

DETERMINING RESPONSIBLE PERSON

QUALITY AREA 4 | VERSION 1.0



PURPOSE

This policy will provide guidelines to assist in determining the responsible person at Gembrook Preschool.



POLICY STATEMENT

VALUES

Gembrook Preschool 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 Background and Definitions*) to be at the service premises at all times.

SCOPE

This policy applies to the approved provider, persons with management or control, nominated supervisor, persons in day-to-day charge, early childhood teachers, educators, staff, students, volunteers, parents/guardians, children, and others attending the programs and activities of Gembrook Preschool.

RESPONSIBILITIES	Approved provider and persons with management or control	Nominated supervisor and persons in day-to-day charge	Early childhood teacher, educators and all other staff	Parents/guardians	Contractors, volunteers and students
	R indicates legislation requirement, and should not be deleted				
	Ensuring the approved provider notifies the regulatory authority of any appointment or removal of a person with management or control (PMC) (<i>refer to Definitions</i>) within 14 days of the event (or within 14 days of becoming aware of it)	R			
	Submitting the PA08 Notification of change to information about approved provider form (<i>refer to Sources</i>) through the regulatory authority's NQA IT System	R			
	Ensuring each identified PMC completes a PA02 Declaration of fitness and propriety form (<i>refer to Sources</i>)	R			

Determining Responsible Person

Gembrook Preschool Association Inc
Registration No: A0010029N
ABN: 36 754 804 648

Sourced from Early Learning Association Australia



Ensuring that each PMC (<i>refer to Definitions</i>) remains a fit and proper person to be involved in children's education and care. If an existing PMC is no longer fit and proper for any reason, the regulatory authority must be notified within seven days	R				
Approved providers must ensure their PMC information remains current and accurate at all times	R				
Ensuring the approved provider assesses whether a person meets the minimum requirements before nominating them as a nominated supervisor or placing them in day-to-day charge (<i>refer to Attachment 2</i>)	R	√			
Ensuring a responsible person (<i>refer to Definitions</i>) is on the premises at all times when the service is delivering education and care programs for children (<i>National Law: Section 162</i>)	R	√			
Nominating a sufficient number of nominated supervisors to ensure compliance with legislative requirements for a responsible person to be present at the service at all times, including during periods of leave or illness (<i>National Law: Section 161A</i>)	R				
Ensuring that a person nominated as a nominated supervisor or a person in day-to-day charge: <ul style="list-style-type: none"> 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 <i>National Law</i>, 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 <i>National Law</i> and other relevant laws (<i>Regulations 117C and 117B</i>) 	R	R			
Ensuring that the service does not operate without a nominated supervisor, and that the nominated supervisor has given written consent to be in the role (<i>National Law: Section 161</i>) (<i>Regulation 117A (b)</i>)	R	√			
Ensuring that an early childhood teacher or educator gives written consent to being a person in day-to-day charge (<i>Regulation 117A (b)</i>)	R	√	√		
Ensuring that the name of the nominated supervisor is displayed prominently at the service (<i>National Law: Section 172</i>) (<i>Regulation 173</i>)	R	√			
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 (<i>refer to Staffing Policy</i>) is kept in the staff record (<i>Regulation 146</i>)	R	√			
Notifying the Regulatory Authority if:	R	√			

Determining Responsible Person

<ul style="list-style-type: none"> there is a change to the name or contact details of the nominated supervisor (<i>National Law: Section 56, Regulation 35</i>) 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 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 that affects the nominated supervisor's ability to meet minimum requirements, the service must re-assess their suitability for the role 					
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 person, such as the suspension or cancellation of a Working with Children Clearance or teacher registration, or if they become subject to disciplinary proceedings	R	√			
Ensuring that when the nominated supervisor is absent from the premises, an alternative responsible person is on site (<i>National Law: Section 162</i>)	R				
Ensuring that the nominated supervisor and person in day-to-day charge have a sound understanding of the role and responsibilities of a responsible person (<i>refer to Attachment 1</i>)	R				
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 (<i>Regulation 150</i>)	R	√			
Ensuring that the nominated supervisors and person in day-to-day charge have successfully completed their mandatory child protection training and that this is updated annually (<i>refer to Child Safe Environment and Wellbeing Policy</i>) (<i>National Law: Section 162A</i>)	R	R	R		R
Ensuring that information used to assess a person's suitability to be a nominated supervisor or a person in day-to-day charge is kept as evidence on file. This may include records of reference checks, declarations, copies of qualifications or course completion certificates (<i>Refer to Sources</i>)	R	R			
Developing rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children	R				
Supporting the approved provider to develop rosters in accordance with the availability of responsible persons, hours of operations and the attendance patterns of children		√			

Determining Responsible Person



BACKGROUND AND 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 at least one 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 at all times.

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
- 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)

The most current amendments to listed legislation can be found at:

- Victorian Legislation – Victorian Law Today: www.legislation.vic.gov.au
- Commonwealth Legislation – Federal Register of Legislation: www.legislation.gov.au



DEFINITIONS

The terms defined in this section relate specifically to this policy. For regularly used terms e.g. Approved provider, Nominated supervisor, Notifiable complaints, Serious incidents, Duty of care, etc. refer to the Definitions file.

