Supervisor	A person who has been nominated by the approved provider of the service under Part 3 of the Act can be the nominated supervisor. All services must have a nominated supervisor with responsibility for the service in accordance with the <i>National Regulations</i> . The approved provider must take reasonable steps to ensure the nominated supervisor is a fit and proper person with suitable skills, qualifications and experience. The Regulatory Authority must be notified if the nominated supervisor for the service changes or is no longer employed at the service within 14 days.
Person in day-to-day charge	A person is in day-to-day charge of an education and care service if: <ul style="list-style-type: none"> the person is placed in day-to-day charge by the approved provider or a nominated supervisor of the service; and the person consents to the placement in writing (<i>National Regulations</i>). There are minimum requirements for the person in day-to-day charge
Person with management or control (PMC)	a person who has authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of an education and care service. This includes people in an executive or management role of an approved provider entity who have such authority, responsibility or influence, such as: <ul style="list-style-type: none"> an officer of a body corporate each member of the management committee of an association each partner of a partnership a person in a management position of the business, with the authority or responsibility for, or significant influence over, decisions affecting the delivery of children's education and care (such as a state/territory or area manager). A nominated supervisor, person in day-to-day charge of a service, or a person who holds other operational management roles in a service (such as a centre manager) would not meet the PMC definition simply by holding these roles in the service. People holding these roles will only meet the PMC definition if they also participate in executive or financial decision-making or have authority or responsibility for, or significant influence over, the planning, direction or control of the activities or the delivery of the education and care service.

Term	Definition
Responsible Person	<p>The responsible person is an individual who is physically present and is responsible for the operation of a centre-based service for an agreed period of time. A responsible person must be present at all times that the approved service operates (<i>National Law: Section 162 (c)</i>) and can be:</p> <ul style="list-style-type: none"> the approved provider or a person with management or control of the service; a nominated supervisor of the service; or <p>a person placed in day-to-day charge</p>
Working with Children (WWC) Check	<p>The check is a legal requirement under the <i>Worker Screening Act 2020</i> for those undertaking paid or voluntary child-related work in Victoria. The Department of Justice assesses a person's suitability to work with children by examining relevant serious sexual, physical and drug offences in a person's national criminal history and, where appropriate, their professional history.</p>
Working with Children (WWC) Clearance	<p>A WWC Clearance is granted to a person under Worker Screening legislation if:</p> <ul style="list-style-type: none"> they have been assessed as suitable to work with children there has been no information that, if the person worked with children, they would pose a risk to those children they are not prohibited from attempting to obtain, undertake or remain in child-related employment.

6. Related Documents

Name	Location
Local Government Act 2020	https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020

Name	Location
Relevant legislations and standards include but are not limited to	<ul style="list-style-type: none"> • Child Safe Standards • Education and Care Services National Law Act 2010 • Education and Care Services National Regulations 2011 • National Quality Standard, Quality Area 4: Staffing Arrangements • National Quality Standard, Quality Area 7: Governance and Leadership • Worker Screening Act 2020 • Worker Screening Regulations 2021 (Vic)
Sources	<ul style="list-style-type: none"> • Australian Children's Education and Care Quality Authority (ACECQA): www.acecqa.gov.au • Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor form: www.acecqa.gov.au/resources • Department of Education: AP02 Declaration of Fitness And Propriety • Department of Education: PA08 Notification of change to information about approved provider
Related Policies	<ul style="list-style-type: none"> • Child Safe (MCC) • Child Safe Environment and Wellbeing • Code of Conduct • Privacy and Confidentiality • Staffing • Supervision of Children

The master document is controlled electronically. Printed copies of this document are not controlled. Document users are responsible for ensuring printed copies are valid prior to use. If printing, please think about whether you need to print in colour.