

Early Years Services – QA4.2 Determining the Responsible Person Present

TRIM Reference: D15/42616

Due for Review: 11 November 2024

Responsible Officer: Coordinator Early Years

Purpose

This policy outlines Surf Coast Shire Council's commitment to ensure that all Surf Coast Shire Early Years Services have a suitable, recognised, responsible and qualified person present to ensure that the services are effectively supervised and managed at all times during the hours of operation,

Policy Principles

Evidence of link to National Quality Standards: 4.1, 4.2, 7.3.1, 7.3.5
Victorian Children's Services Regulations 2020

Evidence of link to Education & Care Services National Regulations
s5, s161, s162, s164, r117(a) to (c) s168 (2) (i)

Scope

This policy applies to all Surf Coast Shire Council staff, educators, volunteers and students; and families of children receiving Surf Coast Shire Council Early Years Services under the National Regulations.

For applicable services the equivalent to the responsible person present under the Victorian Children's Services Regulations 2020 applies.

Policy

- Determination of the responsible person present will follow the requirements of the Education and Care Services National Regulations 2011 (as outlined under 'Definitions' in this document), or as applicable the Victorian Children's Services Regulations 2020.
- A responsible person will be available at all times during the hours that the service is being provided to children in all Surf Coast Shire Council Early Years Services.
- A responsible person will accept the role in writing.
- Staff / educators must be aware of who the responsible person in charge of the service is for the days they are employed.
- The details of the responsible person present will be displayed at the service.
- Families and members of the public must have access to who the responsible person is via signage at the service and / or verbally by staff and educators of the service.

Responsible Persons

The Surf Coast Shire will adhere to the principals and standards set out in the National Quality Framework (NQF), which relates directly to section 162(1)(a) to (c) of the National Law.

The Surf Coast Shire will use the information set out to guide its practices when relating to a responsible person.

A Responsible person can be one of the following;

Approved Provider: (Surf Coast Shire)

A person with management or control of the provider if the provider is not an individual

The Approved Provider has overall responsibility for the service, and must take reasonable steps to ensure children's safety and wellbeing is protected. This includes making an informed decision about whether a person is fit and proper, with suitable skills to be the Nominated Supervisor or to be placed in day to day charge of the service.

Nominated Supervisor: (Kindergarten Lead Teacher)

The Nominated supervisor of the service

A Nominated Supervisor is a person who:

- is nominated by the Approved Provider to be the Nominated Supervisor of that service; and has consented to that nomination. If required, they will be asked to complete the relevant paperwork to be submitted via ACECQA Portal

The Approved Provider must display the following details at the service:

- the name of the Nominated Supervisor, or
- if the Nominated Supervisor is a member of a prescribed class, the class (for example, a principal of a school).

Person in day-to-day charge (Responsible Person)

A person placed in day to day charge of the service

Where the Nominated Supervisor is not able to be responsible for the day to day operations of the service, a responsible person will be appointed. This person will have met the criteria including, qualification, skills, work experience and knowledge in accordance with the National Regulations (section 164(1)(c), section 162(1)(c) and regulation 54) and accepts in designation in writing.

Criteria

Minimum requirements to be a Responsible Person

The Surf Coast Shire will follow the standards set out in the National Law (section 161, 162 and 164) and Part 4.3A of the Regulations 117(a)(b)(c) concerning the minimum requirements of a responsible person.

Additionally every responsible person must have completed the child protection training (if any) required in their state or territory.

Minimum requirements to be a nominated supervisor or a person in day-to-day charge

- be at least 18 years of age

To be a nominated supervisor the person must:

- have adequate knowledge and understanding of the provision of education and care to children
- have the ability to effectively supervise and manage an education and care service.

For a person in day-to-day charge, either an approved provider or the nominated supervisor must take reasonable steps to ensure the person

- 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.

In determining whether to nominate a person as the nominated supervisor, the approved provider must consider:

- the history of the person's compliance with:
 - the National Law
 - a former education and care services law
 - a children's services law
 - an education law
- 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.