Person in day-to-day charge: a person is considered to be in day-to-day charge of an education and care service if:

- they have been placed in that role by the approved provider or a nominated supervisor, and
- they have provided written consent to take on the role

There are minimum qualification and experience requirements that must be met for a person to be eligible to be in day-to-day charge of an education and care service (*National Regulations*).

Person with management or control (PMC): is someone who has the authority, responsibility or significant influence over how an education and care service is planned, directed or managed. This includes individuals in an executive or management role of an approved provider entity, such as:

- each executive member of the kindergarten committee of management
- anyone involved in executive decisions, such as strategic planning or approving budgets
- a person responsible for overseeing how the education and care service is delivered (such as a state/territory or area manager).

A nominated supervisor, person in day-to-day charge of a service, or a person who holds other operational management roles in a service (such as a centre manager) would not meet the PMC definition simply by holding these roles in the service. They only meet the PMC definition if, in addition to their role, they have authority, responsibility or significant influence over the planning, direction or control of the service's activities or its delivery of education and care, for example by participating in executive or financial decision-making.

Determining Responsible Person

Gembrook Preschool Association Inc
Registration No: A0010029N
ABN: 36 754 804 648

Sourced from Early Learning Association Australia



Responsible person: The responsible person is an individual who is physically present and is responsible for the operation of a centre-based service for an agreed period of time. A responsible person must be present at all times that the approved service operates.

In accordance with the [National Regulations and National Law](#), a responsible person can be:

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

Nominated Supervisor: In relation to an education and care service, a nominated supervisor is a person who:

- is nominated by the approved provider under Part 3 of the National Law to be a nominated supervisor of the service; and
- has provided written consent to that nomination, unless the individual is the approved provider ([National Law](#))

Working with Children (WWC) Check: The check is a legal requirement under the [Worker Screening Act 2020](#) for those undertaking paid or voluntary child-related work in Victoria. The Department of Justice assesses a person's suitability to work with children by examining relevant serious sexual, physical and drug offences in a person's national criminal history and, where appropriate, their professional history.

Working with Children (WWC) Clearance: A WWC Clearance is granted to a person under Worker Screening legislation if:

- they have been assessed as suitable to work with children
- there is no information to suggest they would pose a risk to the safety of children
- they are not prohibited from seeking, undertaking or continuing in child-related employment

SOURCES AND RELATED POLICIES



SOURCES

- Australian Children's Education and Care Quality Authority (ACECQA), Information Sheets: www.acecqa.gov.au
- Compliance history statement for a person to be a person in day-to-day charge (PIDTDC) or a nominated supervisor form: www.acecqa.gov.au/resources
- Department of Education: [AP02 Declaration of Fitness And Propriety](#)
- Department of Education: [PA08 Notification of change to information about approved provider](#)
- 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

RELATED POLICIES

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

EVALUATION

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

- regularly seek feedback from everyone affected by the policy regarding its effectiveness



Determining Responsible Person

Gembrook Preschool Association Inc
Registration No: A0010029N
ABN: 36 754 804 648

Sourced from Early Learning Association Australia



- 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
- notifying all stakeholders affected by this policy at least 14 days before making any significant changes to this policy or its procedures, unless a lesser period is necessary due to risk ([Regulation 172 \(2\)](#)).



ATTACHMENTS

- Attachment 1: Responsibilities of a nominated supervisor
- Attachment 2: Guidance for approved providers in nominating a nominated supervisor and nominated supervisors for placing a person in day-to-day charge



AUTHORISATION

This policy was adopted by the approved provider of Gembrook Preschool on 22nd February 2016.

REVIEW DATE: 30th July 2025

PASSED AT COMMITTEE MEETING: 13th August 2025

REVIEW FREQUENCY: 1 Year

NEXT REVIEW DUE: Annually as per policy review calendar

ATTACHMENT 1: RESPONSIBILITIES OF A PERSON IN DAY-TO-DAY CHARGE

The below information has been adapted from the Australian Children's Education and Care Quality Authority, National Quality Framework, [Nominated Supervisors Information Sheet](#)

As the person responsible for the day-to-day management of an approved service, nominated supervisors have a range of responsibilities under the [National Law and National Regulations](#) including:

Note: *If the nominated supervisor is not present, the allocated responsible person should be aware and enact these responsibilities*

Educational programs

- ensuring educational programs are:
 - based on and delivered in accordance with an approved learning framework
 - based on the developmental needs, interests and experiences of each child
 - designed to take into account the individual differences of each child ([National Law: Section 168](#))

Supervision and safety of children

- ensuring children are adequately supervised, are not subject to inappropriate discipline, and are protected from harms and hazards ([National Law: Sections 165-167](#))

