

## Determining Responsible Person Policy – Children’s Services

<b>Date adopted</b>	25 September 2025
<b>Adopted by</b>	Executive Leadership Team (ELT)
<b>Review due</b>	September 2028
<b>Responsible officer</b>	Manager Child, Families and Youth
<b>Records reference</b>	11629932

### 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 policy has been adapted from PolicyWorks Catalogue by the Early Learning Association Australia

### 2. Application And Scope

This policy applies to services responsible for the direct education and care of children at Melton City Council programs including offsite excursions and activities. This policy applies to the Approved Provider, Nominated Supervisor, Person in day-to-day charge / Responsible Person’s, educators, staff, students on placement, volunteers, parents/guardians, children and others attending Melton City Council programs and activities.

### 3. 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 the Family Day Care Educators by phone.

## 4. Definitions

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

Term	Definition
<b>Approved Provider</b>	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.
<b>Approved Service</b>	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.
<b>Certified Supervisor</b>	<p>To be covered by the service supervisor certificate a person needs to be:</p> <ul style="list-style-type: none"> <li>• a family day care coordinator</li> <li>• responsible for the day-to-day management of the service</li> <li>• exercising supervisory and leadership responsibilities for part of the service.</li> </ul> <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>
<b>Duty of Care</b>	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.
<b>Fit and Proper</b>	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
<b>Nominated Supervisor</b>	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.
<b>Person in day-to-day charge</b>	A person is in day-to-day charge of an education and care service if: <ul style="list-style-type: none"> <li>the person is placed in day-to-day charge by the approved provider or a nominated supervisor of the service; and</li> <li>the person consents to the placement in writing (<i>National Regulations</i>). There are minimum requirements for the person in day-to-day charge</li> </ul>
<b>Person with management or control (PMC)</b>	<p>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:</p> <ul style="list-style-type: none"> <li>an officer of a body corporate</li> <li>each member of the management committee of an association</li> <li>each partner of a partnership</li> <li>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).</li> </ul> <p>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.</p>

Term	Definition
<b>Responsible Person</b>	<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"> <li>• the approved provider or a person with management or control of the service;</li> <li>• a nominated supervisor of the service; or</li> <li>• a person placed in day-to-day charge</li> </ul>
<b>Working with Children (WWC) Check</b>	<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>
<b>Working with Children (WWC) Clearance</b>	<p>A WWC Clearance is granted to a person under Worker Screening legislation if:</p> <ul style="list-style-type: none"> <li>• they have been assessed as suitable to work with children</li> <li>• there has been no information that, if the person worked with children, they would pose a risk to those children</li> <li>• they are not prohibited from attempting to obtain, undertake or remain in child-related employment.</li> </ul>

## 5. Related Documents

Name	Location
Local Government Act 2020	<a href="https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020">https://www.legislation.vic.gov.au/in-force/acts/local-government-act-2020</a>
Relevant legislations and standards include but are not limited to	<ul style="list-style-type: none"> <li>• Child Safe Standards</li> <li>• Education and Care Services National Law Act 2010</li> <li>• Education and Care Services National Regulations 2011</li> <li>• National Quality Standard, Quality Area 4: Staffing Arrangements</li> <li>• National Quality Standard, Quality Area 7: Governance and Leadership</li> <li>• Worker Screening Act 2020</li> <li>• Worker Screening Regulations 2021 (Vic)</li> </ul>

Name	Location
Sources	<ul style="list-style-type: none"> <li>• Australian Children's Education and Care Quality Authority (ACECQA): <a href="http://www.acecqa.gov.au">www.acecqa.gov.au</a></li> <li>• Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor form: <a href="http://www.acecqa.gov.au/resources">www.acecqa.gov.au/resources</a></li> <li>• Department of Education: <a href="#">AP02 Declaration of Fitness And Propriety</a></li> <li>• Department of Education: <a href="#">PA08 Notification of change to information about approved provider</a></li> </ul>
Related Policies	<ul style="list-style-type: none"> <li>• Child Safe (MCC)</li> <li>• Child Safe Environment and Wellbeing</li> <li>• Code of Conduct</li> <li>• Privacy and Confidentiality</li> <li>• Staffing</li> <li>• Supervision of Children</li> </ul>

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