For a person in day-to-day charge, the approved provider or the nominated supervisor must have regard to:

- the person's history of compliance with the National Law and other relevant laws
- any decision under the Law to refuse, suspend, refuse to renew, or cancel a licence, approval, registration, certification or other authorization granted to the person under the National Law and other relevant laws.

A person who previously consented to be in day-to-day charge of the service will not need to provide consent again from 1 October 2017.

Family day care services

For a family day care service, one of these three people (the Approved Provider, the Nominated Supervisor or a Person in day to day charge of the service) must be available to provide support to the family day care educators at all times the service is educating and caring for children. 'Available' includes being available by telephone.

The information must be displayed in a place where it is clearly visible to anyone from the main entrance to the education and care service premises. For family day care service premises, this includes the main entrance to the family day care office, and the family day care residences and venues.

Notifying the regulatory authority of changes to nominated supervisors

You must notify the regulatory authority when a nominated supervisor is appointed through the NQA IT System by submitting a Notification of change to nominated supervisor form: acecqa.gov.au/applications

The regulatory authority must be notified 7 days prior to the nominated supervisor starting, or if that is not possible, within 14 days after the nominated supervisor has commenced in the role.

As an approved provider, you must also notify the regulatory authority via a separate notification if the nominated supervisor:

- changes their name or contact details
- is no longer employed or engaged by the service
- has been removed from the role or
- withdraws their consent to the nomination.

Definitions

A responsible person is:

- the approved provider or a person with management or control
- a nominated supervisor
- a person in day-to-day charge of the service.

In a family day care (FDC) service, the responsible person must be available to provide support to FDC educators.

The approved provider is responsible for assessing a person's suitability as responsible person.

A Nominated Supervisor:

Must be nominated by the approved provider of the service and the nominated person must give their written consent. They are responsible for day-to-day management of a service and have responsibilities relating to and including:

- educational programs (section 168)
- supervision and safety of children (sections 165–167)
- entry to and exit from the premises (section 170; regulation 99)
- nutrition and food and beverages (regulations 77–80)
- administration of medication (regulations 93–96)
- drugs and alcohol (regulations 82–83)
- sleep and rest (regulations 81)
- excursions (regulations 100–102)

- transportation (regulations 102B–102D)
- staffing ratios and qualifications (regulations 123–128)

Related Procedure

Nil.

References

Related Surf Coast Shire Council and Early Years Services Policies

- D15/54259 Early Years Quality Framework Policy
 D14/70701 Educational Programs Policy
 D15/15724 Employment of Qualified Staff and Ratios Policy
 D15/15250 Family Day Care Recruitment of Family Day Care Educators Policy

Related Surf Coast Shire Early Years Services Work Instructions and Forms

- D17/6013 DET Person in Day to Day Charge/ Responsible Person – Sign off
 D14/51380 Nominated Supervisor – Staff record
 D23/67125 Nominated Supervisor Consent Form – Department of Education

Other References

- Education and Care Services National Law 2010
 Education and Care Services National Regulations 2011
 ACECQA National; Quality Framework Resource Kit
 Victorian Children’s Services Regulations 2020
 Childcare Service Handbook (Department of Education)
 Victorian Early Years Learning and Development Framework
 Early Years Learning Framework for Australia
 My Time, Our Place
 National Quality Framework (NQF)
 NQF (2017) Information Sheet ‘Responsible Person Requirements for Approved Providers’

Document History

Version	Document History	Approved by – Date
1	Approved	General Manager Culture and Community – 1 April 2014
2	Amendment/Review	Manager Aged and Family – 23 June 2017
3	Amendment/Review	Manager Community Strengthening – 18 January 2019
4	Amendment/Review	Manager Community Strengthening – 5 June 2020
5	Amendment/Review	Manager Community Strengthening - 24 December 2021
6	Amendment/Review	Manager Community Strengthening - 11 May 2023