



# DETERMINING RESPONSIBLE PERSON POLICY

Mandatory – Quality Area 4

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Drafted by	KCCC Management	Version no	3.0
Responsible person	General Manager	Version date	June 2020
Approved by	Board	Review date	November 2021

## PURPOSE

This policy will provide guidelines to assist in determining the Responsible Person at Kensington Community Children's Co-operative Ltd.

## OVERVIEW OF POLICY

### VALUES

Kensington Community Children's Co-operative Ltd (KCCC) is committed to:

- meeting its duty of care (refer to *Definitions*) obligations under the law
- ensuring staffing arrangements contribute to the safety, health, wellbeing, learning and development of all children at the service
- meeting legislative requirements for a Responsible Person (refer to *Background* and *Definitions*) to be on the service premises at all times.

### SCOPE

This policy applies to the Approved Provider, Persons with Management or Control, Nominated Supervisor, Persons in day-to-day Charge, staff, students on placement, volunteers and parents/guardians of KCCC.

## POLICY CONTEXT

### Background

Under the *Education and Care Services National Law Act 2010*, it is an offence to operate an approved centre-based education and care service unless a Responsible Person (refer to *Definitions*) is physically in attendance at all times the service is educating and caring for children.

An Approved Provider must not operate a service unless there is a Nominated Supervisor appointed for that service. The Approved Provider or 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.

### DEFINITIONS

The terms defined in this section relate specifically to this policy. For commonly used terms e.g. National Law, National Regulations, Regulatory Authority etc. refer to section 5 of the *Education and Care Services National Law Act 2010* (Vic).

**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.

**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 Nominated Supervisor; and who has consented to the placement in writing (Regulation 117A).

**Person with Management or Control:** Where the Approved Provider of a service is an eligible association, each member of the association's executive committee is a Person with Management or Control and has the responsibility, alone or with others as delegated for managing the delivery of the education and care service (National Law: Definitions (b)) .

**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:

- 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. (National Law, Section 162)

**Nominated Supervisor:** A person who has been nominated by the Approved Provider of the service under Part 3 of the Act and who has consented to that nomination in writing can be the Nominated Supervisor. All services must have a Nominated Supervisor(s) with responsibility for the service in accordance with the National Regulations (Section 5 and 161).

## RESPONSIBILITIES

### 1. RESPONSIBILITIES OF THE KCCC BOARD, THE APPROVED PROVIDER AND PERSONS WITH MANAGEMENT OR CONTROL

The **KCCC Board** are responsible for the following in relation to this policy:

- developing and approving this policy

The **General Manager**, the Approved Provider, and Persons with Management or Control are responsible for the following in relation to this policy:

- ensuring there is a Responsible Person 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 that a person nominated as a Nominated Supervisor or 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, suspend, 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 117C and 117B)

- ensuring 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<sup>1</sup> (National Law: Section 172)
- 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
- ensuring that the name of the Nominated Supervisor is displayed prominently at the service
- ensuring that information about the Nominated Supervisor, including name, address, date of birth, evidence of qualifications, approved training, a Working with Children Check or teaching registration, and other documentary evidence of fitness to be a Nominated Supervisor (refer to *Staffing Policy*) is kept on the staff record (Regulation 146)
- notifying the Regulatory Authority 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
  - if a Nominated Supervisor or person in day-to-day charge 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
- ensuring that, when the Approved Provider and the Nominated Supervisor is absent from the premises, an alternative Responsible Person is on site
- ensuring that the Nominated Supervisor and Person in day-to-day Charge have a sound understanding of the role of Responsible Person
- 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 (Regulation 150)
- ensuring details of Supervisor Certificates are recorded on the staff record
- ensuring that the Nominated Supervisors and Person in day-to-day Charge have successfully completed child protection training (see *Child Safe Environment Policy*)
- developing rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children.

## 2. RESPONSIBILITIES OF THE NOMINATED SUPERVISOR

- providing written consent to accept the role of Nominated Supervisor
- ensuring they have a sound understanding of the role of Responsible Person (refer to *Definitions*)
- ensuring that, in their absence from the service premises, a Responsible Person is present
- ensuring that, in their absence from the service premises, a Responsible Person is present
- 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, suspend, or cancel a licence, approval, registration, certification or other authorisation granted to the person

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<sup>1</sup> 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.

- has a history of compliance with the National Law and other relevant laws (Regulation 117B)
- ensuring that an educator gives written consent to being a Person in day-to-day Charge
- ensuring 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
- supporting the Approved Provider to develop 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 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 card or teacher registration, or if they are subject to disciplinary proceedings

### **3. RESPONSIBILITIES OF OTHER STAFF**

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

### **4. RESPONSIBILITIES OF PARENTS/GUARDIANS**

- 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.**

## **SOURCES AND RELATED POLICIES**

### **1. SOURCES**

- Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets: [www.acecqa.gov.au](http://www.acecqa.gov.au)
- *Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011*: [www.acecqa.gov.au](http://www.acecqa.gov.au)
- *Guide to the National Quality Framework*: [www.acecqa.gov.au](http://www.acecqa.gov.au)

### **2. RELATED POLICIES**

- *Child Safe Environment Policy*
- *Code of Conduct Policy*
- *Participation of Volunteers and Students Policy*
- *Privacy Policy*
- *Information Management Policy*
- *Staffing Policy*
- *Supervision of Children Policy*

### **3. .LEGISLATION AND STANDARDS**

Relevant legislation and standards include but are not limited to:

- 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: Leadership and Service Management*
- *Working with Children Act 2005 (Vic)*

- *Working with Children Regulations 2006 (Vic)*

## **EVALUATION**

In order to assess whether the values and purposes of the policy have been achieved, the Approved Provider 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 before making any changes to this policy or its procedures.

**Attachments Nil**