Cheltenham Community Centre Early Learning Childcare

E18. Determining Responsible Person

1. Policy

1.1 This policy will provide guidelines to assist in determining the responsible person at Cheltenham Community Centre (CCC) Childcare

1.2 Cheltenham Community Centre (CCC) Children's Services 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 to be on the service premises at all times.

1.3 This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood educators, staff, students, volunteers, parents/guardians, children, and others attending the programs and activities of Cheltenham Community Centre (CCC) Children's Services

1.4 In order to assess whether the values and purposes of this policy have been achieved, we will:

- Welcome feedback from everyone affected by this policy regarding its effectiveness
- Monitor the implementations, 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, and
- Notify parents/guardians at least 14 days before making any changes to this policy or its procedures.

2. Procedure

2.1 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.

2.2 An approved provider must not operate a service unless there is at least one 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 responsible person, such as a person in day-to-day charge must be present at all times.

2.3 **The Approved Provider and persons with management or control is responsible for:**

- Ensuring there is always a responsible person on the premises of the services is delivering education and care programs for children.
- Nominating sufficient nominated supervisors to meet legislative requirements for a responsible person at the service, including during periods of leave or illness.

- Ensuring that a person nominated supervisor or 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 of education law, to refuse, refuse to renew, suspect, 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 (Regulations 117C and 117B)
- 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 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 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 records include 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 that the nominated supervisors and person in day-to-day charge have successfully completed Child Protection Training.
- Developing rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children.

2.4 **The Nominated Supervisor is responsible for:**

- Providing written consent to accept the role of nominated supervisor
- Ensuring they have a sound understanding of the role of a responsible person.
- 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 educators 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 of education law, to refuse, refuse to renew, suspect, 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 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 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 or teacher registration, or if they are subject to disciplinary proceedings.

2.5 **Other staff are responsible for:**

- 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.

2.6 **Parents/guardians are responsible for:**

- Reading and understanding this policy
- Being aware of the responsible person at the service on a daily basis.

2.7 Volunteers and students, while at the service, are responsible for following this policy and its procedures.

3. Legislation and regulations:

3.1 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
- Worker Screening Act 2020
- Worker Screening Regulations 2021 (Vic)

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: http://www.legislation.vic.gov.au/
- Commonwealth Legislation - Federal Register of Legislation: https://www.legislation.gov.au

4. Definitions

4.1 **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 reasonably foreseeable risk of injury.

4.2 **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)

4.3 **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, for managing the delivery of the education and care service (National Law: Definitions (b)).

4.4 **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)

4.5 **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)

4.6 **Working with Children (WWC) Check:** The check is a legal requirement under the Worker Screening Act 2020 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.

4.7 **Working with Children (WWC) Clearance:** A WWC Clearance is granted to a person under Worker Screening legislation if:

- 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.

5. Sources and related policies

5.1 Sources

- Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets: 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
- Guide to the National Quality Framework: www.acecqa.gov.au

5.2 Related Policies

- Child Safe Environment
- Childcare Code of Conduct
- Participation of Volunteers and Students
- Confidentiality Policy and Guidelines
- Staffing

Revision History

Date	Revision	Revised by
12/04/2024	Created	Huan-Ming Cholinski
14/06/2024	Revised	Huan-Ming Cholinski
11/11/2024	Reviewed and Updated	Leanne Lee-Ack
29/08/2025	Reviewed and updated	Leanne Lee-Ack