

DETERMINING RESPONSIBLE PERSON POLICY

1. PURPOSE OF POLICY

This policy provides guidelines to assist in determining the Responsible Person at Annie Dennis Children's Centre.

2. VALUES

Annie Dennis Children's Centre is committed to:

- meeting its Duty of care obligations under the law;
- ensuring staffing arrangements contribute to the safety, health, wellbeing, learning and development of all children at the service; and
- meeting legislative requirements for a Responsible Person to be on the service premises at all times.

3. SCOPE

This policy applies to Annie Dennis, Persons with Management or Control, the Nominated Supervisor, the Persons in day-to-day Charge, staff, students on placement, volunteers and parents/guardians of Annie Dennis.

4. 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 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.

5. DEFINITIONS

The terms defined in this section relate specifically to this policy. For commonly used terms e.g. Approved Provider, Responsible Person, National Law, National Regulations, Regulatory Authority etc. refer to the *General Definitions* section of the Annie Dennis Policy Manual.

Act: means the Education and Care Services National Law Act 2010.

Annie Dennis: Annie Dennis Children's Centre, being an Approved Provider.

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.

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 of the Regulations). May also be referred to as the Certified Supervisor.

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 (See the 'Definitions' section of the Act). For Annie Dennis the executive committee comprises the President, Vice-President, Secretary and Treasurer of the association.

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 of an education and care service operated by the Approved Provider;
- the Nominated Supervisor of the service; or
- a Person placed in day-to-day Charge of the service. (section 162 of the Act)

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 one or more Nominated Supervisors with responsibility for the service in accordance with the Regulations (section 5 and 161). For Annie Dennis the Director and Assistant Director are the current Nominated Supervisors.

Regulations: means the Education and Care Services National Regulations 2011.

6. PROCEDURES

Annie Dennis and the 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 Act, 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; and
 - has a history of compliance with the Act and other relevant laws (regulations 117C and 117B of the 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 service¹ (section 172 of the Act);
- 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 of the Regulations);
- 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; or
 - 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 Nominated Supervisors and Person in day-to-day Charge have successfully completed child protection training; and

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;
- 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 Act, 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; and
 - has a history of compliance with the Act and other relevant laws (regulation 117B of the Regulations);
- 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;
- ensuring that name and the position of the Responsible Person in charge is changed when they leave or arrive at the service by the way of a interchangeable name plate near the office window
- 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);
- supporting Annie Dennis to develop rosters in accordance with the availability of Responsible Persons, hours of operations and the attendance patterns of children; and
- notifying Annie Dennis, Persons with Management or Control 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 or teacher registration, or if they are subject to disciplinary proceedings.

All educators and 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; and
- ensuring they have a sound understanding of the role of Responsible Person.

All parents/guardians are responsible for:

- reading and understanding this policy; and
- 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.

7. EVALUATION

In order to assess whether the values and purposes of the policy have been achieved, Annie Dennis will:

- 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; and
- 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.

8. RELATED POLICIES

- *Child Safe Environment Policy*
- *Maintenance of a Safe Environment Policy*
- *Privacy and Confidentiality Policy*
- *Staffing Policy*
- *Supervision Policy*
- *Volunteer and Student Policy*

9. LEGISLATION

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*
- *Working with Children Act 2005 (Vic)*
- *Working with Children Regulations 2006 (Vic)*

10. LINK TO NATIONAL QUALITY STANDARDS

- *National Quality Standard, Quality Area 4: Staffing Arrangements*
- *National Quality Standard, Quality Area 7: Leadership and Service Management*

11. 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

12. APPROVAL AND REVIEW

This policy was adopted by Annie Dennis on 20 August 2018. Date for review: August 2020