

## P O L I C Y

### DETERMINING RESPONSIBLE PERSON POLICY

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Updated by:	Shelley Bussell	Updated on:	11/05/2021
Responsible person:	CFC Executive Director	Approved by CoM on:	08/09/2021
Review frequency	3 years	Scheduled review date:	May 2024

#### PURPOSE

This policy will provide guidelines to assist in determining the Responsible Person at the Craig Family Centre (CFC).

#### POLICY STATEMENT

##### 1. VALUES

The CFC 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 *Definitions*) to be on the service premises at all times.

##### 2. SCOPE

This policy applies to the CFC's employees, contractors, students on placement, volunteers, parents/guardians of Craig Family Centre.

##### 3. BACKGROUND & LEGISLATION

###### 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 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.

###### 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*

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- *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)*

## 4. DEFINITIONS

The terms defined in this section relate specifically to this policy.

**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.

**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, 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).

## 5. SOURCES & RELATED POLICIES

### 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)

### Related CFC Policies

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

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## PROCEDURES

The Approved Provider and Persons with Management or Control are responsible for:

- 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 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
  - has a history of compliance with the National Law and other relevant laws (Regulations 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 Clearance 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 Clearance 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 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 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.

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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 Responsible Person (refer to *Definitions*)
- 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, 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 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 Clearance or teacher registration, or if they are subject to disciplinary proceedings

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.

Parents/guardians are responsible for:

- 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.

## EVALUATION

In order to assess whether the values and purposes of this policy have been achieved, the Craig Family Centre:

- 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 unless a lesser period is necessary because of a risk.

## ATTACHMENTS

Attachment 1: Responsible Person Declaration

# Craig Family Centre

## R E C O R D

### DETERMINING RESPONSIBLE PERSON POLICY

#### ATTACHMENT 1

#### Responsible person declaration

<small>RESPONSIBLE PERSON'S NAME:</small>	<small>DATE:</small>

1. Please provide information about any compliance action or disciplinary proceedings to which you have been subject under:

- the *Education and Care Services National Law*, including the Education and Care Services National Regulations, and
- any of the laws listed at Table 1 below, in any Australian state or territory.

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2. Have you ever had a supervisor certificate that was subject to any conditions or suspended or cancelled by the regulatory authority?

- Yes (please provide details below)       No

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3. Are you or have you ever been subject to a prohibition notice under the *Education and Care Services National Law*?

- Yes (please provide details below)       No

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# CFC DETERMINING RESPONSIBLE PERSON POLICY – ATTACHMENT 1

4. Have you ever held or applied for a licence, approval, registration, certification or other authorisation under the National Law which the regulatory authority refused, refused to renew, suspended or cancelled?

- Yes (please provide details below)                       No

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## Statement of Declaration

I, [insert full name] .....

of [insert address] .....

and born on [insert date of birth] ....., declare that:

1. the information provided in this statement is true and complete, and
2. I am aware that I may be subject to penalties under a Commonwealth or State or Territory Act if I provide false or misleading information.

Signature of person making the declaration:

Signed: ..... Date ...../...../.....

## Statement of Nomination

I, [insert full name] .....

the Craig Family Centre's, [insert role] .....

nominate the above person as a Responsible Person for the Craig Family Centre.

Signed: ..... Date ...../...../.....

## Statement of Consent

I, [insert full name] .....

the Craig Family Centre's, [insert role] .....

consent to this nomination as a Responsible Person for the Craig Family Centre.

Signed: ..... Date ...../...../.....

# CFC DETERMINING RESPONSIBLE PERSON POLICY – ATTACHMENT 1

## References

Table 1:

<b>Other relevant laws, including children’s services laws, education laws, and former education and care services laws in any Australian state or territory.</b>	
<b>Victoria</b>	<i>Education and Care Services National Amendment Regulations 2021 Education and Care Services National Regulations 2011 Education and Care Services National Law Act 2010 Education and Training Reform Act 2006 Working with Children Act 2005 Children’s Services Act 1996</i>
Australian Capital Territory	<i>Children and Young People Act 2008 Education Act 2004 Working with Vulnerable People (Background Checking) Act 2011</i>
New South Wales	<i>Children and Young Persons (Care and Protection) Act 1998 Education Act 1990 Institute of Teachers Act 2004 Teaching Service Act 1980 Commission for Children and Young People Act 1998</i>
Northern Territory	<i>Care and Protection of Children Act Care and Protection of Children (Children’s Services) Regulations Education Act Teacher Registration (Northern Territory) Act and Regulations</i>
Queensland	<i>Child Care Act 2002 Child Care Act 1991 Education (Accreditation of Non-State Schools) Act 2001 Education (General Provisions) Act 2006 Education (Overseas Students) Act 1996 Education (Queensland College of Teachers) Act 2005 Higher Education (General Provisions) Act 2008 Family and Child Commission Act 2014</i>
South Australia	<i>Children’s Protection Act 1993 Children’s Services Act 1985 Education Act 1972</i>
Tasmania	<i>Child Care Act 2001 Education Act 1994 Teacher’s Registration Act 2000 Registration to Work with Vulnerable People Act 2013 Children, Young Persons and their Families Act 1997</i>
Western Australia	<i>Child Care Services Act 2007 Child Care Services Regulations 2007 School Education Act 1999 Western Australian College of Teaching Act 2004 Working with Children (Criminal Record Checking) Act 2004</i>

Extract from ACECQA website:

<https://www.education.vic.gov.au/childhood/providers/regulation/Pages/changescertifiedsupcerts.aspx>

### Centre-based services

Centre-based services must have a responsible person **present** at all times that the service is delivering education and care.

### Who can be a responsible person?

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)
- the nominated supervisor
- a person who has consented to being a responsible person in writing, having been nominated by the approved provider or nominated supervisor.

### Nominated Supervisor

All approved providers need to keep a record with the details of the nominated supervisor and display the name of the nominated supervisor at the service premises.

## **CFC DETERMINING RESPONSIBLE PERSON POLICY – ATTACHMENT 1**

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You still need to notify details of your nominated supervisor to the Department as before either:

- online using NQAITS or
- mailing the paper form Notification of Change to Nominated Supervisor

Extract from CFC Determining Responsible Person Policy (Definitions):

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