Entry to and exit from the premises

- ensuring children do not leave the education and care service premises except in accordance with the [National Regulations](#) (for example, with a parent, on an authorised excursion, or for emergency medical treatment)
- ensuring that a parent of a child being educated and cared for by the service may enter the service premises at any time when the child is being educated and cared for by the service—except when:
 - permitting entry would pose a risk to the safety of the children or staff, or
 - permitting entry would conflict with a duty of the approved provider, nominated supervisor, or educator under the [National Law](#), or
 - the provider, supervisor, or educator reasonably believes that allowing entry would contravene a court order ([Regulation 157](#) and [Regulation 99](#))
- ensuring an unauthorised person (as defined in the National Law) is not at the service while children are present unless the person is under direct supervision ([National Law: Section 170](#))

Food and beverages

- ensuring adequate health and hygiene practices and safe practices for handling, preparing and storing food are implemented at the service to minimise risks to children ([Regulation 77](#))
- ensuring children being cared for by the service have access to safe drinking water at all times and are offered food and beverages on a regular basis throughout the day ([Regulation 78](#))
- ensuring that, where food and beverages are supplied by the service, they are:
 - nutritious and adequate in quantity
 - chosen with regard to the dietary requirements of individual children ([Regulation 79](#))
- ensuring that, where food and beverages are provided by the service, a weekly menu that accurately describes the food and beverages to be provided is displayed at the premises in a location accessible to parents ([Regulation 80](#))

Administration of medication

- ensuring that medication is not administered to a child being cared for by the service unless the administration is authorised (except in the case of anaphylaxis or asthma emergency) and is administered in accordance with the National Regulations ([Regulations 93-96](#))
- where medication is administered to a child without authorisation in a case of an anaphylaxis or asthma emergency, ensuring that a parent of the child and emergency services are notified as soon as practicable ([Regulation 94](#))

Prescription and non-prescription drugs and alcohol

All staff must not consume alcohol or be under the influence of alcohol or drugs (including prescription or non-prescription medication) in a way that impairs their ability to supervise children or provide education and care while working at the service ([Regulation 83](#))

Sleep and rest

- taking reasonable steps to ensure that the needs for sleep and rest of children are met, having regard to the ages, development stages and individual needs of children ([Regulation 81](#))

Excursions

- ensuring that a risk assessment is conducted before an excursion in accordance with the National Regulations ([Regulations 100-101](#)), and specifically that the risk assessment is conducted before authorisation is sought to take a child on the excursion ([Regulation 102](#))

Transportation of children other than part of an excursion (if applicable)

- ensuring that a risk assessment is carried out in accordance with [Regulation 102C](#) before an authorisation referred to in [Regulation 102D\(4\)](#) is sought to transport a child ([Regulation 102B](#))

Staffing

- ensuring the prescribed educator to child ratios are met and each educator at the service meets the qualification requirements relevant to the educator's role ([Regulations 123 - 128](#))

ATTACHMENT 2: GUIDANCE FOR APPROVED PROVIDERS IN NOMINATING A NOMINATED SUPERVISOR AND NOMINATED SUPERVISORS FOR PLACING A PERSON IN DAY-TO-DAY CHARGE

An approved provider must evaluate whether a person meets the minimum requirements before nominating them as a nominated supervisor and/or person in day-to-day charge. The approved provider should also consider if the individual possesses sufficient knowledge and understanding of education and care provisions, and the ability to effectively supervise and manage a service.

Adequate knowledge and understanding

The approved provider should consider the person's qualifications, skills and work experience in determining if the person has adequate knowledge and understanding of the provision of education and care of children this can include but not limited to:

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

In determining this, the approved provider should consider a range of factors, which may include but are not limited to:

- the person's qualifications and transcripts, such as evidence of completing an approved diploma or higher-level education and care qualification
- a resumé outlining the person's roles, responsibilities, duration of employment, and employer contact details
- written references from previous employers that address the person's understanding and experience in providing education and care to children
- records of relevant professional development or training that supports their knowledge and capability
- any other documentation that demonstrates the person's suitability to provide or supervise education and care

In addition, the approved provider must consider:

- a person's history of compliance with relevant laws, including the National Law, former education and care laws, and children's services laws in any participating jurisdiction
- any decisions under the law to refuse, suspend, cancel or refuse to renew an approval, certification, or other authorisation held by the person

Ability to effectively supervise and manage an education and care service

Under the [National Regulations](#) a nominated supervisor must have the ability to effectively supervise and manage a service. A person may meet the requirement even if they do not have experience managing a service. For example, the approved provider may determine the person has the required ability if they have management experience at other service types, or in related sectors.

The approved provider should consider how a person's skills and experience contribute to their ability to manage a service in accordance with the [National Law and Regulations](#).

This may include consideration of a person's:

- knowledge of, and ability to apply, practices that help ensure the education and care needs of children are met
- knowledge of, and ability to apply, practices that help ensure a service complies with the [National Law and Regulations](#)
- skills in managing relationships with staff and families at the service.

Approved providers may consider the following types of evidence for this requirement, as well as any other type of evidence of a person's management ability:

- a resumé outlining the person's roles, responsibilities, duration of employment, and employer details
- a written reference from an employer that addresses the person's management ability
- transcripts or certificates of attainment showing the completion of relevant units of study or professional development. This may include courses related to staff supervision, leadership, or managing an education and care service in accordance with the [National Law and Regulations](#).