



## DETERMINING RESPONSIBLE PERSON POLICY

**(M)****Mandatory – Quality Area 4****CSReg:Part4 subDiv7**

### POLICY

Outlets Co-operative Neighbourhood House LTD will follow the below guidelines to assist in determining the Responsible Person present.

### Background information

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 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, 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 Outlets Co-operative Neighbourhood House LTD. 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.

### Relevant Legislation and standards

Education and Care Services National Law Act 2010:

Education and Care Services National Regulations

National Quality Standard, Quality Area 4

National Quality Standard, Quality Area 7

Children's Services Regulations (VIC) 32/2020 sDiv7 Reg:97,98,99,100

Children's Services Act (VIC)

DET – CCCFR (Cwth) (*refer to Child Care Provider Handbook*)

DET- QARs (State)

### Definitions

**Approved Provider** - (MoC/PMC): 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.

**Nominated Supervisor:** An educator that has been deemed fit and proper and gives written 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 in writing by the Nominated 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.

**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 person (FnPP) (POA2):** In determining whether an applicant is fit and proper, the Approved Provider or the Nominated Supervisor 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*. Registered teachers and those who hold a current Working with Children Check card are considered to be fit-and-proper persons.

**Nominated Supervisor:** A person who is a Certified Supervisor and has been nominated by the Approved Provider of the service under Part 4 subdivison7 CSRegs and 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, Children's Service's Regulations (Vic)

### Process for Person of Management and Fit and Proper Person – Integrity Check

#### Process applicable to Committee of Management/Directors

ASIC- Personal Name Check

National Personal Insolvency Index - NPII

Banned and Disqualified - Bankruptcy

Working With Children Check

National Police Check or International Police Check

**Roles:** refer to

QAR – Quality Assessment Regulator (Victoria)

Licensed Childrens Services (Vic) - Provider/Service Approval Certificates

Service Approval – Outlets Co-operative Neighbourhood House LTD

Licence Approval – SE 00015784

Certificate of Names – Children's Services Act 1996

DET – (Cwth) Notice of Approval for the purposes of Child Care Subsidy Centre-base Day Care Service

CCS Provider Id: 190019705X CRN: 190019817K

Management of Control (MoC/PMC) - Responsible Person: Therese McKenney (FnPP)

Nominated Supervisor: Sharmeen Naeem (FnPP)

Certified Supervisor: Day 2 Day: Duyen Thi Ngo

Janine Fisher

Joan Shephard

This list is staff who hold a MoC or supervisor's certificate other staff may be deemed fit and proper to be in charge day to day.

### Responsibilities:

#### The Approved Provider/Person in Management of Control (or delegate) is responsible for:

- ensuring there is a Responsible Person 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 has appropriate skill level, experience, qualifications and approval to work with children, as required under the National Law and National 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 ∞ ensuring that the service **does not operate without a Nominated Supervisor**, and that this person has given written consent and has been deemed fit and proper.
- 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 is kept on the staff record
- notifying the Regulatory Authority in writing if there is a change of person in the role of Nominated Supervisor
- ensuring that, in the absence from the service premises of a Nominated Supervisor, another person who has been deemed fit and proper and consents in writing 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 Certified Supervisor to meet the legislative requirement for a Responsible Person at the service during periods of leave or illness
- ensuring details of Certified Supervisor are placed in the staff file and notifying the Regulatory Authority in writing if there any changes to: and 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 Nominated Supervisor Certificate or been deemed fit and proper and providing written consent to accept the role of Nominated Supervisor
- ensuring that, in their absence from the service premises, another person who has been deemed fit and proper as a **Certified Supervisor** 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 and 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 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
- notifying the Approved Provider if the Regulatory Authority cancels their Supervisor Certificate (if applicable) or any reason.

**Certified Supervisors are responsible for:**

- holding a Supervisor Certificate if applicable or being deemed fit and proper by the Approved Provider or Nominated Supervisor
- providing written consent to accept the role of Certified Supervisor and 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 Certified Supervisor
- 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 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

- 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 be deemed fit and proper to become a Certified Supervisor, as defined in the National Regulations
- applying to the Approved Provider or Nominated Supervisor and being deemed fit and proper to become a obtaining a Certified Supervisor if they wish to accept nomination as a Certified Supervisor ensuring they have a sound understanding of the role of Responsible Person
- providing written consent if accepting the nomination to be a Certified Supervisor.

**Sources**

Australian Children's Education and Care Quality Authority (ACECQA),  
Quality Assessment and Regulation (QAR)

**Information Sheets:**

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 Standard: [www.acecqa.gov.au](http://www.acecqa.gov.au)  
DET- Early Childhood <https://www.education.vic.gov.au>

**Centres Information:**

Childrens Business Plan 2018 – CCS  
Parent Information HandBook  
Information

- Staffing Policy
- Governance:
  - Employment – Continuity HR Quality Version Control
  - Co-operative non-trading Model Rules and Act

**AUTHORISATION**

This policy was adopted by the Approved Provider MoC/PMC of Outlets Co-operative Neighbourhood House LTD on February 2020

This policy will be reviewed bi-annually or when directed by CSRegs/Act (VIC), employing new staff or when legislated by ACECQA

Updated: 27/7/23

**REVIEW DATE: 23/05/2024**