

	Determining Responsible Person of Children Policy & Procedures
Version No.	Created November 2018
Authorisation	General Manager
Expiry Date	Policy to be reviewed Annually
Responsible Officer	Manager Evolve Early Learning & Kindergarten
Policy Owner	Evolve Early Learning & Kindergarten

Policy

Evolve Early Learning & Kindergarten is committed to:

- Meeting its Duty of Care (refer to *Definitions*) 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.

Purpose

Evolve Early Learning & Kindergarten is committed to:

- Determining the Responsible Person at Evolve Early Learning & Kindergarten
- This policy has been adapted from *PolicyWorks Manual - National Quality Framework* released by the Early Learning Association Australia.

Scope

This policy applies to Evolve Early Learning & Kindergarten who is responsible for the direct education and care of children including offsite excursions and activities.

This policy applies to the Approved Provider, Nominated Supervisor/Primary Nominee, Approved/Accepted Nominee, Certified Supervisor, Educators, Staff, Students on placement, Volunteers, Parents/guardians, Children and others attending Evolve Early Learning & Kindergarten

National Quality Standards (NQS)

Quality Area 4: Staffing Arrangements

4.1 Staffing arrangements - Staffing arrangements enhance children's learning and development

4.1.1 Organisation of educators - The organisation of educators across the service supports children's learning and development

4.1.2 Continuity of staff - Every effort is made for children to experience continuity of educators at the service

4.2 Professionalism - Management, educators and staff are collaborative, respectful and ethical

4.2.1 Professional collaboration - Management, educators and staff work with mutual respect and collaboratively, and challenge and learn from each other, recognising each other's strengths and skills

4.2.2 Professional standards - Professional standards guide practice, interactions and Relationships

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 is present.
- Legislation requires that a Responsible Person is physically in attendance at all times the service is educating and caring for children.
- The Responsible Person is either the Approved Provider (or the person in management or control of the service), the Nominated Supervisor of the service, or a Certified Supervisor who has been placed in day-to-day charge of the service. For more information regarding these terms, refer to *Definitions*.
- An Approved Provider (Manager) must not operate a service unless there is a 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 person with a Supervisor Certificate (a Certified Supervisor) is to be placed in charge, ensuring there is always someone on the service premises who has been assessed as Fit and Proper by the Regulatory Authority.
- It is important to note that a Certified Supervisor placed in day-to-day charge of a service does not have the same responsibilities under the National Law as the Nominated Supervisor.

Education and Care National Regulations

- Responsible person (National Regulations 150)
- Policies and procedures (National Regulations 168)
- Prescribed information to be displayed (National Regulations 173)
- Prescribed Records (National Regulations 177)

Responsibility/Accountability

The Approved Provider, according to Regulations is responsible for the implementation of the *Determining Responsible Person Policy*. This will be achieved through the Centre Manager and the staff:

- Ensuring there is a Responsible Person (refer to Background and *Definitions*) on the premises at all times the service is delivering education and care programs for children
- Ensuring that a person eligible to be nominated as a Responsible Person holds a Supervisor Certificate (refer to *Definitions*) and 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
- 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 (National Law, Section 172)
- Ensuring that the service does not operate without a Nominated Supervisor, and that this person has given written consent and holds a Supervisor Certificate (refer to *Definitions*)
- 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 and approved training, and a Working with Children Check (refer to *Staffing Policy*) is kept in the staff record (National Regulations 146)
- Notifying the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor (National Law, Section 56, National Regulation 35)
- Ensuring that, in the absence from the service premises of a Nominated Supervisor, a Certified Supervisor (refer to *Definitions*) is placed in day-to-day charge of the service
- Ensuring that the Nominated Supervisor and Certified Supervisors have a sound understanding of the role of Responsible Person
- Ensuring there are sufficient educators with Supervisor Certificates (refer to *Definitions*) to meet the legislative requirement for a Responsible Person at the service during periods of leave or illness
- Ensuring details of Supervisor Certificates are recorded on the staff record

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 Certified Supervisor 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.

The Nominated Supervisor is responsible for:

- Holding a Supervisor Certificate
- Ensuring that, in their absence from the service premises, a Certified Supervisor (refer to *Definitions*) is placed in day-to-day charge of the service
- Ensuring they have a sound understanding of the role of Responsible Person
- 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
- 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
- Notifying the Approved Provider if the Regulatory Authority cancels their Supervisor Certificate for any reason.

Certified Supervisors are responsible for:

- Holding a Supervisor Certificate
- 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
- 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
- Abiding by any conditions placed on the Supervisor Certificate
- Understanding that a Certified Supervisor 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
- Notifying the Approved Provider if the Regulatory Authority cancels their Supervisor Certificate for any reason.

Educators are responsible for:

- Meeting the qualifications, experience and management requirements if they wish to gain a Supervisor Certificate, as defined in the National Regulations (National Regulations 46 and 49)
- Applying to the Regulatory Authority and obtaining a Supervisor Certificate if they wish to accept nomination as a Certified Supervisor
- Ensuring they have a sound understanding of the role of Responsible Person.

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

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	An educator with a Supervisor Certificate (in accordance with the National Regulations) who may consent to being placed in day-to-day charge of the education and care service. The designation must be made by the Approved Provider or the Nominated Supervisor and accepted by the Certified Supervisor. A Certified Supervisor placed in day-to-day charge of a service does not have the same responsibilities under the National Law as the Nominated Supervisor. Applications for Supervisor Certificates are assessed by the Regulatory Authority.
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 (see <i>Sources</i>) 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 or Certified Supervisor who has been placed in day-to-day charge of the service in accordance with the National Regulations.
Supervisor Certificate	Allows a person to consent to be the Nominated Supervisor or Certified Supervisor, and be placed in day-to-day charge of an Approved Service. Applicants must be 18 years or older, be assessed as a fit-and-proper person (refer to <i>Definitions</i>) and meet the minimum requirements for qualifications, experience and management capability required under the Regulations (National

Word/Term	Definition
	Regulations 46–49). Applicants for a Supervisor Certificate are assessed by the Regulatory Authority.

DETERMINING RESPONSIBLE PERSON PRESENT PROCEDURE

Purpose

- This procedure will provide a process for determining the Responsible Person at Evolve Early Learning & Kindergarten

Procedure

The Responsible Person at Evolve Early Learning & Kindergarten will be outlined in the following order:

- Owner / Director of Evolve Early Learning & Kindergarten (Approved Provider)
- Centre Manager (Nominated Supervisor)
- Educators (Certified Supervisors)

Evolve Early Learning & Kindergarten is committed to:

- Meeting its Duty of Care (refer to *Definitions*) 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.

References, Sources, Links to Legislation and Other Documents

Please refer to Reference and Sources page

Related service policies:

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