

	<h2 style="text-align: center;">Determining Responsible Person Policy and Procedure</h2>
Version No.	Version 3.0 12 April 2023 (approved)
Authorisation	Director City Life
Expiry Date	Policy and procedure to be reviewed by 1 December 2024
Responsible Officer	Manager Families and Children
Policy Owner	Early Childhood Coordinator

1. Purpose

Melton City Council children's services 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.

This policy and procedure has been adapted from *PolicyWorks Manual - National Quality Framework* released by the Early Learning Association Australia. It will provide a process for determining the Responsible Person at Melton City Council children's services.

2. Scope

This policy and procedure applies to Family Day Care (FDC) and Vacation Care (VAC) and applies to the Approved Provider, Nominated Supervisor, Person in Day to Day Charge, Responsible Person, educators, staff, students on placement, volunteers, parents/guardians, of Melton City Council

1. Background

Under the *Education and Care Services National Law Act 2010*, it is an offence to operate an approved education and care service without a Responsible Person.

Centre-based services must have a responsible person present at all times that the service is delivering education and care.

Family day care services must have a support person available at all times that the service is delivering education and care. The support person may provide support to family day care educators by phone.

3. Definitions

The terms defined in this section relate specifically to this policy and related procedures. For commonly used terms e.g. Approved Provider, Regulatory Authority etc. refer to the *Glossary of Terms*.

Word/Term	Definition
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	<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 co-ordinator • 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.
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.
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 and/or appropriate person has agreed to and been placed in day-to-day charge of the service in accordance with the National Regulations. A person acting as a Responsible Person must have appropriate skill level, experience, qualifications and approval to work with children, as required under the National Law and National Regulations and Children Services Law and Children Services Regulations

4. Responsibility/Accountability

4.1. The Approved Provider, according to Regulations is responsible for the implementation of the *Determining Responsible Person Policy*. This will be achieved through the Leadership Group and their service staff:

- there is a Responsible Person on the centre based premises at all times the service is delivering education and care programs for children
- 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 and Children Services Law and Children Services Regulations
- 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)
- that the service does not operate without a Nominated Supervisor or responsible person, and that this person has given written consent
- that the name of the Nominated Supervisor is displayed prominently at the service
- 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 in the staff record (National Regulations 146)
- notifying the Regulatory Authority as required if there is a change of person in the role of Nominated Supervisor (National Law, Section 56, National Regulation 35)
- that, in the absence from the service premises of a Nominated Supervisor, a Responsible Person is placed in day-to-day charge of the service
- that the Nominated Supervisor and Responsible Person have a sound understanding of the role of Responsible Person
- there are sufficient staff to meet the legislative requirement for a Responsible Person at the service during periods of leave or illness
- 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 operated by the Approved Provider
 - the status of the Approved Provider as Fit and Proper
- notifying the Regulatory Authority if a Nominated Supervisor or Responsible Person 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.

4.2. The Nominated Supervisor is responsible for:

- ensuring that, in their absence from the service premises, a Responsible person is placed in day-to-day charge of the service
- ensuring they have a sound understanding of the role of a Responsible Person
- ensuring that the name and title/position of the Responsible Person in charge of the service is displayed and easily visible from the main entrance of the service
- in terms of Vacation Care, developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children
- 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 Children Check card or teacher registration, or if they are subject to disciplinary proceedings

4.3. Responsible Persons are responsible for:

- checking 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
- in terms of Vacation Care, 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 Responsible Person
- ensuring they have a sound understanding of the role of Responsible Person
- understanding that a Responsible Person 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 Children Check card or teacher registration, or if they are subject to disciplinary proceedings

4.4. All staff and Educators are responsible for:

- reading and understanding the *Determining Responsible Person Policy*
- being aware of the authority and who is rostered as the Responsible Person at the service on a daily basis.

4.5. Parents/guardians are responsible for:

- reading and understanding the *Determining Responsible Person Policy*
- being aware of the Responsible Person at the service on a daily basis.

4.6. Volunteers and students, while at the service, are responsible for following the *Determining Responsible Person Policy* and its procedures.

5. References, Sources, Links to Legislation and Other Documents

5.1. Please refer to Reference and Sources page.

5.2. Related service Policies and Procedures:

- *Code of Conduct Policy and Procedure*
- *Participation of Volunteers and Students Policy and Procedure*
- *Privacy and Confidentiality Policy and Procedure*
- *Staffing Policy and Procedure*
- *Supervision of Children Policy and Procedure.*

6. Procedure

6.1. The Responsible Person at the FDC service will be outlined in the following order:

- Manager Families and Children (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).

6.2. The Responsible Person at the VAC service will be outlined in the following order:

- Manager Families and Children (Approved Provider)
- Early Childhood Coordinator (Responsible Person)
- Early Years Team Leader (Nominated Supervisor)

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- Vacation Care Program Supervisor (Nominated Supervisor / Responsible Person)
- Qualified and experienced educators, agreed to in writing or as per their contract of employment (Responsible Person / Person in Day to Day Charge)